

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Regular Direct Loan Servicing
4-FLP**

Amendment 10

Approved by: Deputy Administrator, Farm Loan Programs

Chris P. Beyershelm

Amendment Transmittal

A Reasons for Amendment

Subparagraph 65 A has been amended to no longer require that Exhibit 26 be mailed to the borrower when the final payoff is received in the office.

Subparagraph 102:

- A has been amended to add the legal citation for the Food Security Act
- B has been amended to add a reference to the Food Security Act and provide that SED will issue a State Supplement notifying potential purchasers of FSA liens.

Subparagraph 117 A has been amended to add a note providing instructions for issuing a subordination for a guaranteed loan.

Subparagraph 119 A has been amended to add policy about subordination for essential repairs.

Subparagraph 126 A has been amended to update general policy for requesting FSA approval of junior liens.

Subparagraph 181 B has been amended to remove the certified mail requirement.

Subparagraph 196 B has been amended to add that security cannot be released to be retained by the borrower, except in conjunction with an approved debt settlement action.

Exhibit 2 has been amended to update the certified mail definition.

Exhibit 4 has been amended to include subparagraph 102 B to the State Supplements list.

Amendment Transmittal

A Reasons for Amendment (Continued)

Exhibit 23 has been amended to update the Request for Graduation Information.

Exhibit 24 has been amended to reflect the new guaranteed loan fee.

Exhibit 26 has been amended to update the requirement for mailing the Notification of Payoff Amount letter when final payoff is received.

Exhibit 29 has been amended to provide that use of certified mail is based on State law requirements.

Exhibit 32 has been amended to remove the certified mail requirement.

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47 Graduation Review Process (Continued)

B Obtaining Financial Data

[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.

The borrower will provide upon agency request, a current balance sheet, actual financial performance, and a projected farm budget at least every 2 years. Except for borrowers with only youth loans, only CL's or NP's, judgments, or CNC's, or whose accounts are flagged "BAP", "ACL", "FAP", "CAP", or otherwise as determined by OGC, the authorized agency official will send Exhibit 23 and the required forms to request current financial information from the borrower to evaluate the potential for refinancing to commercial credit. Exhibit 23 will be sent twice if the borrower does not supply the required information. The first time Exhibit 23 is sent, the borrower will be given 30 calendar days to supply the required information. The second Exhibit 23 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. If the borrower has provided the financial information required to conduct a year-end analysis, or current financial data is available for other reasons, this same information may be used in the graduation review process. The borrower's financial information will be used to classify accounts according to 1-FLP, Part 8.

C Screening Borrowers

At least every 2 years, the authorized agency official will conduct electronic screening of all borrowers using the Graduation Review Workflow in DLS. All borrowers classified as a "1" or "2" (commercial or standard) are required to be screened and reviewed in DLS on an *--annual basis. Borrowers with limited resource interest rates, youth loan only, nonprogram only, judgment, CL, and CNC accounts, will be excluded from graduation regardless of--* the classification code. If the financial information provided indicates that the borrower cannot meet local underwriting criteria, the authorized agency official shall document why the borrower, despite being classified a "1" or "2," is unlikely to graduate. The authorized agency official will record this in the applicable FBP Credit Presentation and in the Graduation Review Workflow in DLS.

If the borrower's financial information indicates that the borrower meets local underwriting criteria and graduation is possible, the borrower's prospectus will be forwarded according to subparagraph D.

47 Graduation Review Process (Continued)

D 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 24
- send Exhibit 24 to commercial lenders.

Exhibit 24 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 24 and sends it to a lender, a copy of Exhibit 24 will be sent to the borrower with a cover letter with language similar to:

“Enclosed, please find Exhibit 24. This exhibit has been sent to several lenders in the area so they could review your financial information and consider refinancing your FSA account.”

E 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.

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.--*

B Supervised Bank Accounts

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.

C Overpayment

[7 CFR Part 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.

The authorized agency official sends any borrower requests for refund of overpayments to FSC, FLOO and forwards refunds issued by FSC, FLOO to the borrower.

65 Final Payments (Continued)

D Underpayment

[7 CFR Part 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.

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.

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 chattel 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. § 1324 (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 chattel or crops or sell them for commission.

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

The authorized agency official will immediately send the borrower notice to cure the nonmonetary 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.

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)

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

[7 CFR 765.205(b)] For loans secured by real estate, the Agency will approve a request for subordination if all of the following conditions are met:

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

(2) The loan will be used for an authorized Agency loan purpose or is made in conjunction with a guaranteed loan;

--Note: Direct loan security may only be subordinated to a guaranteed loan according to 2-FLP, paragraph 279.--

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

(4) 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;

(5) The Agency 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;

(6) The borrower is not able to graduate on any program except for CL;

(7) 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 Agency loan purpose may be approved when it is needed for the entity member to finance a separate farming operation, provided the subordination does not cause the unpaid principal and interest on the Agency loans to exceed the value of loan security or otherwise adversely affect the security;

(8) The borrower must not be ineligible as a result of a conviction for controlled substances according to 7 CFR part 718 of this chapter (1-CM);

117 Conditions for Real Estate Subordinations (Continued)**A Real Estate Security (Continued)**

(9) The borrower must not be ineligible due to disqualification resulting from Federal Crop Insurance violation according to 7 CFR part 718 (1-CM):

(10) 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 subpart G of 7 CFR part 1940;

(11) There is no other subordination outstanding with another lender in connection with the same security;

(12) The subordination is limited to a specific amount, the loan made in conjunction with the subordination will be closed within a reasonable time and has a definite maturity date;

(13) In the case of real property purchase or exchange, the Agency will obtain a valid mortgage and the required lien position on the real 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);--*

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

(15) Subordination of SAA mortgages may only be approved when there is no increase in the debt which is prior to the SAA debt; and

(16) If a borrower has only a Non-program loan, the Agency does not permit subordination. The Agency may subordinate Non-program security when it is also security for a program loan with the same borrower in accordance with this section.

118 Conditions for Chattel Subordinations**A Chattel Security**

[7 CFR 765.205(c)] (1) For loans secured by chattel, the subordination must meet conditions contained in paragraphs (b)(1) through (12) of this section (subparagraph 117 A).

B Second Subordinations on Chattel Security

[7 CFR 765.205(c)(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).

C 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(d)] 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 the:

- loan for which the borrower requests the subordination is:
 - to refinance an existing prior lien and the resulting prior lien will not be increased
 - *--for an essential repair that is needed to restore the value of the security and complies with subparagraph 117 A--*
- borrower's case file contains an existing appraisal that is less than 1 year old and FSA determines the appraisal to still be sufficiently accurate.

FSA does not require an appraisal for chattel security when the:

- proposed subordination is for annual operating and family living expenses only and the projected income from farm production exceeds the subordination amount
- existing FSA appraisal is less than 1 year old and the authorized agency official determines it to be adequate (the authorized agency official must consider property additions to, and deletions from, the latest FSA appraisal) and fully document the decision.

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:

- *--for chattels, FSA-2001 with the following completed:
 - Part A, item 1
 - Part C, items 1 and 5A
 - Part D, items 4A and 4B
 - Part E, items 18A and 18B
- FSA-2060 for real estate cases (FSA will assist the borrower in completing FSA-2060)
- 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.

C Unapproved Junior Liens

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

127-135 (Reserved)

Section 2 Unapproved Disposition of Security

181 Initial FSA Actions Upon Discovery

A Unauthorized Chattel 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.

The authorized agency official must document an unapproved disposition of chattel security *--on FSA-2040 and in the borrower's case file running record. A copy of the running record will be filed in the District Director Oversight Review file according to 25-AS, Exhibit 40.5. The DD will review this information as a part of the Quarterly Review and ensure that all unauthorized dispositions are addressed according to this Section.

Note: 25-AS will be revised at a future date to include reference to filing the running record of unapproved disposition of security.--*

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.

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 nonmonetary 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 chattel 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.

Section 3 Real Estate Security Partial Releases

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: Borrowers must use FSA-2060 to request partial release of real estate security.

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;**

[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;

Note: Partial releases after acceleration can be approved, according to subparagraph 197 E, as items (1) and (2) can be met by orderly liquidation.

***--[7 CFR 765.351(a)] (3) The amount received for the security being disposed of or the rights being granted is not less than the market value;**

Note: Release of real estate security to be retained by the borrower is not authorized except in conjunction with an approved debt settlement action.

[7 CFR 765.351(a)] (4) Any proceeds in excess of the market value are remitted to lienholders in the order of lien priority;

[7 CFR 765.351(a)] (5) The transaction must not interfere with the borrower's farming operation;

[7 CFR 765.351(a)] (6) 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;

196 Requirements (Continued)

B Conditions for Approval (Continued)

*--[7 CFR 765.351(a)] (7) The environmental requirements of subpart G of 7 CFR part 1940 must be met;

[7 CFR 765.351(a)] (8) The borrower cannot graduate to other credit on any program except for CL; and

[7 CFR 765.351(a)] (9) 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, or Other Minerals

[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 Agency loan will be considered a disposition of a portion of the security.

(ii) For loans secured by real estate before December 23, 1985, the Agency has a security interest in mineral products, gravel, oil, gas, coal, or other resources and the sale by unit or lump sum payment will be considered a disposition of security.

(iii) For loans secured by real estate on or after December 23, 1985, the Agency has a security interest in mineral products, gravel, oil, gas, coal, or other resources if the value of such products was included in an appraisal. When the Agency has a security interest, the sale of such products 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)(10)] 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.

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.

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.

Certified Mail

Certified Mail means a delivery service offered by USPS that allows the sender proof of mailing, as well as proof of delivery. Return Receipt service is an additional feature that may be purchased with Certified Mail that includes the recipient’s signature. Senders may choose to *--receive a return receipt by mail, or if feasible, by e-mail. When received by mail, the sender--* receives a green postcard with the recipient’s actual signature. Senders requesting a return receipt by e-mail receive a proof of deliver letter arriving as a PDF attachment that includes an image of the recipient’s signature. For FLP purposes, the term Certified Mail is intended to mean the combination of the USPS Certified Mail and Return Receipt services. FSA offices may use either method to obtain a return receipt.

Chattel

Chattel is any property that is not real estate.

Chattel Security

Chattel security 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.

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.

State Supplements

The following table lists required State supplements.

Subparagraph	Required State Supplement
3 C	Guidance on notary acknowledgement.
3 D	Guidance on signature requirements.
3 F	Using State-specific and State-created forms.
65 F	Loan security instruments releases.
98 C	Obtaining new FSA-2028's.
98 D	Continuing financing statements.
98 E	Obtaining assignments.
98 F	Obtaining real estate security instruments.
101 A	Payment of a borrower's real estate taxes.
--102 B	Potential purchaser notification.--
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.

Request for Graduation Information

The authorized agency official will send a letter similar to the following to the borrower to request current financial information according to 1-FLP, subparagraph 202 B. The borrower's financial information will be used to classify accounts according to 1-FLP, paragraph 251. Go to ***-<http://fsaintranet.sc.egov.usda.gov/dam/ffasforms/forms.html>, CLICK "Find Current Forms--*** Using Our Form Number Search", in Form Number block, type, "4-FLP Exhibit 23", and CLICK "Submit".

*--

4-FLP, Exhibit 23

(Use Agency Letterhead format with local return address.)

REQUEST FOR GRADUATION 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 obtain the credit you need to refinance and pay off your FSA loan (also called "Graduation").

Agency regulations require that we complete a review of your financial status and the progress you are making. 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; and
- 3) Projected income/expense for next year (a copy of your current year's is also acceptable).

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. This information or other information in your case file may be provided to lenders to determine if they can refinance your Farm Loan Programs debt. (Please provide this information to our office by:)

(1st mailing) [insert date 30 days from letter].

(2nd mailing) [insert date 15 days from letter].

Failure to submit any required documents is a violation of your loan agreement and FSA can accelerate your account. It is important that you are not in violation of your loan agreement since this can impact any future request for Farm Loan Programs assistance. Graduation is mandated by law.

If you have any questions, or need help putting this information together, let us know and we will help.

Sincerely,

--*

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 <http://fsaintranet.sc.egov.usda.gov/dam/ffasforms/forms.html>, CLICK "Find Current-- Forms Using Our Form Number Search", and in the "Form Number" block, type, "4-FLP Exhibit 24", and CLICK "Submit".

*--

4-FLP, Exhibit 24

(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 Guar.		Total Amount Existing FSA Term Loan(s)	Estimated Production Loan Needed	Lender Use	
	YES	NO			Refer	Do Not Refer

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. Interest assistance of 4 percent is also available to qualified applicants and borrowers. Guaranteed loan fees (1.5%) are waived whenever interest assistance is approved for that loan, and in cases where at least 50 percent of the guaranteed loan amount is composed of FSA debt that is being refinanced by the lender.

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 "Refer" or "Do Not Refer" wishes indicated. We are always available to answer questions you may have.

Sincerely,

Attachments

--*

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://fsaintranet.sc.egov.usda.gov/dam/ffasforms/forms.html>, CLICK "Find Current Forms--* Using Our Form Number Search", in Form Number block, type, "4-FLP Exhibit 26", and CLICK "Submit".

*--

4-FLP, Exhibit 26		
(Use Agency Letterhead format with local return address.)		
NOTIFICATION OF PAYOFF AMOUNT		
Dear,		
The estimated payoff amount is: _____		
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 (all loans): _____	Daily Interest Accrual: _____	
Sincerely,		
Signature	Title	Date

--*

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 chattel security under State law. FSA will distribute the list of chattel and crop borrowers to sale barns, warehouses, and other businesses listed by the borrower on FSA-2040 *--that buy or sell chattels or crops. The notification to potential purchasers will be mailed using the following letter. Go to <http://fsaintranet.sc.gov.usda.gov/dam/ffasforms/forms.html>, *--* CLICK "Find Current Forms Using Our Form Number Search", in the "Form Number" block, type, "4-FLP Exhibit 29", and CLICK "Submit".

*--

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

Page 1

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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: Follow applicable directives providing for protection of PII.

4-FLP, Exhibit 29		
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		

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 <http://fsaintranet.sc.egov.usda.gov/dam/ffasforms/forms.html>, CLICK “Find Current--
Forms Using Our Form Number Search”, in Form Number block, type, “4-FLP Exhibit 32”, and CLICK
“Submit”.

*--

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 number _____ on _____ and is
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]

