

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

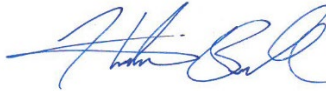
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**Regular Direct Loan Servicing**  
**4-FLP**

**Amendment 49**

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



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**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraphs 16 B, 16 C, and 17 B have been amended to change Exhibit 20 to FSA-2401.

Subparagraph 19 C has been amended to add that information from regional banks may be provided to the Service Center by the State FLP staff for graduation reviews and change the Exhibit 22 reference to FSA-2417.

Subparagraphs 19 F and 19 G have been amended to change Exhibit 24 to FSA-2419.

Subparagraph 21 F has been amended to change Exhibit 25 to FSA-2424.

Subparagraph 65 A has been amended to add a reference to FSA-2406 and change Exhibit 26 to FSA-2407.

Subparagraph 65 F has been amended to change Exhibit 27 to FSA-2408.

Subparagraphs 67 C and 67 E have been amended to add the RDBCSO CB FAX number.

Subparagraph 96 B has been amended to cross reference 4-FLP, subparagraph 196 B requirements for decisions impacting real estate security.

Subparagraph 97 B has been amended to remove the obsolete noncapitalized interest references.

Subparagraph 98 A has been amended to update the location of the FSA UCC Security Guide.

Subparagraph 101 A has been amended to require SED's to address bidding at tax sales in the State Supplement.

Subparagraph 102 B has been amended to change Exhibit 29 to FSA-2411 and Exhibit 30 to FSA-2412.

Subparagraph 116 C has been amended to require borrowers to be notified of a complete application for subordination according to 3-FLP, subparagraph 45 C.

## **Amendment Transmittal (Continued)**

### **A Reasons for Amendment (Continued)**

Subparagraph 136 A has been amended to cross reference 4-FLP, subparagraph 196 B requirements for decisions impacting real estate security.

Subparagraph 163 C has been amended to clarify that proceeds from the sale of basic security not being used immediately to replace the security be kept in a supervised bank account and an exception.

Subparagraph 181 A has been amended to change Exhibit 31 to FSA-2413 and Exhibit 31.5 to FSA-2414.

Subparagraph 181 B has been amended to change Exhibit 32 to FSA-2415 and Exhibit 33 to FSA-2416.

Subparagraphs 196 A and F have been amended to require insurance proceeds or proceeds from the sale of basic security not being immediately used to replace the security be kept in a supervised bank account and to provide direction on 1031 exchanges.

Subparagraph 197 D has been amended to refer to 1-FLP, Part 4 in the CFR reference on supervised bank accounts.

Subparagraph 248 G has been amended to change Exhibit 25 to FSA-2491.

Subparagraph 282 A has been amended to change Exhibit 51 to FSA-2497 and Exhibit 52 to FSA-2498.

Subparagraph 283 A has been amended to change Exhibit 52 to FSA-2498.

Subparagraph 283 B has been amended to change Exhibit 53 to FSA-2499.

Exhibit 4 has been amended to update the State supplements chart.

Exhibit 25.5 has been amended to remove noncapitalized interest references which are obsolete.

**Amendment Transmittal (Continued)**

**A Reasons for Amendment (Continued)**

To improve customer service and to comply with the Paperwork Reduction Act, the following exhibits have been withdrawn and converted to forms:

- Exhibit 20 is now FSA-2401
- Exhibit 22 is now FSA-2417
- Exhibit 24 is now FSA-2419
- Exhibit 25 is now FSA-2424
- Exhibit 26 is now FSA-2407
- Exhibit 27 is now FSA-2408
- Exhibit 29 is now FSA-2411
- Exhibit 30 is now FSA-2412
- Exhibit 31 is now FSA-2413
- Exhibit 31.5 is now FSA-2414
- Exhibit 32 is now FSA-2415
- Exhibit 33 is now FSA-2416
- Exhibit 35 is now FSA-2491
- Exhibit 51 is now FSA-2497
- Exhibit 52 is now FSA-2498
- Exhibit 53 is now FSA-2499.

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
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## 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 FSA-2401 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.

\*--FSA-2401 will be sent twice in a 30-day period if the borrower does not supply the required information. The first time FSA-2401 is sent, the borrower will be given 30 calendar days to supply the required information. The second FSA-2401 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 FSA-2401 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 FSA-2401 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 FSA-2417, with any additional comments in narrative form, and placed in the county operational files FLPF-4-B “Graduation,” according to 32-AS. FLC may provide the authorized agency official with information obtained from regional or statewide lenders, including information obtained under 20FLP, Part 4. 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.

**19 Graduation Review (Continued)**

**D Screening Borrowers (Continued)**

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 FSA-2419 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.

**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 FSA-2424. FSA-2424 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 FSA-2424, 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.

## 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. FSA-2406 should be used to verify calculations. Both officials will initial the AI and PF Status Screens and any other documentation used to certify the amount. FSA-2407 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 FSA-2408--\* 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.

\*--Note: The RDBSCO CB FAX number is [314-457-4370@fax.usda.gov](mailto:314-457-4370@fax.usda.gov).--\*



## 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.

\*--Note: The RDBSCO CB FAX number is [314-457-4370@fax.usda.gov](mailto:314-457-4370@fax.usda.gov).--\*

### 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.--\*

**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.**

\*--The requirements of 4-FLP, subparagraph 196 B apply to all decisions affecting real estate security.--\*

**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  
\* \* \*
- 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 \* \* \* 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 for guidance on perfecting and maintaining interest in non-real estate security is available from the FSA Deputy Administrator for Farm Loan Programs Hub Site at <https://usdagcc.sharepoint.com/sites/FSA-DAFLP/SitePages/programbased.aspx>. Under “Training and Guides”, CLICK “Program Based Trainings” to access “Common Program Guides”.--\*

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.

**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 765.203I] 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 and obtain title by bidding at the tax sale according to 5-FLP, Part 17.

SED will issue a State Supplement on processing actions, procedures, and timing for the payment of a borrower's real estate taxes and on bidding at tax sales on accelerated accounts.--\*

**[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 765.203I] 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. FSA-2411 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, at the discretion of the authorized agency official FSA-2412 or FSA-2411 will be updated at least annually. If there are any material changes or at the discretion of the authorized agency official, a new FSA-2411, FSA-2412, or both, should be sent.

If requests are made for notification beyond the listed requirements, they can only be sent by FSA-2411 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.

## 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.

\*--Applicants will be notified that the application is complete according to 3-FLP, subparagraph 45 C.--\*

## 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).**

## 117 Conditions for Real Estate Subordinations (Continued)

## A Real Estate Security (Continued)

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.

**(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;**

## 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 requirements of subparagraph 196 B also apply.--\**

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)**

**\*--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.**

**\*--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 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 notate the changes on the working copy of 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.

**Note:** Insurance proceeds and proceeds from the sale of basic security which are--\* 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.**

## 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 FSA-2413.--\*

**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 FSA-2414.--\*

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 FSA-2415 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. FSA-2415 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, FSA-2416 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 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:

- \*--see subparagraph 196 F for 1031 exchanges--\*
- 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.

**196 Requirements (Continued)****A General (Continued)**

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. A copy of the agreement with the qualified intermediary must be provided for 1031 exchanges. FLC should direct legal questions to the regional OGC.~~\*
- 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)

**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
- \*--Part 16 for loan closing requirements--\*

**Notes:** \* \* \* FLC may wave 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.

\*--A new promissory note will not be completed for an exchange of security unless a new loan is closed.--\*

- paragraph 95 for appraisal requirements.
- \*--**Note:** Insurance proceeds and proceeds from the sale of basic security which are 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.

**Exception:** For 1031 exchanges, the proceeds from the sale of the original property must be placed immediately with the qualified intermediary.--\*



**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 (1-FLP, Part 4); 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.

## 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 FSA-2491 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).--\***

## 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 \*--FSA-2497 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. FSA-2498 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, FLB only; therefore, the authorized agency official should send a memorandum to the RD Business Center, FLB 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)****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, FSA-2498, 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 FSA-2499, 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 FSA-2499 to the impacted promissory notes.

**Note:** Pre-military service delinquent payments will also be deferred on FSA-2499 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)**



## Reports, Forms, Abbreviations, and Delegations 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-2401	Request for Operational Review Information		16, 17--*

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

## Forms (Continued)

Form Number	Title	Display Reference	Paragraph Reference
*--FSA-2406	Certification Regarding Notification of Payoff Amount		65
FSA-2407	Notification of Payoff Amount		65
FSA-2408	Notification of Termination of Security Interests in Farm Products		65--*
FSA-2409	Request for Continuation Statement Filing Fee		99
FSA-2410	Notice of FSA's Right to File a UCC Continuation Statement		99
*--FSA-2411	List of FSA Borrowers with Potential Liens		102
FSA-2412	Change in List of FSA Borrowers with Potential Liens		102
FSA-2413	Notification of Unauthorized Use of Proceeds		181
FSA-2414	Notification of Unauthorized Use of Proceeds (bankruptcy)		181
FSA-2415	Initial Notification of 3 <sup>rd</sup> Party Purchaser		181
FSA-2416	SED Notification of 3 <sup>rd</sup> Party Purchaser		181
FSA-2417	Lender Agricultural Loan Underwriting Standards		19
FSA-2419	Letter to Notify Borrowers to Refinance their FSA Loans		19--*
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-2424	Notice of Change in Limited Resource Loan Interest Rate		21--*
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

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

## Forms (Continued)

Form Number	Title	Display Reference	Paragraph Reference
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-2497	Potential Active-Duty Military Civil Relief Act Benefits		282
FSA-2498	Benefits of the Ronald W. Reagan National Defense Authorization Act		282, 283
FSA-2499	FSA Loan Borrowers Leaving Active Military Duty		283--*
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
IRS W-9	Request for Taxpayer Identification Number and Certification		68
UCC-1	National Financing Statement		247, 291
UCC-3	National Amendment Form		146

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

## 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 Delegations of Authority (Continued)**

**Delegations 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))****\*--1031 Exchange**

1031 exchange means an exchange under Section 1031 of the Internal Revenue Code that permits farmers or ranchers to defer capital gains taxes when selling a farm or ranch (excluding primary residence) and reinvesting the proceeds in a similar property. Proceeds from the sale must be received and used by a “qualified intermediary” to purchase the new property; the investor cannot directly receive the funds. The replacement property’s value and equity must be equal to or greater than the original property’s value in order to defer taxes. Strict time limits require the replacement property to be identified within 45 calendar days, and the exchange completed within calendar 180 days of the sale of the original property.--\*

**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.**

**Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)****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.

**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)

### \*--Qualified Intermediary

Qualified intermediary (QI) is a neutral third party in a 1031 exchange that holds proceeds from the sale of the original property, preventing the farmer or rancher from controlling the funds and preserving the tax-deferred status of the exchange under IRS rules. The QI ensures compliance with IRS rules for 1031 exchanges.--\*

### 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 CONTACT. 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.

**Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)****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.**

**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 and bidding at tax sales.--*
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.



**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**.--\*

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 <b>RD-MOSTL-NFAOC-PRB@stl.usda.gov</b> 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>• interest discharged from the note and advance * * *</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>