

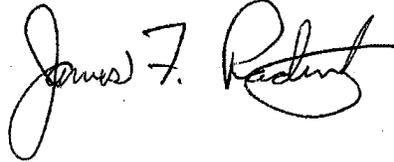
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct Loan Servicing – Special
and Inventory Property Management
5-FLP**

Amendment 20

Approved by: Acting Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 2 A has been amended to update the list of related FSA handbooks.

Subparagraph 402 F has been amended to clarify the reaffirmation of debt process for bankruptcy cases under Chapter 7 of the Bankruptcy Code.

Page Control Chart		
TC	Text	Exhibit
	1-1, 1-2 11-3, 11-4	

Part 1 Introduction and Purpose

1 Purpose and Sources of Authority

A Handbook Purpose

This handbook is designed to assist FSA in understanding the following:

- regulations governing:
 - direct loan servicing – special
 - inventory property management
- roles and responsibilities in implementing those regulations and other responsibilities in direct loan servicing – special and inventory property management.

B Sources of Authority

The sources of authority for this handbook include the following:

- 7 CFR Part 3; 7 CFR Part 1951, Subpart C; 7 CFR Part 1956, Subpart B; 31 CFR Part 285; and 31 CFR Parts 901 through 904 for internal administrative offset, Federal salary offset, debt settlement, cross-servicing (including AWG), TOP, and Federal claims collection standards
- 7 CFR Part 766 for servicing borrowers who are financially distressed or delinquent
- 7 CFR Part 767 for managing, leasing, and selling inventory property
- various laws and statutes passed by Congress, including CONACT and DCIA.

C Regulation References

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

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

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

Example: Subparagraph 103 C provides “[**7 CFR 766.105(b)**] (1) **The Agency will attempt to achieve a 110 percent debt service margin for the servicing options listed in paragraphs (a)(2) through (4)** (subparagraph B) **of this section.**”

Note: The text “**paragraphs (a)(2) through (4) of this section**” refers to 7 CFR 766.105 (a)(2) through (4). The nonbold reference indicates that 7 CFR 766.105(a) is included in subparagraph 103 B.

2 Related References

A Related FSA Handbooks

The following FSA handbooks concern FLP.

IF the area of concern is about...	THEN see...
appeals and mediation	1-APP.
civil rights compliance and administration for FSA programs	18-AO.
common management and operating provisions for program management activities, functions, and automated applications, such as forms that cannot be accepted by FAX	1-CM.
direct loan making	3-FLP.
direct loan regular or routine servicing	4-FLP.
employee development and training	6-PM.
environmental requirements	1-EQ.
--general and administrative regulations governing FLP, and implementing NAD final determinations--	1-FLP.
guaranteed loan making and servicing	2-FLP.
the Emergency Loan Seed Producers Program, Horse Breeder Loan Program, Indian Tribal Land Acquisition Program, Special Apple Loan *--Program, Land Contract Guarantee Program, and servicing of minor--* loan programs	6-FLP.
personnel management, such as employee conflict of interest	3-PM.
policies and procedures for the acquisition of supplies, equipment, and services	27-AS.
procedures for collecting, maintaining, or disclosing data or information about an individual	3-INFO.
procedures for making records available to the public, other Federal agencies, and Congress	2-INFO.
processing collections and canceling loan checks and payments	3-FI.
State and county organization and administration policies, procedures, principles, and standards, such as work organization	16-AO.
State and county records management	25-AS.

Notes: See FmHA Instruction 1945-A for information on the disaster designation process.

RD Instruction 1940-G must be used along with 1-EQ.

See RD Instructions 1951-C and 1956-B for information on administrative offset and debt settlements, respectively.

B Helpful Links

The Helpful Links web site at

<https://arcticocean.sc.egov.usda.gov/flp/InformationalLinks?Action=HelpfulLinks&caller=index> provides links to useful web sites.

402 Borrowers' Rights and Responsibilities About Loan Servicing**A Application Requirements for a Borrower Not Previously Notified of Loan Servicing Options**

[7 CFR 766.302(a)] To be considered for loan servicing, the borrower or borrower's attorney must sign and return the appropriate response form and any forms or information requested by the Agency within 60 days of the date of receipt of Agency notice on loan servicing options.

B Application Requirements for a Borrower With Previous Monetary and Nonmonetary Notification Pending

[7 CFR 766.302(b)] To be considered for continued loan servicing, the borrower or borrower's attorney must sign and return the appropriate response form and any forms or information requested by the Agency within the greater of:

(1) Sixty days after the borrower's attorney received the notification of any remaining loan servicing options; or

(2) The remaining time from the Agency's previous notification of all servicing options that the Agency suspended when the borrower filed bankruptcy.

C Acknowledgment of Agency Noninterference With the Bankruptcy Code

[7 CFR 766.303(a)] Any request for servicing is the borrower's acknowledgment that the Agency will not interfere with any rights or protections under the Bankruptcy Code and its automatic stay provisions.

D Obtaining Court Approval Before Exercising Servicing Rights

[7 CFR 766.302(c)] The borrower is responsible for obtaining court approval prior to exercising any available servicing rights.

402 Borrowers' Rights and Responsibilities About Loan Servicing (Continued)**E When a Bankruptcy Plan Is Confirmed Before Servicing or Appeals Are Completed**

[7 CFR 766.303(b)] If a plan is confirmed before servicing and any appeal is completed under 7 CFR part 11, the Agency will complete the servicing or appeals process and may consent to a post-confirmation modification of the plan if it is consistent with the Bankruptcy Code and subpart C (Part 3) of this part, as appropriate.

F Chapter 7 Servicing Requirements

[7 CFR 766.303(c)] A borrower filing for bankruptcy under Chapter 7 of the Bankruptcy Code may not receive primary loan servicing unless the borrower reaffirms the entire Agency debt. A borrower who filed chapter 7 does not have to reaffirm the debt in order to be considered for homestead protection.

*--If the borrower decides to reaffirm the entire FLP debt, FSA will accept the reaffirmation.

Once the borrower obtains permission from the court and reaffirms the debt, the authorized agency official will process the primary loan servicing application.

The borrower may use a court-approved Reaffirmation Agreement (B240A) found at <http://www.uscourts.gov/bkforms/index.html> to request debt reaffirmation. SED may:

- with advice from the regional OGC and/or the U.S. Attorney's office, authorize use of another form/format by issuing a State supplement
- issue a State supplement about procedures for reaffirmation of debt.

If the borrower reaffirms the debt in order to be considered for restructuring, but FSA later denies the restructuring, the borrower may revoke the reaffirmation subject to the provisions of the Bankruptcy Code.--*