

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 50

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 45 B has been amended to clarify partially advanced loans are not eligible for DSA.

Paragraph 65 has been added to provide guidance for borrower's noncompliance with loan agreements. This information was previously in 4-FLP, paragraph 100.

Subparagraphs 66 A, 67 A, 383 D, 402 A, and 601 A have been amended for consistent spelling of non-monetary and non-compliance for search purposes.

Subparagraphs 66 A, 67 A, and 102 C have been amended to reference paragraph 65 for borrower non-compliance with loan agreements.

Subparagraph 67 A has been amended to:

- clarify the process for establishing the PLS flag
- provide that certified mail will be used to send FSA-2547 and FSA-2548 on delinquent SA payments.

Subparagraph 67 B has been amended to clarify using FSA-2562 in establishing an account flag in DLS.

Subparagraph 81 D has been amended for clarification regarding income tax returns.

Subparagraph 102 C has been amended to clarify the need for current determinations of good faith.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraphs 116 B and C have been amended to:

- require the FSA-2518 be returned prior to closing
- require denials of servicing with appeal rights be sent by certified mail
- clarify both eligibility and feasibility determinations are made prior to providing appeal rights.

Subparagraphs 116 C has been amended to require notifications that the agency will service the account be sent to the borrower by certified mail.

Subparagraph 192 B has been amended to add a resource for determining if land is eligible for conservation contracts.

Subparagraph 194 A has been amended to include a reference to paragraph 81 for complete application requirements for conservation contracts submitted by current borrowers.

Subparagraph 194 C has been amended to clarify using the Conservation Contract Estimator Tool.

Subparagraph 211 C has been amended to clarify releasing best obtainable lien on an asset for securing commercial credit.

Subparagraph 229 A has been amended to clarify options for borrower's who fail to timely respond to an offer to restructure.

Subparagraph 248 C has been amended to clarify using the DEF flags and FSA-2562.

Subparagraph 250 A has been amended for spelling corrections.

Subparagraph 322 C has been amended to reference to 64-FI instead of 3-FI. 3-FI is obsolete.

Subparagraph 343 C has been amended to clarify using FSA-2544 and FSA-2525 for maturing shared appreciation agreements.

Subparagraph 401 C has been amended to clarify using FSA-2562 in establishing BAP flags.

Subparagraph 405 C has been amended to clarify when a new servicing package will not be sent.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 407 B has been amended to require SAA flag for borrowers that continue to make payments after Chapter 7 bankruptcy discharge.

Subparagraphs 537 C and D have been amended to clarify that Exhibit 53 is issued by the District Director.

Subparagraph 537 D has been amended to remove information prohibiting accelerations or foreclosures based on a class action complaint.

Subparagraph 551 D has been amended to clarify handling of DOJ fees on accounts paid in full.

Subparagraph 566 D has been amended to clarify Federal government actions to foreclose real estate instruments are not limited by State laws.

Subparagraph 567 A has been amended to clarify establishment of FAP flag.

Subparagraph 601 B has been amended to require use of TPF flag on accounts involved in a third-party foreclosure.

Exhibit 4 has been amended to include requirement for State supplement for subparagraph 405 C.

Exhibit 10.5 has been added for notification of nonmonetary default. Previously 4-FLP, Exhibit 28.5.

Exhibit 11:

- subparagraph C has been amended to update instructions on establishing flags and using FSA-2562
- subparagraph D has been amended to add:
 - subparagraph 407 reference for SAA flag
 - OGC and TPF flags and references.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Exhibit 17 has been amended for consistent spelling of write-down with CONACT and revised eDALR\$ cost constants.

Reminder: State constants must be issued before January 13.

Exhibit 37 has been amended to coincide with new automated version posted on current forms website.

Exhibit 53 has been amended for consistent spelling of write-down with CONACT and new signature title to DD.

Exhibit 60 has been amended to address DOJ fees.

Page Control Chart		
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45 DSA Eligibility and Limitations

A Borrower Eligibility

[7 CFR 766.52(a)] The borrower must meet all of the following requirements to be eligible for a DSA:

- (1) The borrower must have operated the farm in a county designated or declared a disaster area or a contiguous county at the time of the disaster (see operator definition in Exhibit 2). Farmers who have rented out their land base for cash are not operating the farm.**
- (67) The borrower must have acted in good faith, and the borrower's inability to make the upcoming scheduled loan payments must be for reasons not within the borrower's control.**
- (67) The borrower cannot have more than one installment set aside on each loan.**
- (4) As a direct result of the natural disaster, the borrower does not have sufficient income available to pay all family living and farm operating expenses, other creditors ~~and debts to the Agency.~~ (This determination must be fully explained in the FBP credit presentation). This determination will be based on:--***
- (67) The borrower's actual production, income and expense records for the year the natural disaster occurred;**
- (ii) Any other records required by the official;**
- (iii) Compensation received for losses; and**
- (iv) Increased expenses incurred because of the natural disaster.**
- (5) For the next production cycle, the borrower must develop a feasible plan showing that the borrower will at least be able to pay all operating expenses and taxes due during the year, essential family living expenses, and meet scheduled payments on all debts, including FLP debts. The borrower must provide any documentation required to support the farm operating plan.**
- (6) The borrower must not be in non-monetary default.**
- (7) The borrower must not be ineligible due to disqualification resulting from Federal Crop Insurance violation according to 7 CFR part 718 (1-CM).**
- (8) The borrower must not become 165 days past due before the appropriate Agency DSA documents are executed.**

The borrowers must remain eligible until FSA-2501 is executed.

45 DSA Eligibility and Limitations (Continued)

B Loan Eligibility

[7 CFR 766.52(b)] (1) Any FLP loan to be considered for DSA must have been outstanding at the time the natural disaster occurred.

(2) All of the borrower's FLP program and Non-program loans must be current after the Agency completes a DSA of the scheduled installment.

(3) All FLP loans must be current or less than 90 days past due at the time the application for DSA is complete.

*--Loans that are partially advanced are not eligible for DSA.

Example: On July 1, 2022, a borrower closes an FO loan for \$50,000 to expand an existing dairy barn, however because of delays, only \$1,000 has been advanced. In December severe storms damaged the existing barn and now the borrower is in dispute with the insurance company. The borrower is unable to make the July 1, 2023, installment of \$1,990 and has requested DSA. Because not all funds are advanced, the loan is not eligible for DSA. The borrower can request PLS as current but financially distressed.--*

(4) The Agency has not accelerated or applied any special servicing action under this part to the loan since the natural disaster occurred.

(5) For any loan that will receive a DSA, the remaining term of the loan must equal or exceed 2 years from the due date of the installment set-aside.

(6) The loan must not have a DSA in place.

The loans must remain eligible until FSA-2501 is executed.

C Loans on Deferral

[7CFR 766.51] (b) DSA is not intended to circumvent other servicing available under this part.

I DSA will not be used to circumvent the servicing available under Parts 3 and 4.

Accounts with loans on full or partial deferral may not be considered for DSA.

49 Borrower Payments**A Applying and Processing Borrower Payments**

[7 CFR 766.59I] The Agency will apply borrower payments toward set-aside installments first to interest and then to principal.

FSA processes a borrower payment made on a DSA installment as a normal collection and codes the installment as a “D” payment.

B Applying Payments of Borrowers With Multiple Set-Asides

In cases where the borrower received multiple set-asides on 1 loan under previous regulations or other authorizations, the payments will be applied as noted in subparagraph A to the oldest set-aside until it is paid in full and then to the later set-aside.

50-64 (Reserved)

Part 3 Loan Servicing – General Procedures

*--65 Borrower Non-Compliance With Loan Agreements

A Documenting Non-compliance

Borrowers must be in compliance with loan agreements to be eligible for loan servicing options. Non-compliance will be documented in the FBP running record by the authorized agency official. Documentation must include:

- type, nature, circumstances, and reasons for non-compliance
- any actions taken by the borrower to correct the non-compliance
- requirements of 4-FLP, subparagraph 181 A for conversion.

Note: Failure to complete borrower training is not a non-compliance issue for loan servicing. See 3-FLP, subparagraph 474 C for loan making restrictions for failure to complete borrower training.

Borrowers in non-compliance will be given the opportunity to correct the matter whenever possible. The borrower will be contacted and provided the opportunity to explain the potential non-compliance using Exhibit 10.5 or 4-FLP, Exhibit 31 for conversion (4-FLP, Part 7, Section 2). The borrower will also be initialized into DLS Special Servicing under “Borrower Potentially Commits a Non-monetary Default” category and tracked until servicing is completed. Any response received from the borrower will be documented in FBP and any supporting documentation will be included in the case file. The authorized agency official will review the borrower’s response and determine if the potential non-compliance has been satisfactorily resolved. If the issue is resolved, the FBP running record will be documented and no further action will be taken.

B Non-monetary Default

Third party foreclosures, failure to pay real estate taxes or insurance, and UCC renewal fees are non-monetary default decisions that can be made by the authorized agency official. If the authorized agency official determines that the non-compliance has not been resolved and the borrower is in non-monetary default, the account will be referred to SED for concurrence. FSA-2551 will be prepared by the local office and must include all pertinent information, documentation, and any responses provided by the borrower regarding the potential non-compliance. FSA-2551 and all documentation will be forwarded to SED for concurrence of non-monetary default determination. OGC concurrence is not required.

C Lack of Good Faith

SED will determine if a lack of good faith determination will be pursued, and determinations must be made by OGC. OGC lack of good faith determinations may result in the case being submitted for civil or criminal action as described in 5-FLP, Part 11.--*

Section 1 Notifying Borrowers of Loan Servicing

66 Borrower Notification

A General Requirements

[7 CFR 766.101(a)] The Agency will provide servicing information under this section to borrowers who:

[7 CFR 766.101(a)] (1) Have a current farm operating plan that demonstrates the borrower is financially distressed;

[7 CFR 766.101(a)] (2) Are 90 days or more past due on loan payments, even if the borrower has submitted an application for loan servicing as a financially distressed borrower;

The authorized agency official must provide a loan servicing notification package to a borrower before initiating liquidation, accelerating borrower loan accounts, or repossessing or foreclosing FSA security, unless the borrower was previously notified as 90 calendar days past due or non-monetary default and is already being serviced according to this part.

Example: A borrower misses their January 1, 2021, payment and is properly notified when they become 90 calendar days past due. Processing is then delayed and while FSA continues PLS they make the January 1, 2021, payment on January 15, 2022. At this point, they are less than 90 calendar days past due; however, since the delinquency was not cured at any point, FSA continues to process PLS. They are not renotified.

If a loan is past due, the far left-hand column of the 540 Report shows the number of days that the loan is past due. The code “PDD” (Past Due Days) is shown beside the number. The 540 Report should be printed and reviewed immediately by the authorized agency official once it becomes available. Both the “Borrowers with Loans 90 Days Past Due” and the “Borrowers with Loans Less Than 90 Days Past Due” should be reviewed to find all accounts that will need to be notified of primary loan servicing in the coming month.

The borrower will be notified within 15 calendar days of becoming 90 calendar days past due.

Example: A borrower’s annual installment is due January 1. The borrower fails to make the payment and a local agency official contacts the borrower to discuss the missed payment. The borrower promises to sell steers on May 1st to make the annual installment. The agency official acknowledges the proposal, but reminds the borrower that PLS notices must be sent if the account becomes 90 days past due. The account is shown as 90 days past due on the April 540 Report, therefore, the local agency official must send the borrower the required servicing package and enters the PLS action in DLS Special Servicing.

66 Borrower Notification (Continued)**A General Requirements (Continued)****[7 CFR 766.101(a)] (3) Are in non-monetary default on any loan agreements;**

For further information about compliance with loan agreements, see 4-FLP, Part 6.

--The borrower's non-compliance must be determined according to paragraph 65 before--
being provided with Primary Loan Servicing notifications.

[7 CFR 766.101(a)] (4) Have filed bankruptcy;

When FSA learns that a borrower has filed for bankruptcy, FSA will service the borrower's account according to Part 11.

[7 CFR 766.101(a)] (5) Request this information;

The authorized agency official will record a borrower's request for a loan servicing notification package in the borrower's FBP running record or place the written request in the borrower's file.

[7 CFR 766.101(a)] (6) Request voluntary conveyance of security;

The authorized agency official will send a loan servicing notification package to a borrower requesting full liquidation by voluntary conveyance, unless the borrower was previously notified and is already being serviced according to this part.

[7 CFR 766.101(a)] (7) Have only delinquent SA; or

FSA will notify delinquent NP borrowers who have only SA amortization agreements.

[7 CFR 766.101(a)] (8) Are subject to any other collection action, except when such action is a result of failure to graduate. Borrowers who fail to graduate when required and are able to do so, will be accelerated without providing notification of loan servicing options.

67 Providing Loan Servicing Notification Package

A Forms for Notifying Borrowers

[7 CFR 766.101(b)] The Agency will notify borrowers of the availability of primary loan servicing programs, conservation contract, current market value buyout, debt settlement programs and homestead protection as follows:

[7 CFR 766.101(b)] (1) A borrower who is financially distressed, or current and requesting servicing will be provided FSA-2512 (Appendix A to this subpart) (appendix only in CFR);

Notification will be hand-delivered or sent by regular mail to borrowers who are current and requesting servicing.

[7 CFR 766.101(b)] (2) A borrower who is 90 days past due will be sent FSA-2510 (Appendix B to this subpart) (appendix only in CFR);

The authorized agency official must send FSA-2510 within 15 calendar days of the determination of the default. Notification will be sent by certified mail. The account will be *--flagged "PLS" (Exhibit 11), according to subparagraph 67 B, until the primary loan--* servicing process has been completed or the account accelerated.

If non-monetary default is subsequently identified, the borrower's noncompliance must be *--determined and notification sent according to paragraph 65. The borrower will not be sent--* FSA-2514 and a new PLS packet. The non-monetary default will be addressed in the appropriate pre-acceleration notice unless it is resolved.

[7 CFR 766.101(b)] (3) A borrower who is non-monetary or both monetary and non-monetary default will receive FSA-2514 (Appendix C to this subpart) (appendix only in CFR);

If a potential non-monetary default cannot first be resolved through the steps in subparagraph 66 A, FSA-2514 will be sent by certified mail. The account will be flagged *--"PLS" (Exhibit 11), according to subparagraph 67 B, until the primary loan servicing--* process has been completed, the default resolved, or the account accelerated.

[7 CFR 766.101(b)] (4) A borrower who has only delinquent SA will be notified of available loan servicing;

The borrower will be sent FSA-2547 within 15 calendar days of the missed payment. *--Notification will be sent by certified mail. The borrower must submit the items specified in subparagraphs 81 C through I within 60 calendar days of the date on the notice. If a complete application has not been received within 30 calendar days FSA-2548 will be sent. Notification will be sent by certified mail.--*

[7 CFR 766.101(b)] (5) Notification to a borrower who files bankruptcy will be provided in accordance with subpart G (Part 11) of this part.

Note: Part 11 only addresses who would be sent notification. The appropriate form used for notification is established by this subparagraph based on the borrower's status as current, financially distressed, 90 calendar days past due, or non-monetary default.

67 **Providing Loan Servicing Notification Package (Continued)****B Using DLS Special Servicing and PLS Flag**

The authorized agency official must track all notification and servicing activity through DLS Special Servicing and FSA-2580.

PLS flag will be placed only on accounts sent FSA-2510 or FSA-2514.

To establish an account flag, * * * a 5G transaction will be processed in DLS through the *--Manage Flags function under Customer Management. If the servicing office does not have permissions to input the necessary flag, FSA-2562 will be completed and submitted to the appropriate office requesting entry of the transaction in DLS.--*

C Methods of Notifying Borrowers

[7 CFR 766.101(c)] Notices to delinquent borrowers or borrowers in non-monetary default will 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. The appropriate response time will begin 3 days following the date of the first class mailing. For all other borrowers requesting the notices, the notices will be sent by regular mail or hand delivered.

If the certified mail return receipt and/or notification package is not returned within 15 days, the agency official will use USPS online tracking to determine if the borrower has received the notification package. If the online record indicates:

- that no delivery attempt was made, the borrower will be notified again using certified mail
- that the notification was delivered or accepted by the borrower, the indicated date will serve as the accepted date
- at least one delivery attempt has been made with no indication as to whether the borrower accepted mail, the notification package will be treated as not accepted and sent again by regular mail.

If the notification package is returned “address unknown”, the authorized agency official will verify the borrower’s current postal address using FSA-137 according to 5-AS, paragraph 77. If no new address can be obtained, the authorized agency official will continue to use the last known address.

Once the address verification process is completed, the authorized agency official will:

- record the date the original package was returned and the date the contents are re-mailed on the original envelope and file the original envelope in position 4 of the case file
- resend the contents of the loan servicing notification package in a new sealed envelope.

The timeframe for a complete application will be determined according to subparagraph 83 B.

67 Providing Loan Servicing Notification Package (Continued)**D Requests for Copies of Regulations**

A borrower may request copies of regulations at any time. When asked, the authorized agency official must provide a borrower 1 free copy of a regulation within 10 workdays of the request. See 2-INFO for further guidance.

68 Other Loan Servicing Notification Requirements**A Notifying All Parties on a Note of Loan Servicing**

For PLS purposes, all parties who signed the promissory note, including cosigners, are considered borrowers and are liable for all the debt.

When a borrower subject to loan servicing notification is:

- an entity comprised of 2 or more individuals, the authorized agency official will provide a loan servicing notification package to the entity and each party who signed the promissory note or pledged security for the loan
- a married couple at the same address, the authorized agency official will provide them 1 loan servicing notification package that is addressed to both parties
- a married or divorced couple at different addresses, the authorized agency official will provide a loan servicing notification package to each person at their own address.

Note: A divorced spouse who has left an operation may seek a release of liability. See paragraph 84 for more information on releasing divorced spouses from liability.

All required subsequent notifications are sent in the same manner.

Third parties who pledged property as security will be sent Exhibit 13 whenever FSA-2510 or FSA-2514 are sent to the borrower. A copy of the FSA-2510 or FSA-2514 sent to the primary borrower will be included and marked “Courtesy Copy”.

Borrowers with YL’s will be sent Exhibit 14, with the appropriate PLS notification to explain the reason for the notification and their servicing options.

B Internal Administrative Offset Notification

The authorized agency official will send an offset notification according to 7-FLP, Part 3.

C TOP Referral

Delinquent loans will be referred to TOP according to 7-FLP, Part 4.

69-80 (Reserved)

Section 2 Completing the Loan Servicing Application**81 Required Information****A General Application Requirements and Signatures**

[7 CFR 766.102(a)] Except as provided in paragraph (e) (subparagraph 83 A) of this section, an application for primary loan servicing, conservation contract, current market value buyout, homestead protection, or some combination of these options, must include the following to be considered complete:

FSA will consider an application complete when the borrower has completed, signed, dated and submitted to the servicing office, the forms and reports listed in subparagraphs B through I to the extent that the borrower is responsible.

The authorized agency official will date stamp, on the date received, all material received from the borrower. Date of complete application is entered on FSA-2001.

B Acknowledgement Form

[7 CFR 766.102(a)(1)] Completed acknowledgement form provided with the Agency notification and signed by all borrowers;

To request loan servicing, all delinquent or distressed borrowers must sign and submit FSA-2511, FSA-2513, or FSA-2515 as appropriate unless the borrower is a divorced spouse seeking a release of liability.

C Application Form

[7 CFR 766.102(a)(2)] Completed Agency application form;

The borrower and, in the case of an entity, all entity members must complete FSA-2001. The authorized agency official will order personal and/or commercial credit reports immediately upon receipt of the signed FSA-2001 and acknowledgement form. No credit report fee is collected for applications for servicing only. Entity members may use FSA-2037 to provide financial information.

***--Note:** For FSA-2001 without initials only, authorized agency official will obtain initials before closing the servicing action requested.--*

81 Required Information (Continued)

D Financial Records

[7 CFR 766.102(a)(3)] Financial records for the three most recent years, including income tax returns;

The borrower must provide all farm and nonfarm income and expense records, including family living expenses. Financial records will be submitted through FSA-2002 or other similar format. FSA does not release a borrower's income tax records without OGC's *--consent. Failure to provide income tax records is considered an incomplete application. Follow subparagraph 83 C for notification requirements. However, there are circumstances when an individual may not be required to submit income tax returns, such as certain tribal members or operations that do not meet minimum income thresholds.--*

E Production Records

[7 CFR 766.102(a)(4)] The farming operation's production records for the 3 most recent years or the years the borrower has been farming, whichever is less;

Farm production records will be submitted through FSA-2003 or other similar format.

F Compliance With Environmental Requirements

[7 CFR 766.102(a)(5)] Documentation of compliance with the Agency's environmental regulations contained in subpart G of 7 CFR part 1940;

Note: At 81 FR 51285, Aug. 3, 2016, §766.102, in paragraph (b)(3)(ii), the words "subpart G of 7 CFR part 1940" were removed and the words "part 799 of this chapter" were added in their place. However, paragraph (b)(3)(ii) does not exist, and this amendment could not be incorporated.

AD-1026 and NRCS-CPA-026, which accurately reflect the current farm operation, must be used. FSA will not require new forms unless the existing forms no longer reflect the current operation.

G Verification of Nonfarm Income

[7 CFR 766.102(a)(6)] Verification of all non-farm income;

Nonfarm income will be verified and documentation included in the case file according to 3-FLP, subparagraph 42 A.

81 Required Information (Continued)**H Farm Operating Plan**

[7 CFR 766.102(a)(7)] A current financial statement and the operation's farm operating plan, including the projected cash flow budget reflecting production, income, expenses, and debt repayment plan. In the case of an entity, the entity and all entity members must provide current financial statements; and

FBP will be prepared from FSA-2037 and FSA-2038 and the borrower's historical data.

I Verification of Debt and Collateral

[7 CFR 766.102(a)(8)] Verification of all debts and collateral.

Debts will be verified and documentation included in the case file according to 3-FLP, subparagraph 42 A.

82 Additional Information Required if Applying for Other Loan Servicing Programs**A Debt Settlement**

[7 CFR 766.102(c)] To be considered for debt settlement, the borrower must provide the appropriate Agency form, and any additional information required under subpart B of 7 CFR Part 1956. (7-FLP, Part 12)

To apply for debt settlement, a borrower must complete and submit FSA-2732 and may do so at any time. The loan account does not need to be delinquent and the borrower does not need to apply for primary loan serving before applying for debt settlement. See 7-FLP, Parts 8 and 12.

B Conservation Contract

[7 CFR 766.102(b)] In addition to the requirements contained in paragraph (a) (paragraph 81) of this section, the borrower must submit an aerial photo delineating any land to be considered for a conservation contract.

To apply for a conservation contract, a borrower must submit to the County Office:

- a complete application as described in paragraph 81
- an aerial photo or map of the tract and approximate legal description, outlining the proposed boundaries of the conservation area.

See Part 5 for more information on conservation contracts.

83 Borrower Response Timeframes

A Borrower Response Timeframes

[7 CFR 766.101(d)] To be considered for loan servicing, a borrower who is:

(1) Current or financially distressed may submit a complete application any time prior to becoming 90 days past due;

If a distressed borrower becomes 90 calendar days past due before closing a loan restructure, processing will stop and the authorized agency official will send the 90-calendar-day past due notification.

[7 CFR 766.102(d)] If a borrower who submitted a complete application while current or financially distressed is renotified as a result of becoming 90 days past due, the borrower must only submit a request for servicing in accordance with paragraph (a)(1) (subparagraph 81 B) of this section, provided all other information is less than 90 days old and is based on the current production cycle. Any information 90 or more days old or not based on the current production cycle must be updated.

[7 CFR 766.102(e)] The borrower need not submit any information under this section that already exists in the Agency's file and is still current as determined by the Agency.

[7 CFR 766.101(d)(2)] Ninety (90) days past due must submit a complete application within 60 days from receipt of FSA-2510;

[7 CFR 766.101(d)(3)] In non-monetary default with or without monetary default must submit a complete application within 60 days from receipt of FSA-2514.

--For borrowers who are 90 calendar days past due or in non-monetary default, all items-- required from the borrower according to paragraph 81 must be received in the office by close of business on the last day. If the 60th calendar day is a Saturday, Sunday, or Federal holiday, FSA will accept the borrowers completed application the next workday.

Section 3 Loan Servicing Processing and Requirements

101 Initial Processing

A General Policy

FSA will not begin processing a loan servicing application until the application is complete.

FSA must process a complete loan servicing application within 60 calendar days of receiving a complete application. See Part 6, Section 2 for application processing deadlines.

102 Eligibility

A General

[7 CFR 766.104(a)] A borrower must meet the following eligibility requirements to be considered for primary loan servicing:

Requirements specific to certain servicing actions are stated in Part 4.

B Entity and Operator Requirements

If the borrower is an entity or comprised of 2 or more individuals, the entity as well as each member must meet all eligibility requirements (as all are liable) and will be required to sign FSA-2026.

The borrower must have been the operator as defined in Exhibit 2.

C Good Faith

[7 CFR 766.104(a)(4)] The borrower has acted in good faith. If loan servicing is to be denied based on “lack of good faith”, a determination must be made according to

*--paragraph 65.

Note: A lack of good faith determination requires OGC concurrence for each new application package submitted. Previous lack of good faith determinations must be reevaluated by OGC, and an updated determination provided. If the previous OGC lack of good faith determination occurred more than 10 years prior to the date of a new application, National Office concurrence is required before final disposition. Loan approval officials will refer these cases through the State Office.--*

102 Eligibility (Continued)**D Reason for Delinquency or Distress**

[7 CFR 766.104(a)(1)] The delinquency or financial distress is the result of reduced repayment ability due to one of the following circumstances beyond the borrower's control:

- (i) Illness, injury, or death of a borrower or other individual who operates the farm;**
- (ii) Natural disaster, adverse weather, disease, or insect damage which caused severe loss of agricultural production;**
- (iii) Widespread economic conditions such as low commodity prices;**
- (iv) Damage or destruction of property essential to the farming operation; or**
- (v) Loss of, or reduction in, the borrower or spouse's essential non-farm income.**

If the borrower is delinquent or financially distressed because of an action within the borrower's control, the borrower is not eligible for loan servicing.

116 Agency Notification of Servicing Decision

A Notification Requirement

[7 CFR 766.106] The Agency will send the borrower notification of the Agency's decision within 60 calendar days after receiving a complete application for loan servicing.

Exception: When a real estate appraisal is involved, the Agency will send the borrower notification of the Agency's decision within 90 calendar days after receiving a complete application.

B Notifying Financially Distressed or Current Borrowers

[7 CFR 766.106 (a)(1)] If the borrower can develop a feasible plan and is eligible for primary loan servicing, the Agency will offer to service the account.

Upon approval by the authorized agency official, or SED if any debt is projected to be forgiven, the borrower will be sent FSA-2519 and FSA-2520 by the authorized agency official.

[7 CFR 766.106 (a)(1)] (i) The borrower will have 45 days to accept the offer of servicing. After accepting the Agency's offer, the borrower must execute loan agreements and security instruments, as appropriate.

[7 CFR 766.106 (a)(1)] (ii) If the borrower does not accept the offer, the Agency will send the borrower another notification of the availability of loan servicing if the borrower becomes 90 days past due in accordance with § 766.101(a)(2) (subparagraph 66 A).

[7 CFR 766.106 (a)(2)] If the borrower cannot develop a feasible plan, or is not eligible for loan servicing, the Agency will send the borrower the calculations used and the reasons for the adverse decision.

Upon denial by the authorized agency official, the borrower will be sent FSA-2523 and FSA-2524 by the authorized agency official. A copy of the eDALR\$ report will be included.

--The authorized agency official will consider whether or not it is necessary for both eligibility and feasibility decisions to be made prior to providing the FSA-2523 and FSA-2524 to a borrower who submitted a complete application. In cases where an applicant clearly does not satisfy eligibility requirements, it may be in the borrower's best interest to issue eligibility determinations without a lengthy feasibility analysis being conducted.--

[7 CFR 766.106 (a)(2)] (i) The borrower may request reconsideration, mediation and appeal in accordance with 7 CFR parts 11 and 780 of this title.

[7 CFR 766.106 (a)(2)] (ii) The Agency will send the borrower another notification of the availability of loan servicing if the borrower becomes 90 days past due in accordance with § 766.101(a)(2) (subparagraph 66 A).

116 Agency Notification of Servicing Decision (Continued)

C Notifying Borrowers 90 Days Past Due or in Non-Monetary Default

[7 CFR 766.106 (b)(1)] If the borrower can develop a feasible plan and is eligible for primary loan servicing, the Agency will offer to service the account.

Upon approval by the authorized agency official, or SED if any debt is forgiven, the borrower will be sent FSA-2517 and FSA-2518 by the authorized agency official

--by certified mail.--

[7 CFR 766.106 (b)(1)] (i) The borrower will have 45 days to accept the offer of servicing. After accepting the Agency's offer, the borrower must execute loan agreements and security instruments, as appropriate.

--The borrower must return the FSA-2518 accepting the servicing offer prior to closing of the servicing action.--

[7 CFR 766.106 (b)(1)] (ii) If the borrower does not timely accept the offer, or fails to respond, the Agency will notify the borrower of its intent to accelerate the account.

[7 CFR 766.106 (b)(2)] If the borrower cannot develop a feasible plan, or is not eligible for loan servicing, the Agency will send the borrower notification within 15 days, including the calculations used and reasons for the adverse decision, of its intent to accelerate the account in accordance with subpart H (Part 15) of this part, unless the account is resolved through any of the following options:

Upon denial by the authorized agency official, the borrower will be sent FSA-2521 and *--FSA-2522 by the authorized agency official by certified mail. The authorized agency official will consider whether or not it is necessary for both eligibility and feasibility decisions to be made prior to providing the FSA-2523 and FSA-2524 to a borrower who submitted a complete application. In cases where an applicant clearly does not satisfy eligibility requirements, it may be in the borrower's best interest to issue eligibility determinations without a lengthy feasibility analysis being conducted.--*

Note: If a non-monetary default is determined after FSA-2510 is issued, then FSA-2521 will address both the monetary and non-monetary defaults. The reasons for the non-monetary default determination will be detailed on FSA-2521.

116 Agency Notification of Servicing Decision (Continued)

C Notifying Borrowers 90 Days Past Due or in Non-Monetary Default (Continued)

[7 CFR 766.106 (b)(2)] (i) The borrower may request reconsideration, mediation or voluntary meeting of creditors, or appeal in accordance with 7 CFR parts 11 and 780.

[7 CFR 766.106 (b)(2)] (ii) The borrower may request negotiation of appraisal within 30 days in accordance with § 766.115 (subparagraph 230 B).

[7 CFR 766.106 (b)(2)] (iii) If the net recovery value of non-essential assets is sufficient to pay the account current, the borrower has 90 days to pay the account current.

[7 CFR 766.106 (b)(2)] (iv) The borrower, if eligible in accordance with § 766.113 (paragraph 321), may buyout the loans at the current market value within 90 days.

[7 CFR 766.106 (b)(2)] (v) The borrower may request homestead protection if the borrower's primary residence was pledged as security by providing the information required under § 766.152 (Part 7).

117-125 (Reserved)

Section 4 (Withdrawn--Amend. 41)

126-127 (Withdrawn--Amend. 41)

128-130 (Reserved)

192 Eligible Land and Purposes (Continued)**A Eligible Land (Continued)**

These areas are within or adjacent to the following:

- National Park
- FWS-administered area
- State fish and wildlife agency administered area
- National Forest
- Bureau of Land Management administered area
- Wilderness Area
- National Trail
- unit of the Coastal Barrier Resource System
- abandoned railroad corridors contained in local, State, or Federal open space, recreation, or trail plans
- Federal or State wild or scenic river
- U.S. Army Corps of Engineers land designated for flood control or recreation purposes
- State and local recreation, natural, or wildlife areas
- State conservation agency administered areas.

***--B Unsuitable Acreage**

[7 CFR 766.110 (c)] Notwithstanding paragraph (b) (subparagraph 192 A) of this section, acreage is unsuitable for a Conservation Contract if:--*

- (1) It is not suited or eligible for the program due to legal restrictions;**
- (2) It has on-site or off-site conditions that prohibit the use of the land for conservation, wildlife, or recreational purposes; or**

192 Eligible Land and Purposes (Continued)

B Unsuitable Acreage (Continued)

(3) The Conservation Contract review team determines that the land does not provide measurable conservation, wildlife, or recreational benefits;

(4) There would be a duplication of benefits as determined by the Conservation Contract review team because the acreage is encumbered under another Federal, State, or local government program for which the borrower has been or is being compensated for conservation, wildlife or recreation benefits;

(5) The acreage subject to the proposed Conservation Contract is encumbered under a Federal, State, or Local government cost share program that is inconsistent with the purposes of the proposed Conservation Contract, or the required practices of the cost share program are not identified in the conservation management plan.

--The National Conservation Easement Database <https://www.conservationeasement.us/> can be used as a resource in determining if the land is encumbered by another Federal, State, or local government program.--

(6) The tract does not contain a legal right of way or other permanent access for the term of the contract that can be used by the Agency or its designee to carry out the contract; or

(7) The tract, including any buffer areas, to be included in a Conservation Contract is less than 10 acres.

C Eligible Purposes

[7 CFR 766.110(a)(4)] A Conservation Contract may be established for conservation, recreation, and wildlife purposes.

FSA-2535 must establish a conservation easement that either:

- conserves or protects wetlands, highly erodible land, upland, or wildlife habitat
- provides recreation land for public use
- conserves or protects wildlife habitat that contains fish and wildlife habitats of local, State, tribal, or national importance
- provides a combination of conservation and protection of wetlands, highly erodible land, upland, or wildlife habitat and recreation.

Recreational easements may be used for both consumptive, such as hunting and fishing, and nonconsumptive, such as camping and hiking, activities. Recreational easements must protect wildlife, conserve wildlife's habitats, ensure public safety, and comply with all applicable laws, regulations, and ordinances. Recreational easements cannot inhibit the operation of the remaining farm enterprise.

193 Amount of Debt Canceled by Conservation Contract (Continued)

C Debt Forgiveness

The debt reduced through FSA-2535 is not considered debt forgiveness under CONACT.

194 Processing Conservation Contract Request

A Applying for Conservation Contract

All requests for conservation contracts must be tracked using DLS Special Servicing.

A borrower who is delinquent, financially distressed, or in non-monetary default and is interested in receiving loan servicing, including a conservation contract, must submit:

- a loan servicing application package according to paragraphs 81 and 82
- an aerial photo or map of the borrower's land that delineates the proposed conservation area according to subparagraph 82 B.

A current borrower who is not financially distressed may request a conservation contract by submitting:

- *--FSA-2060
- actual financial performance for the past year (last year's tax return or last year's income and expense records are acceptable).
- current balance sheet (or FSA-2037)
- projected income/expense for planning year (or FSA-2038)
- annual crop and livestock production yields--*
- an aerial photo or map that delineates the proposed conservation area according to subparagraph 82 B.

194 Processing Conservation Contract Request (Continued)

B Processing a Delinquent or Financially Distressed Borrower's Request

If the borrower is eligible for loan servicing, the authorized agency official uses eDALR\$ to determine which loan servicing program or combination of programs may enable the borrower to develop a feasible plan.

When using eDALR\$ to process a loan servicing application that includes a request for a conservation contract, the authorized agency official shall input into eDALR\$ the contract term and conservation acreage.

- The authorized agency official should determine the financial effect of the different contract lengths by running the 3 contract term scenarios on eDALR\$ or the Conservation Contract Estimator Tool, such as 10-, 30-, and 50-year contract terms. By varying the contract term and holding all other input parameters constant, the authorized agency official and borrower may compare the magnitude of debt cancellation across contract terms.
- The authorized agency official also should vary the conservation acreage to determine the effect of changing the size of the proposed conservation contract area. The authorized agency official extrapolates the size of the proposed conservation area from the area marked on the borrower's aerial photo or map. For each contract term that enables a borrower to develop a feasible plan, the authorized agency official should record the minimum conservation acreage that is needed to create a feasible plan.

Example: A delinquent borrower applies for loan servicing and indicates an interest in FSA-2535. The aerial photo the borrower submits indicates the proposed conservation area is 1,000 acres. Using eDALR\$ or the Conservation Contract Estimator Tool, the authorized agency official determines that the borrower can develop a feasible plan if the borrower accepts FSA-2535 for 30 or 50 years. eDALR\$ indicates that a 50-year contract reduces the borrower's debt by \$20,000, while a 30-year contract reduces the borrower's debt by \$12,000. By adjusting the number of acres inputted into eDALR\$, the authorized agency official determines that at a minimum, the borrower has to place 700 acres of land into a conservation easement under a 30-year contract or 500 acres of land into a conservation easement under a 50-year contract to develop a feasible plan.

194 Processing Conservation Contract Request (Continued)**C Processing a Current Borrower's Request**

Once the authorized agency official receives all necessary information and documentation required to apply for a conservation contract from a current borrower who is not financially distressed, the authorized agency official:

- must use eDALR\$ to determine the amount of debt to be canceled
- must verify that the farm operation would remain feasible after the proposed conservation easement is implemented.

The authorized agency official may use * * * the Conservation Contract Estimator Tool to determine what effect varying contract terms and conservation contract area has on the debt *--cancellation amount when discussing the borrower's conservation contract request.--*

D Preliminary Approval of Conservation Contract for a Delinquent or Distressed Borrower

If eDALR\$ determines that a conservation contract, alone or in combination with other loan servicing programs, could enable a delinquent or financially distressed borrower to develop a feasible plan, the authorized agency official informs the borrower of the:

- potential contract terms
- amount of real estate debt that could be canceled by setting aside the area indicated on the aerial photo or map under each eligible contract term
- minimum amount of acres that must be set aside under each contract term
- amount of real estate debt that is canceled if the minimum number of acres under each contract term is set aside
- other loan servicing programs, if any, that must be implemented along with FSA-2535.

194 Processing Conservation Contract Request (Continued)**D Preliminary Approval of Conservation Contract for a Delinquent or Distressed Borrower (Continued)**

If the borrower wants to pursue a contract with a term and acreage that enables the borrower to develop a feasible plan, the authorized agency official must explain to the borrower that:

- FSA will establish a conservation contract review team
- conservation contract review team may survey the entirety of the borrower's land so that all sensitive areas may be included for consideration, not just the area marked on the photo or map submitted by the borrower, and delineate conservation contract eligible areas
- issuing FSA-2535 depends on conservation contract review team approval
- conservation contract plan must be adhered to for the term of the contract.

E Preliminary Approval of Conservation Contract for a Current Borrower That Is Not Financially Distressed

If the farm operation will remain feasible after a current borrower who is not distressed implements FSA-2535, the authorized agency official will notify the borrower of preliminary approval. The authorized agency official should indicate the amount of real estate debt canceled by setting aside the area indicated on the aerial photo or map under each contract term.

The authorized agency official must explain to the borrower that has been tentatively approved and wants to pursue a contract, that:

- conservation contract review team will be established

Note: See paragraph 195 for more information on conservation contract review teams.

- conservation contract review team may survey the entirety of the borrower's land so that all sensitive areas may be included for consideration, not just the area marked on the photo or map submitted by the borrower, and delineate conservation contract eligible areas
- issuing FSA-2535 depends on conservation contract review team approval.

Part 6 Common Requirements and Final Processing**Section 1 Security****211 Additional Security for Servicing Actions****A Requirements**

[7 CFR 766.112(a)] If the borrower is delinquent prior to restructuring, the borrower, and all entity members in the case of an entity, must execute and provide to the Agency a lien on all of their assets, except as provided in paragraph (b) (subparagraph 211 C) of this section, when the Agency is servicing a loan.

FSA will take the best lien obtainable on all assets the borrower owns at the time of a primary loan servicing action. If the borrower is an entity, FSA will take the best lien *--obtainable on all assets owned by the entity, all assets owned by the individual members of the entity, and all assets owned by any related entity. These assets are additional security--* for the restructured loans and for any FSA-2543 that may be executed according to paragraph 249. An appraisal is not required to take security as a best lien obtainable unless the property will be covered by FSA-2543.

B Allowable Security

Security may include but is not limited to:

- land, mineral rights, water rights, buildings, fixtures, machinery, and equipment
- livestock, livestock products, growing crops, stored crops, inventory, supplies, and accounts receivable
- cash or cash collateral accounts, marketable securities, certificates of ownership of precious metals, and cash surrender value of life insurance
- assignments on leases or leasehold interests having mortgageable value, revenues, royalties from mineral rights, patents, copyrights, and pledges of security from third parties.

211 Additional Security for Servicing Actions (Continued)**C Exceptions**

[7 CFR 766.112(b)] The Agency will take the best lien obtainable on all assets the borrower owns, except:

(1) When taking a lien on such property will prevent the borrower from obtaining credit from other sources;

***--Note:** Releases of security are processed according to 4-FLP, Section 5.--*

(2) When the property could have significant environmental problems or costs as described in 7 CFR part 799 of this chapter;

(3) When the Agency cannot obtain a valid lien;

(4) When the property is subsistence livestock, cash, special collateral accounts the borrower uses for the farming operation, retirement accounts, personal vehicles necessary for family living, household contents, or small equipment such as hand tools and lawn mowers; or

(5) When a contractor holds title to a livestock or crop enterprise, or the borrower manages the enterprise under a share lease or share agreement.

212-225 (Reserved)

229 State Mediation and Voluntary Meeting of Creditors

A Introduction

The FSA representative can make no agreement with the borrower that does not comply with FSA regulations or policies. Further, FSA is not obligated by the terms of the mediation agreement if the terms are contrary to Federal statute, regulations, handbooks, notices, or instructions.

***--Note:** FSA-2517 does not provide the borrower with reconsideration, mediation or appeal rights. The borrower does not receive these options until after FSA-2525 is sent. Failure to timely respond to an offer to restructure debt on FSA-2517 will not be held against the borrower if reconsideration, mediation, or appeal rights offered on FSA-2525 corrects issues which the borrower had with the offer to restructure on FSA-2517.--*

[7 CFR 766.114(a)] A borrower who is unable to develop a feasible plan but is otherwise eligible for primary loan servicing may request:

[7 CFR 766.114(a)] (1) State-certified mediation; or

This also applies to USDA certified mediation States.

[7 CFR 766.114(a)] (2) Voluntary meeting of creditors when a State does not have a certified mediation program.

[7 CFR 766.114(b)] Any negotiation of the Agency's appraisal must be completed before State-certified mediation or voluntary meeting of creditors.

Within 15 calendar days of determining that the borrower is ineligible or cannot develop a feasible plan, the authorized agency official will offer the borrower mediation or a voluntary meeting of creditors through FSA-2523 and FSA-2524 **or** FSA-2521 and FSA-2522, as appropriate.

SED will issue a State supplement detailing State mediation requirements.

SED will:

- ensure 1-APP and the State supplement is followed where applicable
- designate the FSA employee who will represent FSA at the mediation
- set the authority limit for the FSA representative
- ensure the FSA representative is prepared for the mediation.

229 State Mediation and Voluntary Meeting of Creditors (Continued)**B States With Certified Mediation Programs**

If the borrower requests mediation, FSA will participate regardless of the participation of the other creditors.

FSA participates in mediation under the same terms as other creditors, including payment of mediation fees if required.

C States Without Certified Mediation Programs

SED will contract with qualified mediators within their State and participate in mediation according to 1-APP, Part 5.

The mediator will schedule the meeting of creditors and encourage the borrower's other creditors to participate.

It is expected the mediator will:

- conduct the meeting according to accepted mediation practices
- advise, counsel, and facilitate the development of an agreement
- demonstrate good human relation skills, ability to resolve problems, and settle disputes
- remain neutral
- review the proposed solution to determine whether it can be effectively implemented
- review the participants' obligations, including but not limited to confidentiality
- promote good faith discussions.

D Documenting Mediation or Voluntary Meeting of Creditors

At the conclusion of mediation or a voluntary meeting of creditors, the mediator will provide SED with a written document signed by the parties in attendance, which specifies the outcome of the meeting and any agreements reached. The mediator provides a copy of this document to the participating creditors and to the borrower. The authorized agency official will file a copy of this document in the borrower's case file.

248 Closing Deferred Loans

A Introduction to Deferrals

FSA will also reschedule or reamortize, as applicable, all loans deferred through primary loan servicing.

FSA may defer all or part of a loan according to eDALR\$.

B Closing Deferrals

The authorized agency official will:

- ensure that the payments on FSA-2026's match the final eDALR\$ report
- *--ensure that all liable parties have correctly executed FSA-2026--*
- complete the addendum to FSA-2026 addressing repayment of deferred interest according to FSA-2026 instructions
- complete box 9 of FSA-2026 to address all actions requiring the promissory note, including "deferral", according to FSA-2026 instructions
- mark the existing promissory note or assumption agreement "rescheduled/reamortized with full/partial deferral," as appropriate, and attach it to the new FSA-2026
- file the new deferred FSA-2026 according to 32-AS
- file a copy of the new note with the copy of the existing promissory note or assumption agreement in position 2 of the borrower's case file
- provide a copy of the new deferred FSA-2026 to the borrower at closing
- file the original eDALR\$ report in position 3.

1M and 5W – Record Loan Deferral transactions will be processed in DLS Special Servicing to record the deferred loans as well as record the "DEF" flag on the account. These transactions will be created and processed in the correct sequence by DLS Special Servicing.

248 Closing Deferred Loans (Continued)**C Ongoing Servicing of Deferrals**

--County Offices shall service deferred accounts by:--

- reviewing the NFAOC quarterly status report to determine borrowers who have deferrals expiring
- reviewing the borrower's financial progress during the annual analysis according to paragraph 161
- sending the borrower a letter 6 months before the expiration of the deferral stating the amount and due date of the first payment.

After all deferrals on a borrower's account have expired, the "DEF" flag (Exhibit 11) will be converted to a "DEF3" flag by NFAOC, FaSB. This flag is not required to be removed and is used to indicate which accounts have previously been serviced with deferral servicing actions.

If all deferrals on an account must be canceled before their expiration, the "DEF" flag must *--be removed from the account by processing a 5H transaction in DLS. If the servicing office does not have permissions to input the necessary flag, FSA-2562 will be completed and submitted to the appropriate office requesting entry of the transaction in DLS.--*

Deferral flags cancelled as part of PLS transactions will be systematically created and sequenced. Manual user creation of these transactions is not required or authorized. Refer to the DLS User Guide for additional information.

249 Closing Write-Downs**A Introduction**

FLP loans can be fully or partially written down.

Loans that are partially written down must be fully restructured. FSA will also reschedule, reamortize, or defer, as applicable, all loans written down through primary loan servicing according to paragraphs 247, 248, and/or this paragraph.

250 Additional Closing Requirements**A Managing Pre-Authorized Debit (PAD) for Servicing**

When PLS actions are being closed on a loan with a PAD, the County Office must FAX a *--detailed memo to the Cash Management Collections Branch at 314-457-4370 (if using--* fax2mail, type “//FINE” at the end of the subject line) to terminate the original RD 3550-28. To avoid additional payment withdrawals this should be done at least 5 business days before the termination request date.

The County Office will notify the borrower that PAD is being cancelled 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.

After restructure of a loan formerly on PAD, the County Office will notify the borrower of the continued availability of PAD and provide the borrower with RD 3550-28. A record of the notification will be kept in the case file (or FBP if appropriate).

A new RD 3550-28 will need to be FAXed to the Cash Management Collections Branch at 314-457-4370 (if using fax2mail, type “//FINE” at the end of the subject line) for each new loan created by a restructuring or assumption.

251-280 (Reserved)

322 Processing a Buyout at Current Market Value**A Notifying Borrower of Buyout**

The authorized agency official will notify the borrower of the opportunity to buyout the FSA loans at current market value by sending the borrower a copy of the signed eDALR\$ Report, along with FSA-2521 and FSA-2522 or FSA-2523 and FSA-2524 showing the buyout amount by certified mail.

B Timeframe for Borrower to Pay Buyout Amount

[7 CFR 766.113(b)] After the Agency offers current market value buyout of the loan, the borrower has 90 days from the date of Agency notification to pay that amount.

If the borrower exercises the right to an independent appraisal, negotiation of appraisal, reconsideration, mediation, or appeal, the 90-calendar-day time limit will start on the day the borrower receives the final Agency and/or NAD decision.

A distressed borrower notified of the buyout offer with FSA-2523 and FSA-2524 who subsequently becomes 90 days past due will be provided with servicing notifications in accordance with Part 3. The borrower may still accept the buyout offer by paying the amount due. If the borrower elects to reapply for servicing and provides a complete application, FSA will rescind the buyout offer provided with the FSA-2523 and FSA-2524.

C Processing Buyout Payment

If the borrower accepts FSA's buyout offer, the borrower must pay the entire buyout amount according to 4-FLP, subparagraph 65 F. The buyout amount will be established by processing a 3Q – Market Value Buyout transaction in DLS Special Servicing after the payment has been processed. The payment will be submitted as “other collection” according *--to 64-FI. The borrower's security instruments will be released according to 4-FLP,--* subparagraph 65 F. The borrower's original promissory notes will be marked “satisfied at current market value” and returned to the borrower.

PLS transactions processed within the DLS Special Servicing system will be systematically created and sequenced. Manual user creation of these transactions is not required or authorized. Refer to the DLS User Guide for additional information.

322 Processing a Buyout at Current Market Value (Continued)

D Borrower Nonresponse or Inability to Pay Current Market Value

If the borrower does not accept FSA's buyout offer and FSA has a lien on the home of the borrower or any person that pledged their home as collateral, homestead protection will
*--continue to be processed according to Part 7.

Note: Homestead protection processing will not delay acceleration according to 5-FLP, subparagraph 532 A.--*

The borrower can also still apply for debt settlement according to 7-FLP, Part 12.

323-340 (Reserved)

343 Determining Amount of Shared Appreciation Due

A Determining Whether Shared Appreciation Is Due

The authorized agency official will obtain a current appraisal of real estate security covered by a shared appreciation agreement if any of the events listed in paragraph 342 occur.

B Partial Sale of Shared Appreciation Security

[7 CFR 766.202(b)] In the event of a partial sale, an appraisal of the property being sold may be required to determine the market value at the time the SAA was signed if such value cannot be obtained through another method.

If the borrower sells only a portion of the real estate security before the maturity of a shared appreciation agreement, recapture is due on the tract that is sold. FSA may require 1 or more appraisals to determine the amount of recapture that may be due from the partial sale. SED may issue a State supplement to identify the appropriate method to be used based upon the following examples.

Example 1: The borrower has 400 acres of similar farm ground, with no buildings, that secure the shared appreciation agreement. Four years after signing the shared appreciation agreement, the borrower decides to sell 100 acres, 25 percent of the total acres. FSA obtains an appraisal on the entire 400 acres as described in 1-FLP, Part 6. The authorized agency official compares the contributory value of the 100 acres (25 percent of the current appraisal) to the contributory value at the time of the write-down (25 percent of the appraisal done at the time of the write-down).

Example 2: The borrower has 400 acres with a house and outbuildings that secure the shared appreciation agreement. Four years after signing the shared appreciation agreement, the borrower decides to sell 100 acres with no buildings. FSA obtains an appraisal on the 100 acres being sold and on the entire 400 acres. The authorized agency official compares the 2 appraisals and determines the percentage of value of the 100 acres. The authorized agency official then applies this percentage to the appraised value at the time of write-down to determine the value of the 100 acres at the time of the write-down.

Example 3: The borrower has 400 acres that secure the shared appreciation agreement. Four years after signing the shared appreciation agreement, the borrower decides to sell 2 acres in a corner of the farm for a residence. FSA obtains a
 --current appraisal on the 2 acres, and an appraisal of the 2 acres as of the--
 date of the write-down. The authorized agency official then compares the 2 appraisals to determine the amount of appreciation due on the 2 acres.

343 Determining Amount of Shared Appreciation Due (Continued)

C Calculating Shared Appreciation

[7 CFR 766.202(a)] The value of the real estate security at the time of maturity of the SAA (market value) shall be the appraised value of the security at the highest and best use, less the increase in the value of the security resulting from capital improvements added during the term of the SAA (contributory value). The market value of the real estate security property will be determined based on a current appraisal completed within the previous 12 months in accordance with § 761.7 (1-FLP, Part 6) of this chapter, and subject to the following:

[7 CFR 766.202(a)] (1) Prior to completion of the appraisal, the borrower will identify any capital improvements that have been added to the real estate security since the execution of the SAA.

Approximately 6 months before the maturity of the shared appreciation agreement and before
 --the completion of the appraisal, FSA will send FSA-2544 to the borrower by certified mail, return receipt requested. The borrower will have 30 calendar days from receipt to notify FSA if any capital improvements have been added to the security during the term of the shared appreciation agreement. Borrowers who fail to respond with the requested information will be sent FSA-2525. Servicing will continue to acceleration if the information is not provided.--

[7 CFR 766.202(a)] (2) The appraisal must specifically identify the contributory value of capital improvements made to the real estate security during the term of the SAA to make deductions for that value.

[7 CFR 766.202(a)] (3) For calculation of shared appreciation recapture, the contributory value of capital improvements added during the term of the SAA will be deducted from the market value of the property. Such capital improvements must also meet at least one of the following criteria:

[7 CFR 766.202(a)(3)] (i) It is the borrower's primary residence. If the new residence is affixed to the real estate security as a replacement for a residence which existed on the security property when the SAA was originally executed, or, the living area square footage of the original residence was expanded, only the value added to the real property by the new or expanded portion of the original residence (if it added value) will be deducted from the market value.

Example: At the time of the write-down the contributory value of a house on the property was \$60,000. The house was destroyed by fire and replaced with a house that cost \$150,000. However, the contributory value of the new house at the time the shared appreciation agreement matured was \$170,000 because of appreciation. The value added to the real property in this case is \$110,000. (\$170,000 value of the new house at maturity – \$60,000 value of the old house at the time FSA-2543 was executed.)

Part 10 Unauthorized Assistance**381 Unauthorized Assistance Policy****A Corrective Action Policy**

When FSA determines that a borrower received unauthorized assistance, FSA will attempt to collect the unauthorized assistance from the borrower, regardless of the amount. FSA does not have the authority to leave unauthorized assistance outstanding, regardless of the cause or circumstances.

*--If FLM or SFLO is responsible for the unauthorized assistance, DD must approve the corrective action. If DD is responsible for the unauthorized assistance, SED must approve the corrective action.

If OIG determines that a borrower received unauthorized assistance, FSA must resolve the case according to OIG instructions.

If FSA determines that an inactive or former borrower received unauthorized assistance, SED, with advice from OGC, will determine how FSA will handle the case.

382 Initial Consideration**A Repayment of Unauthorized Assistance**

[7 CFR 766.251] (a) Except where otherwise specified, the borrower is responsible for repaying any unauthorized assistance in full within 90 days of Agency notice. The Agency may reverse any unauthorized loan servicing actions, when possible.

(b) The borrower has the opportunity to meet with an Agency representative to discuss or refute the Agency's findings.

383 Causes of Unauthorized Assistance**A Three Causes of Unauthorized Assistance**

Unauthorized assistance can be caused by any of the following:

- incomplete or false information submitted by the applicant/borrower or third party
- inaccurate information submitted by the applicant/borrower or third party
- FSA error.

B False Information

[7 CFR 766.252] A borrower is ineligible for continued Agency assistance if the borrower, or a third party on the borrower's behalf, submits information to the Agency that the borrower knows to be false.

FSA considers information to be false when the borrower or a third party on the borrower's behalf provides FSA information that the borrower knows to be incomplete or false.

C Inaccurate Information

FSA considers information to be inaccurate when the borrower or third party provides FSA information that the borrower does not know is false.

D FSA Processing or Closing Errors

FSA errors can include but are not limited to incorrect calculations, use of incorrect or ~~improper~~ completion of debt instruments, or non-compliance with FSA regulations or ~~or~~ policies.

401 FSA Actions When Borrower Files for Bankruptcy (Continued)**C Flagging the Account**

Upon notification that the borrower has filed bankruptcy, the authorized agency official will *--flag the account as “BAP” by processing a 5G transaction in DLS through the Manage Flags function under Customer Management. If the servicing office does not have permissions to input the necessary flag, FSA-2562 will be completed and submitted to the appropriate office requesting entry of the transaction in DLS. The “BAP” flag will remain on the account--* until 1 of the following occurs:

- bankruptcy is dismissed
- there is a confirmed plan and the case is closed
- the account is settled.

Notes: The “PLS” flag must be removed with a 5H transaction before a “BAP” flag can be established (Exhibit 11).

An account cannot be flagged “BAP” and “FAP” at the same time. If foreclosure action is taken against an account in bankruptcy, the “BAP” flag should be removed and the “FAP” flag added until after the foreclosure action has been completed. During the time that the account is not flagged “BAP”, the authorized agency official will monitor the TOP screens to ensure that all discharged loans are removed from TOP consideration according to 7-FLP, Part 4.

D Removal From Offset

Upon notification that the borrower has filed a bankruptcy petition, the authorized agency official must remove the borrower from both the TOP screens and internal offset. If other obligated individuals/entities have not filed for bankruptcy, the authorized agency official will review 7-FLP, Parts 3 and 4 and will consult with OGC to determine whether co-borrowers remain eligible for offset.

Note: Authorized agency official must ensure that ineligible co-borrower(s) are unlinked as outlined in the DLS User Guide which is available at <https://inside.fsa.usda.gov/program-areas/daflp/software-manuals/index>.

401 FSA Actions When Borrower Files for Bankruptcy (Continued)**E Notifying the Borrower's Attorney of Loan Servicing Options if Borrower Was Not Previously Notified**

[7 CFR 766.301] If a borrower files for bankruptcy, the Agency will provide written notification to the borrower's attorney with a copy to the borrower as follows:

(a) The Agency will provide notice of all loan servicing options available under Subpart C (Part 3) of this part, if the borrower has not been previously notified of these options.

--Unless otherwise advised by OGC, the authorized agency official will send Exhibit 34 with the appropriate PLS notice and response form according to paragraph 67 to the borrower's attorney (if the borrower has an attorney) via certified mail with copies to all borrowers within 15 calendar days of receiving notice of the bankruptcy filing. If the borrower does not have an attorney, the notices should be sent directly to the borrower via certified mail.--

The authorized agency official must track all notification and servicing activity through DLS Special Servicing through utilization of the Bankruptcy category. All Bankruptcy tracking in DLS will be done using the primary debtor's account. If there are related entities that file bankruptcy independently from the primary debtors account, refer to the DLS User's Guide for specific information on how to track these related entities filing bankruptcy independent of a primary debtor.

F Notifying the Borrower's Attorney of Servicing Options if the Borrower Was Previously Notified

[7 CFR 766.301(b)] If the borrower received notice of all loan servicing options available under Subpart C (Part 3) of this part prior to the time of bankruptcy filing but all loan servicing was not completed, the Agency will provide notice of any remaining loan servicing options available.

If FSA notified the borrower of primary loan servicing before the borrower filed for bankruptcy and some servicing options are still available, the authorized agency official will send Exhibit 34 and the appropriate servicing forms along with any required application

*--forms to the borrower's attorney (if the borrower has an attorney) with copies to all borrowers explaining what options remain. Servicing and servicing timeframes are suspended on the date the borrower files for bankruptcy and resume on the date the borrower's attorney receives Exhibit 34 via certified mail.

Note: If no servicing options remain, do not include FSA-2510 with Exhibit 34.--*

If the borrower or borrower's attorney does not request any remaining servicing options, or no servicing options remain, the authorized agency official will not take any further action to liquidate the account until the stay is lifted and they are notified by the State Office.

401 FSA Actions When Borrower Files for Bankruptcy (Continued)**G Referring a Bankruptcy to the State Office**

The authorized agency official will inform the State Office of any developments in the borrower's bankruptcy case, but will take no action against the security unless directed by SED.

*--The authorized agency official will begin compiling the supporting documents to be filed with POC according to paragraph 403, as directed by State supplements.

Because of the complexities of bankruptcies and the need to coordinate with multiple parties, it is strongly recommended that the State Office assume management and control (with FLC providing oversight and direction) of all FLP bankruptcy proceedings to be completed by the Agency, including the preparation of POC. The State Office will develop a follow-up/tracking system, which supplements DLS to ensure FSA meets all required bankruptcy court timeframes.--*

SED should issue a State supplement describing what information is to be forwarded to the State Office in the event of a borrower filing bankruptcy. SED may issue additional State supplements as required to comply with State laws with regional OGC guidance/advice.

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 *--Non-monetary 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.

405 FSA Actions When Borrower Defaults on Reorganization Plan or Court Dismisses Bankruptcy While Under Court Jurisdiction (Continued)

B Servicing When the Bankruptcy Is Dismissed Without a Confirmed Plan and the Borrower Is in Default

If the Court dismisses a bankruptcy case and the borrower is in default on FLP loans, the authorized agency official will notify the borrower of any remaining servicing options unless:

- OGC advises that notification is inconsistent with the Bankruptcy Code, 11 U.S.C. §101 et seq.
- FSA has referred the borrower's loan to DOJ
- *--FSA has previously accelerated the loan, as all of the borrower's servicing rights are exhausted.

If the borrower is in default and all loan servicing options are exhausted, FSA will proceed to liquidate the security according to Part 15 with concurrence from OGC.

C Servicing a Borrower When a Bankruptcy Is Dismissed After a Confirmed Plan

If the borrower makes at least 1 full payment to FSA on the confirmed plan before the bankruptcy is dismissed, the authorized agency official will send the borrower a new

*--servicing notification package unless FSA has previously accelerated the account.

Exception: If the payment de-accelerated the account under State law, a new servicing notification package is required. SED will issue a State supplement to clarify this exception.--*

If the borrower does not make at least 1 full payment to FSA, the authorized agency official will send notification of the remaining servicing options based on the previous notification. If the borrower is in default and all loan servicing options are exhausted, FSA will proceed to liquidate the security according to Part 15.

D Resuming TOP and Internal Offset

OGC will be consulted before FSA determines whether the borrower is eligible for offset according to 7-FLP, Parts 3 and 4.

406 Servicing Chapter 11, 12, and 13 Cases After the Bankruptcy Case Is Closed

A Removing the “SAA” Flag and Writing Off Discharged Debt

Upon receipt of the discharge order from the Bankruptcy Court, the authorized agency official will review the borrower’s records to determine whether FSA will cancel any discharged debt.

If all liable parties are discharged and the bankruptcy is closed, the authorized agency official will debt settle the remaining discharged debt according to 7-FLP, Part 12.

The State Office will forward the approved FSA-2731, with a copy of the discharge, to RD Business Center, FaSB for processing the debt cancellation.

RD Business Center, FaSB will remove the “SAA” flag and process the necessary transactions to write off any portion of the debt.

B Servicing Remaining Liable Parties

If some, but not all, of the liable parties were discharged of the debt, the authorized agency official will:

- consult with the regional OGC to determine what, if any, collection action can be taken against non-discharged individuals, entities, etc., and any remaining security
- take all allowable collection actions in a timely manner, including collection of unsecured account balances through offset and referral to Treasury as set forth in 7-FLP
- determine whether a partial cancellation of the debt, such as canceling the discharged debt amount that is still owed by the non-discharged individuals, would be appropriate and/or financially beneficial to the Government

***--Note:** Unless they meet the requirements for FSA-2731, Cancellation of Debt Without Application, partial cancellation of debt requires each non-discharged individual to complete FSA-2732, Debt Settlement Application. Partial debt settlement applications will be processed according to 7-FLP Part 12 with FSA-2731 and FSA-2732 transactions processed concurrently.--*

- monitor these accounts closely to ensure timely resolution.

406 Servicing Chapter 11, 12, and 13 Cases After the Bankruptcy Case Is Closed (Continued)**C Returning to Regular Servicing**

After the bankruptcy case is closed, the authorized agency official will service bankruptcy loans according to 4-FLP, subject to the confirmed reorganization plan.

D Servicing if the Borrower Defaults on the Confirmed Reorganization Plan

--If a borrower becomes 90 calendar days past due or is in non-monetary default after the-- court issued a discharge order and after the case is closed under Chapter 11, 12, or 13 of the Bankruptcy Code, the authorized agency official will notify the borrower of loan servicing options according to Part 3, unless servicing actions would be inconsistent with the confirmed bankruptcy plan or the Bankruptcy Code or FSA has referred the account to DOJ.

--If FSA believes the account is in non-monetary default, before making a formal determination, State Office will consult with OGC to ensure the notification is consistent with the borrower's confirmed plan.--

407 Liquidation During Bankruptcy**A Automatic Stay Requirements**

FSA must receive relief from the automatic stay from the Court before liquidating the borrower's security. If the Court allows, and all servicing requirements are met, FSA may liquidate the security before the discharge of debt or as otherwise addressed by OGC.

*--**Note:** Obtaining relief from the automatic stay does not supersede FSA's normal servicing requirements which require the account to be accelerated before liquidating the borrower's security. If FSA is unable to timely accelerate the account or is unable to timely liquidate security OGC will be consulted, in an effort to develop strategies with DOJ, the borrower's attorney, and the trustee to liquidate abandoned security.

If FSA becomes aware during the course of a bankruptcy that the borrower has abandoned FSA's collateral, FSA should consult with OGC to determine what actions are necessary to secure, maintain, preserve, manage, and operate the abandoned security property according to 7 CFR 767.51 and FSA security instruments. It is recommended that reliable third-party documentation and/or OGC opinions be obtained to support FSA's actions. See 5-FLP, Part 18 for additional guidance.

If the borrower will not cooperate in allowing FSA access to the property, security or removal of the security, the authorized agency official will report the borrower's actions to State Office. State Office will consult with OGC.--*

407 Liquidation During Bankruptcy (Continued)

B Chapter 7 Cases After Discharge

In Chapter 7 cases after discharge, FSA will liquidate delinquent accounts as authorized by OGC if both of the following are true:

- the borrower has not reaffirmed the debt
- an Abandonment Order for FSA security has been issued by the court or the bankruptcy case is closed.

The borrower was previously notified of default using Exhibit 34 or 35 – if the borrower was not past due or monetary default was not included in Exhibit 34, then the borrower must be notified of the monetary default before accelerating the account.

In some cases, discharged borrowers who did not reaffirm their FSA debt desire to maintain ownership of the property by keeping FSA loan payments current at the time of the bankruptcy and continuing into the future. In these cases, borrowers will be sent Exhibit 34.5 to remind them of their rights and FSA requirements.

***--Note:** Flag Chapter 7 discharge accounts as SAA when borrower agrees to keep the account current in response to Exhibit 34.5. To establish an account flag, FSA-2562 will be sent to the RDBCSO.--*

However, should the borrower later default on the payments, the borrower needs to be notified of the default using Exhibit 35. Exhibit 35 will be sent at least twice (30 and 90 calendar days past due) after default and before acceleration. If the borrower does not resolve the default, FSA will accelerate the account as referenced above.

Note: Do not send Exhibit 34.5 if the borrower does not intend to keep loan payments current.

In cases when 1 or more borrowers have received a discharge, but at least 1 borrower remains liable:

- DLS must be updated with either a 4A or 4D transaction to list the account in the name of any remaining liable debtors
- related entity status of the discharged individuals or entities must be updated and unlinked in the DLS Customer Profile Related Entity function to reflect they are no longer a co-borrower/ cosigner/guarantor

Note: See DLS User Guide for additional information.

- the Chapter 7 discharge order must be maintained in the case file.

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

C Notification

Exhibit 52 shall be used to accelerate all loans of American Indian borrowers that are secured by land located within a reservation, and to notify those borrowers of their rights. DD will send Exhibit 52 by certified and regular mail on the same day.

--Exhibit 53 shall be used to notify the Tribe of available options. DD will issue Exhibit 53.--

Exhibit 54 provides additional/detailed information on borrower rights under existing law and FSA regulation and must be attached to each Exhibit 52.

D Responsibilities

The authorized agency official responsible for servicing the American Indian borrower's account must do the following:

- ensure that all loan servicing actions and any appeals have been concluded or exhausted before sending Exhibit 52
- notify the borrower by sending Exhibit 52 and Exhibit 54

--Notes: DD must sign Exhibit 52 and Exhibit 53.--

SED must have approved the foreclosure before Exhibits 52 and 54 are sent.

- notify the Tribe by sending Exhibit 53, of any Exhibit 52 sent to a borrower who has pledged as collateral reservation land within such Tribe's jurisdiction.

* * *

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

E Authorized Agency Official Responsibilities

Authorized agency officials shall, upon receipt of a request from an American Indian borrower, do the following.

- If the borrower requests that the Tribe be assigned the loan, the authorized agency official shall notify the Tribe of the borrower's request using Exhibit 55.

Notes: The Tribe must notify FSA within 30 calendar days of its intention to accept or deny the borrower's request.

The notification to the Tribe shall include a copy of the following:

- current appraisal of the real estate and valuations of all chattel security
- borrower's promissory notes to be assigned
- security instruments
- amount the Tribe would be required to pay FSA for assignment of the loan or loans

Note: This amount shall equal the lesser of the market value of all loan security or the principal and interest outstanding on the loan.

- a statement that the Tribe may pay for the assignment transaction over a period of time under terms and conditions similar to ITLAP.
- If the borrower requests that the Secretary of Interior be assigned the loan, the authorized agency official shall refer the request, along with a copy of each of the following, through SED, to the National Office:
 - current appraisal of remaining FSA security
 - borrower's promissory notes
 - all security instruments.

Notes: The authorized agency official shall forward the request and documentation to either of the following.

*--

For USPS Delivery	For FedEx or UPS Delivery
USDA, FSA, DAFLP, LSPMD STOP 0523 1400 INDEPENDENCE AVE SW WASHINGTON DC 20250-0523	USDA, FSA, DAFLP, LSPMD ROOM 3627 SOUTH BUILDING 1400 INDEPENDENCE AVE SW WASHINGTON DC 20250-0523

--*

The National Office will work with the National Office of BIA to determine whether the Secretary of Interior will accept the assignment of the loan.

Part 16 Involuntary Liquidation**Section 1 General Information****551 Introduction****A General Procedures**

[7 CFR 766.351(a)(1)] When a borrower cannot or will not meet a loan obligation, the Agency will consider liquidating the borrower's account in accordance with this subpart.

FSA will move to liquidate security after acceleration.

The involuntary liquidation process differs among States, and in particular between judicial and nonjudicial foreclosure States. SED, in consultation with OGC, will issue a State supplement to provide detailed guidance on involuntary liquidation.

[7 CFR 766.357(b)(4)] After the date of foreclosure, the borrower or former owner retains no statutory, implied, or inherent right of possession to the property beyond those rights granted by state law.

If FSA acquires property as a result of involuntary liquidation, the property becomes inventory property. FSA maintains and disposes of inventory property according to Part 21.

B Recordkeeping

During the involuntary liquidation process, the authorized agency official must make entries ~~into the FBP running record on the liquidation process and retain any letters, forms, or~~ * documentation associated with the acceleration that are required by this handbook and State supplements.

C Conditions for Involuntary Liquidation

[7 CFR 766.357] (a) The Agency will liquidate the borrower's security if:

(1) The borrower does not satisfy the account in accordance with §§ 766.355 and 766.356 (Part 15), as appropriate;

(2) The involuntary liquidation is in the Agency's financial interest.

551 Introduction (Continued)**D Charging the Borrower's Account**

[7 CFR 766.357(c)(1)] The Agency will charge the borrower's account for all recoverable costs incurred by the Agency as a result of the repossession and sale of the property.

If the borrower's account is referred to DOJ for foreclosure and/or other collection action after foreclosure, such as a deficiency judgment or enforcing a judgment lien according to 7-FLP, Part 11, any attorney's fees and any fees routinely charged by DOJ will be added to the amount of debt reported to DOJ. Borrowers have been informed of this fee by notifications of offset and/or notifications of acceleration. SED will issue a State Supplement as required on the proper calculation of the amount to be reported to DOJ.

***--Note:** If the account is to be paid in full, request DAFLP concurrence to process the 3 percent DOJ fee as a non-cash credit.--*

E Crediting the Borrower's Account

[7 CFR 766.357(c)(2)] The Agency will apply the proceeds from the repossession sale to the borrower's account less prior liens and all authorized liquidation costs.

F Outstanding Loan Balances Remaining After Repossession

[7 CFR 766.357(c)(3)] If an unpaid balance on the Agency loan remains after the sale of the repossessed property, the Agency may debt settle the account in accordance with subpart B of 7 CFR Part 1956. (7-FLP, Part 12)

For any outstanding balance remaining after foreclosure for which the borrower is still liable, if FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced through offset and referral to Treasury as set forth in 7-FLP.

In judicial foreclosure States only, unless the borrower voluntarily liquidated with a release of liability or debt settlement, SED completes FSA-2576 and completes a 3B transaction in ADPS to record a judgment account, if applicable.

Section 2 Real Property**566 Proceeding With Foreclosure After Acceleration****A Failure to Satisfy FSA**

If the borrower fails to pay the FSA debt in full before the acceleration deadline expires according to Part 15, FSA moves to involuntarily liquidate all of the borrower's FSA loan security.

B National Historic Preservation Act

If the property may fall under the National Historic Preservation Act because of any of the criteria in 1-EQ, SED will note this in the State Office file on advice from the authorized agency official and DD to help eliminate any delays in selling the property after acquisition.

C Initiating Foreclosure

SED may forward the case file with all relevant information and documentation to OGC for required assistance in proceeding with foreclosure. If the borrower has leased the FSA real estate security, the authorized agency official must report the existence and conditions of the lease and report the name of the lessee to OGC.

SED may keep the borrower's file in the State Office. In this case, SED is responsible for initiating and processing the foreclosure process.

D Following State Law and Practices

SED, in consultation with OGC, will issue a State supplement providing guidance and instructions on processing a foreclosure. The authorized agency official, DD, SED, and OGC should maintain communication during the foreclosure process so all parties are aware of the status of the proceedings.

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

567 Foreclosure Sale**A “FAP” Flag**

--The account is flagged “FAP” using FSA-2562 at the time the account is referred to OGC for foreclosure.--

FAP flag (Exhibit 11) must be removed from the account if any of the following occur:

- foreclosure action is concluded on all available FSA security
- all FSA security is voluntary liquidated
- the account is paid in full
- any other action taken that result in foreclosure actions no longer being pursued on the account.

B Establishing a Judgment Account

In judicial foreclosure States only, SED establishes a judgment account after a judgment has been ordered by the court. To establish this account, the authorized agency official processes a 3B transaction in ADPS based on a completed FSA-2576.

567 Foreclosure Sale (Continued)

C Calculating FSA's Bid

FSA will obtain a current market value appraisal according to 1-FLP, Part 6 before the sale. If the Farm Loan Chief or Farm Loan Specialist determines and documents that a potential liquidation value appraisal will be beneficial in determining FSA's bid, the appraisal order may request a potential liquidation valuation in addition to the market valuation. A potential liquidation valuation may be beneficial when all the following conditions are met:

- the property is in an economically depressed area
- the property has significant functional obsolescence, deferred maintenance, or marginal land resources
- a normal marketing effort is not possible because of brief exposure time, and
- consummation of the sale will be within a short period of time as established by State Law.

The authorized agency official completes Exhibit 60 to calculate FSA's bid. Exhibit 60 calculates the net recovery value, FSA's debt plus prior liens, and if obtained by appraisal, the potential liquidation value.

FSA usually bids whichever amount is less, but State supplements can be issued to address differing State Laws.

[7 CFR 766.357(b)(1)] The Agency will charge the borrower's account for all recoverable costs incurred in connection with the foreclosure and sale of the property in accordance with § 765.203 (4-FLP, Part 6).

Before providing concurrence on Exhibit 60, SED shall ensure that the figures used to calculate the bid are well documented. A state supplement to Exhibit 60 is required in order to address redemption periods required to complete Exhibit 60.

On a case-by-case basis, SED may request an Administrator's Exception to the requirement of Exhibit 60 and associated paragraphs when the exception meets the requirements of paragraph 4. Examples of exceptions submitted in the past for Exhibit 60 include high risk of no recovery to the government and use of appraisals greater than 12 months old, assignment of lien to junior lien holder and assignment of lien to borrower's relative.

Part 17 Liquidation by a Third Party**601 Introduction****A General Information**

Involuntary liquidation by a third party occurs when another lienholder, either prior or junior to FSA's lien, repossesses or initiates foreclosure proceedings against the borrower's FSA security. Foreclosure by another lienholder constitutes a non-monetary default of the borrower's security instruments with FSA. See:

- Part 3 for loan servicing actions when a borrower is in nonmonetary default
- 4-FLP, Part 6 for handling other third-party actions taken against a borrower.

SED, in consultation with OGC, will issue a State supplement, to provide detailed guidance related to a third party foreclosure.

B Recordkeeping

During involuntary liquidation by a third party, the authorized agency official must make entries into the FBP running record on the liquidation process and retain associated letters, forms, or other documentation in the borrower's case file. Maintaining a complete and accurate record of the foreclosure is essential to protect the interests of FSA and the borrower.

*--County Offices shall add the "TPF" flag (Exhibit 11) in DLS to indicate there is a foreclosure filed by a third party. The "TPF" flag shall be removed when the foreclosure is no longer applicable.

The "TPF" 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.--*

C Contract Forfeiture

Cases involving contract forfeiture (when FSA's lien is behind a land purchase contract) will be handled according to the State supplement.

602 Involuntary Liquidation by a Prior Lienholder**A Prior Lienholder Initiates Liquidation**

If there is a prior lienholder on FSA security and the prior lienholder initiates liquidation, the authorized agency official will take the following actions unless otherwise instructed by State supplement.

- In a nonjudicial foreclosure State, the borrower's case file will remain in the authorized agency official's office. The authorized agency official should provide information on the liquidation to SED and consult with SED and OGC as needed.
- In a judicial foreclosure State, the authorized agency official will send the borrower's case file to SED. SED receives all foreclosure and legal notices and consults with OGC as needed.

B Compiling Information on the Borrower's Account

The authorized agency official will compile information on the borrower's account and include it in the borrower's case file according to subparagraph A. For real estate security, the authorized agency official will include:

* * *

- a report on the borrower's payment of real estate taxes
- a report with information on other lienholders and judgments associated with the FSA security.

For chattel security, the authorized agency official will include:

- a current appraisal obtained according to 1-FLP, Part 6 at the appropriate time
- a report with information on other lienholders and judgments associated with the FSA security.

*--FSA will obtain a current market value appraisal according to 1-FLP, Part 6 before the sale. If the Farm Loan Chief or Farm Loan Specialist determines and documents that a potential liquidation value appraisal will be beneficial in determining FSA's bid, the appraisal order may request a potential liquidation valuation in addition to the market valuation. A potential liquidation valuation may be beneficial when all the following conditions are met:

- the property is in an economically depressed area
- the property has significant functional obsolescence, deferred maintenance, or marginal land resources
- a normal marketing effort is not possible because of brief exposure time, and
- consummation of the sale will be within a short period of time as established by State Law.--*

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2523	Denial of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing		116, 229, 322
FSA-2524	Borrower Response to Denial of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing		116, 229, 322
FSA-2525	Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Did Not Apply for Servicing or Did Not Accept Servicing		85, 343, 344
FSA-2526	Borrower Response to and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Did Not Apply for Servicing or Did Not Accept Servicing		85
FSA-2529	Negotiated Appraisal Agreement		230
FSA-2535	Conservation Contract		Text
FSA-2537	Notification of Consideration for Homestead Protection		281
FSA-2538	Response to Notification of Consideration for Homestead Protection for Borrowers Who Received FSA-2537		281
FSA-2539	Homestead Protection Program Agreement		283, 284
FSA-2540	Notice of the Availability of Homestead Protection – Post Acquisition		281, 568
FSA-2543	Shared Appreciation Agreement		Text
FSA-2544	Shared Appreciation Agreement Recapture Appraisal Notice		343, 344
FSA-2545	Borrower Notification of Shared Appreciation		344
FSA-2547	Notice of Shared Appreciation Payment Agreement Delinquency		67
FSA-2548	2 nd Notice of Shared Appreciation Payment Agreement Delinquency		67
FSA-2550	Report of Problem Case		421, 533
FSA-2551	Request for Non-monetary Default Determination		421
FSA-2560	Request for Statement of Account		536

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2561	Statement of Account		536
FSA-2562	Borrower Account Description Flag		67, 248, 401, 421, 534, 567, Ex. 11
FSA-2569	Warranty Deed		496-499
FSA-2570	Offer to Convey Security		284, 496, 497, 499, 500, 516, 517
FSA-2571	Agreement for Voluntary Liquidation of Chattel Security		464, 465, 516, 518, 581
FSA-2572	Agreement of Secured Parties to Sale of Security Property		581
FSA-2574	Confirmation Reorganization Plan Worksheet		404, 406
FSA-2576	Notice of Judgment		551, 567, 568, 582, 604
FSA-2580	Primary Loan Servicing and Preacquisition Homestead Protection Checklist		67, 533
FSA-2581	Inequitable Treatment Review Data		533
FSA-2585	Acquisition or Abandonment of Secured Property		708, Ex. 66
FSA-2587	Advice of Property Acquired		568, 743
FSA-2588	Acquired Property Maintenance		568
FSA-2591	Lease of Real Property		281, 284, 568, 743
FSA-2592	Invitation, Bid and Acceptance Sale of Real Property by the United States		776, 778, 782
FSA-2593	Standard Sales Contract Sale of Real Property by the United States		778
FSA-2594	Advice of Inventory Property Sold		778
FSA-2595	Quitclaim Deed		778
FSA-2596	Bill of Sale "A" (Sale of Government Property)		780
FSA-2597	Farmer Programs Noncash Credit for Purchase of Easement Rights		197
FSA-2716	Notice Advising of Potential Referral to Treasury for Cross-Servicing and the Availability of Debt Settlement		Ex. 48
FSA-2717	Notice Advising of Potential Referral to Treasury for Cross-Servicing		Ex. 48
FSA-2731	Cancellation of Debt Without Application		406, 407
FSA-2732	Debt Settlement Application (RD-1956-1 Application for Settlement of Indebtedness)		81

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

Forms (Continued)

Number	Title	Display Reference	Reference
NRCS-CPA-026 NRCS-CPA-026E	Highly Erodible Land and Wetland Conservation Determination		81, 801
RD 3550-28	Authorization Agreement for Preauthorized Payments		50
SF-750	Claims Collection Litigation Report (CCLR)		403

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
ACL	Accelerated	534, Ex. 11
BAP	Bankruptcy Action Pending	42, 401, Ex. 11
CAP	Court Action Pending	421, Ex. 11
CCLR	Claims Collection Litigation Report	403
CL	Conservation Loan	41, 131, 145, Ex. 2, 17
CONACT	Consolidated Farm and Rural Development Act	1, 193, 537, Ex. 2
DEF	Deferral	248, Ex. 11
eDALR\$	electronic Debt and Loan Restructuring System	Text, Ex. 17
FAP	Foreclosure Action Pending	567, Ex. 11
FaSB	Farm Service Branch	Text, Exhibit 80
FLMAC	Farm Land Market Advisory Committee	Ex. 17
HML	high, medium, low	901
ISA	installment set-aside	46, 48, 131
ITLAP	Indian Tribal Land Acquisition Program	2, 537
LR	limited resource	132, 146
NFAOC	National Financial and Accounting Operations Center	Text, Ex. 11, 80
NP	nonprogram loan	Text
NRBRA	Net Recovery Buyout Recapture Agreement	321, 361, 363, 365
NRV	net recovery value	102, 321, 462
PACER	Public Access to Court Electronic Records	403
PLS	primary loan servicing	67, 68, 401, Ex. 11
POC	proof of claim	401, 403
PRB	Program Reports Branch	708
RH	rural housing	Ex. 79

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

Abbreviations Not Listed in 1-CM (Continued)

Approved Abbreviation	Term	Reference
SA	shared appreciation loan	66, 67, 102, 145, 146, 191, 346
SAA	shared appreciation agreement Note: When reference is made to a signed agreement as a condition of receiving debt writedown.	197, 249, 343, 344, 346, 403, Ex. 2, 4, 25, 26
SAA	subject to approved adjustment Note: When reference is made to the financial “flag”/designation for an account where FSA has approved a borrower’s debt settlement offer as documented on FSA-2732.	172, 249, 343, 404, 406, Ex. 11
SCRRG	State Civil Rights Review Group	533
SEC	State Environmental Coordinator	802, 821, 837, 839
SI	Security Instrument	344, 346
SOL	Statute of Limitations	533, Ex. 47
ST	softwood timber loan	41
TOA	type of assistance	131
TPJ	third party judgment	421, Ex. 11
YL	youth loan	41, 42, 68, 132

Redelegations of Authority

SED may redelegate to FLC authority to approve PLS where a borrower has received PLS at least 2 times in the previous 5 years or is receiving a second or subsequent consecutive restructure with a deferral.

SED may redelegate to FLC, FLS, and/or DD the authority to waive real estate and/or non-essential asset appraisals for current market value buyout when the chattel appraisal shows that chattel security value exceeds the debt, and security has been cross-collateralized.

State Supplements

The following table lists required State supplements.

Subparagraph	Required State Supplement
3 C	Guidance on Notary Acknowledgement
3 D	Guidance on Signature Requirements
3 F	Using State-Specific and State-Created Forms
104 A	Obtaining PLS Appraisals
196 B	Filing of Conservation Contracts
229 A	State-Certified Mediation Requirements
247 B	Closing Reamortized Loans
302 A	Homestead Protection According to State Laws
343 B	Real Estate Appraisals for Determination of SAA Recapture
345 C	Satisfying Shared Appreciation Agreements (SAA) According to State Laws
346 E	Maintaining Lien Position When Amortizing SAA Recapture
401 E	State Policies and Procedures for Bankruptcy
402 F	Reaffirmation of Debt
--405 C--	De-acceleration after payment according to State law
421 C	State Policies and Procedures for Civil and Criminal Actions
443 C	Managing the Liquidation Process
462 B	Title Searches
464 B	Lien Searches
498 A	Convergence of Rights With Real Property
531 A	Loan Acceleration
533 A	Case File Preparation for Acceleration
533 E	Determination of Property Value Prior to Acceleration
534 E	Notification of Prior Lienholders After Acceleration
535 C	Partial Payments After Acceleration
551 A	General Involuntary Liquidation
566 D	Real Property Foreclosures
567 C	Bidding at Foreclosure Sales
568 A	Acquisition of Inventory Property
568 E	Addressing Outstanding Loan Balances After Real Estate Foreclosure
551 D	Calculating Amount To Be Reported to DOJ
601 A	Third-Party Foreclosures
601 C	Contract Forfeiture
602 A	Prior Lienholder Liquidation
604 D	Redemption Rights

State Supplements (Continued)

Subparagraph	Required State Supplement
705 C	Custodial Property
707 F	Removal of Abandoned Vehicles From Inventory Property
724 A	Taxes on Inventory Real Property
776 D	Advertisement of Inventory Property for Sale
776 F	Contracting With Real Estate Brokers to Sell Inventory Property
778 E	Sale of Inventory Property
Exhibit 17, subparagraph 5 F	<ul style="list-style-type: none"> • Estimated Cost and Average Holding Period • Factors to Use When Adjusting Market Value.
Exhibit 60, Page 1	*--Holding Period of Less Than 165 Days (.45 years; 5.5 months).--* Redemption Period Established Under State Law.

Notification of Potential Nonmonetary Default

Upon noting an apparent non-monetary default other than conversion, FSA will notify the borrower using the following before beginning the Primary Loan Servicing process. Go to <https://intranet.fsa.usda.gov/dam/ffasforms/forms.html>. CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number” ENTER “5-FLP Exhibit 10.5”.

5-FLP, Exhibit 10.5

(Use Agency Letterhead format with local return address.)

NOTIFICATION OF POTENTIAL NON-MONETARY DEFAULT

Dear: [REDACTED]

Upon a review of your Farm Loan Programs (FLP) account, it appears that you may be in non-monetary default on your FLP loan(s). This reason that you may be in default is that:

(Provide a detailed description of the reasons that the account may be in non-monetary default)

We have made you an appointment on _____ to discuss this issue. If you are unable to come to the office on this date, we can discuss the issue by phone. If you believe the information we have provided above is not correct, or if you have additional information the agency should consider, please provide all information you have addressing the reason you are not in non-monetary default to this office at the meeting or contact the office by phone. If you do not respond, or if our review of the information you submit still indicates that you are in non-monetary default, we will send you the forms you need to file a primary loan servicing application. The forms to file a primary loan servicing application will provide you with appeal rights.

Please contact this office if you have any questions about this letter.

Sincerely,

(Name)
(Title)

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 677-5339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.asc.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20260-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

Account Description Flag and Code Reference**A General Information**

This exhibit provides guidance on using account description flags and paragraph references for each flag.

B Agency Official Responsibilities

Agency officials shall review the RC 540 Report monthly to determine whether a servicing action is needed and if accounts are appropriately flagged or coded. Particular attention should be given to flagged accounts since the payment status cannot always be reported correctly for reasons such as payments being held in suspense or transactions not being processed.

C Establishing and Removing Flags

--To establish an account flag, a 5G transaction will be processed in DLS through the Manage Flags function under Customer Management. If the servicing office does not have permissions to input the necessary flag, FSA-2562 will be completed and submitted to the appropriate office requesting entry of the transaction in DLS. To remove an account flag, a 5H transaction will be processed in DLS. If the servicing office does not have permissions to input the necessary flag, FSA-2562 will be completed and submitted to the appropriate office requesting entry of the transaction in DLS.--

D Flag Priority and Reference Table

A maximum of 4 flags can be recorded in the accounting system for each borrower subject to certain limitations. However, only 3 flags will be reported on the RC 540 Report. Flags will be reported based on priority as indicated in this table.

Display Priority	Flag	Description	Reference
1	OAC1	Office of Adjudication and Compliance Accepted	1-FLP, Paragraph 41
2	CAP	Court Action Pending	Paragraph 421
3	TPJ	Third Party Judgment (NFAOC Only)	Paragraph 421
4	BAP	Bankruptcy Action Pending	Paragraph 401
5	PLS	Primary Loan Servicing	Paragraph 67
6	DSA	Debt Set-Aside	Historical Code
7	DEF	*--Deferral (DLS Only)--*	Paragraph 248
8	FAP	Foreclosure Action Pending	Paragraph 567
9	SAA	Subject to Approved Adjustment (NFAOC Only)	*--Paragraph 404, 407--*
10	OAC7	Office of Adjudication and Compliance Resolved	1-FLP, Paragraph 41
11	ACL	Accelerated	Paragraph 534
*--12	OGC	OGC Determination (DLS Only)	4-FLP, Paragraph 16
13	TPF	Third Party Foreclosure (DLS Only)	Paragraph 601--*

***--Instructions for Using eDALR\$**

1 Overview

A Introduction

This exhibit provides basic information on eDALR\$. It is an introduction to using eDALR\$ and the basic processes and calculations that lead to the eDALR\$ print-out. However, this exhibit does not provide every formula, data flow description, or process eDALR\$ uses. This exhibit is not a substitute for the more detailed training materials on the system. For detailed information, contact the State eDALR\$ Coordinator.

B Purpose of eDALR\$

Delinquent and financially distressed borrowers unable to make FSA program loan payments as scheduled may apply for primary loan servicing. The authorized agency official uses eDALR\$ to assist in evaluating the effects of primary loan servicing. eDALR\$ performs a series of mathematical calculations based on information regarding the borrower's cash flow and loan status obtained from the borrower's case file. The authorized agency official uses this information in attempting to restructure the borrower's debt and maximize repayment ability, while avoiding or minimizing loss to the U.S. Government. eDALR\$ provides a printed report of the computations and outcome of the calculations.

C eDALR\$ Capabilities

FSA uses eDALR\$ when a borrower applies for primary loan servicing. eDALR\$ determines what servicing options, if any, are available to the borrower and develops a servicing offer, including any new interest rates, loan terms, and payment schedules.

eDALR\$ provides many benefits and advantages to FSA and the borrower, compared to manual calculations.

- The results are available immediately as eDALR\$ makes all the necessary calculations--
* quickly.
- The results are consistent for all borrowers.
- The borrower is assured of being considered for all available servicing options.
- The number of calculation errors is reduced.

Instructions for Using eDALR\$ (Continued)

1 Overview (Continued)

D Developing a Feasible Plan

A feasible plan represents the ability of the borrower to pay all farm operating expenses, family living expenses, FSA program loan payments, FSA Non-Program and homestead protection payments, and non-FSA debt loan payments with a debt service margin (DSM) of zero or greater. The DSM is the amount of money a borrower has remaining after paying all debts, farm operating expenses, and family living expenses.

The eDALR\$ calculations are a looped process. eDALR\$ considers each combination of loan servicing options until a feasible plan is developed, or eDALR\$ determines that a feasible plan is not possible with full use of primary loan servicing options, and Conservation Contract (CC) Debt Cancellation.

During the first phase of the calculations, eDALR\$ attempts to restructure the borrower's *--debt utilizing all necessary combinations of loan servicing options, excluding write-down, while providing a 10 percent DSM. If a feasible plan cannot be developed, eDALR\$ reduces the DSM to 9 percent and reconsiders these combinations of loan servicing options. eDALR\$ continues to reduce the DSM by 1 percent until a feasible plan is developed or the DSM falls to zero. At a zero percent DSM, after considering all combinations, eDALR\$ considers if write-down or a combination of write-down and other servicing actions--* results in a feasible plan.

If a feasible plan is not obtained at a zero DSM and the borrower is eligible for buyout, then eDALR\$ will offer a buyout at market value, less prior liens. If the borrower is not eligible for a buyout, eDALR\$ will offer the borrower the opportunity for debt settlement.

Instructions for Using eDALR\$ (Continued)

2 eDALR\$ User Guide (Continued)

C Borrower Data (Continued)

Category	eDALR\$ Screen	Explanation
12. Net Recovery Value Data (Continued)	Net Recovery Property	<p>Additionally, eDALR\$ calculates the FSA loan priority related to FSA's security interests in the assets. The calculated loan priority will minimize the amount of the unsecured debt owed to FSA. Loan priority is used to select the appropriate FSA loans to be considered *--during the write-down servicing process.</p> <p>eDALR\$ uses the net recovery value only if the borrower will receive a write-down according to Part 4. The authorized agency official does not need to enter net recovery value data unless the borrower will receive a write-down.</p> <p>If the preliminary eDALR\$ returns a report with a potential write-down before net--* recovery values being entered, the user will then enter the net recovery values after the appropriate appraisals have been obtained before making the offer.</p>
13. Security Priority	Loan Security	<p>Enter information on the loan priority for each FSA loan secured by an asset. The market value of the security, equity, the remaining debt, and property types associated with each FSA loan can be viewed. The eDALR\$ calculations to determine the security priority for each loan will be illustrated. The 3 priorities are as follows.</p> <ul style="list-style-type: none"> • Low - These loans are unsecured. If FSA liquidated loan security, the proceeds would not be sufficient to result in any payment on the loan. • Medium - These loans are under secured. If FSA liquidated security, the proceeds would be sufficient to result in a partial payment on the loan. • High - These loans are fully secured. If FSA liquidated security, the proceeds would be sufficient to pay the loan in full. <p>The user may manually enter the security priority, if necessary.</p>

Instructions for Using eDALR\$ (Continued)

2 eDALR\$ User Guide (Continued)

C Borrower Data (Continued)

Category	eDALR\$ Screen	Explanation
14. Conservation Contract Data	Basic Borrower Information	If the borrower requested a CC, enter the CC acreage. eDALR\$ calculates the total acreage of the farm, unpaid program debt secured by the farm, and the current market value of the farm. *--A real estate appraisal will be ordered and net recovery values entered in eDALR\$ whether the borrower is current/distressed or delinquent.--*

D Staff Responsibilities

The authorized agency official has primary responsibility to ensure that the proper information is entered into eDALR\$ and to review the outputs. The borrower is responsible for developing a feasible operating plan acceptable to FSA. The authorized agency official is not responsible for developing but may assist the borrower to develop feasible first year and post-deferral plans.

For troubleshooting or questions about eDALR\$, the authorized agency official should first use the eDALR\$ help system built into the program before contacting the eDALR\$ Coordinator in the State Office. The State Office contacts the National Office with any questions or problems, if necessary.

E eDALR\$ Calculations

After the authorized agency official inputs all the necessary information into the system, eDALR\$ performs a series of calculations. These calculations search for a feasible plan while considering the net recovery value of FSA security or nonessential assets, FSA's policy concerning the priority order of servicing, conditions for each action, and all applicable financial limitations or requirements. eDALR\$ considers the programs, actions, and calculations listed in subparagraph F. eDALR\$ does not necessarily make all these calculations for each servicing action, but considers only those necessary to develop a feasible plan.

Instructions for Using eDALR\$ (Continued)

2 eDALR\$ User Guide (Continued)

F Order of eDALR\$ Calculations

eDALR\$ performs calculations in the following order.

Order of eDALR\$ Calculations

1. Basic eligibility criteria for Debt Restructure or Buyout.
2. Servicing requirements for new loan limits/payments.
3. eDALR\$ considers conservation contracts, if requested.
4. eDALR\$ calculates net recovery value.
5. eDALR\$ verifies that net recovery value of nonessential assets is less than total delinquency for FSA program loans.
6. eDALR\$ tries to reschedule or reamortize delinquent loans and nondelinquent loans that the authorized agency official designated for servicing at the maximum term allowed in the following order:
 - delinquent program loans
 - limited resource program loans
 - unequal payment program loans.
7. eDALR\$ considers consolidation for all eligible program loans.
8. eDALR\$ considers program loan deferral.
9. eDALR\$ considers a delinquent non-program loan only account for rescheduling or reamortization with approval of the Administrator unless it is a Shared Appreciation Recapture Debt.
- 10.*--eDALR\$ considers write-down of FSA program debt.
11. eDALR\$ considers combinations of the above servicing programs, except consolidation, with write-down.--*
12. eDALR\$ considers the market value buyout amount when a feasible plan cannot be developed.
13. eDALR\$ determines the amount of cash improvement needed to develop a feasible plan, if a feasible plan cannot be develop based on existing budget data.

Non-program loans will also be included in servicing calculations using the above order if the account also includes FSA program loans. Details about non-program rates and terms used can be found in the eDALR\$ system user guide.

Instructions for Using eDALR\$ (Continued)

2 eDALR\$ User Guide (Continued)

G eDALR\$ and Debt Service Margin

During the first phase of the calculations, eDALR\$ attempts to restructure the borrower's *--debt using all necessary combinations of loan servicing options, excluding write-down--* (steps 9 and 10), and providing a 10 percent debt service margin. If a feasible plan cannot be developed after considering the appropriate combinations of loan servicing, eDALR\$ reduces the debt service margin by 1 percent until a feasible plan is developed or the debt service margin falls to zero. At a zero percent debt service margin, after considering all *--combinations of loan servicing, eDALR\$ considers write-down or a combination of write-down and other servicing action to develop a feasible plan.--*

H eDALR\$ Outputs

eDALR\$ prints a report that shows the results of its calculations and eligibility determination and provides a feasible plan with the supporting new loan information. If eDALR\$ determines that a feasible plan cannot be developed or the borrower is not eligible for servicing (for example, failed to act in good faith) eDALR\$ offers buyout or recommends offering debt settlement.

The authorized agency official may request either a summary report or a detailed report from eDALR\$. A summary report does not include any of the calculation tables, whereas the detailed report does include all the calculation tables and input data.

The conditions for certain outcome summaries associated with the eDALR\$ calculations are described in the following table. The table describes the conditions of the borrower's account, the outcome code and outcome that occur as a result of the conditions, and what FSA will offer to the borrower.

Conditions	Outcome Code	Outcome Description	Offer to Borrower
Feasible plan found for first year; or Feasible plan found for post-deferral year, if applicable.	1	Feasible plan found.	FSA offers the borrower primary loan servicing to realize the feasible plan.

Instructions for Using eDALR\$ (Continued)

2 eDALR\$ User Guide (Continued)

H eDALR\$ Outputs (Continued)

Conditions	Outcome Code	Outcome Description	Offer to Borrower
Feasible plan found for first year; or Feasible plan found for post-deferral year, if applicable; and Borrower has failed to act in good faith.	1a	Feasible plan found; and Borrower has failed to act in good faith.	FSA offers the borrower debt settlement. FSA does not offer the borrower primary loan servicing.
Feasible plan found with *--write-down – First Report	1b	Feasible plan found and no previous debt forgiveness and no new term loans.	FSA offers the borrower primary loan servicing to realize the feasible plan.
Feasible plan found without write-down – Second Report	1c	Feasible plan found without write-down and no previous debt forgiveness.	FSA offers the borrower primary loan servicing to realize the feasible plan
Feasible plan found for first year is only possible with a write-down; or Feasible plan found for post-deferral year, if applicable; and There is a new term loan requested.	1d	Feasible plan is found only with write-down but there is a new term loan so the borrower is not eligible for write-down.--*	FSA offers the borrower a meeting with an authorized agency official on eligibility criteria.
Feasible plan could not be found in first year; and Feasible plan found for first year with cash improvement amount added to first year balance available; and Feasible plan found for post-deferral year, if applicable; and The borrower has acted in good faith; and Debt service margin is at zero percent.	1e	Feasible plan found only after rerun of eDALR\$ report with cash improvement amount added to balance available.	FSA offers the borrower primary loan servicing if the borrower can achieve the necessary cash improvement to develop a feasible plan. If the borrower cannot achieve the necessary cash flow to develop a feasible plan, FSA offers the borrower buyout, if eligible, or debt settlement if the borrower is not eligible for buyout.

Instructions for Using eDALRS (Continued)

2 eDALRS User Guide (Continued)

H eDALRS Outputs (Continued)

Conditions	Outcome Code	Outcome Description	Offer to Borrower
<p>Net recovery test fails. The present value of payments plus the CC amount is less than the net recovery value of total property; and</p> <p>At least 1 program loan is delinquent; and</p> <p>*--Write-down is not--* possible.</p>	2	Buyout at market value when net recovery test fails.	FSA offers the borrower buyout at market value.
<p>Net recovery test fails. The present value of payments plus the CC amount is less than the net recovery value of total property; and</p> <p>Borrower has failed to act in good faith.</p>	2a	<p>Buyout at market value when net recovery test fails; and</p> <p>Borrower has failed to act in good faith.</p>	<p>FSA offers the borrower debt settlement.</p> <p>FSA does not offer the borrower buyout at market value.</p>
<p>Feasible plan could not be found in first year; and</p> <p>At least 1 program loan is delinquent; and</p> <p>Market value less prior liens is less than the total existing FSA debt, borrower has not received previous debt forgiveness, and a writeoff will occur; or</p> <p>Market value less prior liens is greater than the total existing FSA debt. The borrower may have received debt forgiveness previously since FSA is not offering writeoff to the borrower.</p>	4	<p>Buyout at market value. Present value of payments plus CC amount is greater than net recovery value; and</p> <p>No feasible plan found.</p>	FSA offers the borrower buyout at market value, less prior liens.

***--Instructions for Using eDALRS (Continued)**

2 eDALRS User Guide (Continued)

H eDALRS Outputs (Continued)--*

Conditions	Outcome Code	Outcome Description	Offer to Borrower
<p>Feasible plan could not be found in first year; and</p> <p>At least 1 program loan is delinquent; and</p> <p>Borrower has failed to act in good faith; and</p> <p>Market value less prior liens is less than the total existing FSA debt, borrower has not received previous debt forgiveness, and writeoff will occur; or</p> <p>If the market value less prior liens is greater than the total existing FSA debt. The borrower may have received debt forgiveness previously since FSA is not offering writeoff to the borrower.</p>	4a	<p>Buyout at market value. Present value of payments plus CC amount is greater than net recovery value; and</p> <p>No feasible plan found; and</p> <p>Borrower has failed to act in good faith.</p>	<p>FSA offers the borrower debt settlement.</p> <p>FSA does not offer the borrower buyout at market value less prior liens.</p>
<p>All existing FSA loans have a servicing action code "N".</p>	5	<p>Loan servicing not available as all existing FSA loans coded for no servicing action.</p>	<p>FSA offers the borrower a meeting with an authorized agency official on eligibility criteria.</p>

Instructions for Using eDALR\$ (Continued)

2 eDALR\$ User Guide (Continued)

H eDALR\$ Outputs (Continued)

Conditions	Outcome Code	Outcome Description	Offer to Borrower
Balance available is sufficient to pay the total of the first year payment amount.	6	Borrower can pay the account current.	<p>The user can choose either of the following options.</p> <ul style="list-style-type: none"> eDALR\$ can consider the “balance available greater than the first year payments” as the solution. FSA offers the borrower a meeting with an authorized agency official on eligibility criteria; or eDALR\$ can continue with calculations and disregard the “balance available greater than the first year payments” and the appropriate outcome will occur. FSA’s offer to the borrower is based on this new outcome.
<p>Feasible plan could not be found in the first year; and</p> <p>*--Write-down amount exceeds \$300,000 limitation or 100 percent write-down considered; and</p> <p>At least 1 program loan is delinquent; and</p> <p>Market value less prior liens is less than the total existing FSA debt, borrower has not received previous debt forgiveness, and writeoff will occur; or</p>	7	<p>Buyout at market value. Write-down exceeds \$300,000 limitation or 100 percent</p> <p>*--write-down--* considered.</p>	FSA offers the borrower buyout at market value less prior liens.

Instructions for Using eDALR\$ (Continued)

2 eDALR\$ User Guide (Continued)

H eDALR\$ Outputs (Continued)

Conditions	Outcome Code	Outcome Description	Offer to Borrower
Market value less prior liens is greater than the total existing FSA debt. The borrower may have received debt forgiveness previously since FSA is not offering writeoff to the borrower.	7 (Continued)		
<p>Feasible plan could not be found in first year; and</p> <p>Borrower has failed to act in good faith; and</p> <p>*--Write-down amount exceeds \$300,000 limitation or 100 percent write-down considered; and</p> <p>At least 1 program loan is delinquent; and</p> <p>Market value less prior liens is less than the total existing FSA debt, borrower has not received previous debt forgiveness, and writeoff will occur; or</p> <p>Market value less prior liens is greater than the total existing FSA debt. The borrower may have received debt forgiveness previously since FSA is not offering writeoff to the borrower.</p>	7a	<p>Buyout at market value. Write-down exceeds \$300,000 limitation or 100 percent write-down--* considered; and</p> <p>Borrower has failed to act in good faith.</p>	FSA offers the borrower debt settlement.

***--Instructions for Using eDALRS (Continued)**

2 eDALRS User Guide (Continued)

H eDALRS Outputs (Continued)--*

Conditions	Outcome Code	Outcome Description	Offer to Borrower
<p>Feasible plan could not be found in first year; and</p> <p>Present value of payments plus CC is greater than net recovery value; and</p> <p>At least 1 program loan is delinquent; and</p> <p>Market value less prior liens is less than the total existing FSA debt, the borrower received debt forgiveness previously but another writeoff is necessary; or</p> <p>Writeoff of debt is greater than \$300,000 ceiling amount but borrower has not received previous debt forgiveness.</p>	8	<p>Buyout at market value not available because of previous debt forgiveness.</p>	<p>FSA offers the borrower debt settlement.</p>
<p>Feasible plan could not be found in first year; and</p> <p>Borrower has failed to act in good faith; and</p> <p>Present value of payments plus CC is greater than net recovery value; and</p> <p>At least 1 program loan is delinquent; and</p>	8a	<p>Buyout at market value not available because of previous debt forgiveness; and</p> <p>Borrower has failed to act in good faith.</p>	<p>FSA offers the borrower debt settlement.</p>

Instructions for Using eDALR\$ (Continued)

2 eDALR\$ User Guide (Continued)

H eDALR\$ Outputs (Continued)

Conditions	Outcome Code	Outcome Description	Offer to Borrower
<p>Market value less prior liens is less than the total existing FSA debt, the borrower received debt forgiveness previously but another writeoff is necessary; or</p> <p>Writeoff of debt is greater than \$300,000 ceiling amount but borrower has not received previous debt forgiveness.</p>	8a (Continued)		
<p>Feasible plan found for first year with CC debt cancellation only; and</p> <p>Borrower may have received previous debt forgiveness; and</p> <p>There may be a new term loan; and</p> <p>No other primary loan servicing options will occur in conjunction with a CC; and</p> <p>There can be delinquent program loans that are not restructured, except for *--write-down because--* of CC, as long as all delinquent program loans are written down.</p>	9	Feasible plan found using CC debt cancellation only.	<p>FSA offers the borrower a CC.</p> <p>FSA will not restructure loans that are affected by the CC debt cancellation. The existing payment schedule will remain unchanged.</p>

Instructions for Using eDALRS (Continued)

2 eDALRS User Guide (Continued)

H eDALRS Outputs (Continued)

Conditions	Outcome Code	Outcome Description	Offer to Borrower
<p>Feasible plan found for first year with CC debt cancellation only; and</p> <p>Borrower has failed to act in good faith; and</p> <p>Borrower may have received previous debt forgiveness; and</p> <p>There may be a new term loan; and</p> <p>No other primary loan servicing options will occur in conjunction with CC; and</p> <p>There can be delinquent program loans that are not restructured, except for *--write-down because--* of CC, as long as all delinquent program loans are written down.</p>	9a	<p>Feasible plan found using CC debt cancellation only; and</p> <p>Borrower has failed to act in good faith.</p>	<p>FSA offers the borrower a meeting with an authorized agency official on eligibility criteria.</p> <p>FSA will not restructure loans that are affected by the CC debt cancellation. The existing payment schedule will remain unchanged.</p>
<p>Feasible plan found for first year with other primary loan servicing options and CC debt cancellation; and</p> <p>Feasible plan found for post-deferral year, if applicable.</p>	10	<p>Feasible plan found in conjunction with CC debt cancellation and other primary loan servicing options.</p>	<p>FSA offers the borrower a combination of CC debt cancellation and primary loan servicing.</p>

***--Instructions for Using eDALR\$ (Continued)**

2 eDALR\$ User Guide (Continued)

H eDALR\$ Outputs (Continued)

Conditions	Outcome Code	Outcome Description	Offer to Borrower
<p>Feasible plan found for first year with other primary loan servicing options and CC debt cancellation; and</p> <p>Feasible plan found for post-deferral year, if applicable; and</p> <p>Borrower has failed to act in good faith.</p>	10a	<p>Feasible plan found in conjunction with CC debt cancellation and other primary loan servicing options; and</p> <p>Borrower has failed to act in good faith.</p>	FSA offers the borrower debt settlement.
<p>Net recovery value of nonessential assets, real estate, and chattel is greater than the sum of delinquent amount of FSA loan payments; and</p> <p>CC debt cancellation may occur only when eDALR\$ restructures delinquent loans without restructuring any other existing FSA loans or writes down all existing delinquent FSA loans.</p>	11	Borrower can pay current based on net recovery value of nonessential assets.	FSA offers the borrower a meeting with an authorized agency official on eligibility criteria.
Feasible plan could be found but a recoverable cost item (RCI) loan with type 5 purpose for the RCI loan is not paid-in-full before the proposed loan servicing date.	12	Type 5 recoverable cost item (RCI) loan, unauthorized advance on program loan, not paid-in-full before the proposed loan servicing date.	FSA offers the borrower debt settlement.
<p>Feasible plan found for first year with a CC; and</p> <p>User requests "balance available greater than first year payments" as the priority.</p>	13	Balance available is greater than first year payments, CC requested.	FSA offers to restructure the borrower's loan with CC debt cancellation only. No further restructuring options are considered.

--*

Instructions for Using eDALR\$ (Continued)

2 eDALR\$ User Guide (Continued)

H eDALR\$ Outputs (Continued)

Conditions	Outcome Code	Outcome Description	Offer to Borrower
Feasible plan is not possible *--without write-down; and No existing program loans are delinquent; and FSA calculates the cash improvement as if there will not be a write-down.	14	Feasible plan found only with write-down. Borrower is not eligible for write-down as no--* loans are delinquent.	FSA offers the borrower a meeting with an authorized agency official on eligibility criteria.

I Mailing the eDALR\$ Report

The authorized agency official is responsible for reviewing the eDALR\$ printout. If eDALR\$ produces a feasible plan, but the authorized agency official determines that a change in specific data, such as loan terms, would result in a more appropriate plan, the authorized agency official may make these adjustments. When the authorized agency official obtains an acceptable printout, the authorized agency official mails a copy of a **detailed** report with the appropriate forms to the borrower and puts the original in the borrower's case file.

***--Instructions for Using eDALR\$ (Continued)**

3 eDALR\$ Calculations

A Net Recovery Value (NRV)

eDALR\$ calculates the net recovery value (NRV) for FSA security and nonessential assets.

eDALR\$ computes the NRV for all FLP loan security, other nonessential assets owned by the borrower, and assets not in the borrower's possession. If FSA's lien position or the amount of prior liens varies from item to item, eDALR\$ computes separate NRV's for each item that has a different lien structure.

During the net recovery value calculations, eDALR\$ verifies that the net recovery value of nonessential assets is not greater than the delinquent payment of FSA program loans. If the net recovery value of nonessential assets is greater than the delinquent payment, then the borrower is not eligible for primary loan servicing options.

B New Loan and Annual Operating Expense Payments

eDALR\$ computes new loan and annual operating expense payments at regular interest rates. eDALR\$ calculates debt repayment for new FSA term loans and FSA loans for annual operating expenses as follows.

- eDALR\$ calculates repayment for new term loans based on the regular loan program interest rate and the term of the loan.
- eDALR\$ calculates repayment of loans for annual operating expenses based on the regular interest rate and the projected number of months the loan will be outstanding. eDALR\$ calculates interest accrual for the annual operating loan by multiplying the amount of principal to be repaid during the period of the plan by the monthly decimal equivalent for the regular program interest rate. eDALR\$ then multiplies this amount by the average number of months that the loan will be outstanding. The amount of debt repayment due on annual operating expenses is the total of interest accrual plus the principal amount of the loan.

eDALR\$ initially calculates payments for new FSA loans and FSA loans for annual operating expenses at the regular program interest rate. If a feasible plan cannot be developed, eDALR\$ reduces the rate to a limited resource interest rate, if applicable.--*

Instructions for Using eDALR\$ (Continued)

3 eDALR\$ Calculations (Continued)

C Loan Payments That Will Pay Loans in Full

eDALR\$ will not apply any loan payments that will adjust the amount of the debt or pay loans in full on the proposed restructure date. Therefore, the authorized agency official must indicate in eDALR\$ that the particular FSA loan will be paid-in-full if the loan will be satisfied before or on the proposed loan servicing date. eDALR\$ can consider only a full payoff of a loan.

If the authorized agency official expects or receives a payment for less than the full amount of the loan, the authorized agency official must apply the payment to the loan before completing the eDALR\$ calculations or apply the amount on the closing date to adjust the loan data inputs.

If after the application of payments to pay loans in full, the borrower is no longer financially distressed or none of the borrower's remaining loans are delinquent or require servicing action, no further servicing action in eDALR\$ is required.

D CC Debt Cancellation

eDALR\$ considers a CC, if requested, to the maximum extent permitted under the regulations according to Part 5. A CC is not provided unless a feasible plan is developed after considering CC and other loan servicing options. eDALR\$ selects CC eligible program loans in the order of lowest security priority first. For loans with equal security priority, eDALR\$ bases the secondary selection on the loan with the largest amortization factor.

*--eDALR\$ restructures any delinquent or distressed loan that receives a debt write-down associated with CC debt cancellation and calculates a new payment amount and term.

If the borrower is current, any loans that receive a debt write-down associated with CC--* debt cancellation are not restructured with a new payment and term. The current payment amount and schedule remains unchanged and a noncash credit is applied to the particular loan. If the borrower requests restructuring with a new payment and term, FSA handles the borrower as a distressed borrower.

***--Instructions for Using eDALR\$ (Continued)**

3 eDALR\$ Calculations (Continued)

I Deferral (Continued)

eDALR\$ selects loans for deferral to minimize the debt repayment in the year after the deferral period. If the full deferral of a loan will result in a first year cash flow that exceeds the appropriate debt service margin, a partial deferral of the loan is used to eliminate the excess cash flow. A partial deferral has the added benefit of reducing the payment amount in the years after the deferral period.

eDALR\$ attempts to develop a feasible plan for the first year by deferring payments on FSA loans until the end of the deferral period (1 to 5 years). A deferral decreases the payment during the period of the deferral and increases the payment for the remaining term. Deferrals are beneficial only if the debt repayment margin increases in the year after the deferral period. This improvement must be no later than 6 years after the current planning year, since the maximum deferral period is 5 years.

To determine the appropriate deferral period, the authorized agency official and borrower review the farm operation for the upcoming 5-year period. Program loans should be deferred to the year when the improvement from the first planning year is the greatest and the improvement in the following years are at least as good.

Program loans are deferred at the lower of the original note rate, current program interest rate, current regular program rate in effect on the date of a completed primary loan servicing application, or if applicable, the limited resource rate.

To select program loans for deferral, eDALR\$ calculates the payment after the deferral period for each loan as if the loan had been fully deferred. eDALR\$ defers the loan with the smallest ratio first and so forth.

J Servicing Program Loans for Rescheduling or Reamortization

eDALR\$ reschedules or reamortizes nondelinquent program loans at the maximum term and with an interest rate at the lower of the original note rate, the current loan program rate, or the current regular program rate in effect on the date of a completed primary loan servicing application. eDALR\$ reschedules or reamortizes limited resource rate loans at the lower of the original note rate, the current regular rate, and/or the current limited resource rate. eDALR\$ reschedules or reamortizes nondelinquent program loans 1 loan at a time until a feasible plan is developed with the appropriate debt service margin or until eDALR\$--* processes all nondelinquent program loans.

Instructions for Using eDALR\$ (Continued)

3 eDALR\$ Calculations (Continued)

J Servicing Program Loans for Rescheduling or Reamortization (Continued)

eDALR\$ selects program loans in the order of lowest security priority first. For loans with equal security priorities, eDALR\$ bases the secondary selection on the loan with the lowest amortization factor. For loans with equal amortization factors, eDALR\$ bases the selection on the loan with the lowest present value. If the lowest present value is equal, eDALR\$ bases the final selection on the loan with the smallest amount of debt.

K Servicing Delinquent Non-Program Loans for Rescheduling or Reamortization

eDALR\$ reschedules or reamortizes all delinquent Non-Program loans at the maximum term with an interest rate at the lower of the original note rate or current Non-Program rate.

eDALR\$ restructures only delinquent Non-Program loans during this process. eDALR\$ selects loans that are identified as Non-Program or homestead protection loans and then selects the loan with the lowest amortization factor.

***--L Write-down**

When the debt service margin reaches zero percent and a feasible plan has not been developed, eDALR\$ considers writeoff of FSA program debt for a borrower who has not received the lifetime limit for write-down and writeoff. If eligible for debt forgiveness, eDALR\$ offers buyout at current market value, otherwise debt settlement is offered.

- If the cash available for the first year is greater than the cash available for the year after the deferral period, eDALR\$ considers write-down, in combination with other primary loan service programs. When considering a borrower for a write-down, eDALR\$ attempts to maximize the borrower's repayment ability and minimize losses to the Government.

The amount of write-down cannot exceed the \$300,000 limitation according to Part 4. In addition, the present value of the program loan payments plus the amount of the CC cannot be less than the total NRV of the FSA security and nonessential assets.

eDALR\$ prioritizes the program loans for write-down and attempts to develop a feasible plan (pass one). If a feasible plan is not found, eDALR\$ re-orders the program loans based on different criteria and again attempts to develop a feasible plan with write-down (pass two).--*

Instructions for Using eDALR\$ (Continued)

3 eDALR\$ Calculations (Continued)

L Write-down (Continued)

- *--For the first attempt to write-down (pass one), eDALR\$ bases program loan selection to maximize the amount of write-down. eDALR\$ selects the program loan with the lowest security priority first. For program loans with an equal security priority, eDALR\$ bases the secondary selection on the program loan with the largest amortization factor.

If a feasible plan is not developed, eDALR\$ re-orders the program loans based on new criteria and again attempts write-down (pass two). eDALR\$ bases its program loan selection on lowest security priority. For program loans with equal security priority, eDALR\$ bases the secondary selection on the program loan with the smallest present value factor. For program loans with equal present value factors, eDALR\$ bases the selection on the program loan with the highest amortization factor. For program loans with an equal amortization factor, eDALR\$ selects the program loan with the largest debt first.

- If the cash available after the deferral period is greater than the cash available in the first year, eDALR\$ considers a combination of deferral and write-down.

eDALR\$ selects program loans for deferral to achieve a cash flow in the first year. If deferral of a program loan results in a first year cash flow that exceeds the applicable debt service margin, eDALR\$ partially defers the loan to reduce the excess cash flow. If there is a negative cash flow after the expiration of the deferral period, eDALR\$ writes down 1 loan to attempt to develop a feasible plan in the year after the deferral period. This process is repeated until a feasible plan is developed for both the first year and the year after the deferral period, or until eDALR\$ has processed all program loans. The amount of the write-down cannot exceed the \$300,000 limitation and the present--* value of the restructured loans plus the value of the CC cannot be less than the total net recovery value of the FSA security and nonessential assets.

To select program loans for deferral, eDALR\$ calculates the payment for each loan as if it has been fully deferred.

eDALR\$ defers the program loan with the smallest ratio first and so on until the borrower has a first year cash flow with the appropriate debt service margin or all loans have been deferred.

The deferred portion of the loan is considered a separate loan in this process and must be prioritized for consideration with the remaining loans.

Instructions for Using eDALR\$ (Continued)

3 eDALR\$ Calculations (Continued)

M Market Value Buyout

eDALR\$ considers current market value buyout when a feasible plan cannot be developed after considering the borrower for all combinations of servicing options and the borrower *--has not received the lifetime limitation for write-down and writeoff. The amount of FSA--* debt to be written off must be less than or equal to the \$300,000 limitation, otherwise the borrower is not eligible for primary loan servicing or current market value buyout. In this case, the borrower is offered debt settlement.

N Cash Improvement

eDALR\$ determines the amount of cash improvement needed in the first year balance available to develop a feasible plan with a zero percent debt service margin when a feasible plan otherwise cannot be developed.

O Results of Calculations

At this point, eDALR\$ has finished its calculations. A feasible plan has been developed or all possible combinations of servicing actions have been considered. eDALR\$ provides a report of the results of the calculations performed.

If eDALR\$ does not find a solution that will provide a feasible plan, FSA proceeds with the other actions authorized in this handbook, including mediation, debt settlement, offering the borrower a current market value buyout, and considering the borrower for homestead protection.

Instructions for Using eDALR\$ (Continued)

4 eDALR\$ Formulas

A Interest Accrual on Existing Loans

If the interest accrual date for an existing loan precedes the proposed restructure date, eDALR\$ determines the amount of additional interest that accrues between these dates. This amount is added to the unpaid interest that was outstanding as of the accrual date. The calculations used are as follows.

- Interest accrual after the loan status date = $[(\text{principal} * \text{interest rate}) / 365] * (\text{effective date} - \text{accrual date})$
- Total accrued interest = interest accrual after the loan status date + interest accrual as of the loan status date

B Debt Service Margin (DSM)

eDALR\$ attempts to develop a feasible plan that provides the borrower with a 10 percent margin above the amount needed for family living expenses, farm operating expenses, and debt service obligations. If a feasible plan cannot be found with a 10 percent DSM, eDALR\$ reduces the margin in increments of 1 percent until a feasible plan is found or the *--DSM falls below zero. eDALR\$ considers all loan servicing options, except write-down, before reducing the debt service margin. eDALR\$ only considers write-down when the--* DSM equals zero.

The DSM applies in both the first year and the post deferral year calculations if deferral is being considered. The DSM is used to calculate the cash available to restructure FSA debt as follows:

- Adjusted balance available = balance available plus total farm operating expense plus family living expenses plus non-Agency debt payments and taxes minus farm operating interest expense
- Adjusted non-Agency debt payment = non-Agency debt payments and taxes plus family living expense plus total farm operating expense minus farm operating interest expense
- Debt service margin amount = balance available minus non-Agency debt payments and taxes minus restructured FSA debt payments minus nonrestructured FSA debt payments

***--Instructions for Using eDALR\$ (Continued)**

4 eDALR\$ Formulas (Continued)

B Debt Service Margin (DSM) (Continued)

- Cash available to restructure FSA debt = [((adjusted balance available) / (applicable debt service margin (e.g., 1.10))) minus (adjusted non-Agency debt payment)]
- Debt service margin percentage = debt service margin amount / adjusted balance available

DSM used in these calculations is set initially at 1.10. If a feasible plan is not found after consideration of all available loan servicing options, the margin is reduced incrementally by .01. After the reduction is completed, eDALR\$ reconsiders the borrower for all loan servicing requested. eDALR\$ continues to reduce the DSM until a feasible plan is developed, or until it determines that a feasible plan is not possible with a DSM of 1.00.

C Loan Payment Calculations

eDALR\$ calculates loan payments using amortization factors rounded to the nearest 5--* places. All payments are rounded up to the next dollar. The equations used to calculate loan payments are as follows.

- Payments on new FSA loans

$$\text{Payment} = \text{principal amount} * \text{amortization factor}$$

- Payments on FSA loans for annual operating expenses
 - Determine the average number of months that the loan for annual operating expenses will be outstanding. It may be estimated or calculated from the projected advance and payment schedule for the loan.

For example, the loan for annual operating expenses is estimated to be \$15,000 and the projected advance and repayment schedule is:

Principal balance outstanding	Number of months outstanding

\$15,000	3
\$8,000	2
\$6,000	4

Instructions for Using eDALR\$ (Continued)

4 eDALR\$ Formulas (Continued)

***--J Debt Write-down and Buyout Limitation**

eDALR\$ attempts to develop a feasible plan with a 10 percent debt service margin. All program loan servicing, excluding write-down, is considered before reducing the debt service margin. eDALR\$ will consider write-down only if all of the following conditions are met.

- The borrowers have not received the lifetime limitation for write-down or writeoff with buyout.
- At least 1 program loan is delinquent.
- The debt service margin is at zero percent.

If a feasible plan is found with write-down, eDALR\$ determines the amount of write-down necessary for the borrower to have a positive cash flow.

- If the amount of the write-down is less than or equal to \$300,000, a feasible plan has been found.
- If the amount of write-down is greater than \$300,000 and the debt service margin--* equals 1.00, or a feasible plan cannot be developed, eDALR\$ determines the amount of writeoff, with buyout at the current market value.
- If the amount of writeoff, with buyout at the current market value, is less than or equal to \$300,000, the borrower is offered buyout.
- If the amount of writeoff, with buyout at the current market value, is greater than \$300,000, the borrower is not eligible for loan servicing or buyout and the borrower is offered debt settlement.

Instructions for Using eDALRS (Continued)

5 Periodic Data

A Administrative Liquidation Costs

The administrative liquidation costs for each loan type are provided in the following table.

Loan Type	Calculation	Cost
OL	*--46.36 X \$27.30 =	\$1,266
FO/SW/CL	46.36 X \$27.30 =	\$1,266
EM/EE	46.36 X \$27.30 =	\$1,266
RH (Used for RHF loans only.)	46.36 X \$27.30=	\$1,266--*

Note: Costs were calculated using the 2020 Delphi study for the average number of hours
--spent on a liquidation activity by FSA employees, and used the 2022 GS-11/1--
hourly pay rate. The Delphi study is a nationwide survey and forecasting tool that
records averages of times and actions on FSA accounts.

B Legal Liquidation Costs

Legal liquidation costs will be determined for real estate and chattel foreclosures, as well as chattel-only foreclosures. These costs estimate liquidation costs for Government attorney time for foreclosure cases in both judicial and nonjudicial foreclosure States and will vary by State. Legal liquidation cost estimates should be determined based on the costs that have been incurred during past liquidations in that State. U.S. Attorney Office costs should only be included in States where judicial foreclosures are required.

C Determining Chattel Costs

Chattel costs are determined based on the following:

- “Months Held in Inventory” - FSA rarely acquires chattel property because it can be sold much more quickly and easily than real estate. Therefore, the average holding period for chattel property will be zero, unless the Administrator approves chattel acquisitions and determines that chattels do have a holding period.

Note: If significant acquisitions occur and a chattel holding period becomes necessary, States will contact the National Office for guidance and provide detailed information about the acquisition and planned disposal of the chattel property.

- “Sales Commission Rate” - Authorized agency official will conduct a survey of auctioneers to determine the average commission rate for chattel sales in the area.
- “Other Sales Costs” - These are miscellaneous costs typically incurred when selling acquired chattels. County Offices should request State Office guidance in unusual cases.
- “Rate of Change in Value” - This is a yearly percentage decrease or increase in the value of the property. The normal rate of change in value for chattels will be zero as FSA rarely acquires chattel property.

Instructions for Using eDALR\$ (Continued)

5 Periodic Data (Continued)

F State Supplement

SED's will issue a state supplement to:

- address the estimated costs and average holding period to be used in making calculations of net recovery value
- provide the factors to use in adjusting market value.

***--Note:** The State supplement shall be issued after completing the cost analysis and no later than December 31st of each year.--*

Instructions for Using eDALRS (Continued)

5 Periodic Data (Continued)

G Determining Property Management Costs

Property Management Cost is the administrative cost of managing a property while the property is being held in FSA inventory. The cost will be deducted in cases involving real property. The following worksheet is used to calculate the property management costs. Delphi data standards are used and average actions per month per the national average from the Delphi Study for required actions per property are also put into the formula. Complete the worksheet by using the average holding period of inventory property determined according to subparagraph C. The following has been completed based on national average data with an average holding period of 5.5 months.

Determining Property Management Costs

Delphi Data for Inventory Actions		2022 GS 11/1 Hourly Pay		Administrative Costs for 2023
23.3	X	*--\$27.30	=	\$636--*

Note: Costs were calculated using the 2020 Delphi study for the average number of hours spent on inventory property activities by FSA employees, and used the *--2022 GS-11/1 hourly pay rate. The Delphi study is a nationwide survey and--* forecasting tool that records averages of times and actions on FSA accounts.

Worksheet for Accepting a Voluntary Conveyance of Farm Loan Programs Security Property Into Inventory

*--An automated version of Exhibit 37 is available in a fillable format. Go to <https://intranet.fsa.usda.gov/dam/ffasforms/currentforms.asp>, in the "Form Number" block type "5-FLP Exhibit 37," and CLICK "Submit".

5-FLP, Exhibit 37

WORKSHEET FOR ACCEPTING A VOLUNTARY CONVEYANCE OF FARM LOAN PROGRAMS SECURITY PROPERTY INTO INVENTORY

(Present Owner/Borrower)

See data published according to Exhibit 17, subparagraph 2 B for guidance in estimating the incomes and expenses to be used in this exhibit. The holding period to be used is 165 days (.45 years) or less if it can be justified by the actual State average holding period.

1. MARKET VALUE OF PROPERTY \$ _____

a. Date of Appraisal _____

ESTIMATED HOLDING PERIOD IN YEARS 0.45

Statutory Holding Period 0.45 years + State Holding Period _____ years

2. INCOME

a. Annual Rent	_____	X	Holding Period (years)	<u>0.45</u>	=	_____
b. Annual Royalties	_____	X	Holding Period (years)	<u>0.45</u>	=	_____
c. Other Annual Income	_____	X	Holding Period (years)	<u>0.45</u>	=	_____
d. Annual % Land Appreciation (if applicable)	<div style="border: 1px solid black; width: 80px; height: 20px; margin: 0 auto;"></div>					
	\$ _____ -	X	Holding Period (years)	<u>0.45</u>	=	_____
e. Value gained due to restrictions that are placed on the farm such as Conservation Easements, Conservation Reserve Program (CRP), etc.						= _____
f. Other (describe below)	_____	X	Holding Period (years)	<u>0.45</u>	=	_____

TOTAL ADDITIONS (Items 2a thru 2f) = \$ _____

Notes:

3. EXPENSES

a. Total Prior Lien holder Indebtedness (P and I) = _____

Lienholder Name	Amount
_____	_____
_____	_____
_____	_____
_____	_____

Worksheet for Accepting a Voluntary Conveyance of Farm Loan Programs Security Property Into Inventory (Continued)

*--

					5-FLP, Exhibit 37	
b. Other Acquisition Costs (taxes presently owed, closing costs, survey costs, administrative costs, junior liens, etc.) List:					= _____	
Description				Amount		
_____				_____		
_____				_____		
_____				_____		
_____				_____		
_____				_____		
_____				_____		
_____				_____		
_____				_____		
c. Annual Taxes & Assessment	_____	X	Holding Period (years)	0.45	=	_____
d. Annual Building Depreciation	_____	X	Holding Period (years)	0.45	=	_____
e. Annual Management Costs	_____	X	Holding Period (years)	0.45	=	_____
f. Total Essential Repairs to Secure and Resell					=	_____
g. Annual % Decrease in Land Value (if _____ applicable)	\$ _____ -	X	Holding Period (years)	0.45	=	_____
h. Total Anticipated Resale Expenses (Commissions, Advertising, etc.)					=	_____
Description				Amount		
_____				_____		
_____				_____		
_____				_____		
_____				_____		
_____				_____		
_____				_____		
_____				_____		
i. Total Interest Cost						
_____	X	_____	X	Holding Period (years)	0.45	= _____
Market Value		Regular OL Rate				
j. Value loss due to restrictions that are placed on the farm such as Conservation Easements, Conservation Reserve Program (CRP), etc.					=	_____
k. Hazardous Waste Clean-up Costs					=	_____
Description				Amount		
_____				_____		
_____				_____		
_____				_____		
_____				_____		
_____				_____		
l. Total Deductions (Items 3a through 3k)					=	_____

--*

Worksheet for Accepting a Voluntary Conveyance of Farm Loan Programs Security Property
Into Inventory (Continued)

*--

5-FLP, Exhibit 37

Notes:

4. CALCULATION OF FSA'S NRV

a.

$$\begin{array}{rcccl} \text{1. Market Value} & + & \text{2. Total Additions} & - & \text{3. Total Deductions} & = & \text{Net Recovery Value (NRV)*} \end{array}$$

Notes:

*If NRV is ZERO or NEGATIVE; DO NOT ACCEPT Property into inventory. See paragraph 4 for Administrator exception requirements if FSA has minimal recovery.

SIGNATURE(S):

AGENCY OFFICIAL:

STATE EXECUTIVE DIRECTOR:

X

X

Date

Date

Any Additional Notes or Comments:

--*

Notification of Options Available to the Tribe

Note: Exhibit 53 is available in a fillable format at <https://intranet.fsa.usda.gov/dam/ffasforms/currentforms.asp>, in the “Forms Number” block type “5-FLP Exhibit 53” and CLICK “Submit”.

*--

5-FLP, Exhibit 53

This Exhibit may only be revised by SED.

(Use Agency Letterhead format with local return address.)

NOTIFICATION OF OPTIONS AVAILABLE TO THE TRIBE

(Tribe)
(Address)

SUBJECT: (Borrower's Name)

Dear Sir or Madame:

This letter concerns (borrower's name) (hereafter referred to as “borrower”) Farm Service Agency (FSA) real estate, and, if applicable, chattel security, and the options available in lieu of foreclosure on _____ acres with a market value of _____

Attached is a copy of the letter (with all attachments) that was sent to the borrower who has debt obligations with FSA that are in default. The borrower has pledged real estate security for this debt, and that security lies within the jurisdiction of your Tribe's Reservation.

Under section 335(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(e)), one of the liquidation options offered to the borrower is the assignment of the borrower's FSA loans to the Tribe. If the borrower requests FSA to assign the loan to the Tribe and the Tribe is agreeable to the assignment, the Tribe would purchase the loan at the lesser of the market value of the property securing the loan or the outstanding principal and interest due under the loan.

If the Tribe purchases the borrower's loan, the borrower's obligation will be to the Tribe under the assigned promissory note. Notwithstanding any loan servicing needs, or loan servicing arrangements between the borrower and the Tribe, the Tribe will be independently obligated to pay, or continue to make payments to, FSA for the purchase of the assignment.

The Tribe may pay the value of the assigned loan under terms and conditions similar to an Indian Tribal Land Acquisition Program (ITLAP) loan under 7 CFR part 770 or it may pay this amount in full at the time of the assignment. All ITLAP servicing options, except any write-down servicing options, may be applied to such loans.

We encourage you to contact the borrower to discuss these options and contact FSA for information on requirements necessary to complete the transaction.

--*

Notification of Options Available to the Tribe (Continued)

*__

5-FLP, Exhibit 53

If the borrower has not responded to the attached letter in writing within 60 calendar days, the matter will be referred for collection and foreclosure. We will be in contact with you if the borrower requests us to assign the loan to the Tribe.

Sincerely,

District Director

Attachments

cc: Borrower

SED/FLC

DD

Area Office, BIA

--*

Worksheet for Determining Farm Loan Programs Maximum Bid on Real Estate Property

Note: Exhibit 60 is available in a fillable format at <https://intranet.fsa.usda.gov/dam/ffasforms/currentforms.asp>, in the “Forms Number” block type “5-FLP Exhibit 60” and CLICK “Submit”.

* * *

*__

5-FLP Exhibit 60
(Par. 567, 602, 604)

**WORKSHEET FOR DETERMINING FARM LOAN PROGRAMS
MAXIMUM BID ON REAL ESTATE PROPERTY**

(Present Owner/Borrower) _____

See data published according to Exhibit 17, subparagraph 2 B for guidance in estimating the incomes and expenses to be used in this exhibit. The holding period to be used is 165 days (.45 years) or less if it can be justified by the actual State average holding period. A longer period would be the redemption period plus 165 days (or less as noted above). State supplements will be issued as required and will address how income and expenses for the property will be calculated during the redemption period. If an individual property requires a longer holding period because of deed restrictions, legal issues, etc., an Administrator's Exception may be requested to use a different holding period.

1. MARKET VALUE OF PROPERTY

Date of Appraisal _____

ESTIMATED HOLDING PERIOD IN YEARS

Statutory Holding Period 0.45 years + State Holding Period _____ years

\$ _____

0.45

2. INCOME

a. Annual Rent	x	Holding Period (years)	<u>0.45</u>	=	
b. Annual Royalties	x	Holding Period (years)	<u>0.45</u>	=	
c. Other Annual Income	x	Holding Period (years)	<u>0.45</u>	=	
d. Annual % Land Appreciation (if applicable)					
\$ -	x	Holding Period (years)	<u>0.45</u>	=	
e. Value gained due to restrictions that are placed on the farm such as Conservation Easements, Conservation Reserve Program (CRP), etc.					
				=	
f. Other (describe below)	x	Holding Period (years)	<u>0.45</u>	=	

TOTAL ADDITIONS (Items 2a thru 2f)

= \$ _____

Notes: _____

3. EXPENSES

a. Total Prior Lien holder Indebtedness (P and I) _____ = _____

Lienholder Name	Amount
_____	_____
_____	_____
_____	_____
_____	_____

Page 1

Worksheet for Determining Farm Loan Programs Maximum Bid on Real Estate Property
(Continued)

*--

						5-FLP Exhibit 60 (Par. 567, 602, 604)	
b. Other Acquisition Costs (taxes presently owed, closing costs, survey costs, administrative costs, junior liens, etc.) List:						= _____	
Description		Amount					
DOJ collection fees (typically 3% of MV if applicable)		_____					
_____		_____					
_____		_____					
_____		_____					
_____		_____					
_____		_____					
_____		_____					
c. Annual Taxes & Assessment		_____	x	Holding Period (years)	0.45	=	_____
d. Annual Building Depreciation		_____	x	Holding Period (years)	0.45	=	_____
e. Annual Management Costs		_____	x	Holding Period (years)	0.45	=	_____
f. Total Essential Repairs to Secure and Resell						=	_____
g. Annual % Decrease in Land Value (if applicable)		<div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div>		Holding Period (years)	0.45	=	_____
	\$	-	x				
h. Total Anticipated Resale Expenses (Commissions, Advertising, etc.)						=	_____
Description		Amount					
_____		_____					
_____		_____					
_____		_____					
_____		_____					
_____		_____					
_____		_____					
i. Total Interest Cost							
_____	Market Value	x	_____	Regular OL Rate	x	Holding Period (years)	0.45 = _____
j. Value loss due to restrictions that are placed on the farm such as Conservation Easements, Conservation Reserve Program (CRP), etc.						=	_____
k. Hazardous Waste Clean-up Costs						=	_____
Description		Amount					
_____		_____					
_____		_____					
_____		_____					
_____		_____					
I. Total Deductions (Items 3a through 3k)						=	_____
Notes:							

--*

Worksheet for Determining Farm Loan Programs Maximum Bid on Real Estate Property
(Continued)

*--

5-FLP Exhibit 60
(Par. 567, 602, 604)

4. CALCULATION OF FSA'S NRV

a.

	+		-		=	
1. Market Value		2. Total Additions		3. Total Deductions		Net Recovery Value (NRV)*

Notes:
*If NRV is ZERO or NEGATIVE: DO NOT BID. See paragraph 4 for Administrator exception requirements if FSA has minimal recovery.

5. BID WILL BE THE LESSER OF a or b:

	+		=	
1. Positive NRV		2. Prior Lienholder		Maximum Bid "a"

	+		=	
1. Unpaid FSA Balance on Secured Debt		2. Prior Lienholder		Maximum Bid "b"

FSA'S MAXIMUM BID =

SIGNATURE(S):

<p>AGENCY OFFICIAL:</p> <p align="center">X</p> <p>Date _____</p>	<p>STATE EXECUTIVE DIRECTOR:</p> <p align="center">X _____</p> <p>Date _____</p>
---	--

Any Additional Notes or Comments:

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