

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 54

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Paragraph 50 has been added to provide a history for COVID DSA.

Subparagraph 567 C has been amended to include a note about requesting non-cash credits when DOJ foreclosure fees are not properly included in Exhibit 60.

Exhibit 17 has been amended to update eDALR\$ cost constants.

Exhibit 61 has been amended to create separate checklists for the acquisition and sale of inventory property.

Page Control Chart		
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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 COVID DSA*A DSA Expansion**

As a result of the COVID-19 National Emergency, a temporary COVID DSA expansion was implemented. The temporary expansion authorized:

- DSA when, as a direct result of the COVID-19 outbreak, the borrower did not have sufficient income available to pay all family living and farm operating expenses, other creditors, and debts to the Agency.
- A second DSA for borrowers who already had a DSA when, as a direct result of the COVID-19 outbreak, the borrower did not have sufficient income available to pay all family living and farm operating expenses, other creditors, and debts to the Agency. An eligible loan could have two COVID DSA's or one COVID DSA and one DSA for a natural disaster.
- COVID DSA for annual operating loans even if there was less than 2 years remaining on the term of the loan. Maturity dates were extended up to 12 months to allow for the set-aside.
- The disaster designation number for the COVID-19 outbreak as C2019. If a second COVID-19 DSA was approved, the disaster designation number was C2021.
- COVID-19 DSA for installments due through December 31, 2022.
- Requests for COVID-19 DSA through March 31, 2023.--*

51-64 (Reserved)

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.

***--Note:** FLC can request a non-cash credit from LSPMD through an exception request when DOJ foreclosure fees are not properly included in Exhibit 60 and the foreclosure sale has been completed.--*

[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.

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 \$28.42 =	\$1,318
FO/SW/CL	46.36 X \$28.42 =	\$1,318
EM/EE	46.36 X \$28.42 =	\$1,318
RH (Used for RHF loans only.)	46.36 X \$28.42 =	\$1,318--*

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	*--\$28.42	=	\$662--*

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 *--2023 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.

***--Acquisition and Sale of Inventory Property Check Sheets**

Note: Exhibit 61 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 61” and CLICK “Submit”.

This exhibit supplements subparagraphs 568 and 721 about preparation of the inventory property file. The following check sheet may be prepared and maintained in the inventory property file for each property taken into FSA inventory. It should be filed in position 1 of the Inventory File:

5-FLP, Exhibit 61 (Par. 721)	
A Acquisition of Real Estate Checklist	
Identification	
Former Borrower Name:	
Property ID No:	(Obtained from the State Office FLP Section)
Acres Acquired:	
Date Acquired:	(Date of deed was recorded, per 5-FLP, subparagraph 721 A)
<input type="checkbox"/> Yes <input type="checkbox"/> No. Can the property be used to carry out FSA loan program objectives?	
<input type="checkbox"/> Yes <input type="checkbox"/> No. Can the property be used for agricultural purposes?	
Method of Acquisition:	
<input type="checkbox"/> Foreclosure by FSA	<input type="checkbox"/> Voluntary Conveyance
<input type="checkbox"/> Prior Lien Foreclosure	<input type="checkbox"/> Bankruptcy Trustee
<input type="checkbox"/> Other: If other, explain:	
Inventory Property File	
Use an 8-position folder maintained separate from the borrowers case folders.	
The label should include the:	
<ul style="list-style-type: none">• the text “Inventory Property”• the 10-digit property ID number (The first five digits will consist of the state and county code of the former borrower and the last digits will be assigned consecutively beginning with 00001.)	
This file should include:	
<ul style="list-style-type: none">• an appraisal establishing market value at the time of acquisition, FSA-2539 “Homestead Protection Program Agreement” if provided before inventory acquisition,• FSA-2591 “Lease of Real Property”, FSA-851 “Environmental Risk Survey Form” and any related environmental documentation,• survey (if available), and• other applicable documents determined as needed.	
Note: Original documents shall be maintained in the borrower’s case file.	
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*--Acquisition and Sale of Inventory Property Check Sheets (Continued)

5-FLP, Exhibit 61
(Par. 721)

A Acquisition of Real Estate Checklist (Continued)

Leases

- _____ If there are leases, refer to 5-FLP, subparagraph 568 C. (If the property was foreclosed, the lease is null and void)
- _____ FSA-2587 "Advice of Property Acquired", was prepared and 3E ADPS transaction was input using former borrower's case number for initial input. The 3E establishes the inventory property (advice) number. After processed, the Acquired Property Screen (currently on ADPS menu using the new property ID number should be accessed to assure information is correct.

Note: The former borrower's account is credited the amount of the Agency's bid for foreclosure actions (5-FLP, subparagraph 568 D). **FSA's bid prices is the "Market Value-Acquisition" for the 3E for foreclosure.** For voluntary conveyances, the former borrower's account is credit the amount of the market value of the property less any prior liens, or the debt, whichever is less (5-FLP, subparagraph 500 D). **The figure will be the amount that is input for the "Market Value-Acquisition" for the 3E for voluntary conveyances.**

Taxes

- _____ Are there advances needed to pay real estate taxes that were due before the property was taken into FSA inventory. If so, process per 1-FLP (5-FLP, subparagraph 582 B)
- Note:** Assure all charges (real estate taxes, appraisal costs for foreclosure, filing fees for Trustee's Deed, etc.) are charged to the former borrower's account **before processing the 3E.** View the "Customer History" and "Customer Profile" Screens in Customer Profile in DLS to assure the charges are applied to the former borrower's account.

FSA-851 "Environmental Risk Survey"

- ☐ Yes ☐ No. Was dwelling constructed before January 1, 1978?
- ☐ Yes ☐ No. Is the dwelling suitable for habitation?
- ☐ Yes ☐ No. Is there personal property to be removed?
- ☐ Yes ☐ No. Are there abandoned motor vehicles on the property?
- ☐ Yes ☐ No. Has the owner been notified to remove personal property and automobiles (enter date in Item 2 on page 4; see 5-FLP, subparagraphs 706 A through D, and 707 A through F)?

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*--Acquisition and Sale of Inventory Property Check Sheets (Continued)

5-FLP, Exhibit 61
(Par. 721)

A Acquisition of Real Estate Checklist (Continued)

Environmental Review Completed (See 5-FLP)

Motion of USFWS (U.S. Fish & Wildlife Service) Notification if Important Resources noted?
{Contact the State Environmental Coordinator (SEC) if important environmental resources appear present on the property. The SEC will provide advice on notification and consultation with USFWS.}
(5-FLP)

_____ USFWS Response Receipt Date (if applicable).

Is conservation easement necessary (5-FLP, subparagraph 803A-E)?

Note: Easements need to be evaluated before taking property into Inventory.

_____ From AD-1026 or Producer Farm Data report in file?

_____ Date of CPA-026 in file?

☐ Yes ☐ No. Are there any hydric soils or highly erodible lands on the property?
☐ Yes ☐ No. Is the farm enrolled in CRP?

_____ FSA-2588 "Acquired Property Maintenance" processed if needed
(5L ADPS transaction using new property ID Number if processed to correct any errors) **Note:** 5L can only be processed by RDBCSO

_____ Appraisal (must be no older than 12 months or refer to 1-FLP, Part 6 if the current appraisal is more than 1 year old).

_____ Survey after property acquisition; if needed for Homestead Protection Property.

Note: The cost for a survey is non-recoverable cost item and is not charged to the former borrower's account or to the property account.

File is documented to reflect:

_____ Date of property inspection pre-acquisition.

_____ Date or dates of property inspection post-acquisition.

_____ Action taken to determine property abandonment, eviction or removal of personal property left on the property.

Note: Call the PLCE monitor for instructions on how to charge the Costs, if any, for removal of personal property.

_____ Any necessary emergency repairs are needed to remedy fire, health or safety hazards (5-FLP, subparagraphs 772 B through F).

Note: Costs are charged to the Inventory Property Account.

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*--Acquisition and Sale of Inventory Property Check Sheets (Continued)

5-FLP, Exhibit 61
(Par. 721)

A Acquisition of Real Estate Checklist (Continued)

File is documented to reflect: - continued

- _____ Date Locks are changed on buildings (5-FLP, subparagraphs 722 B through F).
- Note:** Costs for changing locks is a non-recoverable cost item.
- _____ Date property is winterized, if needed (5-FLP, subparagraphs 722 B through F).
- _____ Photos of the real property, in electronic format, are posted to the USDA's web site for inventory properties. (Include major buildings contributing value and favorable views of vacant land).
- _____ "For Sale" and "No Trespassing" signs posted on property.
- _____ Homestead Protection Considered: The property cannot be advertised until Homestead protection Rights have been terminated (5-FLP, subparagraphs 777 B).
- ☐ Yes ☐ No. Is there a dwelling on the property that was principal residence?
- _____ If "Yes", date FSA-2540 "Notice of Availability of Homestead Protection-Post Acquisition" was sent along with an application. (See to 5-FLP, subparagraph 281 B for information/forms needed for a complete application. Copy of FSA-2540 is to be placed in the file). FSA-2540 is to be provided to the former borrower within 10 days after FSA acquires the property.
- ☐ Yes ☐ No. Homestead Protection requested?
- ☐ Yes ☐ No. If "Yes", was FSA-2591 "Lease of Real Property" signed (5-FLP, subparagraph 281 B)?
- ☐ Yes ☐ No. If request was not granted, are all appeal rights concluded?

Comments on Homestead Protection:

Note: For leasing of inventory property for Homestead Protection, see 5-FLP, subparagraphs 742 A through F and 743 A through C.

- _____ Date the CED was notified by email or letter that FSA owns the property; if the property is farm property. Contact the State Office for the Tax ID number for inventory property. The Tax ID should be changed when FSA obtains title to the property (when the Deed is recorded). If there are program payments tied to the property, contact the State Office for further instructions. FSA is not eligible for program payments.
- _____ Date the Trustee's Office was notified that FSA acquired the property.

*--Acquisition and Sale of Inventory Property Check Sheets (Continued)

5-FLP, Exhibit 61
(Par. 721)

B Checklist for Sale of Suitable Inventory Property

Advertisement for sale [beginning farmer/SDA] if property can be used for agriculture purposes. (Price will be current market value/appraisal per 5-FLP, subparagraph 778 A.) See 5-FLP, subparagraphs 776 A through D and 781 A through C. See 3-FLP, Part 4 to determine whether the applicant meets the beginning farmer or socially disadvantaged farmer eligibility requirements:

_____ Date "FLP Properties for Sale" was posted in County Office. State Office posts property on the FSA Inventory Property Website.

_____ Publications (local newspapers) and dates of publications containing for sale ad: (Two different publications advertised two times each are required.)

- Publications:
Dates of publication 1): _____ & _____
- Publications:
Dates of publication 2): _____ & _____

Note: Field Offices should check the Acquired Property History in ADPS on the new Property ID number to assure charges for the newspaper advertisements are posted to the Inventory Property (IP) account.

_____ Final date for sale to Beginning Farmer or SDA applicant.

_____ Names of applicants responding to advertisement/notice of sale - Beginning Farmer/SDA:

_____ Date FSA-2593 "Standard Sales Contract Sale of Real Property by the United States", signed by applicant selected to purchase farm.
Comments on sales efforts, decisions reached on purchase requests, status of appeals, etc.:

Note: State Office will supply "Quitclaim Deed" to convey inventory property to purchaser at time of closing.

_____ FSA-2594 "Advice of Inventory Property Sold" was completed (5-FLP, subparagraph 778 H).

***--Acquisition and Sale of Inventory Property Check Sheets (Continued)**

**5-FLP, Exhibit 61
(Par. 721)**

B Checklist for Sale of Suitable Inventory Property (Continued)

- _____ 1H ADPS transaction was processed. See 5-FLP, subparagraphs 778 B and H. (Finance Office applies the loan funds to the inventory property account).
- _____ Memorandum was provided to the CED advising that FSA is no longer the property owner and provided the names of the new owners.
- _____ Memorandum was provided to CED advising that FSA is no longer the property owner and provide names of the new owners.
- _____ Trustee was notified in writing of the new owner's name.

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*--Acquisition and Sale of Inventory Property Check Sheets (Continued)

5-FLP, Exhibit 61
(Par. 721)

C Checklist for Selling to the General Public by Auction or Sealed Bid

Selling to the General Public by auction or sealed bid to the general public. See 5-FLP, subparagraphs 776 A, 776 D, 778 A, 781 A and B, and 782 A through N:

_____ Date FLP Properties for Sale to general public was posted in County Office.
State Office posts property on the FSA Inventory Property website.

_____ Publications (local newspapers) and dates of publications containing for sale
ad: (two different publications advertised two times each are required.)

- _____
- Publications:
Dates of publication 1): _____ & _____
 - Publications:
Dates of publication 1): _____ & _____

Note: Field Offices should check the Acquired Property History in ADPS on
the new Property ID number to assure charges for the newspaper
advertisements are posted to the Inventory Property (IP) account.

_____ If public auction, FSA sells property to highest bidder according to 5-FLP,
paragraph 783.

_____ If sealed bid names of bidders responding to advertisement/notice of sale -
General Public and completing FSA-2592 "Invitation, Bid and Acceptance
Sale of Real Property by the United States":

_____ Date FSA-2592 (Invitation, Bid and Acceptance Sale of Real Property by the
United States", signed by FSA and purchaser of the property accepting the
offer.

_____ Date Misc Code 12 is used in processing the 10% down payment. NRRS only
accepts 5 digits of inventory property (advice) number.

Note: NRRS only accepts 5 digits of inventory property (advise) number. The
Quitclaim Deed (cash value) is prepared.

_____ Date FSA-2594 "Advice of Inventory Property Sold" was completed after the
total purchase price was received.

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*--Acquisition and Sale of Inventory Property Check Sheets (Continued)

5-FLP, Exhibit 61
(Par. 721)

C Checklist for Selling to the General Public by Auction or Sealed Bid (Continued)

- _____ Date the 1H-Cash Sale/Transfer Acquired Property ADPS transaction was processed. The 1H must be processed before the cash payment is processed. The 1H is processed using the Acquired Property menu on ADPS. If the property classification needs to be changed (from suitable to non-suitable, etc.), it can be done when the 1H is processed.
 - _____ Date Misc Code 12 is used in processing the remaining balance of the purchase price. NRRS only accepts 5 digits of inventory property (advice)
 - _____ FLM exchanged the Quitclaim Deed for cash, bank draft, money order, or cashier's check.
 - _____ Memorandum was provided to the CED advising that FSA is no longer the property owner and provides the names of the new owners.
 - _____ Trustee was notified in writing of the new owner's name and Address.
- Comments on sales efforts, decisions reached on purchase requests, status of appeals, etc.:

Note: State Office personnel removes property from USDA web site after sale of property.

Negotiated Sale (See 5-FLP, subparagraph 776E):

- _____ Date negotiated bid requested from the State Office.
- _____ Date and names of person(s) making negotiated offers (by submitting FSA-2592 "Invitation, Bid, and Acceptance Sale of Real Property by the United States"):

Date:	Name:	Bid Amount:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- _____ FSA-2592 "Invitation, Bid, and Acceptance Sale of Real Property by the United States" was signed by FSA and purchaser of the property accepting the offer.

*--Acquisition and Sale of Inventory Property Check Sheets (Continued)

5-FLP, Exhibit 61
(Par. 721)

C Checklist for Selling to the General Public by Auction or Sealed Bid (Continued)

Negotiated Sale (See 5-FLP, subparagraph 776E):

- _____ Misc Code 12 is used in processing the 10% down payment in NRRS.
 - _____ FSA-2594 "Advice of Inventory Property Sold" was completed after the total purchase price was received.
 - _____ 1H-Cash Sale/Transfer Acquired Property ADPS transaction was processed. The 1H must be processed before the cash payment is processed. The 1H is processed using the Acquired Property menu on ADPS. If the property classification needs to be changed (from suitable to non-suitable, etc.), it can be done when the 1H is processed.
 - _____ Misc Code 12 is used in NRRS to process the remaining balance of the purchase price.
 - _____ FLM exchanged the Quitclaim Deed for cash, bank draft, money order, or cashier's check.
 - _____ Memorandum was provided to the CED advising that FSA is no longer the property owner and provides the names of the new owners.
 - _____ Date the Trustee was notified in writing of the new owner's name and Address.
- Comments on sales efforts, decisions reached on purchase requests, status of appeals, etc.:

Note: State Office personnel removes property from USDA's web site after sale of property.

