

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 60

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraphs 45 A and 54 A have been amended to add a note about information to be added to the FBP for DSA.

Subparagraph 46 A has been amended to add a note that a DSA application must be processed before an application for release of security if received concurrently.

Subparagraph 51 C has been amended to add reference to Exhibit 10.4.

Subparagraph 55 A has been amended to clarify the response and processing timeframes for DBSA eligibility.

Subparagraph 55 B has been amended to:

- include information required for the FBP decision for DBSA
- clarify that a DBSA application must be processed before an application for release of security if received concurrently.

Subparagraph 67 A has been amended to:

- clarify the requirements to send FSA-2512 via certified mail to delinquent borrowers
- remove the statement to include the DBSA fact sheet and move it to subparagraph 68 A.

Subparagraph 67 C has been amended to:

- clarify the requirements to send FSA-2512 via certified mail to delinquent borrowers
- state that certified mail return receipt service is required when sending items by certified mail.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 68 A has been amended to:

- clarify that Exhibit 14 will only be sent to YL borrowers when sending the FSA-2510
- add that the DBSA fact sheet will be included with all PLS notification packages.

Subparagraph 83 A has been amended to include language that a new FSA-2001 must be obtained if a distressed borrower becomes 90 days past due and would like to continue with a servicing application after receiving FSA-2510.

Subparagraph 128 D has been amended to clarify that a current balance sheet must be included in the FBP for changing installment due dates without PLS.

Subparagraph 129 A has been amended to:

- add clarifying language regarding outstanding term loans and eligibility for balloon extensions without PLS
- add reference to completing real estate evaluations on FSA-2132.

Subparagraph 297 A has been amended to include a note to also reference 2-EQ, paragraph 63.

Subparagraph 401 E has been amended to remove reference to obsolete PLS response forms.

Subparagraphs 421 E, 444 C, 461 A, 462 F, 464, 464 C, 465, 465 A, 481 A, 496 A, 498 F, 518 A, 519 A, 519 E, 520, 520 B, 520 C, 537 E, 568 A, 602 B, 602 D, 780, 780 A, 780 B, 780 C, 783 A, and 783 B have been amended to update references to personal property.

Subparagraphs 498 C, 566 B, and 601 D have been amended to include language to obtain prior departmental clearance according to 2-EQ.

Subparagraph 551 A has been amended to include reference to Exhibit 58.

Subparagraph 781 B has been amended to update the advertisement requirements for inventory property.

Exhibit 2 has been amended to:

- update the definition of Certified Mail
- remove the definition of Credit Sale.

Exhibit 10.4 has been added to provide a sample DBSA GovDelivery article.

Exhibit 17 has been amended to reflect a change in requirements for the FLMAC to meet annually by September 30.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Exhibit 58 has been added to provide information on Judicial Foreclosure Best Practices.

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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.

(2) 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.

(3) 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:

(i) 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.

***--Note:** The borrower's actual production and income and expense records for the disaster year must be entered into FBP to support the eligibility determination.--*

(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.

Note: A current balance sheet is required to develop the projection.

(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 150 days past due at the time the application for DSA is complete.**

If the borrower becomes more than 90 days past due and the DSA has not been completed through the execution of the FSA-2501, the borrower will be immediately provided servicing notifications according to paragraph 66 and initialized into DLS Special Servicing. If a borrower has not provided a complete application for DSA or loan servicing within 150 days past due, the borrower will be notified of the agency's intention to accelerate in accordance with paragraph 85.

Note: YL's, NP's, and loans that are only partially advanced are **not** eligible for servicing under this part.--*

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 DBSA or DSA in place.**

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

Note: The limitation for DSA includes COVID DSA granted that has an outstanding balance.--*

45 DSA Eligibility and Limitations (Continued)

C Borrowers in Bankruptcy

When FSA receives a request for DSA from a borrower, co-borrower, or related entity that has filed for bankruptcy, FSA will consult with OGC to determine if and how the bankruptcy impacts the farm operation and FSA debt, and whether court approval of the DSA is required. If court approval is required, the appropriate documentation must be received before eligibility is determined according to subparagraph 43 B.

A borrower who does not have a confirmed reorganization bankruptcy plan may be eligible for DSA, provided the borrower addresses the terms of the DSA as part of the confirmed bankruptcy plan.

A borrower who has re-affirmed FSA debt or has successfully completed a reorganization bankruptcy and is no longer under bankruptcy court jurisdiction is eligible for DSA, subject to the eligibility and limitations in subparagraphs A and B.

Note: A borrower discharged under a chapter 7 bankruptcy who failed to re-affirm FSA debt is not eligible for DSA. See subparagraph 407 B [7 CFR 766.303(c)].

D Borrowers Paying Under a Debt Settlement

A borrower paying FSA under a Debt Settlement Adjustment Agreement is not eligible for DSA.

E Limitations

[7 CFR 766.53(a)] The DSA amount is limited to the lesser of:

***--(1) The first or second scheduled annual installment on the Agency loans due after the disaster occurred; or**

(1) The amount the borrower is unable to pay the Agency due to the disaster.
Borrowers--* are required to pay any portion of an installment they are able to pay.--*

[7 CFR 766.53(b)] The amount set-aside will be the unpaid balance remaining on the installment at the time the DSA is complete. This amount will include the unpaid interest and any principal that would be credited to the account as if the installment were paid on the due date, taking into consideration any payments applied to principal and interest since the due date.

--[7 CFR 766.53(c)] Recoverable cost items may not be set aside.--

46 DSA Approval

A Decision

[7 CFR 766.55] Within 30 days of a complete DSA application, the Agency will determine if the borrower meets the eligibility requirements for DSA.

The authorized agency official must prepare a Special Servicing credit action in FBP to document the decision about eligibility/approval. Borrowers will be notified of the decision by letter within 5 working days after the decision is made. The letter will be hand delivered with borrower acknowledgement in position 4 of the case file or sent by regular mail. Exhibit 10 will be used as a template for an affirmative letter. Rejection letters will be prepared according to 1-APP.

If the borrower does not execute all required agency documents within the required timeframe, the DSA request will be rejected and the authorized agency official will notify the borrower according to 5-FLP, subparagraph 47 A.

***--Note:** If a borrower applies for DSA concurrently with a request for a partial release of security or an extension of maturity date for direct loans with balloon installments, the DSA request must be processed prior to issuing a decision on the partial release or extension of maturity date for direct loans with balloon installments.--*

B Borrower Acceptance of DSA

[7 CFR 766.57] The borrower must execute the appropriate Agency documents within 45 days after the borrower receives notification of Agency approval of DSA.

Subject to the 165-calendar-day limitation in subparagraph 45 A, the borrower must sign FSA-2501 within 45 calendar days (48 calendar days if the letter is sent by mail to allow 3 calendar days for delivery) of the date of FSA's approval letter for each loan DSA. Any exception must be requested according to paragraph 4.

If the borrower does not execute all required agency documents within the required timeframe, the DSA request will be rejected and the authorized agency official will notify the borrower according to 5-FLP, subparagraph 47 A.

C Required Forms

In closing a borrower's approved DSA request, the authorized agency official will:

- prepare an original and 2 copies of FSA-2501
- staple the signed original on top of the original promissory note or assumption agreement filed in the fire-proof safe
- staple 1 of the 2 copies of FSA-2501 to the copy of the promissory note or assumption agreement filed in position 2 of the borrower's case file
- give the second copy of FSA-2501 to the borrower.

51 Distressed Borrower Set-Aside (DBSA)**A Intent of DBSA**

[7 CFR 766.451] (a) DBSA is available to borrowers with at least one program loan authorized in subtitle A, B, or C of the CONACT (the loan must be an OL, FO, CL, SW or EM) and who are a delinquent borrower or financially distressed borrower.

Note: YL's, NP's, and loans that are only partially advanced are **not** eligible for servicing under this part.

(b) DBSA is not intended to circumvent other servicing options available under this part.

DBSA is only intended to relieve some of the borrower's immediate and temporary financial stress. When the operation has demonstrated that it cannot make the payments due and requires restructure or other special servicing options, primary loan servicing under Parts 3 and 4 will be used. DBSA will not be used with PLS.

Note: Accounts with loans on full or partial deferral may not be considered for DBSA.

B Authority

Any authorized agency official may approve or reject all DBSA transactions.

C Notification of Availability of DBSA

Local Service Centers will publicize DBSA through GovDelivery articles at least annually, or more frequently as determined by FLC or SED.

***--Note:** See Exhibit 10.4 for a sample DBSA GovDelivery article.--*

The DBSA Fact Sheet must be included in all loan servicing notification packets sent according to paragraphs 66 and 67.

--52 DBSA Applications*A Requests for DBSA**

[7 CFR 766.454(a)] (1) A borrower must submit a request for DBSA to the Agency in writing.

Unlike DSA, a borrower does not have to have been affected by a disaster to qualify but must only demonstrate their financial distress.

(2) All borrowers liable for the loan must sign the DBSA request.

B Required Financial Information

[7 CFR 766.454(b)] (1) The borrower must submit actual production, income, and expense records for the current and upcoming production cycle unless the Agency already has that information for the borrower.

(2) The borrower must provide any additional information requested by the Agency.

The borrower must also provide any documentation required to support the farm operating plan as required in paragraph 54, such as 3 years of production, income, and expense records.

Records provided by the borrower will be retained in the case file.--*

53 DBSA Application Tracking**A Tracking DBSA Requests**

The authorized agency official must date stamp the borrower's DBSA request as of the date FSA received it. The application will be entered in and tracked through completion in DLS under Security Instruments Other Workflows.

The authorized agency official **must**, at a minimum, record the following in DLS:

- purpose type
- request date
- final disposition
- final disposition date
- set-aside addendum date
- installment date
- set-aside amount
- amount approved
- *--complete application date.

Note: Due to current limitations in DLS, the complete application date will be entered in the Special Servicing Eligibility comment box of the FBP.--*

54 DBSA Eligibility and Limitations

A Borrower Eligibility

[7 CFR 766.452(a)] The borrower must meet all of the following requirements to be eligible for DBSA:

- (1) The borrower must currently be operating the farm. Farmers who have rented out their land base for cash are not operating the farm. (see operator definition in Exhibit 2).**
- (2) The borrower must have acted in good faith, and the borrower's inability to make the current or upcoming scheduled loan payments must be for reasons not within the borrower's control.**
- (3) The borrower cannot have more than one DBSA on each loan.**
- (4) 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 will be based on:**

(i) The borrower's actual production, income and expense records; and

(ii) Any other records required by the Agency;

***--Note:** The borrower's actual production and income and expense records must be entered into FBP to support the eligibility determination.--*

- (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 Agency debts. The borrower must provide documentation required to support the farm operating plan.**

Note: A current balance sheet is required to develop the projection.

- (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 DBSA documents are executed.**

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

--54 DBSA Eligibility and Limitations (Continued)*D Borrowers Paying Under a Debt Settlement**

A borrower paying FSA under a Debt Settlement Adjustment Agreement is not eligible for DBSA.

E Limitations

[7 CFR 766.453(a)] The DBSA amount is limited to the lesser of:

(1) The amount of the delinquent installment or upcoming scheduled installment; or

(2) The amount the borrower is unable to pay the Agency. Borrowers are required to pay any portion of an installment they are able to pay.

[7 CFR 766.453(b)] The amount set aside will be the unpaid balance remaining on the installment at the time DBSA is complete. The amount will include the unpaid interest and any principal that would be credited to the account as if the installment were paid on the due date, taking into consideration any payments applied to principal and interest since the due date.

[7 CFR 766.453(c)] Recoverable cost items may not be set aside.--*

55 DBSA Approval

A Borrower Acceptance and Decision

[7 CFR 766.455] Subject to the 165 calendar day limitation in § 766.452(a)(8), the borrower must execute the appropriate Agency documents within 45 days after the borrower receives notification of Agency approval of DBSA, which will be within 30 days of having submitted a complete application.

* * *

*--The agency must notify the borrower of DBSA approval within 30 days of receiving a complete application.

The FSA-2501 must be signed by the borrower within 45 calendar days of the date of FSA's approval decision (or within 48 days if sent by regular mail to allow 3 days for mail delivery). The FSA-2501 must be executed before the loan becomes 165 days or more past due (as outlined in subparagraph 54 A), and before the remaining term of the loan becomes less than 2 years from the due date of the DBSA agreement (as outlined in subparagraph 54 B). If either of these conditions exist, the loan is no longer eligible for DBSA.--*

If the borrower does not execute all required agency documents within the required timeframe, the DBSA request will be rejected and the authorized agency official will notify the borrower according to subparagraph 57 A.

B Agency Decision

The authorized agency official must prepare a Special Servicing credit action in FBP to
 --document the decision about eligibility or approval. The FBP should include actual production and income and expense records as well as a cash flow projection to document the distress and lack of a feasible plan without the DBSA. Borrowers will be notified of-- the decision by letter within 5 working days after the decision is made. The letter will be hand delivered with borrower acknowledgement in position 4 of the case file or sent by regular mail. Exhibit 10 will be used as a template for an affirmative letter. Rejection letters will be prepared according to 1-APP.

*--**Note:** If a borrower applies for DBSA concurrently with a request for a partial release of security or an extension of maturity date for direct loans with balloon installments, the DBSA request must be processed before issuing a decision on the partial release or extension of maturity date for direct loans with balloon installments.--*

C Required Forms

In closing a borrower's approved DBSA request, the authorized agency official will:

- prepare an original and 2 copies of FSA-2501
- staple the signed original on top of the original promissory note or assumption agreement filed in the fire-proof safe
- staple 1 of the 2 copies of FSA-2501 to the copy of the promissory note or assumption agreement filed in position 2 of the borrower's case file
- give the second copy of FSA-2501 to the borrower.

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);

67 Providing Loan Servicing Notification Package (Continued)

A Forms for Notifying Borrowers (Continued)

Notification will be hand-delivered or sent by regular mail to borrowers who are current and
 *--requesting servicing. Notification will be sent by certified mail to borrowers requesting
 servicing who are delinquent, but less than 90 days past due.--*

[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)

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.

*--All notices to delinquent borrowers are sent by certified mail, including borrowers receiving FSA-2512 who are at least 1 day delinquent but not yet 90 days or more past due.

Certified mail return receipt service is required as an additional service when sending items by certified mail and must be purchased at the time of mailing.--*

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 whenever they are sent the FSA-2510 to further explain the reason for the notification and their servicing options.

Note: The DBSA fact sheet must be included with all PLS notification packages, except YL's.--*

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)

81 Required Information (Continued)**H Verification of Debt and Collateral**

--[7 CFR 766.102(a)(7)] Verification of all debts and collateral; and--

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

***--I Other Application Requirements**

[7 CFR 766.102(a)(8)] Upon Agency request, any leases, contracts, options and other agreements related to the operation.--*

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 *--part 761 subpart F of this chapter. (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.

--A borrower must submit a new, signed FSA-2001 to request servicing as a 90 day or more past due borrower. Any information from the original current or financially distressed FSA-2001 application form that is still considered current or is unchanged does not need to be duplicated on the new FSA-2001. All pages, including blank pages, must be initialed by the applicant on the new FSA-2001.--

[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.

128 SED Exception Authority to Change Installment Due Date without PLS (Continued)

C Requirements (Continued)

- *--the borrower has not acted in good faith as determined in 3-FLP, subparagraph 65 C--*
- the borrower is in non-monetary default
- the borrower is ineligible because of disqualification resulting from a Federal Crop Insurance violation according to 7 CFR part 718.

The proposed new installment due date must not be more than 3 months from the due date listed on the promissory note. This exception authority will not be used to extend the final maturity date of the loan. The borrower will be expected to pay the final installment and any remaining balance on the original maturity date.

[7 CFR 766.104(a)(5)] Financially distressed or current borrowers requesting servicing must pay a portion of the interest due on the loans. A borrower who is not delinquent must pay as much interest as feasible. The interest payment will be applied to the loan account as a regular payment according to 4-FLP, paragraph 62.

*--**Note:** If a borrower has loans that are deferred and/or has loans with a DBSA or DSA, only those loans that are not deferred and do not have a DBSA or DSA are eligible for this exception. Do **not** cancel loan deferrals, DBSA, or DSA to use this exception.--*

128 SED Exception Authority to Change Installment Due Date Without PLS (Continued)**D Exception Process**

If an FSA loan official, through a loan analysis action or request by the borrower, determines the current note due date does not coincide with the borrower's income and not changing the due date will continue to cause chronic late payments, FSA may consider using this exception.

Local servicing official will:

- verify the loan meets the applicable requirements in subparagraph C, including an analysis of why the Agency's financial interest would be adversely affected by acting according to published regulations or policies, and granting the exception would resolve or eliminate the adverse effect upon its financial interest
- initiate a credit action in FBP to process the proposed change in the due date ensuring all *--elements of paragraph 4 are included with a recommendation including a current balance sheet and an updated cash flow that demonstrates whether the borrower has the ability--* to pay a portion of the interest accrued before revising the due date.

Note: If a credit action is already in process, for example a new loan request, this exception request and recommendations may be included in the open credit action rather than separate credit action. For a standalone action, County Offices should use a Classification/LR/YEA Only credit model.

FLM and SFLO's may submit requests for exception under this subparagraph directly to FLC. Requests must address the requirements of subparagraph 4 B and the issues noted in this subparagraph.

129 Extending Maturity Date for Direct Loans with Balloon Payments

A General Requirements and Signatures

[7 CFR 766.120(a)] At a borrower's written request, the maturity date and installment schedule of a direct term loan with a balloon payment may be extended for up to an additional 8 years from the original maturity date using an addendum to the promissory note when the:

The authorized agency official will date stamp the request received from the borrower on the date it was received.

(1) Loan was originally amortized for no more than 15 years with a balloon payment scheduled in the final year of the loan;

Term loans with a balloon installment on a 21-year amortized installment schedule are not eligible for extension of maturity under this paragraph.

(2) Loan has not received PLS, DBSA, or DSA;

(3) Borrower has made all scheduled loan installments in the last 36 months;

(4) Balloon payment is due in less than 12 months;

(5) Borrower does not have an outstanding DBSA or DSA on any loan;

Accounts with DBSA or DSA on any loan are not eligible and will require servicing under Parts 3 and 4 if the borrower is unable to make the final balloon installment plus any set-aside amount.

(6) Borrower has not received PLS on any loan in the last 36 months;

(7) Borrower has only had equal installments scheduled on any direct term loan in the last 36 months;

***--All of the borrower's term loans must have been outstanding for at least 36 months, with equal installments for all loans scheduled for the last 36 months. Annual operating loans closed within the last 36 months do not preclude a borrower from eligibility.**

If the loan being considered for extension of the maturity date began with unequal installments, it may be eligible if the unequal installments were before 36 months from--* the maturity date. This requirement is specific to the loan being considered for extension of the maturity date.

Example: On July 1, 2017, a borrower closed a term loan maturing in 7 years. Scheduled installments included interest only payments for the first 3 installments with remaining payments based on a 12-year amortization. All payments were made by the borrower as scheduled. On May 1, 2024, the borrower requested to extend the maturity date of this loan for an additional 8 years. This loan would meet this requirement since equal amortized installments were made in the final 36 months of the term.--*

129 Extending Maturity Date for Direct Loans with Balloon Payments (Continued)**A General Requirements and Signatures (Continued)**

(8) Borrower's direct loans are fully secured with each loan having a security value of at least 100 percent of the remaining balance of the loan;

The authorized agency official, to whom SED delegated authority to prepare personal property appraisals and real estate evaluations under 1-FLP Exhibit 7, will estimate the remaining market value or any need for additional security before extending the maturity date. The authorized agency official must document the value in FBP, with the basis for the *--estimates. Real estate evaluations will be completed on FSA-2132.--*

(9) Borrower is unable to partially or fully graduate;

Graduation reviews will be completed according to the operational review requirements completed according to 4-FLP Part 2.

(10) Borrower has acted in good faith;

(11) Borrower is not otherwise financially distressed or delinquent;

Extension of the maturity date will not be used to circumvent the servicing available under Parts 3 and 4.

(12) Borrower must pay a portion of the interest due on the loan; and

A borrower who is not delinquent must pay as much interest as feasible. The interest payment will be applied to the loan account as a regular payment according to 4-FLP, paragraph 62.

(13) Addendum is signed by the borrower before the original maturity date.

The borrower must sign an addendum to the promissory note for each loan where the maturity date will be extended. FSA-2503 will be used as the addendum to extend the maturity date of the loan. The FSA-2503 must be signed in accordance with state issued supplements for promissory notes based on OGC guidance for the respective state. All liable parties on the promissory note must sign the FSA-2503. Payment of the annual installment amount must be made prior to execution of the FSA-2503.

Note: New promissory notes will not be used to document the extension of maturity date.

(b) In no event may the loan exceed applicable term limits described in this part.

The purpose of this provision is to extend the repayment term up to 15 years from the date of the original FSA-2026 without rescheduling or reamortization. The payment amount included in the FSA-2503 will be the regular installment amount provided on the FSA-2026, with the new maturity date provided.

Section 2 Processing Homestead Protection Requests**297 Leasing the Homestead Protection Property****A Lease Terms and Conditions**

[7 CFR 766.154(b)] (1) The amount of rent will be based on equivalent rents charged for similar residential properties in the area in which the dwelling is located.

(2) All leases will include an option to purchase the homestead protection property as described in paragraph (c) (subparagraph 300 A) of this section.

(3) The lease term will not be less than 3 years and will not exceed 5 years.

A borrower may extend a lease with an original term of less than 5 years, but not beyond 5 years from the beginning date of the original lease.

FSA applies the lease payments to the homestead protection account according to Part 20. FSA does not apply lease payments to the purchase price of the property.

The borrower may exercise the option to purchase at any time.

***--Note:** See 2-EQ, paragraph 63 for environmental requirements when leasing inventory property. --*

B Lessee Requirements

[7 CFR 766.154(b)(4)] The lessee must agree to make lease payments on time and maintain the property.

[7 CFR 766.154(b)(5)] The lessee must cooperate with Agency efforts to sell the remaining portion of the farm.

298 (Reserved)

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 * * * 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.

421 Handling Civil and Criminal Cases (Continued)**E Notification to Third Party Purchasers When a Borrower Has Not Properly Accounted for Proceeds**

When a borrower has not properly accounted for the proceeds of the sale of security, FSA will first look to the borrower for restitution. If FSA is in liquidation, FSA will usually *--attempt to liquidate remaining personal property security on which FSA holds a first lien--* before making demand or taking civil action against third party purchasers. However, FSA will, with SED concurrence, notify a third party purchaser according to 4-FLP, paragraph 181 when it is necessary to protect the interest of the Government.

F Notification When a Borrower Has Not Properly Accounted for Proceeds

When a borrower has not properly accounted for the proceeds of the sale of security, FSA will service the account according to 4-FLP, Part 7.

G Deficiency Judgment

In some cases, it is in the Government's best interest to obtain a deficiency judgment for balances remaining after all security has been liquidated.

--The authorized agency official will:--

- make a recommendation about whether a deficiency judgment should be pursued according to subparagraph 533 F
- include information about nonsecurity assets on which a judgment lien may be obtained when referring cases to the State Office according to subparagraph C.

Note: Pursuing a deficiency judgment on every case is **not** advisable and may not be a good use of Government resources.

444 General Issues (Continued)

B NP Borrowers

[7 CFR 766.351(c)] If a borrower has both Program and Non-program loans, the borrower's account will be handled in accordance with paragraph (b) (subparagraph 442 B) of this section. If a borrower with only Non-program loans is in default, the borrower may liquidate voluntarily, subject to the following:

- (1) The Agency may delay involuntary liquidation actions when in the Agency's financial interest for a period not to exceed 60 days.**
- (2) The borrower must obtain the Agency's consent prior to the sale of the property.**
- (3) If the borrower will not pay the Agency in full, the minimum sales price must be the market value of the property as determined by the Agency.**
- (4) The Agency will accept a conveyance offer only when it is in the Agency's financial interest.**

Exhibit 37 will be used to help determine whether an offer of voluntary conveyance is in FSA's best interest.

- (5) If a Non-program borrower does not cure the default, or cannot or will not voluntarily liquidate, the Agency will accelerate the loan.**

Exhibit 38 will be used to notify NP borrowers of the default 10 calendar days after a payment is missed. At 30 calendar days past due, NP borrowers will then be informed by Exhibit 39 that the account must be brought current or a liquidation plan submitted and that no further notice will be given before acceleration. FSA will begin servicing toward acceleration at 60 calendar days, according to paragraph 533. DD will send Exhibit 40 or 41 (for NP borrower who were discharged in bankruptcy) as soon as possible after the account is 90 calendar days past due by certified and regular mail on the same day.

--In accordance with 1-APP, subparagraph 10 A, decisions or communications about nonprogram loans are not subject to appeal, mediation, or appealability review.--

444 General Issues (Continued)**C Multiple Loans and Multiple Types of Security**

When a borrower has more than one FSA loan, FSA will involuntarily liquidate real estate
*--and personal property for all the borrower's loans within a similar time period according to
Part 16.

When a borrower liquidates both real property and personal property security, the borrower must follow the applicable procedures for liquidating each type of security. If a borrower intends to liquidate personal property security that may be considered a fixture on real property, the authorized agency official will determine whether the borrower may liquidate the personal property as part of the real property. This approach may be appropriate for irrigation equipment or other fixtures that serve as security for FO or other FSA loans. If the equipment or fixture does not contribute to the value of the real property or it is otherwise in FSA's best interest, FSA may require the borrower to sell the equipment or fixture as personal property.--*

445-460 (Reserved)

Part 13 Voluntary Liquidation**461 General Requirements****A Voluntary Sale of Property**

[7 CFR 766.352(a)] A borrower may voluntarily sell real property or chattel security to repay Agency debt in lieu of involuntary liquidation if all applicable requirements of this section are met. Partial dispositions are handled in accordance with part 765, subparts G and H (4-FLP, Part 7) of this chapter.

(1) The borrower must sell all real property and chattel that secure Agency debt until the debt is paid in full or until all security has been liquidated.

There are several types of voluntary liquidation including sale, transfer, and conveyance of *--security. This part addresses voluntary sale of real property and personal property--* security. Voluntary conveyance is discussed in detail in Part 14 and transfers in 4-FLP, Part 9.

B Notifying the Borrower

With Agency approval, a current borrower may initiate voluntary liquidation at any time.

For a borrower in monetary or non-monetary default, FSA will notify the borrower of the default according to Part 3. The authorized agency official will work with a borrower in default to voluntarily liquidate security; however, the authorized agency official will not delay FSA's required servicing, acceleration, and involuntary liquidation to accommodate the borrower's liquidation efforts.

462 Voluntary Liquidation of Real Property

A Approval Request

[7 CFR 766.352(a)(2)] The Agency must approve the sale and approve the use of proceeds.

The borrower must:

- complete and sign FSA-2061 with the assistance of the authorized agency official

Note: Only items 1 through 5 of the FSA-2061 are required if the transaction results in
--all FSA debts being paid in full. See 4-FLP, Exhibit 25.5 for examples of how to complete FSA-2061.--

- provide a sales contract for the property indicating the price and terms of the sale
- work with FSA to complete an operational review under 4-FLP, Part 2 reflecting the proposed transaction

Notes: If the review shows that the operation will be financially distressed, the borrower should be serviced under Part 3.

An operational review is not required if the transaction will result in all FSA debts being paid in full.

- sell the property for not less than the market value unless FSA is being paid in full.

B Title Search

The authorized agency official will conduct a new lien search if adequate title information is not available in the borrower's case file. The purpose of the search is to:

- determine the liens of other parties on the property and their effect on liquidation
- ensure proper distribution of sale proceeds.

The borrower pays the cost of all title searches or it will be charged to the borrower's account if they are unable to pay. The authorized agency official will obtain a title search according to the procedures used in the State where the property is located. SED will issue a State supplement as appropriate.

C Appraisal and Disposition of Collateral Proceeds

FSA will appraise the property according to 1-FLP, Part 6 to determine the property's market value only after receipt of a sales contract. Any sale proceeds received by the borrower over and above the FSA-determined market value must be applied to the borrower's FSA debt until the FSA loans secured by the collateral are paid in full. The authorized agency official will apply sale proceeds according to 4-FLP, Part 5.

462 Voluntary Liquidation of Real Property (Continued)**F Real Estate Auctions**

Except as set forth in subparagraph D or E, or unless the minimum bid will pay the account in full, borrower requests to sell real estate security at public auction may only be approved through Administrator's Exception. The request will address:

- information required under subparagraph 4 B
- auctioneer's experience with selling real estate
- auctioneer's plan for advertising the auction, including where advertisements will be placed and how long they will run
- how the auction will maximize FSA recovery over a traditional sale through a realtor
- FSA's estimated recovery from forced liquidation (Exhibit 60)
- ~~valuation and liquidation plan for personal property security~~*
- appraised values of the property as it is being advertised and auctioned. This can be demonstrated with an appraisal that addresses separate tract values as an addendum.

G Approving the Sale

On an individual basis

After the authorized approval official signs FSA-2061 approving the borrower's request for sale of real property, FSA will provide a copy of the signed form to the borrower.

The authorized agency official may, but is not required to, attend the closing of the sale. If necessary, the authorized agency official may contact the borrower's closing agent to ensure proper distribution of the sale proceeds.

H Rejecting the Sale Request

If the request for sale is not approved, the authorized agency official will notify the borrower in writing of the reasons for not approving the sale and offer appeal rights. See 1-APP for explanation of borrower's appeal rights.

463 Closing the Sale of Real Property

A Processing the Sale Proceeds

After the sale, the authorized agency official will record the transaction and credit the borrower's account.

[7 CFR 766.352(a)(3)] The sale proceeds are applied in order of lien priority, except that proceeds may be used to pay customary costs appropriate to the transaction provided:

[7 CFR 766.352(a)(3)] (i) The costs are reasonable in amount;

Any costs beyond those believed reasonable by the authorized agency official must be supported by the borrower as being typical for similar transactions in the area.

[7 CFR 766.352(a)(3)] (ii) The borrower is unable to pay the costs from personal funds or have the purchaser pay;

[7 CFR 766.352(a)(3)] (iii) The costs must be paid to complete the sale;

Only costs essential for the actual sale will be released. Capital gains taxes are not considered essential for completing an actual sale and are not FSA's responsibility.

[7 CFR 766.352(a)(3)] (iv) Costs are not for postage and insurance of the note while in transit when required for the Agency to present the promissory note to the recorder to obtain a release of a portion of the real property from the mortgage.

Examples of customary costs may include the following:

- real estate taxes that must be paid to complete the transaction
- title examination
- surveys
- abstracts
- title insurance
- reasonable attorney's fees
- real estate broker's commissions
- judgment liens.

The borrower's closing agent will distribute sale proceeds according to lien priority, as *--specified on FSA-2061. See 4-FLP, Exhibit 25.5 for examples of how to complete FSA-2061.--*

The authorized agency official will apply the proceeds from the sale to the borrower's FSA loan account according to 4-FLP, Part 5.

The authorized agency official will record the sale through appropriate issuance, distribution, and filing to FSA records of the appropriate deeds and settlement documents.

463 Closing the Sale of Real Property (Continued)**B Release of Liens**

If the proceeds pay the borrower's FSA debts in full, FSA will release its liens and return the appropriate documents to the borrower according to 4-FLP, paragraph 65.

C Remaining Balance

[7 CFR 766.352(a)(5)] If an unpaid loan balance remains after the sale, the Agency will continue to service the loan in accordance with part 761, subpart F of this chapter and part 3 of this title. (7-FLP, Part 12)

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.

--464 Voluntary Liquidation of Personal Property--**A Methods of Voluntary Liquidation**

[7 CFR 766.352(b)] If the borrower complies with paragraph (a) (paragraphs 461 through 463) of this section, the borrower may sell chattel security by:

[7 CFR 766.352(b)] (1) public sale if the borrower obtains the agreement of lienholders as necessary to complete the public sale; or

For a public sale, the borrower must assist the authorized agency official in completing FSA-2571 and revising FSA-2040. FSA-2571 can be completed to give FSA custodial possession (not ownership) of the collateral or as an agreement for the borrower to sell the property.

[7 CFR 766.352(b)] (2) private sale if the borrower:

(i) Sells all of the security for not less than the market value;

(ii) Obtains the agreement of lienholders as necessary to complete the sale;

(iii) Has a buyer who is ready and able to purchase the property; and

(iv) Obtains the Agency's agreement for the sale.

For a private sale, the borrower must assist the authorized agency official in completing FSA-2571 and FSA-2040. The authorized agency official must document the reasons a public sale is not in FSA's best interest. If the account is in default, servicing will continue without delay.

--464 Voluntary Liquidation of Personal Property (Continued)--**B Lien Search**

The authorized agency official will obtain a lien search on the security being sold unless accurate and complete lien information is available in the borrower's case file. The purpose of the search is to:

- determine the liens of other parties on the property and their effect on liquidation
- ensure proper distribution of sale proceeds.

The borrower will pay the cost of all lien searches. See 3-FLP, Part 16 on conducting a lien search. SED may issue a State supplement as appropriate.

C Appraisal

FSA will appraise the property according to 1-FLP, Part 6 if the borrower pursues a private *--sale. FSA will not generally appraise personal property to be sold at public auction.--*

D Sales That Do Not Satisfy the Borrower's Debt

If the estimated net sale proceeds of the property will not fully pay a borrower's secured debts, but the sale price is at least equal to the market value of the security, the authorized agency official may approve the sale. If the borrower submits a debt settlement application with the sale request, the authorized agency official will forward the file to SED with the documentation required by 7-FLP, Part 12.

E Approving the Sale

The authorized agency official may attend the sale at their discretion and must contact the auctioneer or clerk of the sale to ensure proper distribution of the sale proceeds.

F Rejecting the Sale Request

If the authorized agency official does not approve the request for sale, the borrower will be notified in writing of the reasons for not approving the sale and offered appeal rights according to 1-APP.

--465 Closing the Sale of Personal Property--

A Processing the Sale Proceeds

The auctioneer or clerk of sale will distribute the sale proceeds according to lien priority as specified on FSA-2571.

After the sale, the authorized agency official will:

- record the transaction and credit the borrower's account
- *--record the sale of personal property on FSA-2040--*
- apply the proceeds from the sale to the borrower's FSA loan account according to 4-FLP, Part 5.

B Release of Liens

If the proceeds pay the borrower's FSA debts in full, FSA releases its liens and returns the appropriate documents to the borrower according to 4-FLP, paragraph 65.

C Remaining Balance

If the proceeds do not pay the borrower's FSA debt in full, FSA will continue to service the borrower's account.

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.

466-480 (Reserved)

Part 14 Voluntary Conveyance of Security**Section 1 General Information****481 Introduction****A General Policy**

Voluntary conveyance is a method by which the borrower transfers title and possession of all security property to FSA in exchange for credit to the borrower's FSA loan account. FSA
--can accept conveyance of both real property and personal property; however, FSA considers voluntary conveyance a last resort, does not usually accept a conveyance of personal property, and makes every effort to assist the borrower in liquidating personal property by other means.--

[7 CFR 766.353(e)] After voluntary conveyance, the borrower or former owner retains no statutory, implied, or inherent right of possession to the property beyond those rights under an approved lease-purchase agreement executed according to § 766.115 (Part 7) or required by State law.

After the borrower conveys property to FSA, it becomes inventory property. FSA will dispose of inventory property according to Part 21.

482-495 (Reserved)

Section 2 Voluntary Conveyance of Real Property

496 Before Receiving Conveyance Offers of Real Property

A Borrower Meeting

Before accepting the conveyance of real estate, FSA will schedule a meeting with the borrower to discuss FSA's conveyance requirements, and ensure that FSA has provided a loan servicing notification package to the borrower according to paragraph 66.

The authorized agency official will provide the borrower with FSA-2569, FSA-2570, FSA-2732, and a list of the requirements to make a complete conveyance offer.

The authorized agency official will inform the borrower that:

- voluntary conveyance is a method of liquidation

Note: The borrower must liquidate, convey, or do a combination of both for all real
---property and personal property that secures the borrower's FSA loans.--

- any equity in the property to be conveyed may be lost through conveyance as FSA will ensure that all debts and expenses associated with the account are paid before any equity distribution
- FSA may place "right of access" easements to other property, deed restrictions, and/or easements on the property if the property contains wetlands or historic structures or is located on a flood plain according to Part 22

Note: These restrictions may affect the price of the property if the borrower purchases the property under the Homestead Protection Program, and may affect FSA's net recovery value.

- there could be tax consequences

Note: FSA does not give tax advice. The borrower should consult a tax professional or the IRS for any guidance on this issue. FSA does not release proceeds for income taxes. The property is owned by the borrower and the borrower is responsible for any capital gains taxes.

- FSA may determine that it is able to accept the conveyance of the real estate security, but is unable to approve FSA-2732 that was submitted with the conveyance offer.

Note: In these cases, FSA will accept the conveyance and deny the debt settlement application. See subparagraph 499 F for additional guidance.

497 Real Property Conveyance Application Requirements

A Application

[7 CFR 766.353(a)] The borrower must supply the Agency with the following:

[7 CFR 766.353(a)] (1) An Agency application form;

The borrower must complete and submit FSA-2570.

[7 CFR 766.353(a)] (2) A current financial statement. If the borrower is an entity, all entity members must provide current financial statements;

[7 CFR 766.353(a)] (3) Information on present and future income and potential earning ability;

[7 CFR 766.353(a)] (4) A warranty deed or other deed acceptable to the Agency;

--The borrower must provide FSA-2569. The authorized agency official does not record the-- deed until FSA accepts the conveyance.

[7 CFR 766.353(a)] (5) A resolution approved by the governing body that authorizes the conveyance in the case of an entity;

An entity must provide a resolution approved by the organization's governing body unless the entity is a joint operation of a husband and wife when both are liable. The resolution must identify the officials authorized to execute the offer and deed on behalf of the borrower. If shareholder approval is required, the resolution must confirm that the entity has obtained shareholder approval.

497 Real Property Conveyance Application Requirements (Continued)

A Application (Continued)

[7 CFR 766.353(a)] (6) Assignment of all leases to the Agency. The borrower must put all oral leases in writing;

The borrower must put oral leases, including all terms and conditions, in writing and assign all leases to FSA. If a borrower is leasing land on which FSA holds a security interest to a third party for income, FSA will receive all lease proceeds after the conveyance. See 4-FLP, Part 5 for handling lease proceeds.

[7 CFR 766.353(a)] (8) Complete debt settlement application in accordance with subpart B of part 761, subpart F of this chapter (7-FLP, Part 12) before, or in conjunction with the voluntary conveyance offer if the value of the property to be *--conveyed is less than the FLP debt; and--*

The borrower must complete and submit FSA-2732 with all required supporting documentation for debt settlement, unless the value of the voluntary conveyance security fully satisfies the FSA debt.

The debt settlement application will be processed according to 7-FLP, Part 12. The applications for voluntary conveyance and debt settlement will normally be approved or denied together; however, the voluntary conveyance application can be approved while denying the debt settlement application if SED believes it to be in the Government's best interest.

[7 CFR 766.353(a)] (9) Any other documentation required by the Agency to evaluate the request.

B SED Authority to Accept Applications from Estates

On an individual case-by-case basis, an Administrator's Exception under 7 CFR 766.353(a) to accept an application for voluntary conveyance of real property from an estate may be approved by SED according to this paragraph when:

- servicing the deceased borrower's account has been completed in accordance with 4-FLP, Part 10
- all other requirements in this part are met.

Administrator's Exception authority may not be further redelegated.

498 Additional Requirements**A Other Use Rights**

If water rights, mineral rights, development rights, or other use rights encumbered by FSA are not included in FSA-2569, or other guidance is needed, the authorized agency official refers the case to SED to obtain OGC guidance as required on the appropriate documents needed to transfer these rights to FSA. SED may issue a State supplement as required.

B Obtaining an Appraisal

The authorized agency official will obtain an appraisal of the property to establish its current market value. The appraisal must be based on the “as is” market value according to 1-FLP, Part 6 and must not include potential deed restrictions or easements FSA may place on the property.

C Conducting a Due Diligence Review

FSA must complete its due diligence process prior to taking real estate security into inventory via foreclosure or voluntary conveyance.

The authorized agency official will conduct a due diligence review to assess environmental risk according to 2-EQ. At a minimum, a qualified agency official will complete FSA-851 to determine whether FSA requires a more detailed environmental review. The cost of any hazardous waste or other environmental clean-up identified by the due diligence review may be considered by FSA, but will not usually be included in Exhibit 37 as clean-up is usually not required for sale of the property.

--Prior departmental clearance will be obtained according to 2-EQ, subparagraph 61 D.--

D Obtaining a Title Search

[7 CFR 766.353(a)(7)] Title insurance or title record for the security, if available;

The authorized agency official will conduct a new lien search, according to the standard procedures used in the borrower’s State and the State supplement issued according to subparagraph 462 B, if adequate title information is not available in the borrower’s case file.

The borrower will pay the cost of all title searches or it will be charged to the borrower’s account.

498 Additional Requirements (Continued)**E Servicing Notifications**

[7 CFR 766.353(b)(3)] The borrower has received prior notification of the availability of loan servicing in accordance with subpart C (Part 3) of this part.

F Full Liquidation

[7 CFR 766.353(b)(2)] The borrower conveys all real property securing the Agency loan; and

The authorized agency official will confirm that the conveyance offer includes all real ~~property~~ securing FSA debts. If the borrower has real property or personal property ~~securing an FSA loan that is not part of the conveyance offer~~, the authorized agency official must document that the borrower is in the process of liquidating this security by another liquidation method approved by FSA. All borrower sales must be completed before the voluntary conveyance.

The authorized agency official will include in the borrower's case file any appraisal, environmental information, and title search from subparagraphs B, C, and D, respectively.

The authorized agency official will include a statement of the borrower's unpaid FSA debts with a printout from the appropriate ADPS DL or AI screens. Voluntary conveyance documentation must include information on prior and junior liens, as well as judgments, if not included in the conveyance offer.

499 Processing the Borrower's Conveyance Offer**A Forwarding the Case File**

The authorized agency official will forward the completed case file to SED if required. The approval official may approve all conveyances and debt settlements according to the approval authorities set forth in 1-FLP, Part 2. The case file must contain the borrower's offer to convey, including all items listed in paragraph 497. In addition, the authorized ~~agency official will develop a completed credit action in FBP including a recommendation--~~* to the approval official on whether to accept or reject the conveyance offer.

B Conditions for Conveying Real Property

[7 CFR 766.353(b)] The Agency will accept voluntary conveyance of real property by a borrower if:

(1) Conveyance is in the Agency's financial interest;

The authorized agency official will complete Exhibit 37 showing the recovery value from the conveyance. The approval official will accept the conveyance offer if the borrower's application meets all FSA conditions and if acceptance is clearly in FSA's best financial interest.

C Prior and Junior Liens

[7 CFR 766.353(c)] (1) The Agency will pay prior liens to the extent consistent with the Agency's financial interest.

(2) Before conveyance, the borrower must pay or obtain releases of all junior liens, real estate taxes, judgments, and other assessments. If the borrower is unable to pay or obtain a release of the liens, the Agency may attempt to negotiate a settlement with the lienholder if it is in the Agency's financial interest.

The approval official will also use the information from Exhibit 37 to determine whether FSA will pay prior liens along with the conveyance. FSA may pay prior liens if the loan approval official expects a substantial recovery from the conveyance or if the lienholder objects to FSA accepting the conveyance subject to a prior lien.

The authorized agency official will charge any protective advances to pay prior liens to the borrower's account according to 4-FLP, Part 6.

--517 Personal Property Conveyance Application Requirements (Continued)--**A Application (Continued)**

[7 CFR 766.354(a)] (6) Complete debt settlement application in accordance with part 761, subpart F of this chapter (7-FLP, Part 12) before or in conjunction with the voluntary conveyance offer if the value of the property to be conveyed is less than the *--FLP debt.--*

The borrower must complete and submit FSA-2732 with all required supporting documentation for debt settlement, unless the value of the voluntary conveyance security will fully satisfy the FSA debt.

The debt settlement application will be processed according to 7-FLP, Part 12. The applications for voluntary conveyance and debt settlement will normally be approved or denied together; however, the voluntary conveyance application can be approved while denying the debt settlement application if SED believes it to be in the Government's best interest.

518 Additional Requirements

A FSA Actions After Receiving Offer

[7 CFR 766.354(b)] The Agency will accept conveyance of chattel only if:

[7 CFR 766.354(b)] (1) The borrower has made every possible effort to sell the property voluntarily;

This includes consideration of the execution of FSA-2571.

[7 CFR 766.354(b)] (2) The borrower can convey the chattel free of other liens;

- The authorized agency official will conduct a lien search to verify that FSA is the only *--lienholder on the personal property.
- The authorized agency official conducts or obtains a personal property inspection and appraisal. The inspection and appraisal are required to account for all personal property--* security listed in the borrower's offer and to determine the market value of the property. The authorized agency official will conduct the appraisal according to 1-FLP, Part 6 as appropriate.
- The authorized agency official will determine the likely recovery value to FSA and whether the conveyance will satisfy the borrower's account. To calculate the recovery value, the authorized agency official will subtract all estimated expenses, including acquisition, preparation, and auction costs, from the appraised market value of FSA security.

The authorized agency official will document that approval of the voluntary conveyance is in FSA's best interest.

[7 CFR 766.354(b)] (4) The borrower conveys all chattel securing the Agency loan; and

- *--The authorized agency official will confirm that the conveyance offer includes all personal property securing FSA debts. If the borrower has real property securing an FSA loan that is--* not part of the conveyance offer, the authorized agency official must document that the borrower is liquidating this security by another method approved by FSA. All sales must be completed before the voluntary conveyance.

[7 CFR 766.354(b)] (5) The borrower has received prior notification of the availability of loan servicing in accordance with subpart C (Part 3) of this part.

The authorized agency official will document that the borrower received the proper primary loan servicing notices according to paragraph 66.

519 Processing the Borrower's Conveyance Offer

A Preparing the Case File

The case file must contain the borrower's offer to convey, including all items in paragraph 517. In addition, the authorized agency official must include:

- a recommendation to the loan approval official about whether to accept the conveyance offer
- the authorized agency official's assessment and recommendation on the borrower's debt settlement application
- the authorized agency official will develop a complete credit action in FBP including a recommendation to the approval official on whether or not to accept or reject the conveyance offer.

The authorized agency official will include documentation of the results of the lien search, the personal property inspection, appraisal, and likely recovery value from Exhibit 37 in the FBP.

A memorandum will be included indicating that the borrower and the authorized agency official have reached a preliminary agreement on how, when, and where the borrower will
--deliver the personal property.--

B Forwarding the Case File

The authorized agency official will forward the completed case file to SED. SED may approve all conveyances and debt settlements according to the approval authorities set forth in 1-FLP, Part 2. The case file must contain the borrower's offer to convey, including all items listed in paragraph 497. In addition, the authorized agency official should include a recommendation on acceptance of the offer.

C Evaluating the Offer

SED will accept conveyance of personal property only if:

[7 CFR 766.354(b)(3)] The conveyance is in the Agency's financial interest.

Conveyances of personal property will be approved only in extreme circumstances where no other option is possible.

519 Processing the Borrower's Conveyance Offer (Continued)**D Rejecting the Conveyance**

If SED determines that FSA should not accept the conveyance, SED or designee will:

- notify the borrower of FSA's denial in writing stating the reasons for the rejection and return FSA-2070 to the borrower

Note: As part of the written denial, the borrower will be given appeal rights according to 1-APP.

- send a copy of the rejection letter, FSA-2070, and the case file to the authorized agency official for continued account servicing.

The borrower may voluntarily liquidate security through other means.

FSA will not delay acceleration or involuntary liquidation action if SED rejects the conveyance.

E Accepting the Conveyance

If SED approves the offer, SED will return the case file to the authorized agency official with instructions for closing the conveyance. SED will include the following conditions in the approval:

- *--the authorized agency official must account for all personal property items listed in--* the conveyance offer
- the borrower must deliver the property according to an agreement reached between the borrower and the authorized agency official.

F Notifying the Borrower

The authorized agency official will notify the borrower of FSA's acceptance of the conveyance after all SED's conditions are met.

--520 Closing the Personal Property Conveyance--**A Charging the Borrower's Account**

[7 CFR 766.354(c)(1)] The Agency will charge the borrower's account for all recoverable costs incurred in connection with the conveyance in accordance with § 765.203 (4-FLP, Part 6) of this chapter.

B Crediting the Borrower's Account

[7 CFR 766.354(c)(2)] The Agency will credit the borrower's account in the amount of the market value of the chattel.

--If the appraised market value of the personal property is equal to or greater than the-- borrower's debt, the conveyance satisfies the account. The authorized agency official will stamp the notes "Satisfied by Surrender of Security and Borrower Released from Liability" and send them to the borrower.

If the appraised market value of the security is less than the borrower's debt, the authorized ***--agency official will credit the account by the market value of the personal property.--***

If FSA-2732 submitted according to subparagraph 517 A was:

- acceptable to FSA, the authorized agency official will process the approved debt settlement for any remaining loan balance
- denied and all appeal rights have been exhausted, the authorized agency official will service the debt through offset and referral to Treasury as set forth in 7-FLP.

C Final Processing

After FSA acquires the property, the authorized agency official will:

- complete a 3E transaction in ADPS as an advice of property acquired transaction

Note: The date of acquisition is the date the authorized agency official takes possession ***--of personal property security after determining all conditions are met.--***

- complete a 5L transaction in ADPS as an acquired property maintenance transaction

Note: The date of acquisition is the date the authorized agency official takes possession ***--of personal property security after determining all conditions are met.--***

- prepare an inventory account file according to paragraph 721.

521-530 (Reserved)

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 must, 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 must 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 must include a copy of the following:

- current appraisal of the real estate and valuations of all personal property 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 will 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 must 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 will 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.

If the borrower does not resist FSA's efforts to collect the security, the authorized agency official will contact an auctioneer, the State Contracting Officer or other third party, as required by State policy to collect the security. To ensure adequate market research is completed for liquidation actions, three vendor quotes must be obtained, or documentation as to why they were not obtained must be provided.

--See Exhibit 58, Judicial Foreclosure Best Practices for additional information about judicial foreclosure States.--

[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, or upon the advice and guidance from the Regional OGC, request DAFLP concurrence to process the 3 percent DOJ fee as a noncash--* 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 FLP loan remains after the sale of the repossessed property, the Agency will service the account in accordance with part 761, subpart F of this chapter and part 3 of this title. (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 Conducting a Due Diligence Review

FSA must complete its due diligence process before taking real estate security into inventory via foreclosure or voluntary conveyance. The authorized agency official will conduct a due diligence review to assess environmental risk according to 2-EQ. At a minimum, a qualified agency official will complete FSA-851 to determine whether FSA requires a more detailed environmental review.

--Prior departmental clearance will be obtained according to 2-EQ, subparagraph 61 D.--

C 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.

D 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.

E 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)**D Bidding at the Foreclosure Sale**

SED determines the authorized bid amount according to subparagraph C and provides other instructions to the authorized agency official on attending and bidding at the foreclosure sale. When RD is the senior lienholder, only 1 bid will be entered, and that will be for the amount authorized by SED.

As authorized by SED, the authorized agency official usually enters FSA's bid when no other party makes a bid or the last bid would result in the property being sold for less than FSA's authorized bid. However, when FSA is not the senior lienholder and OGC advises that the borrower has no redemption rights or if a deficiency judgment will be obtained, SED may authorize the person who will bid for the Government to make incremental bids in competition with other bidders. If incremental bidding is desired, SED's instructions to the bidder will state the initial bid, bidding increments, and the maximum bid.

E Reporting on the Foreclosure Sale

After the foreclosure sale, the authorized agency official writes a report on the sale for SED. The report should contain, at a minimum:

- name of the successful bidder
- amount of the successful bid
- recommendation on any further actions required of FSA after the sale.

SED will forward this report to OGC and/or the U.S. Attorney, as appropriate.

568 FSA Actions After Foreclosure**A When FSA Acquires the Property**

Within 10 workdays of the date FSA acquires the property, the authorized agency official will send, by certified mail, FSA-2540 to inform the borrower of homestead protection rights if a residence is on the property. The acquisition date for real estate is the date FSA records *--the deed. For personal property, the date of acquisition is the date the Bill of Sale or title--* is executed transferring ownership to FSA.

If FSA acquires the property at the foreclosure sale, the authorized agency official completes FSA-2587 and FSA-2588 and records the information in ADPS by completing a 3E transaction for acquired property and a 5L transaction for acquired property maintenance. For property subject to redemption rights, the authorized agency official waits until the redemption period expires to record the deed and complete the ADPS transaction. The authorized agency official prepares an inventory file according to paragraph 721 when FSA records the deed. State supplements may be issued as required to comply with State law.

568 FSA Actions After Foreclosure (Continued)**B Establishing an Inventory Account**

--RDBCSO, FLB will establish an inventory account for all acquired property under the-- assigned property identification number. The value of the property is the market value of the property on the date of the foreclosure sale.

C Existing Leases

If FSA's foreclosure effort did not extinguish existing leases and if FSA acquires property while under lease, the authorized agency official:

- obtains and places a copy of the lease in the case file
- attempts to convert existing oral leases to writing on FSA-2591
- *--establishes a lease account in RDBCSO with a 1S transaction in ADPS--*
- notifies the lessee in writing that the Government has acquired the property and where the lessee must send lease payments
- applies payments received by FSA that were due and payable before the date of FSA acquisition to any unsatisfied balance, and returns any surplus to the former borrower
- applies payments that are due and payable after the acquisition date to the lease account.

FSA does not extend the lease term and prefers not to sell property subject to a lease. FSA may discuss with the lessee the possibility of shortening or canceling the lease.

D Crediting the Borrower's Account

[7 CFR 766.357(b)(2)] If the Agency acquires the foreclosed property, the Agency will credit the borrower's account in the amount of the Agency's bid except when incremental bidding was used, in which case the amount of credit will be the maximum bid that was authorized. If the Agency does not acquire the foreclosed property, the Agency will credit the borrower's account in accordance with State law and guidance from the Regional OGC.

Accounts with real property security located within a federally recognized Indian Reservation will be credited according to paragraph 569.

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 will add the "TPF" flag (Exhibit 11) in DLS to indicate there is a foreclosure filed by a third party. The "TPF" flag will 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.

D Conducting a Due Diligence Review

FSA must complete its due diligence process before taking real estate security into inventory via foreclosure or voluntary conveyance. The authorized agency official will conduct a due diligence review to assess environmental risk according to 2-EQ. At a minimum, a qualified agency official will complete FSA-851 to determine whether FSA requires a more detailed environmental review.

--Prior departmental clearance will be obtained according to 2-EQ, subparagraph 61 D.--

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 personal property 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
- consummation of the sale will be within a short period of time as established by State Law.

602 Involuntary Liquidation by a Prior Lienholder (Continued)**C Contacting the Prior Lienholder**

The authorized agency official may contact the prior lienholder as necessary to protect FSA's security interest. FSA may pay off the prior lien if:

- paying off the prior lien is clearly in FSA's best interest according to Exhibit 60
- SED approves the pay-off to the prior lienholder.

Note: Paying off the prior lien holder should only be completed in rare instances, as it is not typically in FSA's best financial interest.

D Bidding at a Liquidation Sale

The policies and procedures for bidding at a real estate foreclosure sale by a prior lienholder are similar to the bidding process described in paragraph 567.

--At the sale of personal property by a prior lienholder, FSA normally does not bid, but may bid when the personal property under the prior lien has a market value that is significantly-- more than the prior lien. If FSA holds a junior lien on several items, the authorized agency official should seek SED's advice on whether to enter a bid.

If FSA will not enter a bid at a foreclosure sale, SED will determine whether an authorized agency official will attend the sale and write a narrative report outlining the results of the sale and plans for future servicing of the borrower's account.

E Sale by Prior Lienholder Without FSA's Knowledge

If FSA learns that a prior lienholder has repossessed and intends to sell or has already sold property on which FSA has a lien, the authorized agency official immediately notifies the prior lienholder that FSA:

- has a lien on the property
- requires receipt of sale proceeds that exceed the prior lienholder's debt.

The authorized agency official also obtains guidance on the sale of security by a prior lienholder from SED and, as necessary, OGC.

603 Involuntary Liquidation by a Junior Lienholder**A Junior Lienholder Initiates Liquidation**

The authorized agency official will write a letter informing the lienholder that FSA holds a prior lien. The letter should state that, if the lienholder holds a sale, FSA will announce at the sale that:

- FSA has a prior lien on the property, specifying each item and the lien amount, including principal and interest
- any property sold continues to be subject to FSA's lien and the purchaser will need to contact FSA to determine the conditions for the release of the lien. FSA should be paid within 30 to 60 calendar days.

The authorized agency official must maintain close communication with SED during this process. The authorized agency official must consult with SED on how to proceed after sending the initial letter.

If the junior lienholder does not recognize FSA's lien, the authorized agency official must forward the file to SED so that OGC can initiate legal action against the junior lienholder.

B Bidding on Property

FSA does not bid on property at any sale conducted by a junior lienholder.

C Contacting the Purchaser

If a buyer purchases FSA security property from a junior lienholder, the authorized agency official will contact the purchaser, and inform them of FSA's lien on the property and ask about the purchaser's intentions for settling the remaining FSA debt applicable to the security items.

If the authorized agency official cannot reach an acceptable resolution with the purchaser, the authorized agency official refers the case to SED for guidance and, normally, liquidation.

***--D Acquisition of Title**

Any third party that wants to obtain title during the junior lienholder foreclosure can pay off the FSA debt secured by that property in lieu of FSA exercising its right to foreclose. A junior lienholder may not pay off FSA debt unless they acquire title to the property. FSA will not assign its lien position.--*

779 Conveying Easements, Rights of Way, and Other Interests in Inventory Property (Continued)**D Disposal of Other Interests in Inventory Property**

[7 CFR 767.154(c)] (1) If applicable, the Agency will sell mineral and water rights, mineral lease interests, mineral royalty interests, air rights, and agricultural and other lease interests with the surface land except as provided in paragraph (b) (subparagraph 779 C) of this section.

(2) If the Agency sells the land in separate parcels, any rights or interests that apply to each parcel are included with the sale.

(3) The Agency will assign lease or royalty interests not passing by deed to the purchaser at the time of sale.

(4) Appraisals of property will reflect the value of such rights, interests, or leases.

The authorized agency official notifies the lessee or buyer of the assignment. FSA provides a copy of this notification to the purchaser.

E Conveyance to Public Bodies or Utilities

FSA must receive adequate consideration for the inventory property being released or the conveyance must be for a purpose that enhances the value of the real property.

If an appraisal is required as a result of the conveyance, FSA must consider relative property values, including any appropriate adjustment to the property's market value.

--780 Selling Personal Property*A General Policy**

FSA sells inventory personal property as expeditiously as possible.--*

B Public Auctions

[7 CFR 767.155(a)(1)] The Agency will use sealed bid or established public auctions for selling chattel. The Agency does not require public notice of sale in addition to the notice commonly used by the auction facility.

--FSA sells personal property at an established public auction that is widely advertised, held on a regular basis at the same facility, or both. No additional advertising is required by FSA. This is the preferred sale method for most personal property. Detailed procedures for-- selling property at an auction are described in paragraph 783. If the authorized agency official has reason to believe the property is not suitable for sale at a public auction or the property is not sold at auction, the authorized agency official should consult with SED for guidance on how to proceed.

--C Concurrent Sale of Real and Personal Inventory Property--

[7 CFR 767.155(a)(2)] The Agency may sell inventory chattel property, including fixtures, concurrently with inventory real estate if, by doing so, the Agency can obtain a higher aggregate price. The Agency may accept an offer for chattel based upon the combined final sales price of both the chattel and real estate.

--FSA may sell personal property with real property if FSA will obtain a higher-- aggregate price. The authorized agency official distributes proceeds from a joint sale among the applicable loan accounts based on the value of the property sold. The authorized agency official documents justification for a concurrent sale through an appraisal.

D Agency Financed Sales

[7 CFR 767.155(b)] The Agency may finance the purchase of inventory chattel property if the Agency has direct or guaranteed OL loan funds available and all applicable loan making requirements are met.

FSA transfers title to the security by completing FSA-2596.

After the authorized agency official closes the transaction and FSA conveys the property, the authorized agency official processes the sale according to 3-FI.

781 Advertising Property

A Authority

When FSA sells property in a manner that requires FSA to advertise the property, the authorized agency official is responsible for ensuring adequate advertising to achieve a timely sale.

B General Requirements

The authorized agency official must ensure that all advertising meets these general requirements.

- The advertisement must describe the property being sold. Real property must have a legal description unless a lengthy legal description is cost prohibitive. Then a general legal description will suffice provided purchasers can understand where the property is *--located. The advertisement must then disclose that the actual legal description is available.

- *--The advertisement must be publicly distributed using at least 2 different widely circulated methods in the area where the potential purchasers will reside, such as newspapers, GovDelivery, online marketplaces, community bulletin boards, and print media.--*

* * *

- The advertisement must run at least once per week for 2 successive weeks.
- The advertisement for real property must describe any use restrictions or easements on the property.
- The advertisement must include a statement that the property is being sold “as is.”
- The advertisement must state that the Government reserves the right to cancel the sale at any time during the sale process and also reserves the right to reject any or all applications or bids.
- The advertisement may list the market value of the property or a minimum acceptable price.
- *--The advertisement will indicate whether FSA financing is available to purchase the property. The advertisement will also indicate where to obtain an application or submit a bid, how to receive more information, and the deadline for submitting applications or bids.

781 Advertising Property (Continued)**B General Requirements (Continued)**

The authorized agency official must use other appropriate forms of advertising to maximize publicity, including posting Exhibit 70. The authorized agency official posts these advertisements in the local Field Office, adjoining Field Offices, the Farms for Sale Web Site, and other appropriate locations as necessary to ensure that the sale receives adequate exposure to the market.

C Advertising and Selling to Beginning and Socially Disadvantaged Farmers

All inventory property will continue to be advertised for sale to beginning and socially disadvantaged farmers unless it meets the criteria identified in subparagraph 776 A. Advertising must meet the general advertising requirements in subparagraph B and additionally must state:

- that beginning farmers or socially disadvantaged farmers may lease the property for up to 18 months if FSA loan funds are not available at the time of the scheduled sale
- that the lease of property may be subject to environmental use restrictions
- where to obtain an application, how to receive more information, and the deadline for submitting applications
- the market value of the property.

* * *

The initial paragraph in the advertisement must state the following:

“The property is being offered for sale to those individuals whom the Farm Service Agency (FSA) considers qualified beginning and/or socially disadvantaged farmers or ranchers. * * * Qualified beginning and socially disadvantaged farmers or ranchers must be in need of FSA credit assistance either in the form of direct FSA financing or an FSA guaranteed loan. For other requirements and information on how to qualify as a beginning and/or socially disadvantaged farmer or rancher, you may contact your local FSA office.”

* * *

--Priority consideration will be given to beginning farmers and/or socially disadvantaged farmers.--

* * *

782 Sealed Bid Sales (Continued)**J Handling Equal Bids**

If there are equal bids, the authorized agency officials determine the successful bidder by random selection. The random selection is held in public and is not appealable.

K Credit Bids Exceeding Market Value

If FSA receives a bid requesting credit that exceeds the market value of the property or exceeds acceptable FSA terms, the authorized agency official gives the bidder the opportunity to:

- make a cash down payment
- reduce the credit request with no accompanying change in the offer price
- reduce the terms with no accompanying change in the offer price.

L Handling Bid Deposits

The authorized agency official returns the deposits of all unsuccessful bidders * * *. If there are no acceptable bids, the authorized agency official returns all deposits and informs the bidders of any anticipated negotiations for the sale of the property. The authorized agency official deposits the successful bidder's deposit according to 3-FI.

M Disqualifying Bids

The authorized agency official disqualifies any bids that do not comply with the terms of the FSA notice. The authorized agency official may waive minor deviations and defects in an offer.

N Failing to Close the Sale

If a successful bidder fails to close the sale under the terms of the offer, FSA retains the entire deposit. However, if the failure to close is FSA's fault or FSA rejects the credit application, the authorized agency official returns the entire deposit according to 3-FI. When the authorized agency official determines that the successful bidder will not close, SED will authorize another sealed bid sale, auction, or direct negotiations with the next highest bidder, all unsuccessful bidders, or other interested parties.

***--Note:** In the event FSA retains the deposit on an unsuccessful sale, the deposit will be applied to the inventory property with a 2E transaction using the miscellaneous collection code of 10.--*

783 Auctions**A General Policy**

--FSA sells personal property and real property “as is” and does not guarantee its condition.--

SED may determine the minimum acceptable sale price. However, in most cases, determining a minimum bid is not necessary with a public auction. If SED sets a minimum bid, FSA should not publicize the minimum bid amount.

--B Auction of Personal Property--

FSA acts to protect its interests if it suspects collusion or efforts to undermine the open, fair, and competitive nature of a personal property auction. The authorized agency official must work closely with the auctioneer, as necessary, to ensure that property sells for the highest obtainable price.

*--The successful bidder for personal property must make full cash payment at the auction to complete the sale.

Sold personal property remains subject to FSA’s lien until FSA receives the sale proceeds.--*

C Auction of Real Property

Details of the terms and conditions of the sale of real property are included in the contract with the auctioneer and the sales contract.

When possible, FSA should auction a group of properties. FSA may subdivide properties to promote a sale when necessary.

Reports, Forms, Abbreviations, and Delegations of Authority

Reports

None.

Forms

This table lists the forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification		81
FSA-137	Address Information Request		67, 386
FSA-2001	Request for Direct Loan Assistance		81, 83, 344
FSA-2003	Three-Year Production History		81
FSA-2025	Notice of Approval, Terms and Conditions and Borrower Responsibilities		346
FSA-2026	Promissory Note		Text
FSA-2027	Supplemental Payment Agreement		161
FSA-2029	Mortgage/Deed of Trust		Text
FSA-2037	Farm Business Plan Worksheet Balance Sheet		194
FSA-2038	Farm Business Plan Worksheet Projected/Actual Income and Expenses		194
FSA-2040	Agreement and Record of the Disposition of FSA Security/Release of Proceeds		464, 465, 581, 582
FSA-2061	Application for Partial Release or Consent		194, 462, 463
FSA-2070	Bill of Sale		516, 517, 519
FSA-2071	Transmittal of Documents		133, 146, 196, 284
FSA-2080	Release From Personal Liability		84
FSA-2132	Real Estate Evaluation		129
FSA-2489	Assumption Agreement		Text
FSA-2501	Addendum to the Promissory Note or Assumption Agreement for Set-Aside Program		44-46, 48, 53-56, 58
FSA-2503	Addendum to the Promissory Note or Assumption Agreement Extending the Final Installment Due Date For Balloon Payments		129

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2510	Notice of Availability of Loan Servicing to Borrowers Who Are 90 Days Past Due		3, 67, 81, 83, 85, 401, 702
FSA-2512	Notice of Availability of Loan Servicing to Borrowers Who Are Current, Financially Distressed, or Less Than 90 Days Past Due		3, 67, 68, 85, 102
FSA-2514	Notice of Availability of Loan Servicing to Borrowers Who Are in Non-Monetary Default		3, 67, 68, 83, 85, 444, 702
FSA-2516	30 Day Reminder of the Notice of Availability of Loan Servicing		83
FSA-2517	Offer of Primary Loan Servicing for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 172
FSA-2518	Acceptance of Primary Loan Servicing for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 172
FSA-2519	Offer of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing		116
FSA-2520	Acceptance of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing		116
FSA-2521	Denial of Primary Loan Servicing and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 229, 322
FSA-2522	Borrower Response to Denial of Primary Loan Servicing and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 229, 322

Reports, Forms, Abbreviations, and Delegations 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 Personal Property		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		82

Reports, Forms, Abbreviations, and Redelegations 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
ADMP	Agency Debt Management Portal	Ex. 58
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
DBSA	Distressed Borrower Set-Aside	Text
DEF	Deferral	248, Ex. 11
eDALR\$	electronic Debt and Loan Restructuring System	Text, Ex. 17
FAP	Foreclosure Action Pending	567, Ex. 11
FLB	Farm Loan Branch	Text
FLMAC	Farm Land Market Advisory Committee	Ex. 17
ISA	installment set-aside	46, 48, 131
ITLAP	Indian Tribal Land Acquisition Program	2, 537
LR	limited resource	132, 146
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
RDBCSO	Rural Development Business Center Service Office	Text, Ex. 11

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 write-down.	67, 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 personal property appraisal shows that personal property security value exceeds the debt, and security has--
 been cross-collateralized.

Definitions of Terms Used in This Handbook (Continued)

Certified Mail

Certified mail is a delivery service offered by USPS that allows the sender proof of mailing, as well as proof of delivery.

*--Notes: Certified mail service provides the following:

- mailing receipt as confirmation an item was sent a unique identifier (tracking number) for the mail piece
- requires a signature from the addressee.

Return receipt is an additional feature that provides the sender with proof of delivery (the recipient's signature along with information about the delivery address, if different, and date and time of delivery). Return Receipt service is available electronically or by paper utilizing PS Form 3811.

Return receipt must be purchased at the time of mailing and is required to be used to track all letters and notifications requiring certified mail. Either method (electronic or paper) is acceptable.--*

Chapter 7

A Chapter 7 bankruptcy involves liquidation of the debtor's assets. The proceeds from liquidation are applied to the court-allowed debt.

Chapter 11

A Chapter 11 bankruptcy is a business reorganization form of bankruptcy. The debtor has an exclusive right to file a reorganization plan within 120 calendar days after filing for bankruptcy. After the 120-calendar-day period, the debtor loses the exclusive right to file a reorganization plan, and others may file a plan. This chapter is generally discharged at closing. The plan does not have to be concluded within a specific timeframe.

Chapter 12

A Chapter 12 bankruptcy provides special debt repayment relief for family farmers and family fishermen. This chapter is targeted to family farmers with 50 percent of gross income from farming. The farmer's debt must not exceed \$3.237 million and 80 percent of the farmer's debts must originate from farming. The debtor must file a plan within 90 calendar days after the First Meeting of Creditors. The court determines the point of discharge (usually at the end of the third or fifth year). The reorganization plans must be paid out in 5 years.

Chapter 13

A Chapter 13 bankruptcy involves reorganization for wage-earners. The debtor must have regular income. A portion of that income will be set aside for distribution to creditors by the Trustee. The plan is generally filed at time of petition and must be paid out in 5 years. The court determines the point of discharge, which is usually at the end of the third or fifth year.

Definitions of Terms Used in This Handbook (Continued)

Chattel Security

Chattel security is property that may consist of, but is not limited to: crops; livestock; aquaculture species; farm equipment; inventory; accounts; contract rights; general intangibles; and supplies that are covered by financing statements and security agreements, chattel mortgages, and other security instruments.

Civil Action

Civil action is a court proceeding to protect the Agency's financial interests. A civil action does not include bankruptcy and similar proceedings to impound and distribute the bankrupt's assets to creditors, or probate or similar proceedings to settle and distribute estates of incompetents or decedents, and pay claims of creditors.

Civil action may include obtaining possession of property from borrowers or third parties, judgments on indebtedness evidenced by notes or other contracts or judgments for the value of converted property, or judicial foreclosure.

Closed

Closed usually refers to when the bankruptcy plan has been paid in full, the security has been fully accounted for or remanded back to the creditor and proceeds distributed according to the bankruptcy. However, the bankruptcy is not closed until the bankruptcy judge closes the case with an order. Normally, collection activities or attempts to sell or gain possession of security cannot resume until the bankruptcy is closed.

Closing Agent

Closing agent is the attorney or title insurance company selected by the applicant and approved by the Agency to provide closing services for the proposed loan or servicing action. Unless a title insurance company provides loan closing services, the term "title company" does not include "title insurance company."

Coastal Barrier

Coastal barrier is an area of land identified as part of the national Coastal Barrier Resources System under the Coastal Barrier Resources Act of 1980.

Collateral

Collateral (or security) is property pledged as security for a loan to ensure repayment of an obligation.

Compromise

***--Compromise is the settlement of an FLP debt or claim by a lump-sum payment of less--* than the total amount owed in satisfaction of the debt or claim.**

Definitions of Terms Used in This Handbook (Continued)

CONACT or CONACT Property

CONACT or CONACT property is property that secures a loan made or guaranteed under the Consolidated Farm and Rural Development Act (7 USC 1921 et seq.). It also includes property that secures other FLP loans.

Confirmed Plan of Reorganization

A confirmed plan of reorganization involves a bankruptcy court approved plan, which outlines the debtor's security interest, repayment schedules and terms of performance.

Conservation Contract

Conservation Contract is a contract under which a borrower agrees to set aside land for conservation, recreation or wildlife purposes in exchange for reduction of a portion of an outstanding Agency debt.

Conservation Contract Review Team

Conservation Contract review team is comprised by the appropriate offices of FSA, the Natural Resources Conservation Service, U.S. Fish and Wildlife Service, State Fish and Wildlife Agencies, Conservation Districts, National Park Service, Forest Service, State Historic Preservation Officer, State Conservation Agencies, State Environmental Protection Agency, State Natural Resource Agencies, adjacent public landowner, and any other entity that may have an interest and qualifies to be a management authority for a proposed conservation contract.

Consolidation

Consolidation is the process of combining the outstanding principal and interest balance of two or more loans of the same type made for operating purposes.

Cosigner

Cosigner is a party, other than the applicant, who joins in the execution of a promissory note to assure its repayment. The cosigner becomes jointly and severally liable to comply with the repayment terms of the note, but is not authorized to severally receive loan servicing available under 7 CFR parts 765 and 766. In the case of entity applicant, the cosigner cannot be a member of the entity.

* * *

Definitions of Terms Used in This Handbook (Continued)**Criminal Action**

Criminal action is the prosecution by the United States to exact punishment in the form of fines or imprisonment for alleged violation of criminal statutes. Such violations may include, but are not limited to unauthorized sale of security; purchase of security with intent to defraud and without payment of the purchase price to the Agency; falsification of assets or liabilities in loan applications; application for a loan for an authorized purpose with intent to use and use of loan funds for an unauthorized purpose; using funds for an unauthorized purpose and then making false statements regarding their use; by scheme, trick, or other device, covering up or concealing misuse of funds or unauthorized disposition of security or other illegal actions; or any other false statements or representations relating to Agency benefits.

Current Market Value Buyout

Current market value buyout is the termination of a borrower's loan obligations to the Agency in exchange for payment of the current appraised value of the borrower's security property and nonessential assets, less any prior liens.

Custodial Property

Custodial property is property and improvements owned by a borrower that serve as security for an Agency loan that the borrower has abandoned, and that the Agency takes into its control to protect the Government's interest.

Debt Forgiveness

Debt forgiveness is a reduction or termination of a debt under the Act in a manner that results in a loss to the Agency.

***--(i) Debt forgiveness includes:**

(A) Writing down or writing off a debt pursuant to 7 U.S.C. 2001;

(B) Cancellation of remaining amounts owed after compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981;

(C) Paying a loss pursuant to 7 U.S.C. 2005 on a FLP loan guaranteed by the--* Agency.

Sample DBSA GovDelivery Article

The following provides an example of a GovDelivery article that may be used to notify the public of the availability of the DBSA program.

Subject:

Availability of the Distressed Borrower Set-Aside Program (DBSA)

Body:

FSA Direct Farm Loan Program borrowers whose loans were closed before September 25, 2024, may be eligible for assistance under the Distressed Borrower Set-Aside Program (DBSA). DBSA is a servicing tool that may assist financially distressed borrowers by providing a one-time deferral of a past due or upcoming installment at a reduced interest rate. In certain situations, DBSA may be a viable alternative to Primary Loan Servicing.

The principal portion of the set-aside will continue to accrue interest at a reduced rate of 0.125%. Any payment set-aside must be repaid prior to the final maturity date of the note.

Additional information, eligibility criteria and program limitations may be found in the DBSA [fact sheet](https://www.fsa.usda.gov/sites/default/files/documents/fact_sheet-distressed_borrower_set_aside_program.pdf). (Text may be a hyperlink to the DBSA fact sheet: https://www.fsa.usda.gov/sites/default/files/documents/fact_sheet-distressed_borrower_set_aside_program.pdf)

If you have any questions or would like to request DBSA, contact Farm Service Agency (FSA) at your [local USDA Service Center](https://www.farmers.gov/working-with-us/service-center-locator). (Text may be a hyperlink to the service center locator: <https://www.farmers.gov/working-with-us/service-center-locator>)

Instructions for Using eDALRS (Continued)

5 Periodic Data (Continued)

***--C Determining Personal Property Costs**

- “Other Sales Costs” - These are miscellaneous costs typically incurred when selling acquired personal property. 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 personal property will be zero as FSA rarely acquires personal property.--*

D Real Estate Costs

The analysis for liquidation and disposition costs should, as a minimum, address the following items and considerations.

- “Months Held in Inventory” - The average holding period will be .45 years (165 days; 5.5 months).
- “Sales Commission Rate” - A study will be conducted to determine the typical method for disposition of FSA inventory farms in the state. The findings will be used to determine whether FSA normally disposes of inventory farms without the assistance of brokers or auctioneers. If a County Office is covered by an exclusive listing agreement or contract for auctioneering services, commissions will always be included at the rate specified on the listing agreements or contracts in effect for the County Office.
- “Cost Per Advertisement” - Authorized agency official will contact at least one local newspaper to obtain a cost for advertising inventory farms in accordance with paragraph 781.
- “Rate of Change in Value” - Yearly percentage decrease or increase in value is the rate of change in value. To provide a fair assessment of projected trends in farm land values, SED will utilize FLMAC.

Note: See subparagraph E for FLMAC composition and purpose.

- “Management Charges” - In situations where state or district-wide contracts for management of inventory farms are in effect, the SED will specify those rates to be used in management cost calculations. Generally, those costs should be specified on an annual per-acre basis or annual income percentage basis. If there are no area-wide contract rates for some or all counties, State Office guidance should be given on how to calculate rates based upon local costs. Such guidance should include customary management activities and their frequency to promote a consistent approach.

Instructions for Using eDALRS (Continued)

5 Periodic Data (Continued)

E FLMAC

FLMAC will consist of the following members or representatives:

- FSA, SED
- NRCS, State Conservationist
- Extension Specialist from a land grant university, if available, or the National Institute for Food and Agriculture employee with knowledge of the farm real estate market.

--FLMAC will meet annually by September 30, and will consider the following information:--

- The actual change in farm land values in the state during the previous year, as indicated in the most recent “Agricultural Land Values and Market Situation Outlook Report” issued by the USDA Economic Research Service.
- Current conditions in the state and national agricultural economics.
- Availability and cost of credit to purchase farm land.
- The amount of repossessed farm land held by FSA, the Farm Credit System, and other private sector lenders.
- Any special conditions which would affect farm land values in the state.
- Any studies or research conducted by the state agricultural university or similar scholarly source.

If the state has agricultural regions with discernable differences, FLMAC should, if possible, determine anticipated value changes on a regional basis. FLMAC’s meetings and decisions, including the basis for those decisions, will be documented, retained in the State Office as part of the State supplement file and provided to interested parties upon request. Prior to providing the FLMAC determinations to FSA field offices, SED will contact SED’s in surrounding states to determine if FLMAC’s findings are fairly consistent with those of surrounding states. If there are significant differences, SED may reconvene FLMAC to reconsider its findings.

Judicial Foreclosure Best Practices

A Judicial Foreclosure States

The following table provides a list of judicial foreclosure states and whether or not they have a DOJ private counsel contract.

State	DOJ Private Counsel Contract
Connecticut	No
Delaware	No
Florida	Yes
Illinois	No
Indiana	No
Iowa	Yes
Kansas	No
Kentucky	No
Louisiana	No
Maine	No
New Jersey	Yes
New Mexico	No
New York	Yes
North Dakota	No
Pennsylvania	Yes
Puerto Rico	Yes
Ohio	No
South Carolina	Yes
Wisconsin	No

Note: Non-judicial foreclosure States may also have provisions for judicial foreclosure when a mortgage or deed of trust does not include a “power of sale” clause that gives the lender the right to foreclose on property itself. But judicial foreclosure in non-judicial foreclosure states is not the norm.

A DOJ private counsel contract is a contract issued and managed by DOJ replacing US Attorney’s Office foreclosure attorneys with private counsel.

B Use of DOJ’s Agency Debt Management Portal

SED will consult with regional OGC regarding FSA’s use of DOJ’s ADMP. ADMP may be used by FSA only with OGC consent. Contact LSPMD for more information.

