

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 7

Approved by: Acting Deputy Administrator, Farm Loan Programs

Chris P. Beyersheim

Amendment Transmittal

A Reasons for Amendment

Subparagraph 81 C has been amended to provide guidance on obtaining borrower's initials on FSA-2001.

Subparagraph 226 A has been amended to clarify approval authority of primary loan servicing actions.

Subparagraph 248 C has been amended to provide guidance on removing "DEF" flags.

Subparagraphs 406 A and 407 B have been amended to provide guidance on account classification and actions on accounts with liable debtors remaining after bankruptcy.

Subparagraph 421 D has been amended to provide guidance on "TPJ" flags.

Subparagraphs 433 A and 905 B and Exhibit 80 have been amended to update FSC, FLOO FAX numbers.

Subparagraph 444 B has been amended to provide an additional reference for acceleration timeframes.

Subparagraph 533 B has been amended to clarify the requirements for the civil rights and primary loan servicing reviews.

Subparagraph 534 D has been amended to provide guidance on removing "ACL" flags.

Subparagraph 567 A has been amended to provide guidance on removing "FAP" flags.

Exhibit 4 has been amended to update required State supplements.

Exhibit 10 has been amended to clarify when a lien on all assets is taken.

Exhibit 11 has been added to provide a guide for using account flags and codes.

Exhibit 17 has been amended to provide periodic data that is entered into DALR\$.

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46 DSA Approval (Continued)**E Installments To Be Set-Aside**

[7 CFR 766.58] (a) The Agency will set-aside the first installment due immediately after the disaster occurred.

(b) If the borrower has already paid the installment due immediately after the disaster occurred, the Agency will set aside the next annual installment.

F Interest Accrual

[7 CFR 766.59(a)] (1) Interest will accrue on any principal portion of the set-aside installment at the same rate charged on the balance of the loan.

(2) If the borrower's set-aside installment is for a loan with a limited resource rate and the Agency modifies that limited resource rate, the interest rate on the set-aside portion will be modified concurrently.

[7 CFR 766.59(b)] The amount set-aside, including interest accrued on the principal portion of the set-aside, is due on or before the final due date of the loan.

G Recording DSA

The authorized agency official will use FSA-2501 as the source document to process DSA *--(Exhibit 11) with a 5S Record Installment Set-Aside transaction through ADPS. FSC,--* FLOO borrower account status reports and inquiry screens will reflect the amounts set-aside for each loan. The authorized agency official updates MAC accordingly.

H Security Requirements

[7 CFR 766.56] If the borrower is not current on all FLP loans prior to the borrower executing the appropriate DSA Agency documents, the borrower, and all obligors in the case of an entity, must execute and provide to the Agency a best lien obtainable on all their assets except those listed under section 766.112(b) (paragraph 211).

47 Adverse Determinations**A Notifying Borrowers of Adverse Determinations**

DSA applications that do not meet all DSA requirements will be rejected and the borrower will be notified of the decision and provided appeal rights according to 1-APP.

48 Canceling and Reversing DSA**A Canceling DSA**

[7 CFR 766.60] The Agency will cancel a DSA if:

[7 CFR 766.60(a)] The Agency takes any primary loan servicing action on the loan;

If FSA later restructures the borrower's loan, the authorized agency official must cancel the DSA with a 5T Reverse/Cancel Installment Set-Aside transaction when processing the restructuring through ADPS.

[7 CFR 766.60(b)] The borrower pays the current market value buyout in accordance with § 766.113; or

[7 CFR 766.60(c)] The borrower pays the set-aside installment.

B Reversing DSA

[7 CFR 766.61] If the Agency determines that the borrower received an unauthorized DSA, the Agency will reverse the DSA after all appeals are concluded.

If FSA determines that the borrower received unauthorized DSA assistance, the borrower will be notified and meetings scheduled according to Part 10.

If FSA still believes DSA was unauthorized after the meetings and once any borrower appeals have been exhausted in FSA's favor, FSA will reverse the set-aside by reinstating the borrower's original payment terms as if FSA had never granted DSA to the borrower. In reversing DSA, the authorized agency official must:

- notify FSC, FLOO in writing to reverse DSA
- attach this notification to FSA-2501, which should remain stapled to the promissory note or assumption agreement.

If a borrower becomes financially distressed or delinquent after FSA reverses DSA, the authorized agency official services the borrower's account according to Parts 3 and 4.

67 Providing Loan Servicing Notification Package

A Methods of Notification

[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);

[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);

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

The authorized agency official must send the appropriate loan servicing notification within 15 calendar days of the determination of distress or default service-triggering event. Notification will be sent by certified mail, return receipt requested for borrowers over 90 calendar days past due or in nonmonetary default. The account will be flagged "51-S" *--(Exhibit 11), using FSA-2562, until the primary loan servicing process has been--* completed, the problem 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. 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.

[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 nonmonetary default.

B Using Web Agcredit

The authorized agency official must track all notification and servicing activity through Web Agcredit and FSA-2580.

67 Providing Loan Servicing Notification Package (Continued)**C Notifying Borrowers When Certified Mail Is Not Accepted**

[7 CFR 766.101(c)] Notices to delinquent borrowers or borrowers in non-monetary default will be sent by certified mail to the last known address of the borrower. If the certified mail is not accepted, the notice will be sent immediately by first class mail to the last known address. The appropriate response time will begin 3 days following the date of the first class mailing. For all other borrowers requesting the notices, the notices will be sent by regular mail or hand delivered.

If the 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
- re-send 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.

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.

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

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

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

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

B Acknowledgement Form

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

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

C Application Form

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

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

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

81 Required Information (Continued)**D Financial Records**

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

The borrower must provide all farm and nonfarm income and expense records, including family living expenses. Financial records will be submitted through FSA-2002 or other similar format. FSA does not release a borrower's income tax records without OGC's consent.

E Production Records

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

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

F Compliance With Environmental Requirements

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

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

G Verification of Nonfarm Income

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

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

H Farm Operating Plan

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

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

Section 2 FSA's Decision

226 Approval Authority

A Approval Authority for Servicing Actions

--Any authorized agency official has the authority to approve primary loan servicing options, except for those involving any write-down or a buyout that would result in debt forgiveness. SED's must approve all servicing actions that result in debt forgiveness-- under this part.

227, 228 (Reserved)

248 Closing Deferred Loans**A Introduction to Deferrals**

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

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

B Closing Deferrals

The authorized agency official will:

- ensure that the payments on FSA-2026's match the final DALR\$ report
- complete the addendum to FSA-2026 addressing repayment of deferred interest according to FSA-2026 instructions
- mark the existing promissory note or assumption agreement "rescheduled/reamortized with full/partial deferral," as appropriate, and attach it to the new FSA-2026

* * *

- file the new deferred FSA-2026 according to 25-AS
- file a copy of the new note with the copy of the existing promissory note or assumption agreement in position 2 of the borrower's case file
- provide a copy of the new deferred FSA-2026 to the borrower at closing
- file the original DALR\$ report in position 3.

A 5W ADPS transaction will be processed to record the deferral, and a 5G, Establish Descriptive Code, ADPS transaction will be processed to record the deferral flag on the account. These transactions will be processed and sequenced with the 1M ADPS transaction.

248 Closing Deferred Loans (Continued)

C Ongoing Servicing of Deferrals

Review the FSC, FLOO quarterly status report to determine borrowers who have deferrals expiring.

Review the borrower's financial progress during the annual analysis according to paragraph 161.

Send the borrower a letter 6 months before the expiration of the deferral stating the amount and due date of the first payment.

--After all deferrals on a borrower's account have expired, the "DEF" flag (Exhibit 11) must be removed from the account by completing FSA-2562 and processing a 5H transaction.--

Part 11 Bankruptcies, Civil and Criminal Cases, and Judgments**Section 1 Bankruptcy****401 FSA Actions When Borrower Files for Bankruptcy****A Suspending Loan Servicing**

If a borrower files bankruptcy, the authorized agency official will suspend all pending special servicing and collection actions, but will continue to monitor the account and conduct regular servicing to protect the interests of the Government.

B Flagging the Account

Upon notification that the borrower has filed bankruptcy, the authorized agency official will flag the account as “BAP” by using FSA-2562 and processing a 5G ADPS transaction. The “BAP” flag will remain on the account until the 1 of the following occurs:

- bankruptcy is dismissed
- borrower is discharged, no longer under court jurisdiction, and FSA has no remaining loan collateral from which collection can be made
- the case has been closed.

Note: A “51-S” flag must be removed with a 5H ADPS transaction before a “BAP” flag can
--be established (Exhibit 11)--

C 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.

Within 15 calendar days of receiving a notice of bankruptcy, the authorized agency official will send the borrower and the borrower’s attorney Exhibit 34, the appropriate notice according to subparagraph 67 A, and the response form, by certified mail, return receipt requested. If the borrower does **not** have an attorney, the borrower only will receive the FSA forms.

401 FSA Actions When Borrower Files for Bankruptcy (Continued)**D 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 and the borrower's attorney (if the borrower has no attorney, then all notifications and timeframes will apply to the borrower only) explaining what options remain. Servicing and servicing timeframes suspended on the date the borrower files for bankruptcy resume on the date the attorney receives Exhibit 34. If no servicing options remain, send Exhibit 34 to inform the borrower and attorney that no primary loan servicing options remain.

If the borrower or borrower's attorney does not request any remaining servicing options, 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.

E Referring a Bankruptcy to the State Office

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

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

403 Filing Proof of Claim**A Role of the State Office**

In a bankruptcy case, the State Office will determine whether FSA has security for the debt and whether the debtor has other assets from which FSA could make a substantial collection. In making this determination, the State Office should request additional information as needed from the authorized agency official.

B Actions for Borrower Under Chapter 7 With No Loan Security or Other Assets

Unless otherwise advised by OGC, if FSA cannot make a substantial recovery from the security and other assets, the State Office will return the file and related material to the authorized agency official. The State Office will provide the authorized agency official with a memorandum indicating SED's determination and advising that FSA will not file a proof of claim unless the authorized agency official learns that the debtor has assets not previously identified.

The deadline for filing claims in a bankruptcy proceeding is 90 calendar days from the first date set for the meeting of creditors, except governmental units, such as FSA, shall be timely filed if the Proof of Claim is filed 180 calendar days after the date of the order of relief. If FSA learns before the deadline that the borrower has previously unreported assets, the authorized agency official will resubmit the case to the State Office.

C Actions for Borrower Under Chapters 7, 11, 12, or 13 With Potential for Substantial Recovery

When working with a borrower under Chapter 7, 11, 12, or 13 and there is potential for substantial recovery, the State Office will prepare Proof of Claim (B10) found at <http://www.uscourts.gov/bkforms/index.html>, Part 1, or other form approved by OGC to submit a proof of claim. The proof of claim covers all of the borrower's indebtedness to FSA and any shared appreciation agreements.

The identification of FSA security and Proof of Claim will be submitted to OGC and the U.S. Attorney. Central Intake Facilities will be used if required.

If the proof of claim is submitted to OGC, SED will identify in a memo the security that FSA took for each FLP loan.

If SED knows that the U.S. Attorney has obtained a judgment against the borrower, SED will notify OGC even though the debt has been charged off.

SED, on OGC's advice, will instruct the authorized agency official about actions to take with respect to meetings of creditors.

SED will take no other actions without OGC's or DOJ's approval.

404 Adjustment of Debts When Borrowers Are in Bankruptcy**A Referral and Recommendation to SED**

The authorized agency official will send to SED any plans submitted by debtors. SED will refer the plans to the U.S. Attorney through OGC.

SED will provide OGC with a recommendation to accept or reject any debtor's plan that calls for adjustment of FSA debt.

B FSA Actions After Court Confirms Plan

Upon receiving notification of the bankruptcy reorganization plan confirmation, SED will notify FSC, FLOO of the terms and conditions of the plan including any adjustment of the FSA debt, using FSA-2574. SED should attach to FSA-2574 a copy of the reorganization plan, signed order of confirmation, and discharge order if applicable.

FSC, FLOO will establish the borrower's account according to the reorganization plan and *-flag the account "SAA" (Exhibit 11) when it is applicable. The "SAA" flag will remain-* on the account until either the bankruptcy plan is completed and the case is closed, or the bankruptcy is dismissed.

The authorized agency official will file a copy of the plan, order of confirmation, and the original promissory notes according to 25-AS.

The authorized agency official must indicate that the borrower is paying under a reorganization plan in the borrower's case file and in Ag-Credit.

406 Servicing Chapter 11, 12, and 13 Cases After the Bankruptcy Case Is Closed**A Removing the “SAA” Flag and Writing Off Discharged Debt**

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

If all liable parties are discharged and the bankruptcy is closed, the authorized agency official will debt settle the remaining discharged debt according to RD Instruction 1956-B, section 1956.70(b)(3).

The State Office will forward the approved RD 1956-1, with a copy of the discharge, to FSC, FLOO for process the debt cancellation.

FSC, FLOO will remove the “SAA” flag and process the necessary transactions to write off any portion of the debt.

--If some, but not all liable parties were discharged of the debt, the account cannot be debt settled and SED should be consulted before initiating servicing options. The account will be classified as “CO” (Exhibit 11) with an ADPS transaction 5A, if no security remains. The State Office will seek the advice of the regional OGC to pursue separate collection actions against nondischarged liable parties and any remaining security.--

B Returning to Regular Servicing

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

C Servicing if the Borrower Defaults on the Confirmed Reorganization Plan

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

If the account is in nonmonetary default, OGC concurrence will be obtained before acceleration.

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

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

407 Liquidation During Bankruptcy (Continued)**B Chapter 7 Cases After Discharge**

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

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

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

- ADPS must be updated with either a 4A or 4D transaction to list the account in the name of any remaining liable debtors
- related entity status of the discharged individuals or entities should be updated in the Direct Loan System Customer Profile to reflect they are no longer a co-borrower/co-signer/guarantor
- the Chapter 7 discharge order must be maintained in the casefile
- in community property States, the State Office will seek the advice of the regional OGC to pursue separate collection action against nondischarged borrowers who are the spouse of a discharged borrower.

Note: If the debt is not paid in full and RD-1956-1 is needed, only the individual or entity receiving the Chapter 7 discharge will be listed on RD-1956-1. Notate “Chapter 7 Discharge” after their name and attach a copy of the discharge order.--*

C Canceling the Debt When All Liable Parties Are Discharged

If all liable parties are discharged and the FSA security is liquidated, FSA may cancel the debt according to RD Instruction 1956-B.

D Notifying Borrower if Servicing Options Are Remaining

If the authorized agency official did not previously notify the borrower’s attorney or borrower of any servicing options before or during the course of the bankruptcy proceedings, FSA will send the notices according to subparagraph 401 C before liquidating any security property.

E When FSA Previously Notified the Borrower of Servicing Options

If the authorized agency official previously notified the borrower’s attorney or borrower of the remaining servicing options and none remain, FSA will accelerate the account and liquidate according to Part 16 and any instructions from OGC.

Note: The borrower may **not** appeal the acceleration.

Section 2 Civil and Criminal Cases

421 Handling Civil and Criminal Cases

A Criteria for Pursuing Civil Cases

FSA will pursue a civil court action against a borrower or third party when:

- the borrower fails to make required payments or to cure nonmonetary default
- all administrative authorities to protect FSA's interests have been exhausted.

B Pursuing Criminal Cases

If it appears that an applicant, borrower, or third party committed a criminal violation in any manner, SED will refer the case to the appropriate authorities for investigation and possible prosecution.

If it appears that an applicant, borrower, or third party committed a criminal violation related to the loan, SED will notify OIG for possible criminal investigation according to 9-AO, paragraph 53. SED must also send a copy of this notification to OGC. If OIG decides to investigate, SED will consult with OIG before taking any action against the borrower.

C Collection of Information and Referral to State Office

The authorized agency official will refer civil and criminal cases to the State Office using FSA-2550, FSA-2551, if applicable, a Claims Collection Litigation Report, and/or any relevant information as required by SED.

D Role of State Office

SED will review the required forms and information submitted and refer the case to OGC, if required. SED should consult with OGC and the U.S. Attorney and issue a State supplement if any additional information is required. The State Office will flag the account "CAP" upon *--referral to OGC. If a judgment is obtained against a third party, the State Office will complete and send FSA-2562 to FSC, FLOO attached to the 5G transmittal letter to be flagged "TPJ" (Exhibit 11). The "CAP" flag should be removed at this time. If the judgment is to be reversed, the State Office must send FSA-2562 to FSC, FLOO attached to a 5H transmittal letter. Only FSC, FLOO can assign or reverse a "TPJ" flag.--*

--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 chattel 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.

422-430 (Reserved)

--Section 3 Servicing DOJ Judgment Debts--

431 Monitoring Judgment Debts

A Monitoring Status

State Offices shall monitor the status of all judgments with DOJ, except pending foreclosure judgments, to determine whether:

- any collections have been made on the judgment in the last 12 months
- the account has been referred to Department of Treasury for TOP and/or cross-servicing.

B Request Return

State Offices shall request that DOJ return judgments if no collections have been made by DOJ in the last 12 months.

--432 Servicing Judgment Debts Retained by DOJ--**A Internal Administrative Offset**

Under FSA and CCC offset regulations at 7 CFR 792.7 and 1403.7, DOJ is not entitled to priority in requesting offset of FSA farm program payments. To achieve the greatest recovery on judgment debt, it is FLP's policy to use FLP's priority under 7 CFR 792.7 and 1403.7 regulations whenever possible and appropriate. Therefore, State and County Offices shall:

- determine if the borrower will receive farm program payments and request written DOJ concurrence to pursue collection of these monies as applicable
- pursue internal administrative offset according to RD Instruction 1951-C after obtaining DOJ concurrence
- notify DOJ of all administrative offset collections received and applied to the judgment accounts.

B TOP Referral

DOJ is responsible for referring judgment debts under its control to TOP and it is the DOJ's policy to do so while DOJ is pursuing collection of the debt. If the debt is selected for TOP during FSA's TOP referral process, the debt must be deleted from the TOP Eligible Screens at the end of each quarter using Delete Code "05". When DOJ returns the case to FSA, DOJ withdraws the debt from TOP, and it is FSA's responsibility to refer the debt to TOP according to applicable FI notices.

***--433 Servicing Judgment Debts Returned by DOJ**

A Servicing Accounts Returned by DOJ--*

Service accounts returned by DOJ according to the following table.

IF the judgment has...	THEN...
<p>not expired</p>	<ul style="list-style-type: none"> • pursue internal administrative offset according to RD Instruction 1951-C, if collection of farm program payments is possible • refer the account to Treasury for TOP offset and/or cross-servicing, if appropriate; State Offices shall: <ul style="list-style-type: none"> • classify the account as CNC by processing transaction code “3K” with a class of writeoff code “5”, except for employee defalcations and third party judgments •*--submit FSA-1956-21 to FSC, FLOO, Program Reporting Group by FAX at 314-457-4478.--* <p>Notes: In cases where an acceptable debt settlement offer is received from the debtor before referral to cross-servicing, the State Office may process it according to RD Instruction 1956-B and applicable FLP notices.</p> <p>Referral of the debt to cross-servicing is required unless any of the exceptions under 31 CFR 285.12 apply or if the borrower is determined to no longer be eligible for cross-servicing.</p>
<p>expired (20 years from the date of judgment, unless renewed)</p> <p>Note: If the U.S. Attorney states the judgment expired after 10 years, then consult the Regional Attorney to determine if the judgment can be revived.</p>	<p>cancel the debt according to RD Instruction 1956-B and applicable FLP notices.</p>

434-440 (Reserved)

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, and will accelerate with--* 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.

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 chattel security for all the borrower's loans within a similar time period according to Part 16.

When a borrower liquidates both real property and chattel security, the borrower must follow the applicable procedures for liquidating each type of security. If a borrower intends to liquidate chattel security that may be considered a fixture on real property, the authorized agency official will determine whether the borrower may liquidate the chattel 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 chattel.

445-460 (Reserved)

533 Acceleration Actions

A Preparation of the Case File

When the borrower meets the conditions for acceleration, the authorized agency official will prepare the case file for acceleration. A State supplement will be issued to describe the required procedures to accelerate FLP accounts, including “chattel only” accounts.

B Civil Rights and Primary Loan Servicing Reviews

FSA-2580 and FSA-2581 are used to document and certify that FSA fully and appropriately considered the borrower for servicing and that there is no evidence of inconsistencies, inequitable treatment, or discrimination complaints.

The authorized agency official will ensure that FSA-2580 has been completed. DD will *--complete FSA-2581, Part A. FSA-2580 and FSA-2581 must be submitted to SCRRG before acceleration. SCRRG consists of SED, FLC, and the State civil rights coordinator.--*

Note: Only FSA-2581, Part A is required in cases referred for acceleration/foreclosure because of the borrower’s failure to graduate, and for acceleration of nonprogram loans.

SED will submit files and information to the National Office only if required or because of special circumstances. See 1-FLP, Exhibits 12 and 13 for information on determining *--discrimination complaint status. Once FSA-2581, Parts B and C and the discrimination complaint status clearance process have been completed indicating that foreclosure can--* continue, the authorized agency official will execute the problem case report.

C Problem Case

FSA-2550 will be completed to document the status and circumstances of the account when there is real estate security.

D Determining Prior Liens

If current lien information is not in the case file, the authorized agency official will obtain a title or lien search on all security property to determine whether there are any prior liens on the property.

E Property Value

The authorized agency official will include either the estimated value or appraised value of the security in the case file. The authorized agency official may estimate the market value of the property, unless there are prior liens other than a current-year tax lien. If there are prior liens, the authorized agency official must obtain an appraisal to determine the “as is” market value of the property according to 1-FLP, Part 6, unless a State supplement allows the use of an estimated value.

533 Acceleration Actions (Continued)**F Narrative and Deficiency Judgment Recommendation**

The authorized agency official will include in the case file a narrative description of the borrower's financial condition and the conclusion of all appeals and mediation.

The authorized agency official will recommend to the DD whether FSA should pursue a deficiency judgment. To make a recommendation, the authorized agency official will determine whether foreclosure will likely satisfy the borrower's FSA debt. The basic formula for this calculation is:

Sale price - sale costs (if considered separate from recoverable costs and expenses) - recoverable costs and expenses to be charged - prior liens = net proceeds.

This calculation is an estimate. It may not be used as the basis for charging or crediting the borrower's account. In using this formula, the authorized agency official must be aware of what costs are charged to the borrower's account and what costs are deducted from the amount credited to the borrower's account.

If the liquidation will not satisfy the borrower's FSA account, FSA will assess the borrower's financial situation to determine whether further recovery on the account is possible through a deficiency judgment. The authorized agency official will include these findings and a recommendation in the borrower's case file.

G Submitting the Problem Case File

The problem case file will be submitted to the DD as soon as the file is complete or within 90 calendar days of when the borrower meets all acceleration criteria, whichever come first.

534 Accelerating a Borrower's Loans**A Approving Acceleration**

DD will review the problem case file and if the account meets the acceleration criteria according to paragraphs 532 and 533, the account will be accelerated.

B Returning the File

If DD does not concur with acceleration or the file is not complete, the file will be returned to the authorized agency official with a request for additional information or instructions for additional servicing actions.

C Proceeding With Acceleration

[7 CFR 766.355(a)(2)] The Agency accelerates all of the borrower's loans at the same time, regardless of whether each individual loan is delinquent or not.

DD accelerates all the borrower's loans and any shared appreciation agreements, unless the borrower meets either of the following conditions:

- if the borrower is in default because of a failure to graduate, DD will send the file through the State Office to obtain OGC's concurrence before acceleration
- if the borrower is in military service, DD will confer with SED for review and instructions.

D Mailing the Acceleration Notice

DD will send Exhibit 49, 50, or 51, as appropriate according to State instructions, to the borrower by certified return receipt and regular mail on the same day. Exhibit 49, 50, or 51 will be sent to the last known address of the entity and each obligor who signed any promissory notes. For American Indian borrowers whose real estate security is located within Federally recognized reservation boundaries, see subparagraph 537 C for letters when accelerating a loan and notifying the borrower's Tribe.

DD will:

- send the authorized agency official a copy of Exhibit 49, 50, or 51 sent to the borrower
- submit FSA-2562 to the State Office to flag the account "ACL".

***--Note:** The "ACL" flag (Exhibit 11) will be removed when the account is paid in full, debt settled, or decelerated for any reason.--*

534 Accelerating a Borrower's Loans (Continued)

E Contacting Prior Lienholders

After FSA accelerates the loans, the authorized agency official may contact any prior lienholders. In general, contacting prior lienholders may be most appropriate, although not required, in nonjudicial foreclosure States. In judicial foreclosure States, lienholders are contacted as part of the legal process. State supplements may be issued for additional guidance on the notification of prior lienholders.

FSA may:

- give the prior lienholder the opportunity to foreclose
- join in the action if the lienholder wants to foreclose
- foreclose and handle the prior liens by either:
 - settling the prior liens before foreclosing
 - foreclosing subject to the prior liens.

The authorized agency official will consult the State Office to seek guidance and recommend the option that results in the greatest net recovery to FSA.

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

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

B National Historic Preservation Act

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

C Initiating Foreclosure

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

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

D Following State Law and Practices

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

567 Foreclosure Sale

A “FAP” Flag

In judicial foreclosures, the account is flagged “FAP” using FSA-2562 at the time the account is referred to OGC for foreclosure. In nonjudicial foreclosures, the account is flagged “FAP” when the sale has been scheduled.

*--“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.

C Calculating FSA’s Bid

If there is not a current appraisal in the borrower’s file, FSA will obtain a current appraisal before the sale. The authorized agency official completes Exhibit 60 to calculate FSA’s bid. Exhibit 60 calculates the net recovery value and FSA’s debt plus prior liens. FSA usually bids whichever amount is less, but State supplements can be issued to address differing State laws.

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

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.

***--904 Property ID Numbers**

A Assigning Property ID Numbers

Inventory property ID numbers cannot be duplicated. FSA should use the State and county codes along with 5 additional digits. The last 5 digits must be consecutively numbered within the range of 00001-00499.

Since the property ID numbers include the State and county codes, the same last 5 digits in the number can be used by all counties within the State.

B FIPS Code Clarification

The State and county codes are the non-FIPS numbers used for all FSC, FLOO purposes, not the FIPS State and county codes used in former ASCS coding.--*

905 ADPS 3E Transactions**A Processing ADPS 3E Transaction for Acquisitions**

The ADPS 3E transaction for acquiring property is a combined transaction that affects both a borrower's FSA and RD account. Therefore, anytime property is acquired by FSA or RD from a borrower that has an FSA and RD loan, FSC, FLOO must process the ADPS 3E transaction. This is the case even if the property is not cross-collateralized. Under no circumstances can a property be acquired jointly.

B Acquiring Agency Action

When property is acquired by FSA or RD from a borrower who has both an FSA and RD loan, the acquiring agency shall:

- determine agencies' proportionate share using Exhibit 79 only if the 2 agencies share the lien position

Note: The lien position is shared by both FSA and RD when the FSA and RD loans were made at the same time, or the security was taken at the same time, and included on the same mortgage or deed of trust.

- complete Exhibit 80
- FAX a copy of Exhibit 79, if applicable, and Exhibit 80 to FSC, FLOO at
--314-457-4539.--

Note: If the security is cross-collateralized, a copy of Exhibits 79 and 80 shall also be sent to the nonacquiring agency.

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2523	Denial of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing		116, 229, 322
FSA-2524	Borrower Response to Denial of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing		116, 229, 322
FSA-2525	Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Did Not Apply for Servicing or Did Not Accept Servicing		85
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	Shared Appreciation Agreement Recapture Reamortization		67
FSA-2548	Shared Appreciation Agreement Recapture Reamortization 2nd Notice		67
FSA-2550	Report of Problem Case		421, 533
FSA-2551	Evidence of Conversion, Fraud, or Waste		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
FSA-2570	Offer to Convey Security		284, 496, 497, 499, 500, 516, 517
FSA-2571	Agreement for Voluntary Liquidation of Chattel Security		464, 465, 516, 518, 581
FSA-2572	Agreement of Secured Parties to Sale of Security Property		581
FSA-2574	Confirmation Reorganization Plan Worksheet		404, 406
FSA-2576	Notice of Judgment		567, 568, 582, 604
FSA-2580	Primary and Preservation Loan Servicing 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
NRCS-CPA-026	Highly Erodible Land and Wetland Conservation Determination		81
RD 1956-1	Application for Settlement of Indebtedness		82, 406, 407, 496, 497, 516, 517, 581

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

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
51-S	5-FLP Special Loan Servicing Pending	67, 401, Ex. 11
ACL	Accelerated	534, Ex. 11
ADPS	Automated Discrepancy Processing System	Text, Ex. 11
BAP	Bankruptcy Action Pending	401, Ex. 11
CAP	Court Action Pending	421, Ex. 11
CO	Collection Only	406, Ex. 11
CNC	currently not collectible	126, 433
CONACT	Consolidated Farm and Rural Development Act	1, 193, 537, Ex. 2
DALRS	Debt and Loan Restructuring System	Text, Ex. 4, 17
DEF	Deferral	248, Ex. 11
FAP	Foreclosure Action Pending	567, Ex. 11
FLMAC	Farm Land Market Advisory Committee	Ex. 17
HML	high, medium, low	901
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
RH	rural housing	Ex. 79
SA	shared appreciation loan	66, 67, 102, 145, 146, 191, 346
SAA	subject to approval adjustment	172, 249, 343, 404, 406, Ex. 11
SCRRG	State Civil Rights Review Group	533
SEC	State Environmental Coordinator	802, 821, 837, 839
SOL	Statute of Limitations	126, 127
ST	softwood timber loan	41
TPJ	third party judgment	421, Ex. 11
YL	youth loan	41, 42, 68, 132

Redelegations of Authority

None.

State Supplements

The following table lists required State supplements.

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

State Supplements (Continued)

Subparagraph	Required State Supplement
705 C	Custodial Property
707 F	Removal of Abandoned Vehicles From Inventory Property
724 A	Taxes on Inventory Real Property
776 D	Advertisement of Inventory Property for Sale
776 F	Contracting With Real Estate Brokers to Sell Inventory Property
778 E	Sale of Inventory Property
--Exhibit 17, subparagraph 5 E	<ul style="list-style-type: none"> • Estimated Cost and Average Holding Period • Factors to Use When Adjusting Market Value. <p>Note: State supplement is issued after cost-analysis has been completed, but no later than November 30 each year.--</p>

Notification of the Availability of the Disaster Set-Aside Program

*--

This Exhibit may only be revised by SED.

(Use Agency Letterhead format with local return address.)

NOTIFICATION OF THE AVAILABILITY OF THE
DISASTER SET-ASIDE PROGRAM

Dear

The Disaster Set-Aside (DSA) program could be available to you if your operation has suffered losses as a result of a natural disaster and you cannot pay all of your expenses, debts to other creditors and FSA farm loan payments.

Under the DSA program, you may be eligible to delay any or all of your FSA farm loan payments due this year or next (but not both). This payment will be moved to the end of your loan to be paid on or before the final due date. Loans with less than 2 years remaining are not eligible. DSA will only be approved if all farm loan payments will be up-to-date after the payments are set aside.

To apply for DSA, you must provide this office with a letter, signed by all parties liable for the debt, requesting DSA and your actual production, income and expense records for the last three years. FSA might request additional information later if it is needed to make an eligibility decision. Complete applications must be submitted to FSA before your account becomes 90 days past due and prior to the end of the disaster designation.

Note: FSA will take a lien on all your assets (with few exceptions) if your account has become past due at the time DSA is closed.

Current Disaster Designations

Date Declared	Code	Disaster Description	Final Date to Apply
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For more information, please contact this office.

Sincerely

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Account Description Flag and Code Reference

A General Information

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

B Agency Official Responsibilities

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

C Establishing and Removing Flags

To establish an account flag through ADPS, FSA-2562 will be completed and a 5G transaction will be processed. To remove an account flag, FSA-2562 will be completed and a 5H transaction will be processed.

D Flag Priority and Reference Table

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

Display Priority	Code	Description	Reference
1	CAP	Court Action Pending	Paragraph 421
2	TPJ	Third Party Judgment	Paragraph 421
3	BAP	Bankruptcy Action Pending	Paragraph 401
4	51-S	5-FLP Special Loan Servicing Pending	Paragraph 67
5	DSA	Disaster Set-Aside	Paragraph 46
6	DEF	Deferral	Paragraph 248
7	FAP	Foreclosure Action Pending	Paragraph 567
8	SAA	Subject to Approved Adjustment	Paragraph 404
9	ACL	Accelerated	Paragraph 534

Note: An account may be classified as “CO” according to subparagraph E. “CO” is not a flag; “CO” is a classification code that has display priority over all flags when displayed on the RC-540 Report.

Account Description Flag and Code Reference (Continued)

E Special Classification Code “CO”

The purpose of special classification code “CO” is to ensure that farm program payments to discharged borrowers are not offset. County Offices may assign or remove “CO” classification codes according to paragraph 406. To:

- establish the “CO” classification code through ADPS, a 5B transaction will be processed
- remove the “CO” classification code through ADPS, a 5A transaction will be processed.

Accounts with the “CO” classification must be monitored for proper coding and servicing.

Instructions for Using DALR\$ (Continued)

2 DALR\$ User Guide

A Entering Data

Two categories of information are entered into DALR\$. First, the authorized agency official enters some information into DALR\$ on a periodic basis. This information is critical to ensure that DALR\$ applies the correct interest rate to the borrower's account and that the net recovery value calculation is accurate. Each Field Office must have a system for promptly entering this information into DALR\$ as the Field Office receives notification of data changes from the State or National Office. Second, the authorized agency official must enter borrower-specific data each time DALR\$ runs a report. The key sources for this information are the borrower's current or updated FBP, ADPS DL screens that contain borrower loan information, and the borrower's case file.

The DALR\$ reports are accurate and useful only if the information entered into DALR\$ is accurate and complete. A significant percentage of errors or complications with using DALR\$ result from poor data collection or entry errors. The authorized agency official is responsible for the accuracy of inputted data and should be diligent in ensuring that the borrower's FBP is complete and appropriate. See 1-FLP, Part 9, Section 3 for a detailed discussion on developing FBP.

B Periodic Data

FSA periodically publishes updated data that the Field Office enters into DALR\$. The State Office also issues State supplements with updated data based on Statewide or local conditions. When published, the authorized agency official enters net

--recovery constants. Current periodic data for administrative liquidation costs, chattel costs, real estate costs, and property management costs is found in paragraph 5 of this exhibit.--

Instructions for Using DALR\$ (Continued)

2 DALR\$ User Guide (Continued)

C Borrower Data

The following table explains the main categories of borrower-specific information the authorized agency official enters into DALR\$. The table lists specific items from the borrower case file and supporting automated FSA systems for entry into DALR\$.

Category	DALR\$ Screen	Explanation
1. Borrower Case Number	Enter or Select Borrower	Either an Entity or Individual Borrower Case Number.
2. Borrower Name	Enter or Select Borrower	Either an Entity or Individual Borrower Name.
3. Date Servicing Actions Requested	Basic Borrower Information	Date of completed application requesting primary loan servicing.
4. Proposed Restructure Date	Basic Borrower Information	Date on which servicing actions should be effective.
5. Has the Borrower Had Previous Debt Forgiveness?	Basic Borrower Information	Determine whether the borrower has received prior debt forgiveness, not including debt reduction from CC's or easements.
6. Period of Deferral	Basic Borrower Information	DALR\$ allows a maximum deferral period of 5 years. Enter a shorter period based on the plans developed in FBP.
7. Adjusted Balance Available	Basic Borrower Information	System calculated from the data entered.
8. Farm Operating Expense, Farm Operating Interest Expense, Owner Withdrawals Expense, Balance Available, Non Agency Debt Repayment and Taxes Expenses	Basic Borrower Information	From the Farm Business Plan DALR\$ Input Report, enter the corresponding information: <ul style="list-style-type: none"> • Farm Operating Expense • Farm Operating Interest Expense • Owner Withdrawals Expense • Balance Available • Non-Agency Debt Repayment and Taxes.

Instructions for Using DALR\$ (Continued)

3 DALR\$ Calculations (Continued)

I Deferral (Continued)

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

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

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

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

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

J Servicing Program Loans for Rescheduling or Reamortization

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

Instructions for Using DALR\$ (Continued)

3 DALR\$ Calculations (Continued)

J Servicing Program Loans for Rescheduling or Reamortization (Continued)

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

K Servicing Delinquent Non-Program Loans for Rescheduling or Reamortization

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

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

L Writedown

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

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

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

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

Instructions for Using DALR\$ (Continued)

4 DALR\$ Formulas (Continued)

J Debt Writedown and Buyout Limitation

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

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

If a feasible plan is found with writedown, DALR\$ determines the amount of writedown necessary for the borrower to have a positive cash flow.

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

Instructions for Using DALR\$ (Continued)

***--5 Periodic Data**

A Administrative Liquidation Costs

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

Loan Type	Calculation	Cost
OL	$(3063 \div 60 = 51.05) \times \$23.74=$	\$1,212
FO/SW	$(3063 \div 60 = 51.05) \times \$23.74=$	\$1,212
EM/EE	$(3063 \div 60 = 51.05) \times \$23.74=$	\$1,212
RH (Used for RHF loans only.)	$(3063 \div 60 = 51.05) \times \$23.74=$	\$1,212

Note: Costs were calculated using the most recently available Delphi study and the 2009 GS-11/1 hourly pay rate.

B Determining Chattel Costs

Chattel costs are determined based on the following:

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

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

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

Instructions for Using DALR\$ (Continued)

*--5 Periodic Data (Continued)

C 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 5.5 months (165 days). National Office guidance and an Administrator’s exception will be required if a longer holding period is considered.
- “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 use FLMAC.

Note: See subparagraph D 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 DALR\$ (Continued)

***--5 Periodic Data (Continued)**

D 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.

Data obtained from EIP-51R and FSA-326 may be useful to FLMAC in determining the annual percentage of decrease or increase in land values.

FLMAC will meet at least annually, 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.--*

Instructions for Using DALR\$ (Continued)

***--5 Periodic Data (Continued)**

E State Supplement

SED's will issue a state supplement to:

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

Note: The State supplement shall be issued after completing the cost analysis, but no later than November 30 of each year.--*

ADPS 3E Transaction Guide

Complete the following for all acquisitions when the borrower has both an FSA and RD loan. Do **not** process an ADPS 3E transaction. Complete 1 for each property acquired.

*--

To:	ATTENTION: _____ FSC, FLOO, FAX: 314-457-4539
From:	_____ Name of Preparer, Agency, and Telephone Number
Subject:	Acquisition – Borrower with FSA and RD Loans
1.	Acquiring Agency Name (FSA or RD): _____
2.	Case Number: _____
3.	Name of Borrower: _____
4.	OK Code: <u>(Leave Blank)</u>
5.	Date Acquired: _____
6.	Most Secured FLP Loan: _____
7.	Most Secured RD Loan: _____
8.	Property ID of Acquiring Agency: _____
9.	Property Description Code: _____
10.	Property Suitability Code: _____
11.	Taxpayer ID: _____
12.	Property Address: (Leave blank if acquired property is chattels.) _____ _____ Street _____ City, State, ZIP _____
13.	Acres Acquired: Cropland _____ Pasture _____ Woodland _____ Other _____
14.	Market Value – Acquisition: \$ _____
15.	Date Last Appraisal: _____
16.	Amount Credited – FSA \$ _____ RD \$ _____ Total \$ _____
17.	Date Submitted: _____
18.	Business Code: _____
19.	How Acquired: _____
20.	Farm Code: _____
21.	Card Code: <u>(Leave Blank)</u>
22.	Loans to Acquire: (Enter Fund Code and Loan Number. Leave blank if all FSA and RD loans are to be acquired.) FSA _____ RD _____

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