

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Special Programs
6-FLP**

Amendment 25

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reason for Amendment

Subparagraphs 1 A, 1 B, and 1 C have been amended to remove HBL Program and NOFA for HBL program references.

Part 7, paragraphs 136-151, and Exhibit 16 have been withdrawn because all HBL have been paid in full and the program term has expired. No regulation is required to withdraw from CFR as the program was implemented through a NOFA (67 FR 4479 through 44804, dated July 5, 2002).

Paragraph 192 has been amended to update references from NFAOC, Farm and Commodity Services Branch to RDBCSO, Rural Development Business Center Servicing Office.

Exhibit 2 has been amended to:

- remove references to NOFA in the note on page 1
- remove NOFA references and associated definitions to agency, applicant, cash flow budget, feasible plan, and security
- update definitions for additional security, adequate security, approval official, bred, business entity, false information, financial needs, financial obligations, horse, horse breeder, horse breeder business, losses, MRLS, ordinary and necessary expenses, readily available, states or U.S., and U.S. non-citizen national.

Exhibit 4 has been amended to remove State supplement requirements for subparagraphs 141 A and 136 A.

Amendment Transmittal (Continued)

Page Control Chart		
TC	Text	Exhibit
3, 4	1-1, 1-2 6-1 7-1 through 7-38 (remove) 8-49, 8-50	1, pages 1-4 2, pages 1-6 pages 9-20 page 21 4, page 1 16, page 1 (remove)

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121-135	(Reserved)	

Part 7 (Withdrawn --Amend. 25)

136-151	(Withdrawn--Amend. 25)	
152-170	(Reserved)	

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Part 1 Introduction and Purpose

1 Purpose and Sources of Authority

A Handbook Purpose

This handbook is designed to assist FSA in understanding:

- regulations governing special loan programs implemented under DAFLP
- roles and responsibilities for processing loans under these programs.

The loan programs addressed in this handbook include the:

- ITLAP
- Special Apple Loan Program
- Emergency Loan for Seed Producers Program

* * *

- Land Contract Guarantee Program
- Minor Program loans.

B Sources of Authority

The sources of authority for this handbook include:

- 7 CFR Part 763 for Land Contract Guarantee Program
- 7 CFR Part 770 for Indian Tribal Land Acquisition Loans
- 7 CFR Part 772 for servicing Minor Programs
- 7 CFR Part 773 for Special Apple Loan Program
- 7 CFR Part 774 for Emergency Loans to Seed Producers Program
- NOFA for HBL Program
- other Agency regulations that may be referenced throughout this handbook
- various laws and statutes passed by Congress including CONACT.

1 Purpose and Sources of Authority (Continued)

C Regulation References

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

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

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

Example: Subparagraph 12 C provides “[7 CFR 770.3 (b)] Except for refinancing activities authorized in 770.4 (c) (subparagraph 21 A), obtain an option or other acceptable purchase agreement for land to be purchased with loan funds;”.

The nonbold reference indicates that 7 CFR 770.4(c) is included in subparagraph 21 A.

Part 6 Emergency Loan for Seed Producers Program

110 Status

A Discontinued Program

This program was for the purpose of assisting seed producers with contracts with AgriBiotech in 1999, which were adversely affected by AgriBiotech's bankruptcy. FSA has no more loans requiring servicing under the specific requirements of this program.

B Regulations

7 CFR Part 774 will be removed from the Code of Federal Regulations.

111-120 (Withdrawn--Amend. 24)

121-135 (Reserved)

Part 7 (Withdrawn--Amend. 25)

Instead of regulations, this program was published as a NOFA, which is now obsolete.

136-151 (Withdrawn--Amend. 25)

152-170 (Reserved)

192 Delinquent Servicing (Continued)**B Standard Guarantee Plan (Continued)**

- It is an improvement to the real estate with a useful life of over 1 year and is affixed to the property, and the following conditions must be met.
 - The item must have been capitalized and not taken as an annual operating expense on the seller's Federal income tax returns. The seller must provide copies of appropriate tax returns to verify that capital improvements claimed for shared appreciation recapture reduction are capitalized.
 - If the new item is affixed to the real estate as a replacement for an item that existed on the real estate at the time the recapture agreement was originally executed, only the value added by the new item will be deducted from the market value.

C Loss Claim Processing

Standard guarantee and prompt payment guarantee must meet the following criteria for loss claim processing.

- For the standard guarantee, the servicing agent will provide documentation of the loss to the authorized agency official upon liquidation or the completion of an appraisal according to subparagraph B. The authorized agency official will complete the loss claim form. The principal loss will be shown in FSA-2254, item 19. Line through the word "balance" and replace with the word "loss." Enter the same principal loss amount on FSA-2254, item 40, enter the percent guarantee in item 41 and enter the loss payable in item 42 and again in item 46 marking through the word "Lender" and replacing with the *--word "Seller". A memorandum will be prepared for RDBCSO, Rural Development Business Center Servicing Office that will identify the loss as a standard guarantee that includes the name and TIN of the seller to whom the loss payment is to be made, and the name and address of the servicing agent who will receive the payment on behalf of the seller. The memorandum will be attached to the manually completed FSA-2254 and sent to RDBCSO, Rural Development Business Center Servicing Office.--*

192 Delinquent Servicing (Continued)**C Loss Claim Processing (Continued)**

- For the prompt payment guarantee, the escrow agent will provide documentation of the necessity for an installment, taxes, or insurance payment to the authorized agency official according to subparagraph A. The authorized agency official will complete the loss claim form. For installment payments the amount of loss claimed will be shown in FSA-2254, item 19 by lining through the word “balance” and replacing with the word “loss”. For taxes or insurance payments the amount of loss will be entered into item 23. Use item 60, “Comment”, to note whether the payment amount in item 23 is for taxes or insurance. For all losses enter the same loss amount that was entered into item 19 or 23 in item 40. Enter the percent guarantee in item 41 and enter the loss payable in item 42 and again in item 46, marking through the word “Lender” and replacing with the word, *--“Seller”. A memorandum will be prepared for RDBCSO, Rural Development Business Center Servicing Office that will identify the loss as a prompt payment guarantee and will indicate whether the payment is for an installment, taxes, or insurance. The memorandum will include the name and TIN of the seller to whom the loss payment is to be made and the name and address of the escrow agent who will receive the payment on behalf of the seller. The memorandum will be attached to the manually completed FSA2254 and sent to RDBCSO, Rural Development Business Center Servicing Office.--*
- For both the standard guarantee and the prompt payment guarantee the Finance Office will process a Lender Substitution to change the servicing lender to the seller’s name and TIN. The servicing lender’s address will remain the mailing address of the escrow or servicing agent.

193 Negligent Servicing**A Denial of Loss Claim Due to Negligence**

[7 CFR 763.22 (a)] The Agency may deny a loss claim in whole or in part due to negligence that contributed to the loss claim. This could include, but is not limited to:

- (1) The escrow or servicing agent failing to seek payment of a missed installment from the buyer within the prescribed timeframe or otherwise does not enforce the terms of the land contract;**
- (2) Losing the collateral to a third party, such as a taxing authority, prior lien holder, etc.;**
- (3) Not performing the duties and responsibilities required of the escrow or servicing agent;**
- (4) The seller’s failing to disclose environmental issues; or**
- (5) Any other action in violation of the land contract or guarantee agreement that does not terminate the guarantee.**

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

This table lists the required report of this handbook.

Reports Control Number	Title	Reporting Period	Submission Date	Negative Reports	Reference
FLP-5R	Summary Report of Civil Rights Compliance Reviews	Annually	By November 30 each year	Not required	67

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
FmHA 1940-1	Request for Obligation of Funds - Direct Loans		24
FmHA 1940-21	Environmental Assessment for Class I Action		175
FmHA 1940-22	Environmental Checklist for Categorical Exclusions		175
FSA-440-32	Verification of Debts and Assets		137, 177

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-1980-25	Application for Guarantee		172, 178, 179
FSA-1980-28 <u>1/</u>	Preferred Lender Application for Guarantee		174
FSA-2002	Three-Year Financial History		178
FSA-2003	Three-Year Production History		178
FSA-2004	Authorization to Release Information		178
FSA-2005	Creditor List		178
FSA-2007	Statement Required by the Privacy Act for Non-Applicants		178
FSA-2014	Verification of Income		142, 178
FSA-2015	Verification of Debts and Assets		137, 178
FSA-2026	Promissory Note		25
FSA-2027	Supplemental Payment Agreement		194
FSA-2029	Mortgage/Real Estate Deed for		25, 43
FSA-2037	Farm Business Plan Worksheet Balance Sheet		175
FSA-2038	Farm Business Plan Worksheet Projected/Actual Income and Expense		175
FSA-2060	Application for Partial Release, Subordination, or Consent		25, 70
FSA-2211	Application For Guarantee		174
FSA-2212	Preferred Lender Application For Guarantee		174
FSA-2231	Request For Obligation of Funds Guaranteed Loans		182
FSA-2254	Guaranteed Loan Report of Loss		192
FSA-2476	Transfer of Real Estate Security		72
FSA-2489	Assumption Agreement		74
FSA-2620	Indian Tribal Land Acquisition Program Loan Application		12, 24, 25
FSA-2621	Indian Tribal Land Acquisition Program Tribal Council Resolution and Certification		13, 25, 43
FSA-2622	Indian Tribal Land Acquisition Program Assignment of Tribal Income and Funds		13, 25
FSA-2623	Indian Tribal Land Acquisition Program Subordination Agreement		13, 25
FSA-2648	Civil Rights Compliance Review		67

1/ Form is obsolete.

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2680 <u>2/</u>	Letter of Interest		177
FSA-2681 <u>3/</u>	Loan Payment Guarantee Agreement and Contract Modification		172, 173, 174, 177, 182
FSA-2680	Notice of Interest in Land Contract Guarantee		174, 175
FSA-2681	Land Contract Agreement Prompt Payment Guarantee		171, 175, 182
FSA-2682	Land Contract Agreement For Standard Guarantee		175, 182
FSA-2683	Request for Land Contract Guarantee Assistance		174, 175, 178, 179
FSA-2684	Land Contract Recapture Agreement		192
FSA-2685	Notice of Incomplete Land Contract Guarantee Program Application		176
FSA-2686	Second Notice of Incomplete Land Contract Guarantee Program Application		176
FSA-2687	Notice of Land Contract Guarantee Program Application Withdrawal/Pending Withdrawal		176
FSA-2688	Notice of Complete Land Contract Guarantee Program Application		176, 180
RD-440-9	Supplementary Payment Agreement		184
RD 1910-5	Request for Verification of Employment		142, 177

2/ FSA-2680 dated “9-26-05” or earlier is no longer used.

3/ FSA-2681 dated “11-6-03” or earlier is no longer used.

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
AMP	Association-type Minor Program	Part 4, Ex. 2
IMP	Individual-type Minor Program	Part 4, Ex. 2
ITLAP	Indian Tribal Land Acquisition Program	11, 41, 42
RDBCSO	Rural Development Business Center Servicing Office	192
SDMS	State Directive Management System	67

Redelegations of Authority

None

Definition of Terms Used in This Handbook

Note: The programs administered according to this handbook are supported by a number of CFR parts, that was published in FR. Definitions that cite:--*

- 7 CFR Part 761 is about Part 8, Land Contract Guarantee Program
- 7 CFR Part 770 is about Part 2, Indian Tribal Land Acquisition Program
- 7 CFR Part 772 is about Part 4, Servicing of Minor Program loans, including Grazing Association, Irrigation and Drainage, Non-Farm Enterprise, and Recreation loans

* * *

Act

[7 CFR 761.2] Act is the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*).

* * *

Adjustment

[7 CFR 761.2] Adjustment is a form of settlement that reduces the financial obligation to the Agency, conditioned upon the completion of payment of a specified amount at a future time. An adjustment is not a final settlement until all payments have been made under the agreement.

Definition of Terms Used in This Handbook (Continued)

Administrative Appraisal Review

[7 CFR 761.2] Administrative appraisal review is a review of an appraisal to determine if the appraisal:

- (1) Meets applicable Agency requirements; and
- (2) Is accurate outside the requirements of standard 3 of USPAP.

Administrator

[7 CFR 770.2 (b)] Administrator is the head of the Farm Service Agency.

Agency

[7 CFR 770.2 (b)] Agency is Farm Service Agency (FSA).

* * *

[7 CFR 761.2] Agency is the FSA.

Agricultural Commodity

[7 CFR 761.2] Agricultural commodity is livestock, livestock products, grains, cotton, oilseeds, dry beans, tobacco, peanuts, sugar beets, sugar cane, fruit, vegetable, forage, tree farming, nursery crops, nuts, aquaculture species, and other plant and animal production, as determined by the Agency.

Annual Installment

Annual installment is the total amortized amount of principal and interest due to the seller on a land contract every 12 months.

Definition of Terms Used in This Handbook (Continued)

Applicant (Applies to Part 2)

[7 CFR 770.2 (b)] **Applicant** is a Native American tribe or tribal corporation established pursuant to the Indian Reorganization Act seeking a loan under this part.

Applicant

* * *

Applicant (Applies to Part 8)

[7 CFR 761.2] **Applicant** is the individual or entity applying for a loan or loan servicing under either the direct or guaranteed loan program.

Appraisal

[7 CFR 770.2 (b)] **Appraisal** is an appraisal for the purposes of determining the market value of land (less the value of any existing improvements that pass with the land) that meets the requirements of part 761 of this chapter.

***--Approval Official**

Approval official is an Agency official who has been delegated approval authorities within applicable loan programs.--*

* * *

AMP Loans

[7 CFR 772.2(b)] **AMP loans** are loans to grazing associations and irrigation and drainage associations.

Definition of Terms Used in This Handbook (Continued)

*--Assistance

[7 CFR 761.2] Assistance is financial assistance in the form of a direct or guaranteed loan or interest subsidy or servicing action.

Assumption

[7 CFR 761.2] Assumption is the act of agreeing to be legally responsible for another party's indebtedness.

Assumption Agreement

[7 CFR 761.2] Assumption agreement is a written agreement on the appropriate Agency form to pay the FLP debt incurred by another.--*

Authorized Agency Official

The authorized agency official is the FSA official that is authorized to perform specific tasks about loan making or servicing. The appropriate official is determined by inherent authorities or delegations applicable to a particular task.

Definition of Terms Used in This Handbook (Continued)***--Beginning Farmer (Applies to Part 8)**

[7 CFR 761.2] Beginning farmer is an individual or entity who:

- (1) Meets the loan eligibility requirements for a direct or guaranteed CL, FO, or OL, as applicable;**
- (2) Has not operated a farm for more than 10 years. This requirement applies to all members of an entity;**
- (3) Will materially and substantially participate in the operation of the farm:**
 - (i) In the case of a loan made to an individual, individually or with the family members, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm, consistent with the practices in the county or State where the farm is located.**
 - (ii) In the case of a loan made to an entity, all members must materially and substantially participate in the operation of the farm. Material and substantial participation requires that the member provide some amount of the management, or labor and management necessary for day-to-day activities, such that if the individual did not provide these inputs, operation of the farm would be seriously impaired;**
- (4) Agrees to participate in any loan assessment and borrower training required by Agency regulations;**
- (5) Except for an OL applicant, does not own real farm property or who, directly or through interests in family farm entities owns real farm property, the aggregate acreage of which does not exceed 30 percent of the median farm acreage of the farms in the county where the property is located. If the farm is located in more than one county, the median farm acreage of the county where the applicant's residence is located will be used in the calculation. If the applicant's residence is not located on the farm or if the applicant is an entity, the median farm acreage of the county where the major portion of the farm is located will be used. The median county farm acreage will be determined from the most recent Census of Agriculture;**
- (6) Demonstrates that the available resources of the applicant and spouse (if any) are not sufficient to enable the applicant to enter or continue farming on a viable scale; and**
- (7) In the case of an entity:**
 - (i) All the members are related by blood or marriage; and**
 - (ii) All the members are beginning farmers.--***

Definition of Terms Used in This Handbook (Continued)**Borrower**

[7 CFR 761.2] **Borrower** (or debtor) is an individual or entity that has an outstanding obligation to the Agency or to a lender under any direct or guaranteed FLP loan, without regard to whether the loan has been accelerated. The term “borrower” includes all parties liable for such obligation, including collection-only borrowers, except for debtors whose total loans and accounts have been voluntarily or involuntarily foreclosed, sold, or conveyed, or who have been discharged of all such obligations owed to the Agency or guaranteed lender.

* * *

Cash Flow Budget (Applies to Part 8)

[7 CFR 761.2] **Cash flow budget** is a projection listing all anticipated cash inflows (including all farm income, nonfarm income and all loan advances) and all cash outflows (including all farm and nonfarm debt service and other expenses) to be incurred during the period of the budget. Advances and principal repayments of lines of credit may be excluded from a cash flow budget. Cash flow budgets for guaranteed loans under \$125,000 do not require income and expenses itemized by categories. A cash flow budget may be completed either for a 12-month period, a typical production cycle, or the life of the loan, as appropriate. It may also be prepared with a breakdown of cash inflows and outflows for each month of the review period and include the expected outstanding operating credit balance for the end of each month. The latter type is referred to as a “monthly cash flow budget.”

Definition of Terms Used in This Handbook (Continued)**Disaster**

[7 CFR 761.2] **Disaster** is an event of unusual and adverse weather conditions or other natural phenomena, or quarantine, that has substantially affected the production of agricultural commodities by causing physical property or production losses in a county, or similar political subdivision, that triggered the inclusion of such county or political subdivision in the disaster area as designated by the Agency.

* * *

Downpayment Loan

[7 CFR 761.2] **Downpayment loan** is a type of FO loan made to beginning farmers and socially disadvantaged farmers to finance a portion of a real estate purchase under part 764, subpart E of this chapter.

Embedded Entity

[7 CFR 761.2] **Embedded entity** means an entity that has a direct or indirect interest, as a stockholder, member, beneficiary, or otherwise, in another entity.

Entity (Applies to Part 4)

[7 CFR 772.2(b)] **Entity** is a cooperative, corporation, partnership, joint operation, trust, or limited liability company.

Entity (Applies to Part 8)

[7 CFR 761.2] **Entity** means a corporation, partnership, joint operation, cooperative, limited liability company, trust, or other legal business organization, as determined by the Agency, that is authorized to conduct business in the state in which the organization operates. Organizations operating as non-profit entities under Internal Revenue Code 501 (26 U.S.C. 501) and estates are not considered eligible entities for Farm Loan Programs purposes.

Entity Member

[7 CFR 761.2] **Entity member** means all individuals and all embedded entities, as well as the individual members of the embedded entities, having an ownership interest in the assets of the entity.

Definition of Terms Used in This Handbook (Continued)

* * *

Family Farm

[7 CFR 761.2] **Family farm** is a business operation that:

(1) Produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence;

(2) Has both physical labor and management provided as follows:

(i) The majority of day-to-day, operational decisions, and all strategic management decisions are made by:

(A) The borrower and persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or

(B) The members responsible for operating the farm, in the case of an entity.

(ii) A substantial amount of labor to operate the farm is provided by:

(A) The borrower and persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or

(B) The members responsible for operating the farm, in the case of an entity.

(3) May use full-time hired labor in amounts only to supplement family labor.

(4) May use reasonable amounts of temporary labor for seasonal peak workload periods or intermittently for labor intensive activities.

Family Members

[7 CFR 761.2] **Family members** are the immediate members of the family residing in the same household with the borrower.

Definition of Terms Used in This Handbook (Continued)**Farm**

[7 CFR 761.2] **Farm** is a tract or tracts of land, improvements, and other appurtenances that are used or will be used in the production of crops, livestock, or aquaculture products for sale in sufficient quantities so that the property is recognized as a farm rather than a rural residence. The term “farm” also includes the term “ranch.” It may also include land and improvements and facilities used in a non-eligible enterprise or the residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

Farmer

[7 CFR 761.2] **Farmer** is an individual, corporation, partnership, joint operation, cooperative, trust, or limited liability company that is the operator of a farm.

Farm Loan Programs

[7 CFR 761.2] **Farm Loan Programs** are Agency programs to make, guarantee, and service loans to family farmers authorized under the Act or Agency regulations.

Farm Ownership Loan

[7 CFR 761.2] **Farm Ownership loan** is a loan made to eligible applicants to purchase, enlarge, or make capital improvements to family farms, or to promote soil and water conservation and protection. It also includes Downpayment loans.

Feasible Plan

[7 CFR 761.2] **Feasible plan** is when an applicant or borrower's cash flow budget or farm operating plan indicates that there is sufficient cash inflow to pay all cash outflow. If a loan approval or servicing action exceeds one production cycle and the planned cash flow budget or farm operating plan is atypical due to cash or inventory on hand, new enterprises, carryover debt, atypical planned purchases, important operating changes, or other reasons, a cash flow budget or farm operating plan must be prepared that reflects a typical cycle. If the request is for only one cycle, a feasible plan for only one production cycle is required for approval.

* * *

Definition of Terms Used in This Handbook (Continued)

* * *

Floodplains

[7 CFR 761.2] **Floodplains** are lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The base floodplain is used to designate the 100-year floodplain (one percent chance floodplain). The critical floodplain is defined as the 500-year floodplain (0.2 percent chance floodplain).

Good Faith

[7 CFR 761.2] **Good faith** is when an applicant or borrower provides current, complete, and truthful information when applying for assistance and in all past dealings with the Agency, and adheres to all written agreements with the Agency including, but not limited to, loan agreement, security instruments, farm operating plans, and agreements for use of proceeds. The Agency considers a borrower to act in good faith, however, if the borrower's inability to adhere to all agreements is due to circumstances beyond the borrower's control. In addition, the Agency will consider fraud, waste, or conversion actions, when substantiated by a legal opinion from OGC, when determining if an applicant or borrower has acted in good faith.

Graduation

[7 CFR 772.2(b)] **Graduation** is the requirement contained in loan documents that borrowers pay their FSA loan in full with funds received from a commercial lending source as a result of improvement in their financial condition.

Highly Erodible Land

[7 CFR 761.2] **Highly erodible land** is land as determined by Natural Resources Conservation Service to meet the requirements provided in section 1201 of the Food Security Act of 1985.

Definition of Terms Used in This Handbook (Continued)

* * *

IMP Loans

[7 CFR 772.2(b)] IMP loans are nonfarm enterprise or recreation loans to individuals.

Joint Operation

[7 CFR 761.2] Joint operation is an operation run by individuals who have agreed to operate a farm or farms together as an entity, sharing equally or unequally land, labor, equipment, expenses, or income, or some combination of these items. The real and personal property is owned separately or jointly by the individuals.

Land Contract

[7 CFR 761.2] Land contract is an installment contract drawn between a buyer and a seller for the sale of real property, in which complete fee title ownership of the property is not transferred until all payments under the contract have been made.

Lien

[7 CFR 761.2] Lien is a legally enforceable claim against real or chattel property of another obtained as security for the repayment of indebtedness or an encumbrance on property to enforce payment of an obligation.

Liquidation

[7 CFR 761.2] Liquidation is the act of selling security for recovery of amounts owed to the Agency or lender.

Definition of Terms Used in This Handbook (Continued)**Liquidation Expenses**

[7 CFR 761.2] **Liquidation expenses** are the costs of an appraisal, due diligence evaluation, environmental assessment, outside attorney fees, and other costs incurred as a direct result of liquidating the security for a direct or guaranteed loan. Liquidation expenses do not include internal Agency expenses for a direct loan or in-house expenses for a guaranteed loan.

Livestock

[7 CFR 761.2] **Livestock** is a member of the animal kingdom, or product thereof, as determined by the Agency.

Loan Funds

[7 CFR 770.2 (b)] **Loan Funds** refers to money loaned under this part. Loan funds include protective advances.

Loss Claim

[7 CFR 761.2] **Loss claim** is a request made to the Agency by a lender to receive a reimbursement based on a percentage of the lender's loss on a loan covered by an Agency guarantee.

* * *

Majority Interest

[7 CFR 761.2] **Majority interest** is more than a 50 percent interest in an entity held by an individual or group of individuals.

Member

[7 CFR 772.2(b)] A **member** is any individual who has an ownership interest in the entity which has received the Minor Program loan.

Minor Program

[7 CFR 772.2(b)] **Minor Program** is a nonfarm enterprise, individual recreation, grazing association, or irrigation and drainage loan program administered or to be administered by FSA.

Definition of Terms Used in This Handbook (Continued)**Mortgage**

[7 CFR 761.2] **Mortgage** is a legal instrument giving the lender a security interest or lien on real or personal property of any kind. The term “mortgage” also includes the terms “deed of trust” and “security agreement.”

* * *

Natural Disaster

[7 CFR 761.2] **Natural disaster** is unusual and adverse weather conditions or natural phenomena that have substantially affected farmers by causing severe physical or production, or both, losses.

Native American Tribe

[7 CFR 770.2 (b)] **Native American tribe** is:

- (1) An Indian tribe recognized by the Department of the Interior; or
- (2) A community in Alaska incorporated by the Department of the Interior pursuant to the Indian Reorganization Act.

Negligent Servicing

[7 CFR 761.2] **Negligent servicing** is servicing that fails to include those actions that are considered normal industry standards of loan management or comply with the lender's agreement or the guarantee. Negligent servicing includes failure to act or failure to act in a timely manner consistent with actions of a reasonable lender in loan making, servicing, and collection.

Definition of Terms Used in This Handbook (Continued)**Non-Eligible Enterprise**

[7 CFR 761.2] **Non-eligible enterprise** is a business that meets the criteria in any one of the following categories:

- (1) Produces exotic animals, birds, or aquatic organisms or their products which may be agricultural in nature, but are not normally associated with agricultural production, e.g., there is no established or stable market for them or production is speculative in nature.
- (2) Produces non-farm animals, birds, or aquatic organisms ordinarily used for pets, companionship, or pleasure and not typically associated with human consumption, fiber, or draft use.
- (3) Markets non-farm goods or provides services which might be agriculturally related, but are not produced by the farming operation.
- (4) Processes or markets farm products when the majority of the commodities processed or marketed are not produced by the farming operation.

Non-Program Loan

[7 CFR 761.2] **Non-program loan** is a loan on terms more stringent than terms for a program loan that is an extension of credit for the convenience of the Agency, because the applicant does not qualify for program assistance or the property to be financed is not suited for program purposes. Such loans are made or continued only when it is in the best interest of the Agency.

Operator

[7 CFR 761.2] **Operator** is the individual or entity that provides the labor, management, and capital to operate the farm. The operator can be either an owner-operator or tenant-operator. Under applicable State law, an entity may have to receive authorization from the State in which the farm is located to be the owner and/or operator of the farm. Operating-only entities may be considered owner-operators when the individuals who own the farm real estate own at least 50 percent of the family farm operation.

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Definition of Terms Used in This Handbook (Continued)**Participated In the Business Operations of a Farm**

[7 CFR 761.2] **Participated in the business operations of a farm** requires that an applicant has:

- (1) Been the owner, manager or operator of a farming operation for the year's complete production cycle as evidenced by tax returns, FSA farm records or similar documentation;
- (2) Been employed as a farm manager or farm management consultant for the year's complete production cycle; or
- (3) Participated in the operation of a farm by virtue of being raised on a farm or having worked on a farm (which can include a farm-related apprenticeship, internship, or similar educational program with applied work experience) with significant responsibility for the day-to-day decisions for the year's complete production cycle, which may include selection of seed varieties, weed control programs, input suppliers, or livestock feeding programs or decisions to replace or repair equipment.

Partnership

[7 CFR 761.2] **Partnership** is any entity consisting of two or more individuals who have agreed to operate a farm as one business unit. The entity must be recognized as a partnership by the laws of the State in which the partnership will operate a farm. It also must be authorized to own both real and personal property and to incur debt in its own name.

Production Cycle

[7 CFR 761.2] **Production cycle** is the time it takes to produce an agricultural commodity from the beginning of the production process until it is normally disposed of or sold.

Protective Advance

[7 CFR 761.2] **Protective advance** is an advance made by the Agency or a lender to protect or preserve the collateral from loss or deterioration.

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Definition of Terms Used in This Handbook (Continued)

*--Redemption Rights

[7 CFR 761.2] **Redemption right** is a Federal or state right to reclaim property for a period of time established by law, by paying the amount paid at the involuntary sale plus accrued interest and costs.

Related by Blood or Marriage

[7 CFR 761.2] **Related by blood or marriage** is being connected to one another as husband, wife, parent, child, brother, sister, uncle, aunt, or grandparent.

Relative

[7 CFR 761.2] **Relative** is the spouse and anyone having one of the following relationships to an applicant or borrower: parent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, uncle, aunt, nephew, niece, cousin, grandparent, grandson, granddaughter, or the spouses of the foregoing.--*

Rental Value

[7 CFR 770.2(b)] **Rental value** for the purpose of rental value write-down's, equals the average actual rental proceeds received from the lease of land acquired under ITLAP. If there are no rental proceeds, then rental value will be based on market data according to Sec. 770.10(e)(4).

Reservation

[7 CFR 770.2 (b)] **Reservation** is lands or interest within:

- (1) The Native American tribe's reservation as determined by the Department of the Interior; or
- (2) A community in Alaska incorporated by the Department of the Interior pursuant to the Indian Reorganization Act.

Reserve

[7 CFR 770.2 (b)] **Reserve** is an account established for loans approved in accordance with regulations in effect prior to February 8, 2001, which required that an amount equal to 10 percent of the annual payment be set aside each year until at least one full payment is available.

Note: Regulations in effect before February 8, 2001, were published in 7 CFR 1823, Subpart N. Further guidance was contained in FmHA Instruction 442.11.

Definition of Terms Used in This Handbook (Continued)**Review Official**

[7 CFR 772.2(b)] **Review official** is an Agency employee, contractor, or designee who is authorized to conduct a compliance review of a Minor Program borrower under this part.

Security

[7 CFR 761.2] **Security** is property or right of any kind that is subject to a real or personal property lien. Any reference to “collateral” or “security property” will be considered a reference to the term “security.”

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Security Instrument

[7 CFR 761.2] **Security instrument** includes any document giving the Agency a security interest on real or personal property.

Security Value

[7 CFR 761.2] **Security value** is the market value of real estate or chattel property (less the value of any prior liens) used as security for an Agency loan.

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Definition of Terms Used in This Handbook (Continued)**Socially Disadvantaged Applicant or Farmer**

[7 CFR 761.2] **Socially disadvantaged applicant or farmer** is an individual or entity who is a member of a socially disadvantaged group. For an entity, the majority interest must be held by socially disadvantaged individuals. For married couples, the socially disadvantaged individual must have at least 50 percent ownership in the farm business and make most of the management decisions, contribute a significant amount of labor, and generally be recognized as the operator of the farm.

Socially Disadvantaged Group

[7 CFR 761.2] **Socially disadvantaged group** is a group whose members have been subject to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. These groups consist of: American Indians or Alaskan Natives, Asians, Blacks or African Americans, Native Hawaiians or other Pacific Islanders, Hispanics, and women.

* * *

Transfer and Assumption

[7 CFR 761.2] **Transfer and assumption** is the conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of a loan in return for the assuming party's binding promise to pay the debt outstanding or the market value of the collateral.

Tribal Corporation

7 CFR 770.2 (b)] **Tribal Corporation** is a corporation established pursuant to the Indian Reorganization Act.

Trust

[7 CFR 761.2] **Trust** is an entity that under applicable state law meets the criteria of being a trust of any kind but does not meet the criteria of being a farm cooperative, private domestic corporation, partnership, or joint operation.

Uniform Standards of Professional Appraisal Practice

[7 CFR 761.2] **Uniform Standards of Professional Appraisal Practice** are standards governing the preparation, reporting, and reviewing of appraisals established by the Appraisal Foundation pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

Definition of Terms Used in This Handbook (Continued)

United States

[7 CFR 761.2] United States is any of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Republic of Palau, Federated States of Micronesia, and the Republic of the Marshall Islands.

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Wetlands

[7 CFR 761.2] Wetlands are those lands or areas of land as determined by the Natural Resources Conservation Service to meet the requirements provided in section 1201 of the Food Security Act of 1985.

State Supplements

Subparagraph	State Supplement
* * *	* * *
175 C	Additional guidance on information requirements when a married couple applies as a joint operation for a land contract guarantee.

