

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Special Programs 6-FLP	Amendment 28
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Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 22 B has been amended to reflect CFR updates to clarify maximum ITLAP interest rates.

Subparagraphs 38 B and C and 42 A have been amended to correct CFR references.

Subparagraphs 41 A, B, C, and D have been amended to correct the spelling of “write-down” and correct CFR references

Exhibit 2 has been amended to:

- update CFR definitions of:
 - Adjustment
 - Administrative Appraisal Review
 - Agricultural Commodity
 - Beginning Farmer
 - Debt Forgiveness
 - Family Farm
 - Farm Ownership Loan
 - Feasible Plan
 - Good Faith
 - Native American Tribe
 - Non-Eligible Enterprise
 - Participated In the Business Operations of a Farm
 - Related by Blood or Marriage
 - Relative
- add the definitions of:
 - Commercially Foraged
 - Equitable Relief
 - Indian Land
 - Indian Tribe.

Amendment Transmittal

Page Control Chart		
TC	Text	Exhibit
	2-27, 2-28 2-67 through 2-72	2, pages 1-20

Section 2 Loan Purposes, Terms, and Security Requirements**21 Loan Purposes and Limitations****A Loan Purposes**

[7 CFR 770.4] Loan funds may only be used to:

- (a) Acquire land and interests therein (including fractional interests, rights-of-way, water rights, easements, and other appurtenances (excluding improvements) that would normally pass with the land or are necessary for the proposed operation of the land) located within the Native American tribe's reservation which will be used for the benefit of the tribe or its members.**
- (b) Pay costs incidental to land acquisition, including but not limited to, title clearance, legal services, land surveys, and loan closing.**
- (c) Refinance non-United States Department of Agriculture preexisting debts the applicant incurred to purchase the land provided the following conditions exist:**
 - (1) Prior to the acquisition of such land, the applicant filed a loan application regarding the purchase of such land and received the Agency's approval for the land purchase;**
 - (2) The applicant could not acquire an option on such land;**
 - (3) The debt for such land is a short term debt with a balloon payment that cannot be paid by the applicant and that cannot be extended or modified to enable the applicant to satisfy the obligation; and**
 - (4) The purchase of such land is consistent with all other applicable requirements of this part.**

[7 CFR 770.4 (d)] Pay for the costs of any appraisal conducted pursuant to this part.

--Appraisals must be completed according to 1-FLP, Part 6.--

Note: Although these costs may be included in a loan, the cost of the appraisal and land may not exceed the present market value of the property.

21 Loan Purposes and Limitations (Continued)

B Loan Limitations

[7 CFR 770.5 (a)] Loan funds may not be used for any land improvement or development purposes, acquisition or repair of buildings or personal property, payment of operating costs, payment of finder's fees, or similar costs, or for any purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agriculture commodity as further established in exhibit M of subpart G of part 1940 of this title.

[7 CFR 770.5 (b)] The amount of loan funds used to acquire land may not exceed the market value of the land (excluding the value of any improvements) as determined by a current appraisal.

[7 CFR 770.5 (c)] Loan funds for a land purchase must be disbursed over a period not to exceed 24 months from the date of loan approval.

Note: The 24-month period begins from the date of the loan or loans approval. Sixty days before the end of the 24-month period, a letter shall be mailed to the tribal office responsible for land purchases providing notification that if the funds are not used before the end of this period, the remaining obligation will be canceled.

22 Interest Rates and Terms

A Terms

[7 CFR 770.6(a)] Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note.

B Interest Rate

***--[7 CFR 770.6(b)]** The interest rate charged by the Agency will be the lower of the interest rate in effect at the time of the loan approval or loan closing, which is the current rate available in any FSA office. The rate will be equal to the interest rate for direct farm ownership loans not to exceed 5 percent. Except as provided in § 770.10(b) (paragraph 39) of this chapter, the interest rate will be fixed for the life of the loan.--*

The interest rate is published in 1-FLP, Exhibit 17.

38 Reamortization

A Eligibility

[7 CFR 770.10(a)(1)] The Agency may consider reamortization of a loan provided:

- (i) The borrower submits a completed Agency application form; and**
- (ii) The account is delinquent due to circumstances beyond the borrower's control and cannot be brought current within 1 year; or**
- (iii) The account is current, but due to circumstances beyond the borrower's control, the borrower will be unable to meet the annual loan payments.**

Example: Circumstances beyond the borrower's control are increased expenses resulting from unfunded or partially funded Federal or State mandates, or natural disasters.

B Term of a Loan

***--[7 CFR 770.10(a)(2)] The term of a loan may not be extended beyond 40 years from--* the date of the original note.**

- (i) Reamortization within the remaining term of the loan will be predicated on a projection of the tribe's operating expenses indicating the ability to meet the new payment schedule; and**
- (ii) No intervening lien exists on the security for the loan which would jeopardize the Government's security position.**

The interest rate will be the loan rate or the current program rate (if lower) if the borrower meets the requirements of subparagraph 39 A.

C Consolidation Authorized

***--[7 CFR 770.10(a)(3)] If one or more notes are to be reamortized, consolidation of the--* notes is authorized.**

The term of the consolidated note cannot exceed 40 years from the date of the most recently closed loan.

The interest rate will be the rate charged on the most recently closed loan or the current program rate (if lower) if the borrower meets the requirements of subparagraph 39 A.

--39 Interest Rate Reduction*A Requirements**

[7 CFR 770.10(b)] The Agency may consider a reduction of the interest rate for an existing loan to the current interest rate as available from any Agency office provided:

- (1) the borrower submits a completed Agency application form;**
- (2) the loan was made more than 5 years prior to the application for the interest reduction; and**
- (3) the Department of the Interior and the borrower certify that the borrower meets at least one of the criteria contained in paragraph (e)(2) of this section (subparagraph 41 B).**

40 Deferral**A Requirements**

[7 CFR 770.10(c)] The Agency may consider a full or partial deferral for a period not to exceed 5 years provided:

- (1) the borrower submits a completed Agency application form;**
- (2) the borrower presents a plan which demonstrates that due to circumstances beyond their control, they will be unable to meet all financial commitments unless the Agency payment is deferred; and**
- (3) the borrower will be able to meet all financial commitments including the Agency payments, after the deferral period has ended.**

The tribe or tribal corporation must provide a cash flow projection that indicates that there will be enough income to meet all expense and payment obligations after the deferral period ends.--*

41 Debt Write-Down

A Application

[7 CFR 770.10(e)(1)] The Agency will consider debt write-down under either the land value option or rental value option, as requested by the borrower.

(i) The borrower must submit a completed Agency application form;

(ii) If the borrower applies and is determined eligible for a land value and a rental value write-down, the borrower will receive a write-down based on the write-down option that provides the greatest debt reduction.

B Eligibility

--[7 CFR 770.10(e)(2)] To be eligible for debt write-down, the borrower (in the case of a tribal corporation, the Native American tribe of the borrower) must:--

(i) be located in a county which is identified as a persistent poverty county by the United States Department of Agriculture, Economic Research Service pursuant to the most recent data from the Bureau of Census; and

(ii) have a socio-economic condition over the immediately preceding 5-year period that meets the following two factors as certified by the Native American tribe and the Department of the Interior:

***--(A) The Native American tribe has a per capita income for individual enrolled tribal members which is less than 50 percent of the Federally established poverty income rate established by the Department of Health and Human Services;**

Note: If tribal income information is not available, State or county per capita income data may be used.

(B) The tribal unemployment rate exceeds 50 percent.

41 Debt Write-Down (Continued)

C Land Value Write-Down

[7 CFR 770.10(e)(3)] The Agency may reduce the unpaid principal and interest balance on any loan made to the current market value of the land that was purchased with loan funds provided;

- (i) The market value of such land has declined by at least 25 percent since the land was purchased as established by a current appraisal;**

Note: The tribe must identify the lands purchased and account for any trade, substitution, or exchange made since the loan or loans were first made to complete an appraisal and document the loss in value.

The cost of the appraisal will be paid by the tribe or tribal corporation.

- (ii) Land value decrease is not attributed to the depletion of resources contained on or under the land;**

Example: The harvesting of timber, strip mining, or any other action that would reduce the value of land by removal of resources contributing to the value of the land.

- (iii)The loan was made more than 5 years prior to the application for land value
*--write-down;--***

- (iv)The loan has not previously been written down under paragraph (e)(4)
(subparagraph D) of this section and has not been written down within the last 5
years under this paragraph; and**

- (v) The borrower must meet the eligibility requirements of paragraphs (a)(1)(ii) or (iii)
(subparagraph 38 A) of this section.**

The decrease in value must be attributable to outside economic forces; natural disaster, including flood and insect damage; or other factors beyond the borrower's control for which they are unable to mitigate the negative effects. Agency officials will document the reason attributable to the decrease in value before land value write-down approval.

41 Debt Write-Down (Continued)

D Rental Value Write-Down

[7 CFR 770.10(e)(4)] The Agency may reduce the unpaid principal and interest on any loan, so the annual loan payment for the remaining term of each loan equals the average of annual rental value of the land purchased by each such loan for the immediately preceding 5-year period provided:

--(i) The loan was made more than 5 years prior to the rental value write-down;--

(ii) The description of the land purchased with the loan funds and the rental values used to calculate the 5-year average annual rental value of the land have been certified by the Department of the Interior;

Note: To support the determination of the 5-year average annual rental value, the tribe or tribal corporation must provide and identify the number of acres that were purchased with FSA loan funds. DOI's BIA must certify in writing as to the validity of the figures used by the tribe requesting the write-down.

(iii) The borrower provides a record of any actual rents received for the land for the preceding 5 years, which will be used to calculate the average rental value. This record must be certified by the Department of the Interior. For land that has not been leased or has not received any rental income, the borrower must provide a market value rent study report for the preceding 5 years, which identifies the average annual rental value based on the market data. The market value rent study report must be prepared by a certified general appraiser and meet the requirements of USPAP;

Note: The rental value of improvements on a specific parcel is not considered in the calculation of the 5 year average rental value of the land.

For a parcel of land that does not have 5 years of rental history from which to determine the 5 year average rental value, a rental value will be assigned for the years of no rental history based on the rent received for leased land of like value and purpose.

Example: A parcel of pasture land has rented for years 1, 2, and 3 for \$18 per acre, but not for years 4 and 5. Similar adjacent pasture land with a 5 year rental history has received rent in the following amount:

- year 1, \$18 per acre
- year 2, \$19 per acre
- year 3, \$21 per acre
- year 4, \$21 per acre
- year 5, \$25 per acre.

The subject parcel will be assigned a rental rate of \$21 for year 4 and \$25 for year 5. The average 5 year rental value will be the average of the 3 years of rents received and the assigned values for year 4 and 5. $\$18 + \$18 + \$18 + \$21 + \$25 = \$100 \div 5 = \text{average rental rate of } \$20.$

41 Debt Write-Down (Continued)

D Rental Value Write-Down (Continued)

- (iv) **The borrower has not previously received a write-down under this paragraph and has not had a loan written down within the last 5 years under paragraph (e)(3) (subparagraph C) of this section; and**

Note: If the loan has previously received a rental value write-down, it cannot receive another rental value write-down. If the loan received a land value write-down within the last 5 years, it cannot receive a rental value write-down.

- (v) **The borrower must meet the eligibility requirements of paragraph (a)(1)(ii) or (iii) (subparagraph 38 A) of this section.**

42 Reserve Accounts

A Releasing Reserve Account Funds

***--[7 CFR 770.10(f)] Existing reserve accounts may be released for the purpose of--* making ITLAP loan payments or to purchase additional lands, subject to the following;**

- (1) a written request is received providing detailed use of the funds;**
- (2) the loan is not delinquent;**
- (3) the loan is adequately secured by a general assignment of tribal income.**

43 Graduation

A Graduation Requirement

FSA-2029, as applicable, and FSA-2621 contain requirements about graduation.

B Borrower Action

If at any time it appears to FSA officials that the tribe is able to refinance the loan, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purpose and periods of time, the tribe will, upon request of FSA, apply for and accept such loan in sufficient amount to repay FSA.

44-54 (Reserved)

Part 3 (Reserved)

55-65 (Reserved)

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 means the settlement of an FLP debt for less than the total amount owed. The adjusted amount is collected through a series of payments that are scheduled over time. An adjustment is not a final settlement until all scheduled payments have been made. After applying all payments pursuant to the adjustment agreement, any remaining balance is canceled. The amount canceled is reported to the IRS pursuant to § 3.90 of this title and applicable IRS requirements.--

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:

*--(i) Meets applicable Agency requirements; and

(ii) 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 means livestock, grains, cotton, oilseeds, dry beans, tobacco, peanuts, sugar beets, sugar cane, fruit, vegetable, forage, ornamental plants, nursery crops, nuts, aquaculture species, and the products resulting from: livestock, tree farming, 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 (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:

- *--(i) Meets the loan eligibility requirements for a direct or guaranteed CL, FO, or OL, as applicable;
- (ii) Has not operated a farm for more than 10 years. This requirement applies to all members of an entity;
- (iii) Will materially and substantially participate in the operation of the farm:
 - (A) 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; or
 - (B) 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;
- (iv) Agrees to participate in any loan assessment and borrower training required by Agency regulations;
- (v) 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;
- (vi) 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
- (vii) In the case of an entity:
 - (A) All the members are related by blood or marriage; and
 - (B) 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.”

***--Commercially Foraged**

[7 CFR 761.2] **Commercially foraged** means the harvesting of naturally occurring plants, or plantlike material, including fungi, that develop naturally with limited management of the resource.--*

Definition of Terms Used in This Handbook (Continued)

***--Compromise**

[7 CFR 761.2] Compromise is the settlement of an FLP debt or claim by a lump-sum payment of less than the total amount owed in satisfaction of the debt or claim.

Controlled Substance

[7 CFR 761.2] Controlled substance is the term as defined in 21 U.S.C. 812.

Cooperative

[7 CFR 761.2] Cooperative is an entity that has farming as its purpose, whose members have agreed to share the profits of the farming enterprise, and is recognized as a farm cooperative by the laws of the state in which the entity will operate a farm.

Corporation

[7 CFR 761.2] Corporation is a private domestic corporation created and organized under the laws of the state in which it will operate a farm.

County

[7 CFR 761.2] County is a local administrative subdivision of a State or similar political subdivision of the United States.--*

Definition of Terms Used in This Handbook (Continued)

Debt Forgiveness

[7 CFR 761.2] **Debt forgiveness** is a reduction or termination of a debt under the Act in a *--manner that results in a loss to the Agency:

(i) Debt forgiveness includes:

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

(B) Compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981; or

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

(D) Discharging a debt as a result of bankruptcy; or

(E) Releases of liability which result in a loss to the Agency.--*

Debt forgiveness does not include:

*--(A) Debt reduction through a conservation contract;

(B) Any write-down provided as part of the resolution of a discrimination complaint against the Agency;

(C) Prior debt forgiveness that has been repaid in its entirety;

(D) Consolidation, rescheduling, reamortization, or deferral of a loan; and

(E) Forgiveness of a YL debt due to circumstances beyond the borrower's control.

Debt Write-Down

[7 CFR 761.2] **Debt write-down** is the reduction of the borrower's debt to that amount--* the Agency determines to be collectible based on an analysis of the security value and the borrower's ability to pay.

Default

[7 CFR 761.2] **Default** is the failure of a borrower to observe any agreement with the Agency, or the lender in the case of a guaranteed loan, as contained in promissory notes, security instruments, and similar or related instruments.

Deferral

[7 CFR 761.2] **Deferral** is a postponement of the payment of interest or principal, or both.

Definition of Terms Used in This Handbook (Continued)**Direct Loan**

[7 CFR 761.2] **Direct loan** is a loan funded and serviced by the Agency as the lender.

Disabled

Disabled means mares that have become infertile or difficult to breed, and mares and foals that have become unfit for sale, reproduction, training, and riding as a result of MRLS.

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.

Down Payment Loan

[7 CFR 761.2] **Down Payment 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)

*--Equitable Relief

[7 CFR 761.2] Equitable relief means relief provided in accordance with part 7 CFR 768.1.--*

Family Farm

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

- (i) Produces agricultural commodities, including agricultural commodities commercially foraged on Indian land for the purpose of OLS, for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence or non-eligible enterprise;
- (ii) Has both physical labor and management provided as follows:
 - (A) The majority of day-to-day, operational decisions, and all strategic management decisions are made by:
 - (1) The borrower and persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or
 - (2) The members responsible for operating the farm, in the case of an entity; and
 - (B) A substantial amount of labor to operate the farm is provided by:
 - (1) The borrower and persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or
 - (2) The members responsible for operating the farm, in the case of an entity;
- (iii) May use full-time hired labor in amounts only to supplement family labor; and
- (iv) 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 (FO) 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 the Down Payment loan.--*

Feasible Plan

*--[7 CFR 761.2] **Feasible plan** means 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 an interest-only or otherwise unequal installment, 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 that 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** means 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, loan agreements, security instruments, farm operating plans, and agreements for use of proceeds. If the borrower's inability to adhere to all agreements is due to circumstances beyond the borrower's control, the Agency will consider the borrower to have acted in good faith. In addition, the Agency may also consider fraud, waste, or conversion actions, when determining if an applicant or borrower has acted in good faith. Such determinations of fraud, waste, or conversion that are substantiated by a legal opinion from OGC constitute an independent basis for determination of not having 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.

***--Indian Land**

[7 CFR 761.2] **Indian land**, for the purposes of the definition of “family farm” in this section, means land, or an interest therein, that is:

- (i) Owned by an Indian tribe;
- (ii) Owned by an Indian tribe and is subject to restrictions against alienation or encumbrance by the United States; or
- (iii) Held in trust by the United States for an Indian tribe.

Indian Tribe

[7 CFR 761.2] **Indian tribe** means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.--*

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 (for the purpose of the Highly Fractionated Indian Land Program and ITLAP);--*

- (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 means 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 primarily associated with agricultural production,--* e.g., there is no established or stable market for them or production is speculative in nature.
- *--(2) Produces animals, birds, or aquatic organisms ordinarily used for pets, companionship, sport, or pleasure and not primarily associated with human consumption, fiber, or draft use.
- (3) Primarily markets 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.

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 means that an individual has:

- (i) Been the 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;
- (ii) Been employed as a farm manager or farm management consultant for the year's complete production cycle; or
- (iii) 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.

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.

Definition of Terms Used in This Handbook (Continued)

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, grandparent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, nephew, niece, cousin, grandson, granddaughter, or the spouses of any of those individuals. “Related by blood or marriage” is used for consistency with a requirement in the CONACT. It has the same meaning as the word “relative” for the Farm Loan Programs regulations in this Chapter.

Relative

[7 CFR 761.2] **Relative** means 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, son-in-law, daughter-in-law, father-in-law, mother-in-law, uncle, aunt, nephew, niece, cousin, grandparent, grandson, granddaughter, or the spouses of the foregoing. Relative has the same meaning as the term “related by blood or marriage” for the Farm Loan Programs regulations in this Chapter.--*

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.

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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.