

For: State and County Offices

Processing Accelerations and Other Actions Before Liquidation of Loans to Native Americans

Approved by: Deputy Administrator, Farm Loan Programs

Carolyn B. Cooksey

1 Overview

A Background

The Consolidated Farm and Rural Development Act (the Act) requires FSA to provide certain Native American borrowers notification of additional opportunities or alternatives for resolution of their FSA real estate secured debt before final FSA action to liquidate this real estate through foreclosure. These actions only apply to Native American borrowers whose real estate security is 1 of the following:

- located within a Federally Recognized Indian Reservation
- trust or restricted land located within the boundaries of a former reservation of a Federally Recognized Indian Tribe in Oklahoma
- on Indian allotments, the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a Federally Recognized Indian Tribe.

Note: Throughout this notice, the term “reservation” includes all of the above.

The Act requires that this group of borrowers be notified that they can do either of the following:

- request FSA to assign notes and security instruments either to the Secretary of Interior or to the Tribe with jurisdiction over the reservation in which the property is located
- voluntarily convey the security to FSA.

Disposal Date	Distribution
July 1, 2006	State Offices; State Offices relay to County Offices

Notice FLP-349

1 Overview (Continued)

A Background (Continued)

The notification of these additional rights will take place in conjunction with an acceleration of a loan completed according to this notice or after an acceleration of a loan if the acceleration was issued before the date of this notice. Native American borrowers accelerated through Notice FLP-62 or Notice FLP-275 will not be renotified unless so advised by the Regional OGC.

This additional notification effort requires not only borrower notification, but also third party notification. It requires that FSA advise the Tribe where the property is located that FSA may foreclose on land owned by a Native American borrower within the Reservation. Native American borrowers are to be advised through the notification Guide Letters provided in this notice of their right to require FSA to assign their loan to the Secretary of Interior, if the Secretary of Interior is willing to accept it, or to the Tribe, if the Tribe agrees to accept assignment of their loan or loans.

B Purpose

This notice:

- obsoletes Notice FLP-275
- provides consistent nationwide formats for notifying Native American borrowers and their Tribes of additional borrower rights to implement the Act and section 1955.9(c)(2) of RD Instruction 1955-A.

Exhibit 1 shall be used to notify the Native American borrower when the loan has already been accelerated by a previous acceleration notice, unless the loan was accelerated through the acceleration process in Notice FLP-62 or Notice FLP-275, in which case no further notification under this notice is required.

Exhibit 2 shall be used to accelerate certain Native American loan accounts and to notify those borrowers of their rights. After the date of this notice, this Guide Letter format will be used for the acceleration of all loans of Native American borrowers that are secured by land located within a reservation as described in this notice.

Exhibit 3 shall be used to notify the Tribe of available options.

Exhibit 4 provides more specific information on borrower rights under existing law and FSA regulation and must be attached to each Exhibit 1 and Exhibit 2 letter sent pursuant to this notice.

Notice FLP-349

1 Overview (Continued)

B Purpose (Continued)

This notice provides the Guide Letters sent to borrowers. Borrowers already notified through the obsolete exhibits of Notice FLP-62 or Notice FLP-275 should not be renotified, unless SED's are specifically required to re-accelerate Native American loans and renotify those borrowers of the additionally required "pre-foreclosure information" by their Regional OGC.

2 Action

A Farm Loan Manager (FLM) Responsibilities

FLM responsible for servicing Native American borrowers' accounts must:

- ensure that all loan servicing actions and any appeals have been concluded or exhausted before sending either Exhibit 1 or Exhibit 2
 - notify the borrowers affected by this notice by using either of the following:
 - for borrowers whose loans have already been accelerated by sending Exhibit 1 **and** Exhibit 4
- Note:** Borrowers accelerated through Notice FLP-62 or Notice FLP-275 will not be re-accelerated or renotified, unless otherwise directed by the Regional OGC.
- for borrowers whose loans have **not** previously been accelerated by sending Exhibit 2 (signed by DD) **and** Exhibit 4 after SED has approved foreclosure
 - notify the Tribe using Exhibit 3 of any Exhibit 1 or 2 letters issued to borrowers who have pledged as collateral Reservation land within such Tribe's jurisdiction
 - refer to Notice FLP-350 for processing borrower requests for an assignment of a loan to the Tribe or the Secretary of Interior.

B SED Responsibilities

SED responsible for these accounts must not permit acceleration on or foreclosure of any direct FLP loans held by Native American borrowers unless authority is granted by the National Office on a case-by-case basis. This restriction is based on the unresolved "Class Action Complaint" filed in U.S. District Court for the District of Columbia alleging acts of discrimination against Native American farmers and ranchers by FSA.

C Contact

Refer questions about this notice to Robert Zimmerman, LSPMD, at 202-690-4011.

Notification to a Native American Borrower With an Accelerated Loan Account of the Borrower's Rights

Borrower Name
Address of Borrower

Dear (Borrower):

We have reviewed your account and have determined that your account was accelerated on (Date). Our review revealed that all your primary and preservation servicing options under the Consolidated Farm and Rural Development Act (CONACT) were addressed and that all of your administrative appeal rights have been exhausted.

Under section 335 of the CONACT (7 U.S.C. 1985), Farm Service Agency (FSA) is required to notify you, at least 30 calendar days before the completion of a legal foreclosure sale of your FSA-secured real estate, that:

- you may request the Tribe, having jurisdiction over the Reservation in which the real property is located, be assigned the loan from FSA. FSA will forward your assignment request along with all other applicable loan information for Tribal consideration and determination.
- you may request FSA to assign the loans and security instruments to the Secretary of Interior.

This letter is your Agency notification of those additional CONACT rights. This letter not only explains those rights, but it also provides reminders of other rights or alternatives that continue to be available to you for possible account resolution under FSA regulatory authority.

To best list and explain the CONACT rights and settlement alternatives that remain available to you, we have them listed and explained below as Alternatives "A" through "E". Please review these rights and alternatives very carefully to determine whether it may be to your advantage to pursue an alternative to foreclosure of your property by the Government. You may wish to seek guidance or assistance from your legal counsel or Tribal leadership before deciding on the alternatives presented in this letter.

If you wish to pursue an alternative to legal foreclosure by the Government, you must promptly inform this office, in writing, of which alternatives you wish to pursue:

Alternative A You may request the Tribe, having jurisdiction over the Reservation in which the real property is located, be assigned the loan from FSA. FSA will send your assignment request along with all other applicable loan information for Tribal consideration and determination to the Tribe.

If the Tribe agrees to accept the assignment within 30 calendar days after we notify the Tribe of your request, the following will occur:

1. FSA will not foreclose the loan because of any default that occurred before the date of assignment.

Notification to a Native American Borrower With an Accelerated Loan Account of the Borrower's Rights (Continued)

2. The Tribe will pay FSA the lesser of the amount owed on the debt or the present market value of the collateral that secures the loan in exchange for the assignment of your loan to the Tribe. The Tribe may pay for the purchase of the loan assignment over time under terms and conditions similar to an Indian Tribal Land Acquisition Program (ITLAP) loan.
3. If the Tribe agrees to accept the assignment of your loan, your loan will be assigned to the Tribe. Your future payments will be made to the Tribe and future servicing will be done by the Tribe. FSA will no longer be responsible for the collection or servicing of your loan.

The Tribe does not have to agree to the assignment.

Alternative B You may request that your loan be assigned to the Secretary of Interior.

If you request this option, FSA will send your loan information to the Secretary of Interior for review. If the Secretary of Interior agrees to accept the assignment of your loan, your loan will be assigned to the Secretary of Interior, and FSA will no longer be responsible for the collection or servicing of your loan.

The Secretary of Interior does not have to accept your request for the assignment of your loan.

Alternative C You may voluntarily convey the security to FSA.

Subject to hazardous substance review, you can deed your property to FSA and we will credit your account with the present market value of the property or the total debt, whichever is greater. Under this alternative, you will lose your property but will no longer owe a debt to FSA.

Additional Alternatives

Alternative D You may sell the property to a buyer of your choice.

1. You can sell your property to a buyer of your choice for cash at a price not less than the present market value of the property.

Notification to a Native American Borrower With an Accelerated Loan Account of the Borrower's Rights (Continued)

2. Your chosen property buyer must have the financial ability to buy the property within a reasonable period of time. Under this alternative, the sale should be completed within 90 calendar days of your notification to FSA of your selection of this option.
3. You can sell the property to a buyer of your choice by "transfer and assumption" if the buyer qualifies for loan transfer under FSA regulations, and if the property is sold for not less than its present market value.

Alternative E If you can locate a source of funds to do so, you may pay your FSA indebtedness in full at any time before foreclosure sale.

A copy of this notice and FSA's determination of the value of the real estate security is being provided to the Tribe that has jurisdiction over the Reservation in which the real estate security is located.

We are also enclosing with this letter a more detailed explanation of the additional CONACT rights that are available to you.

WARNING: If you wish to pursue settlement or liquidation of your FSA indebtedness through any of the alternatives presented in this notification, this office must receive your written request for the alternative within **60 calendar days** of this letter. Your failure to respond to this letter will result in continued action by FSA for processing and referral of your loan account to FSA legal counsel for liquidation through foreclosure.

While FSA will not delay the actions necessary to initiate and process a legal foreclosure proceeding beyond the 60-calendar-day time period offered in this letter, FSA will consider and use your requested alternatives to the extent that they are authorized, are viable or feasible for your case, and will be fully completed for final resolution of your case BEFORE a scheduled foreclosure sale is accomplished.

Please contact this office if you have any questions.

Sincerely,

Farm Loan Manager

Attachment

cc: Tribe
Area Office, BIA
SED/FLC
DD

Notice of Acceleration for FLP Accounts Held by a Native American Borrower and Secured by Real Estate Located Within a Recognized Reservation and Borrower Rights

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Borrower

Address of Borrower

Subject: NOTICE OF ACCELERATION OF YOUR DEBT TO THE FARM SERVICE AGENCY, DEMAND FOR PAYMENT, AND NOTICE OF ADDITIONAL RIGHTS PRIOR TO FORECLOSURE

Dear (Borrower):

The entire indebtedness you owe to Farm Service Agency (FSA) evidenced by the promissory notes and assumption agreements described below is now declared immediately fully due and payable. Such promissory notes and assumption agreements are described as follows:

<u>Type of Instrument</u>	<u>Date of Instrument</u>	<u>Amount</u>
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These promissory notes and assumption agreements are secured by real estate mortgages, deeds of trust, financing statements, security agreements, etc. described as follows:

<u>Type of Instrument</u>	<u>Date of Instrument</u>	<u>Place of Recordation (Filing)</u>
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<u>Recorded In:</u>	<u>Book No.</u>	<u>Record under Document No.</u>
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This acceleration of your indebtedness is made in accordance with the authority granted in the above-described instruments.

Notice of Acceleration for FLP Accounts Held by a Native American Borrower and Secured by Real Estate Located Within a Recognized Reservation and Borrower Rights (Continued)

The reason for the acceleration of your indebtedness is as follows:

(If the borrower is in monetary default, list this as one reason for accelerating. If the borrower is not in monetary default, refer to current handbook guidelines.)

The indebtedness due is \$_____ unpaid principal, and \$_____ unpaid interest, as of _____, plus additional interest accruing at the rate of \$_____ per day thereafter, plus any advances made by FSA for the protection of its security and interest accruing on any such advances. Unless your full repayment of your indebtedness is received through one, or a combination, of the methods described below within 60 calendar days from the date of this letter, FSA will foreclose the above described security instruments and pursue any other available legal means to resolve your remaining indebtedness.

Under section 335(e) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1985(e)), you are entitled to receive notification from this Agency of additional rights available to you for liquidation or settlement of your FSA loan account prior to United States Government completion of a legal foreclosure sale of your FSA-secured real estate. This letter lists those additional CONACT rights. This letter also lists other alternatives you may wish to utilize to resolve your FSA indebtedness.

If you wish to pursue an alternative to legal foreclosure, you must inform this office in writing within 60 calendar days of this notification specifying which of the following settlement or liquidation alternative, or combination of alternatives, you wish to pursue:

Alternative A You may request the Tribe, having jurisdiction over the reservation in which the real property is located, be assigned the loan from FSA. FSA will forward your assignment request along with all other applicable loan information for Tribal consideration and determination.

If the Tribe agrees to accept the assignment within 30 calendar days after we notify the Tribe of your request, the following will occur:

1. FSA will not foreclose the loan because of any default that occurred before the date of assignment.
2. The Tribe will pay FSA the lesser of the amount owed on the debt or the present market value of the collateral that secures the loan in exchange for the assignment of your loan to the Tribe. The Tribe may pay for the purchase of the loan assignment over time under terms and conditions similar to an Indian Tribal Land Acquisition Program (ITLAP) loan. Note that ITLAP servicing options may be available except that ITLAP write down servicing options are not available for this loan.

Notice of Acceleration for FLP Accounts Held by a Native American Borrower and Secured by Real Estate Located Within a Recognized Reservation and Borrower Rights (Continued)

3. If the Tribe agrees to accept the assignment of your loan, your loan will be assigned to the Tribe. Your future payments will be made to the Tribe and future servicing will be done by the Tribe. FSA will no longer be responsible for the collection or servicing of your loan.

The Tribe does not have to agree to the assignment.

Alternative B You may request that your loan be assigned to the Secretary of Interior.

If you request this option, FSA will send your loan information to the Secretary of Interior for review of your request. If the Secretary of Interior agrees to accept the assignment of your loan, your loan will be assigned to the Secretary of Interior, and FSA will no longer be responsible for the collection or servicing of your loan.

The Secretary of Interior does not have to accept your request for the assignment of your loan.

Alternative C You may voluntarily convey the security to FSA.

Subject to hazardous substance review, you can deed your property to FSA and we will credit your account with the present market value of the property or the total debt, whichever is greater. Under this alternative, you will lose your property but will no longer owe a debt to FSA.

Additional Alternatives**Alternative D** You may sell the property to a buyer of your choice.

1. You still retain the right to sell your property to a buyer of your choice for cash as long as the price you receive for such sale is not less than the present market value of FSA's security property.
2. Your chosen property buyer must have the financial ability to buy the property within a reasonable period of time. In most cases, the sale of your property should be completed within 90 calendar days of your notification to FSA of your selection of this option.

Notice of Acceleration for FLP Accounts Held by a Native American Borrower and Secured by Real Estate Located Within a Recognized Reservation and Borrower Rights (Continued)

3. You can sell the property to a buyer of your choice by transferring your ownership of your property and transferring the obligation of your FSA indebtedness if your chosen buyer qualifies for loan transfer under FSA regulations, and if the property is sold for a price that is not less than its present market value. This action, or series of actions, is referred to as “transfer and assumption”.

Alternative E You may pay your FSA indebtedness in full.

All FSA borrowers are entitled to fully repay the entire indebtedness they owe to FSA at any time, unless a legal action has occurred that prevents or supersedes FSA enforcement of its loan instruments.

WARNING: If you wish to pursue settlement or liquidation of your FSA indebtedness through one, or a combination, of the alternatives presented in this notification, your written request, including which alternatives you want, must be received by FSA within **60 calendar days** of this letter. If you do not respond to this letter within 60 calendar days, FSA will continue to foreclose on your property.

While FSA will not delay the actions necessary to initiate and process a legal foreclosure proceeding beyond the 60 calendar days offered in this letter, FSA will consider and use your requested account resolution alternatives that are authorized, are viable, and can and will be completed **BEFORE** a scheduled foreclosure sale.

If you have not been advised of your rights to request deferral of payments or other servicing options, you should contact the Farm Loan Manager at the above mentioned address within 15 calendar days of the receipt of this notice. (**Note: Omit this paragraph when accelerating accounts for failure to graduate or accelerating accounts of Non-Program Loan debtors.)

You do not have any right to appeal this decision to accelerate your FSA debt to any official of the U.S. Department of Agriculture.

In accordance with the requirements of section 335(e) of the CONACT (7 U.S.C. 1985(e)), a copy of this notice and FSA’s determination of the value of the real estate security is being provided to the Tribe that has jurisdiction over the Reservation in which the real estate security is located.

We are also enclosing, with this letter, a more detailed explanation of the additional CONACT rights that are available to you.

Sincerely,

District Director

Attachment

cc: Tribe
Area Office, BIA
SED/FLC
DD

Notification of Options Available to the Tribe

(Tribe)
(Address)

SUBJECT: (Borrower's Name)

Dear Sir or Madame:

This letter concerns (borrower's name) (hereafter referred to as "borrower") Farm Service Agency (FSA) real estate, and, if applicable, chattel security, and the options available in lieu of foreclosure on (number) acres with a present market value of (amount).

Attached is a copy of the notice (with all attachments) that was sent to the borrower who has debt obligations with FSA that are in serious default. The borrower has pledged real estate security for this debt, and that security lies within the jurisdiction of your Tribe's Reservation.

Under section 335(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(e)), one of the liquidation options offered the borrower is the assignment of the borrower's FSA loans to the Tribe. If the borrower requests FSA to assign the loan to the Tribe and the Tribe is agreeable to the assignment, the Tribe would purchase the assigned loan at the lesser of the present market value of the property securing the loan or the outstanding principal and interest due under the loan.

If the Tribe purchases the borrower's loan, the borrower's obligation will be to the Tribe under the assigned promissory note. Notwithstanding any loan servicing needs, or loan servicing arrangements between the borrower and the Tribe, the Tribe will be independently obligated to pay, or continue to make payments to, FSA for the purchase of the assignment.

The Tribe may pay the value of the assigned loan under terms and conditions similar to an Indian Tribal Land Acquisition Program (ITLAP) loan or it may pay this amount in full at the time of the assignment. All ITLAP servicing options may be applied to such loans, except any writedown servicing options are not available for such loans.

We encourage you to contact the borrower to discuss these options and contact FSA for information on requirements necessary to complete the transaction.

If the borrower has not responded to the attached notice in writing within 60 calendar days, the matter will be referred for collection and foreclosure. We will be in contact with you if the borrower requests us to assign the loan to the Tribe.

Sincerely,

Farm Loan Manager

Attachments

cc: Borrower
SED/FLC
DD
Area Office, BIA

Information on Native American Borrower Rights Under the Consolidated Farm and Rural Development Act**EXPLANATION AND APPLICABILITY OF OPTIONS OFFERED TO NATIVE AMERICAN BORROWERS AND INDIAN TRIBES WITH RESPECT TO REAL PROPERTY SECURING FARM SERVICE AGENCY LOANS THAT IS LOCATED WITHIN THE BOUNDARIES OF A FEDERALLY RECOGNIZED INDIAN RESERVATION****I. INDIAN RESERVATION**

The term "Indian Reservation" means all land located within the limits of any Indian Reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a Federally recognized Tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a Federally Recognized Tribe.

II. BORROWER CONSULTATION WITH TRIBE

Borrowers may consult with the Tribe that has jurisdiction over the Indian Reservation in which the real property is located to determine if State or Tribal law provides rights and protections that are more beneficial than those provided the borrower under the Consolidated Farm and Rural Development Act (CONACT). After such consultation, you may advise us of your findings (citing applicable authorities), and we will consider such findings for possible application in your loan.

III. BORROWER RIGHT TO VOLUNTARILY CONVEY REAL ESTATE TO FARM SERVICE AGENCY

A Native American borrower whose loan is secured by real property located within the boundaries of an Indian Reservation may voluntarily convey the real property to the Farm Service Agency (FSA), and, in the absence of hazardous substances as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, FSA will agree to accept that voluntary conveyance. Real property so conveyed will be placed in the inventory of FSA.

FSA will credit the borrower's account with, or to the extent of, the present market value of the property or the total debt, whichever is greater. This means that if the borrower voluntarily transfers ownership of the property that serves as collateral for the borrower's FSA loans, the borrower's account would be credited such that the borrower would no longer owe FSA any indebtedness. The property will then be owned by FSA.

Information on Native American Borrower Rights Under the Consolidated Farm and Rural Development Act (Continued)**IV. GOVERNMENT ACTIONS IF THE REAL PROPERTY IS NOT CONVEYED OR THE DEBT OWED FSA IS NOT OTHERWISE RESOLVED**

If, after notification and consideration of delinquent borrower servicing rights, the borrower does not voluntarily convey the real property to FSA or does not otherwise resolve the outstanding debt owed to FSA:

- 1) FSA may foreclose on the property.
- 2) In the event of such foreclosure, the FSA security property will be offered for sale to the public. Sales are conducted on a "high bid basis".
- 3) FSA must offer a bid for the property at the foreclosure sale that is equal to the present market value of the property, or the outstanding principal and interest owed on the loan, whichever is higher.
- 4) The property may be purchased through such foreclosure sale by another party who bids higher than FSA.
- 5) If the property is purchased by another party at such foreclosure sale, the property will not be placed in FSA inventory and you will forfeit, and will not have access to, further real estate rights in the property and protections provided under the CONACT.

V. PRIORITY ESTABLISHMENT FOR SALE OF INVENTORY REAL ESTATE - IF FSA BECOMES OWNER OF THE PROPERTY

Not later than 90 calendar days after FSA acquires ownership of real property, whether such ownership was gained through voluntary conveyance by the borrower, or through a successful bid by the FSA at a foreclosure sale, FSA will afford an opportunity to purchase the real property in accordance with the order of priority established by the Tribe having jurisdiction over the Indian Reservation within which the real property is located. If no order of priority is established by the Tribe, the real property will be sold in the following order: (1) to a member of the Tribe that has jurisdiction over the Reservation within which the real property is located; (2) to an Indian corporate entity; or (3) to the Tribe.

The governing body of the Indian Tribe having jurisdiction over an Indian Reservation may revise, or re-arrange, the order of priority stated above, and may restrict the eligibility for purchase to: (1) persons who are members of the Tribe; (2) Indian corporate entities that are authorized by the Tribe to purchase lands within the boundaries of such Reservation; or (3) the Tribe itself.

These sale conditions or requirements are in accordance with section 335(e) of the CONACT (7 U.S.C. 1985(e)).

Information on Native American Borrower Rights Under the Consolidated Farm and Rural Development Act (Continued)**VI. TRANSFER OF INVENTORY LAND FROM THE SECRETARY OF AGRICULTURE TO THE SECRETARY OF INTERIOR**

If real property comes into FSA ownership from the borrower, is not purchased under paragraph V above, and the Tribe having jurisdiction over the reservation where the real property is located is unable to purchase the real property, FSA will transfer the real property to the Secretary of Interior who will administer the real property as if the real property were held in trust by the United States for the benefit of the Tribe.

From the income generated from that property, the Secretary of Interior will pay those State, county, municipal, or other local taxes to which the real property was subject at the time of acquisition by FSA until the earlier of: (1) the expiration of the 4-year period beginning on the date on which the real property was transferred to FSA; or (2) such time as the lands are transferred into trust.

When real property is transferred to the Secretary of Interior, FSA will have no further responsibility for collection of any amounts with regard to the farm program loan that had been secured by real property, nor with regard to any lien arising out of the loan transaction, nor for repayment of any amount with regard to the FSA loan transactions or liens to the Treasury of the United States.

The Secretary of Interior will succeed to all rights, title and interest of FSA in the real estate, including the obligation to remit to the Treasury of the United States amounts in repayment of the original loan. Repayment will occur in that after the payment of required taxes, all income generated from the property will be deposited as miscellaneous receipts in the Treasury of the United States until the amount deposited is equal to the lesser of: (1) the amount of the outstanding lien of the United States, as of the date the property was acquired by FSA; (2) the present market value of the real property, as of the date of the transfer to the Secretary of Interior; or (3) the capitalized value of the property, as of the date of transfer to the Secretary of Interior.

When the total amount that is required to be deposited with respect to any real property has been deposited into the Treasury of the United States, title to the real property will be held in trust by the United States for the benefit of the Tribe having jurisdiction over the Indian Reservation within which the real property is located.

Information on Native American Borrower Rights Under the Consolidated Farm and Rural Development Act (Continued)

Notwithstanding any other provision, the Tribe having jurisdiction over the Indian Reservation within which the real property is located may, at any time after the real property has been transferred to the Secretary of Interior, offer to pay the remaining amount of the lien, or the present market value of the real property, whichever is less. Upon payment of such amount, title to such real property will be held by the United States in trust for the Tribe and such trust or restricted lands that have been acquired by FSA foreclosure or voluntary transfer, and transferred to an Indian person, entity, or Tribe, will be deemed to have never lost trust or restricted status.

VII. FARM SERVICE AGENCY FORECLOSURE SALE BIDDING REQUIREMENTS

At a foreclosure sale of real property described in this Exhibit, FSA will offer a bid for the property being foreclosed that is equal to the higher of: (1) the present market value of the property; or (2) the outstanding principal and interest of the real estate secured FSA loans.

If a hazardous substance is located on the property and FSA would find it necessary to take remedial action to protect human health or the environment if the property were to be taken into inventory, FSA bid at the higher of “the present market value” or “the outstanding debt balance” would apply only if FSA determines that it is in the best interest of the Federal Government to offer such bid.