

For: State and County Offices

Assignment of Native American Loans to a Tribe or the Secretary of Interior

Approved by: Deputy Administrator, Farm Loan Programs



1 Overview

A Purpose

This notice:

- obsoletes Notice FLP-274
- provides instructions for processing assignment of a Native American borrower’s loans to a Tribe or Secretary of Interior when requested according to Notice FLP-349
- includes exhibits to notify the following:
 - Tribe of a request by a Native American borrower that the Tribe be assigned a loan (Exhibit 1)
 - Native American borrower of a decision by the Tribe or Secretary of Interior to accept a borrower’s loan assignment request (Exhibit 2)
 - Native American borrower of a decision by the Tribe or Secretary of Interior to deny the borrower’s loan assignment request (Exhibit 3).

B Contact

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

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

Notice FLP-350

2 Action

A Farm Loan Manager (FLM) Responsibilities

FLM's shall, upon receipt of a request from a Native American borrower made according to Notice FLP-349, do the following.

Step	Action
1	<p>If the borrower requests that the Tribe be assigned the loan, FLM shall notify the Tribe of the borrower's request and advise the Tribe to respond to FSA regarding its intention to accept or deny such a request within 30 calendar days using Exhibit 1.</p> <p>The notification to the Tribe shall include the following:</p> <ul style="list-style-type: none"> • a copy of the current appraisal of the real estate and valuations of all chattel security • a copy of the borrower's Promissory Notes to be assigned • a copy of all security instruments • the amount the Tribe would be required to pay FSA for assignment of the loan <p>Note: This amount shall equal the lesser of the present market value of all loan security or the principal and interest outstanding on the loan.</p> <ul style="list-style-type: none"> • a statement that the Tribe may pay for the assignment transaction over a period of time under terms and conditions similar to the Indian Tribal Land Acquisition Program (ITLAP).
2	<p>If the borrower requests that the Secretary of Interior be assigned the loan, FLM shall refer the request, along with a copy of each of the following, through SED, to the National FSA Office:</p> <ul style="list-style-type: none"> • current appraisal of remaining FSA security • borrower's Promissory Notes • all security instruments. <p>Notes: The National FSA Office's address is as follows.</p> <p align="center">FSA DAFLP LSPMD STOP 0523 1400 INDEPENDENCE AVE SW WASHINGTON DC 20250-0523</p> <p>The National FSA Office will work with the National Office of BIA to determine whether the Secretary of Interior will accept the assignment of the loan.</p>

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2 Action (Continued)

A Farm Loan Manager (FLM) Responsibilities (Continued)

Step	Action
3	FLM shall notify the borrower that the request has been forwarded. Once the “Secretary of Interior” determination is made, the National FSA Office, through SED, will notify FLM of the decision and how to proceed.
4	Upon Agency receipt of the decision by the Tribe or the Secretary of Interior to accept the borrower’s loan assignment request, FLM shall notify the borrower of the decision using Exhibit 2.
5	<p>If the Tribe has indicated that it will accept an assignment of the loan and will seek to pay for the transaction over a period of time, FLM shall send the Tribe, for the Tribe to execute within 90 calendar days, a promissory note payable to FSA in exchange for the assignment of the loan, as well as any other loan documents required by FSA to finance this debt under rates and terms similar to an ITLAP loan, including an assignment of Tribal income as security for the Tribe’s loan. The promissory note shall be prepared with the consideration amount as determined under step 1 and with rates and terms similar to an ITLAP loan.</p> <p>Note: All ITLAP servicing options may be applied to these loans, except any write down servicing options are not available for these loans.</p>
6	If the Tribe has timely executed and returned the documents described in item 5, FLM shall send to the Tribe all original borrower promissory notes and mortgages being assigned, along with any other relevant security instruments. Agency documents provided to the Tribe shall be prepared, endorsed, processed, and delivered pursuant to guidance from the regional OGC.
7	<p>If the decision of the Tribe or the Secretary of Interior is not to accept the assignment of the loan, FLM shall:</p> <ul style="list-style-type: none"> • notify the borrower using Exhibit 3 • proceed with foreclosure action according to applicable procedures. <p>Note: Failure of the Tribe to respond to a request that the Tribe accept an assignment of the loan, or to finalize the loan assignment transaction within the time provided in this notice, shall be treated as a denial of the request.</p>
8	FLM shall keep copies of all letters or documents sent or received in the borrower’s loan file.

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2 Action (Continued)

B FLM or Finance Office Responsibilities

FLM or Finance Office shall do the following.

Step	Action
1	<p>The Finance Office shall process all transactions related to the assignment of a Native American account to a Tribe or the Secretary of Interior upon receipt of a transmittal letter from the servicing office accompanied by copies of the assignment agreement and promissory notes that are assigned.</p> <p>The servicing office transmittal letter must provide to the Finance Office the present market value of the security assigned, number of acres under FSA security instruments, and amount of the annual installments to be paid by the Tribe under any ITLAP rate and term financing provided. If the Tribe pays the full assignment consideration price in cash (up front) as opposed to ITLAP rate and term financing, the servicing office transmittal letter will notify the Finance Office accordingly, including the information from the payment transmittal record.</p> <p>If the Secretary of Interior has accepted the assignment, the borrower's loan will be assigned to the Secretary of Interior pursuant to National Office instructions. See subparagraph A, step 3.</p> <p>The Finance Office will close out the Native American borrower's FSA loan account and no further FSA servicing action will be required.</p> <p>If the Tribe has accepted the assignment of the borrower's loan and has given FSA a new promissory note for the purchase of the loan, payments received by FSA on a new Tribal loan taken to pay the "assignment" should follow the same guidelines currently used for regular ITLAP payment processing.</p>

Notification to a Tribe of a Native American Borrower's Request to Have a Loan Assigned to the Tribe (With Example Information)

(Tribe)
(Address)

SUBJECT: Borrower Request that Farm Service Agency Loans Be Assigned to the Tribe

Table with columns: Borrower's Name, No., Type, Principal, Interest, Balance, Rate, DIA*, Status. Includes a 'Total' row and a note '* Daily Interest Accrual'.

Dear Sir or Madam:

This letter concerns the request of (borrower's name) that the enclosed Farm Service Agency (FSA) loans and security instruments be assigned to the Tribe pursuant to section 335(e)(1)(A)(v) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(e)(1)(A)(v)).

If the Tribe agrees to accept the assignment of these loans, the Tribe will pay FSA (\$) in exchange for the assigned loans. The amount to be paid for the assignment of the loans represents the lesser of the outstanding principal and interest of the loans or the present market value of the security for the loans.

We request that you inform this office of your decision regarding your intention to accept the assignment of the loans by returning to this office a copy of this letter with the appropriate box marked within 30 calendar days from the date of this letter.

- [] Yes, the Tribe intends to accept the borrower's loan assignment request without FSA financing.
[] Yes, the Tribe intends to accept the borrower's loan assignment request with FSA financing.
[] No, the Tribe does not intend to accept the borrower's loan assignment request.

If you have any questions, please contact the undersigned.

Sincerely,

Return Response to:

Farm Loan Manager

cc: Area Office, BIA
SED/FLC
DD

Enclosures

Notification to a Native American Borrower of Acceptance of an Assignment Request

(Borrower)
(Address of Borrower)

Dear (Borrower):

In response to your request, we submitted a request to the (Tribe or the Secretary of Interior) to accept an assignment of the following Farm Service Agency (FSA) Farm Loan Programs loans: (loan numbers). Your request was granted.

FSA will immediately proceed in transferring the referenced loans to the (Tribe or the Secretary of Interior). Because FSA will have no further responsibility to the servicing or collection of these loans, all your future contacts and questions concerning these loans should be directed to the (Tribe or the Bureau of Indian Affairs Area Office).

Sincerely,

Farm Loan Manager

cc: Tribe
Area Office, BIA
SED/FLC
DD

Notification to a Native American Borrower of Denial of an Assignment Request

(Borrower)
(Address of Borrower)

Dear (Borrower):

In response to your request, we submitted a request to the (Tribe or the Secretary of Interior) to accept the assignment of your Farm Service Agency (FSA) Farm Loan Programs loans identified as (loan numbers). Unfortunately, your request was denied.

Therefore, you may wish to pursue option C, D, or E contained in our letter of (date of letter sent to borrower pursuant to Notice FLP-349). If you do not successfully pursue one of these options, FSA will proceed toward foreclosure action. Although FSA's foreclosure process will not be delayed while you attempt other options or resolution actions, FSA will stop the foreclosure process and sale if you otherwise successfully resolve your indebtedness with FSA before any scheduled foreclosure sale.

Sincerely,

Farm Loan Manager

cc: Tribe
Area Office, BIA
SED/FLC
DD