

For: FSA Employees

**Supplemental Standards of Ethical Conduct for FSA Employees:
Direct Loan Restriction Amendment**

Approved by: Deputy Administrator, Management



1 Overview

**A
Background**

On March 24, 2000, USDA published an interim rule with the concurrence of the Office of Government Ethics, establishing agency-specific, Standards of Ethical Conduct regulations in 5 CFR Part 8301. The final rule was published on October 2, 2000.

5 CFR 8301.103(c) prohibited FSA employees and their spouses and minor children from directly or indirectly seeking or obtaining a “direct loan”, as defined in Section 343 of the Consolidated Farm and Rural Development Act (CONACT) 7 U.S.C. 1991(a)(9).

Although 5 CFR 8301.103(a) provided that the regulation applied solely to FSA Federal employees, FSA exercised its authority and responsibility for formulating and administering personnel programs for FSA non-Federal County Office employees by extending the Standards of Ethical Conduct supplemental regulations to include all FSA non-Federal County Office employees.

On May 13, 2002, President Bush signed the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) into law, which amended CONACT by adding a new Section 377 that, in part, provides that the Secretary of Agriculture shall not prohibit “an employee of the Department of Agriculture from obtaining a loan or loan guarantee...” As a result, USDA published a final rule on September 16, 2002, amending 5 CFR Part 8301 accordingly.

Continued on the next page

Disposal Date January 1, 2004	Distribution All FSA employees; State Offices relay to County Offices
---	---

Notice PM-2352

1 Overview (Continued)

B

Purpose

This notice provides guidance about FLP loanmaking and loan servicing policies for loans to FSA employees and their relatives.

C

Additional Information

The revised text of 5 CFR Part 8301 may be viewed at www.access.gpo.gov/ecfr/.

Pub. L. 107-171 may be viewed at www.usda.gov. Click on “2002 Farm Bill”.

D

Contact

Questions about this notice shall be directed according to the following.

IF the employee is located in...	THEN contact...
the National Office	HRD Ethics Advisors: <ul style="list-style-type: none">• Tonya S. Willis at 202-418-8972• Ellen Pearson at 202-418-9089.
<ul style="list-style-type: none">• Kansas City Complex• FSA in St. Louis• APFO• State Office• County Office and is a Federal employee	Servicing Employee Relations Specialist, KCAO at 816-926-6643.
County Office and is a non-Federal employee	the State Office. Note: State Offices shall contact Tonya S. Willis, HRD: <ul style="list-style-type: none">• if unable to address questions or situations received from non-Federal County Office employees• to consult when making determinations about supplemental regulations/waivers.

Note: All questions about eligibility or feasibility for obtaining FLP loans should be directed to LMD at 202-720-1632.

Continued on the next page

Notice PM-2352

1 Overview (Continued)

E

Labor Management Obligations

Where exclusive representation exists, bargaining may be requested to the extent allowed by applicable statutes. Where contract language already addresses these policies and procedures for bargaining unit employees, contract language prevails.

2 Implementation

A

Action

Effective immediately, FSA employees, and their spouses and minor children, may obtain direct loans that were previously prohibited under 5 CFR 8301.103(c), provided they meet program eligibility and other requirements as set forth in applicable FSA handbooks and FmHA/RD Instructions.

B

Updating Agency Handbooks

3-PM and 22-PM, respectively, will be amended by HRD to reflect the current policy.

C

Definitions

The following definitions apply to the implementation of this notice.

Relative, as defined in 3-PM, Exhibit 2, means a father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Routine servicing means an action, taken on an existing loan account by an employee with inherent or delegated authority according to 1-FLP, that is based on either of the following:

- approved FSA 431-2 or other plan acceptable to FSA
- approved FSA 1962-1 and/or security instrument.

Routine servicing includes, but is not limited to, the following:

- collecting information to assist the approval official
 - completing a year-end analysis
 - releasing proceeds according to an approved FSA 1962-1
 - collecting payments.
-

Continued on the next page

2 Implementation (Continued)

D

Approving Loan and Servicing Requests To comply with Section 377 of CONACT and ensure impartiality, as well as remove any appearance of a conflict of interest, FLP direct and guaranteed loan and servicing applications submitted by FSA employees and their relatives shall be handled as follows.

IF the loan or servicing application is from an employee or an employee's relative and the employee is in a...	THEN the request will be approved by the...
County Office	State Office.
State Office	National Office.

Notes: Routine servicing requests may be processed and approved in the County Office:

- serving the county where the operation is headquartered
- where the file is maintained.

SED may redelegate their loan approval authority to the Farm Loan Chief, Farm Loan Specialist, or DD according to 1-FLP, subparagraph 23 F.

State Offices shall FAX or submit requests requiring National Office approval to LMD or LSPMD, as appropriate. See 1-FLP, paragraph 3 for address and FAX numbers.

Loan and servicing applications received from COC will be processed and approved in the County Office servicing the county in which the operation is headquartered provided the request is within the approval official's authority.

CED's with loan approval or servicing authority shall recuse themselves from any loan or servicing request received from a member of their COC.

Continued on the next page

Notice PM-2352

2 Implementation (Continued)

E

Maintaining Files

Loan files shall be maintained according to the following table.

IF the borrower is...	THEN the file will be maintained in...
an employee in a County Office	either of the following: <ul style="list-style-type: none"> • a neighboring County Office • the State Office.
a relative of an employee in a County Office	
	Note: SED shall establish policy for their State.
a State Office employee	the County Office serving the county in which the operation is headquartered.
a relative of an employee in a State Office	Exception: If unusual circumstances exist, SED may require the file to be transferred to another County Office.
Note: This includes STC and SED relatives.	
STC	a neighboring State Office.
SED	the National Office.
COC	the County Office serving the county in which the operation is headquartered. Note: The file may be maintained in a neighboring County Office at the request of the applicant/borrower.
