

UNITED STATES DEPARTMENT OF AGRICULTURE  
Farm Service Agency  
Washington, DC 20250

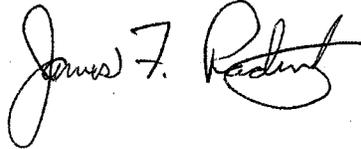
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**Guaranteed Loan Making and Servicing  
2-FLP (Revision 1)**

**Amendment 32**

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**Approved by:** Acting Deputy Administrator, Farm Loan Programs



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**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraphs 15 C; 230 D and E; 248 C; 281 D; 286 D; 287 B; 288 F; 313 A; 344 B; 359 F; 360 F and G; 362 A and B; 363 B, H, I, K, L, M; 375 C; and 376 A; and Exhibit 10 have been amended to change FSC, FLOO references to the National Financial and Accounting Operations Center (NFAOC), Farm and Community Services Branch because of a name change.

Paragraph 20 has been amended to update authorized agency official, DD, and SED responsibilities to collaborate with SBA, RD, and other Federal Agencies.

Paragraph 21 has been added to provide guidance on collaboration with SBA, RD, and other Federal Agencies and reference new FSA-2297.

Subparagraphs 248 B, 327 B, 362 A, and 363 G, and Exhibit 21 have been amended to update FLOO references with NFAOC.

Subparagraph 267 E has been amended to add that copies of letters from all PLP reviews should be forwarded to DAFLP, LSPMD.

Subparagraph 281 D has been amended to correct a CFR reference and update FSC, FLOO references with NFAOC, Farm and Community Services Branch.

Exhibit 6 has been added to provide MOU Between SBA and USDA.

**Amendment Transmittal (Continued)**

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
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7, 8	2-7, 2-8	6, pages 1-6 (add)
	2-9, 2-10 (add)	10, pages 5, 6
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**Part 2 Guaranteed FLP****15 Program Purpose and Eligible Lenders****A Program Purpose**

FSA's Guaranteed FLP:

- enables lenders to extend credit to family farm owners or operators who do not qualify for standard commercial loans
- benefits beginning farmers and family farmers experiencing financial distress, as well as lending institutions and the local community as a whole

**Note:** Farmers receive credit at reasonable terms to finance their current operations or to expand their business. Financial institutions receive additional loan business and servicing fees, as well as other benefits from the program.

- serves the local community by protecting family farmers and farm-related businesses
- enables lenders to extend conservation credit to some farmers who are **not** eligible for guaranteed FO's or OL's.

**B Requirements**

\*--Lenders who are subject to credit examination and supervision by an acceptable State or Federal regulatory agency, and have experience in agricultural lending are eligible to participate in the FSA Guaranteed Farm Loan Program. Lenders who have little or no--\* experience with FSA-guaranteed loans are considered SEL's and must originate and service loans under SEL requirements.

Lenders who have a positive track record of participation in the program may participate in 1 of FSA's status lender programs. CLP and PLP are the 2 status lender programs. Once lenders are approved by FSA as a CLP or PLP lender, they may process loans under the reduced paperwork and supervision requirements afforded to the respective status lender program.

For more information on the different lender types, see Part 4.

**15 Program Purpose and Eligible Lenders (Continued)****C Lenders Agreement**

The purpose of the Lender's Agreement is to:

- establish the lender as an approved participant in the FSA Guaranteed Farm Loan Program
- outline the terms and conditions for originating and servicing FSA-guaranteed loans.

The lender is responsible for originating and servicing all guaranteed loans in their portfolio according to Lenders Agreement that is valid at the time.

**Example:** If a lender has an approved SEL Lenders Agreement, they will originate and service loans under SEL requirements spelled out in 7 CFR Part 762 and this handbook.

If the same lender later applies for PLP status and is approved, a new PLP Lenders Agreement will be executed. As long as the PLP Lenders Agreement remains in effect, the lender will originate and service all FSA-guaranteed loans in their portfolio, including loans originated while the lender was SEL, under the conditions agreed to in the PLP Lenders Agreement.

For CLP and PLP lenders, Lenders Agreement is valid for 5 years from the date of execution by SED or DAFLP. For SEL's, Lenders Agreement is valid indefinitely from the time of execution by the authorized agency official, unless otherwise terminated or replaced by FSA.

For each State covered by the approved Lenders Agreement, the State Office is responsible for entering the details of the approved Lenders Agreement in GLS. State Offices may seek \*--assistance from the NFAOC, Farm and Community Services Branch for particularly--\* complex situations.

## 20 Responsibilities

### A Authorized Agency Official Responsibilities

The authorized agency official is responsible for:

- serving as the primary contact and decision maker for the FSA Guaranteed Farm Loan Program
- approving loans, up to thresholds specified in 1-FLP, paragraph 29
- providing training for lenders and prospective lenders
- \*--collaborating with SBA, RD, and other Federal Agencies--\*
- monitoring lender's servicing actions
- processing loss claims for SED approval.

**Note:** Authorities that must be delegated are listed in 1-FLP, paragraph 25.

### B DD's Responsibilities

DD is responsible for:

- overseeing the authorized agency official
- approving loan requests as outlined in 1-FLP, paragraph 29
- \*--collaborating with SBA, RD, and other Federal Agencies--\*
- providing management and technical assistance to local servicing offices.

### C SED's Responsibilities

SED is responsible for:

- determining the most effective and efficient method of program delivery for making and servicing guaranteed loans
- overseeing the operations of all FSA offices within the State
- funding allocations, and at their discretion, funding allocations may be delegated to lower levels within the organization

**20 Responsibilities (Continued)****C SED's Responsibilities (Continued)**

- providing technical assistance as needed
- providing annual training for lenders and prospective lenders
- \*--collaborating with SBA, RD, and other Federal Agencies
- informing DAFLP of lender training and collaboration efforts with SBA, RD, and other Federal Agencies--\*
- approving loan requests as outlined in 1-FLP, paragraph 29
- approving all loss claims before payment
- ensuring equitable treatment in processing loan applications as outlined in Part 6
- submitting recommendations to DAFLP about approval of SEL status for nontraditional lenders
- approving requests for CLP status
- maintaining files on CLP Lender activity within the State
- submitting recommendations to DAFLP about approval of PLP status
- ensuring that lender monitoring visits are conducted.

**D DAFLP's Responsibilities**

DAFLP is responsible for:

- managing FLP's on a national level
- developing policy
- monitoring the financial condition of status lenders
- approving lender requests for PLP status
- approving nontraditional lender requests for SEL status
- issuing SEL Lenders Agreement for nontraditional lenders
- determining funding allocations
- ensuring consistent application of regulations and policies.

**\*--21 Collaboration With SBA, RD, and Other Federal Agencies**

**A MOU Between SBA and USDA**

State and County Offices shall become familiar with the contents of the MOU between SBA and USDA (Exhibit 6).

**B Collaboration Activities**

State and County Agency officials shall collaborate with local SBA, RD, and other applicable Federal Agencies to ensure that the financing needs of agricultural producers are met. To the maximum extent possible, Agency officials shall:

- develop and maintain effective working relationships with SBA, RD, and other Federal Agency partners
- attend and participate in SBA, RD, and other applicable Federal Agency lender training sessions
- invite SBA, RD and other applicable Federal Agencies to participate in FSA-sponsored training for lenders and prospective lenders
- participate in joint Agency outreach and marketing efforts.

**C Reporting Requirements**

Annually, SED shall complete FSA-2297 for the previous FY and provide to DAFLP by no later than December 31.

**22-30 (Reserved)**



**230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p))****A Consolidation of Loans**

Loans covered by interest assistance agreements cannot be consolidated.

**B Transfer and Assumption**

For loans covered by an IA agreement, **such loans can be transferred only when the transferee was liable for the debt on the effective date of the interest assistance agreement. Loans covered by interest assistance can be transferred to an entity if the entity is eligible in accordance with § 762.120 (paragraph 108 and applicable paragraphs 109 and 110) and § 762.150(b) (paragraph 224) and at least one entity member was liable for the debt on the effective date of the interest assistance agreement.**

**C Debt Writedown**

When consideration is given to using a debt writedown to service a delinquent account, the subsidy level will be recalculated before any writedown. If IA is available on the loan and a feasible plan can be obtained using IA, IA will be used instead of a writedown. **Interest assistance will be discontinued as of the date of any writedown on a loan covered by an interest assistance agreement.** No further IA will be available on any loan that has been written down.

**D Rescheduling or Deferral of Loans and Additional Beginning Farmer IA Funding**

When a borrower defaults on a loan with interest assistance or the loan otherwise requires rescheduling or deferral, the interest assistance agreement will remain in effect for that loan at its existing terms. The lender may reschedule the loan in accordance with § 762.145 (see also paragraphs 312-327). **For Interest Assistance Agreements dated June 8, 2007, or later increases in the restructured loan amount above the amount originally obligated do not require additional funding; however, interest assistance is not available on that portion of the loan as interest assistance is limited to the original loan amount.**

230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p)) (Continued)

**D Rescheduling or Deferral of Loans and Additional Beginning Farmer IA Funding (Continued)**

If additional funding is required because of additional years of IA either for loans being rescheduled or for beginning farmers receiving additional years of IA, the authorized agency official must modify loan documents according to the following table.

Loan Document	Action
Original FSA-1940-3 or FSA-2231	<p>In item 5, ENTER “This loan has been restructured. The term of the IA is being modified from _ years to _ years.”</p> <p>Modify the Guarantee Obligation Request Screen to indicate the correct IA term.</p> <p>In GLS the Beg Farmer/Rancher dropdown menu must be checked in order to have the additional funding obligated, if IA is being extended beyond 5 years for a beginning farmer.</p>
FSA’s copy of FSA-1980-64 or FSA-2221	Strike through the original expiration date and enter the new expiration date as applicable. The lender, borrower, and FSA shall initial the changes.

**Note:** The effective ending date must be equal to or before the new loan maturity date but cannot be greater than 10 years from the effective date of the borrower’s first FmHA-1980-64, FSA-1980-64, or RD-1980-64 for loans made before June 8, 2007. For loans made after June 8, 2007, the ending date of the FSA-2221 must not exceed 5 years from the date of the first FSA-2221, unless the borrower was a beginning farmer at the time of rescheduling, reamortization, or deferral.

\*--Copies of the modified loan documents will be FAXed or sent to NFAOC, Farm and Community Services Branch, according to 1-FLP, paragraph 5.--\*

230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p)) (Continued)

**E Capitalization of Interest on Loans with IA (Continued)**

Loans made after June 8, 2007, cannot receive IA on any capitalized amount above the original loan amount. For these loans whether or not capitalization of interest exceeds the original loan amount and the IA term is not being extended, restructuring will be accomplished according to paragraph 326. For these loans whether or not capitalization of interest exceeds the original loan amount and the IA term is being extended, the authorized agency official will complete the following:

Loan Document	Action
FSA-1940-3 or FSA-2231	<p>In item 5, ENTER “This loan has been restructured. The term of the IA is being modified from ____ years to ____ years.”</p> <p>Modify the Guarantee Obligation Request Screen to indicate the correct IA term.</p>
FSA’s copy of FSA-2221	<p>Strike through the original expiration date and enter the new expiration date as applicable.</p> <p><b>Note:</b> The lender, borrower, and FSA shall initial the changes.</p>

Copies of the original and new FSA-1940-3, FSA-2231, and FmHA-1980-64, FSA-1980-64, \*--or RD-1980-64 and FSA-2221, as applicable, will be FAXed or sent to NFAOC, Farm and Community Services Branch, according to 1-FLP, paragraph 5.--\*

The lender may submit either:

- one FSA-2222 at the annual review date if sufficient documentation is provided by the lender for the authorized agency official to verify the loan balances
- FSA-2222 for the period from the previous FSA-2222 to the date of the restructuring and submit a second FSA-2222 from the date of the restructuring to the annual review date.

**Note:** Both FSA-2222’s will be submitted for payment at the annual review date.

**230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p)) (Continued)****F Other Requirements**

The rescheduling of a loan with IA must meet all the conditions described in this paragraph and Part 12.

**G Bankruptcy**

**In cases where the interest on a loan covered by an interest assistance agreement is reduced by court order in a reorganization plan under the bankruptcy code, interest assistance will be terminated effective on the date of the court order.** The lender will file a claim due through the effective date of the court order. **Guaranteed loans which have had their interest reduced by bankruptcy court order are not eligible for interest assistance.**

**H Adjustment of Assistance between Review Dates**

After the initial or renewal request for IA is processed, no adjustments can be made until the next review or adjustment date, except to service loans made before June 8, 2007, with a rescheduling or deferral.

**I Excessive IA**

**Upon written notice to the lender, borrower, and any holder, the Agency may amend or cancel the interest assistance agreement and collect from the lender any amount of interest assistance granted which resulted from incomplete or inaccurate information, an error in computation, or any other reason which resulted in payment that the lender was not entitled to receive.**

## 247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)

**B FSA Actions**

After FSA receives the information from the lender detailed in subparagraph A, the authorized agency official must take the following actions before executing the Loan Guarantee to guarantee the loan.

- Review the Conditional Commitment to ensure that the loan closed according to the agreed conditions.
- Review the executed loan agreement and promissory note and compare with the Conditional Commitment to ensure consistency with the agreed upon terms and personal liability of entity members.
- For SEL's, review the evaluation or appraisal of collateral to ensure that it meets the requirements of paragraph 183. For CLP and PLP lenders, the agency official will review 20 percent of each lender's evaluations. This should be completed during the lender's file review required by subparagraph 267 B.

**Note:** For real estate evaluations, this review shall be completed on FSA-2234.

- Review the lender's proposed marketing plans to the secondary market. If the lender is proposing to sell the loan or a portion of the loan into the secondary market, documents should be checked to ensure consistency before sale. The authorized agency official should take additional care to review the Conditional Commitment, the Loan Guarantee, the loan agreement, and promissory notes to ensure the following:
  - principal amount and interest rate are consistent \* \* \*
  - closing date on the note and guarantee are consistent
  - borrower's name, lender's name, and FSA contact information are consistent on all documents.
- For loans involving construction, review the lender's proposed plans for construction inspections and how they intend to ensure that the project is completed according to agreed upon terms.

**248 Issuing the Loan Guarantee****A Action**

Once the requirements of paragraph 247 have been met, the authorized agency official may prepare and issue the Loan Guarantee. The original Loan Guarantee should be provided to the lender to be attached to the original note. A conformed copy, or signed and dated photocopy, with copies of the note should be kept by FSA in the loan docket.

**\*--B Documents To Be Transmitted to NFAOC--\***

The guarantee fee will be processed through the National Receipts and Receivable System using applicable collection type. See 3-FI for additional guidance. The authorized agency official shall make every attempt to review the closing documents before processing the guarantee fee. However, FSA shall adhere to the timeframes in 3-FI to process the fee even in situations when the authorized agency official is not able to review the closing documents timely. The Loan Closing Transaction shall be input through GLS Add Loan Screen.

**C Refund of Guarantee Fee**

The guarantee fee is not refundable once the Loan Guarantee has been issued and loan funds disbursed. However, if the fee was processed before reviewing closing documents and it is later determined that the guarantee cannot be issued, the fee may be refunded to the lender.

The authorized agency official will forward a memorandum to the State Office with the reasons FSA was not able to issue the Loan Guarantee and request that the fee be refunded.

\*--If approved, the State Office will FAX the memorandum to NFAOC, Farm and Community Services Branch, requesting that the fee be refunded.--\*

A request for a guarantee fee refund for any other reason shall be forwarded to the National Office for approval.

**249 Deobligation of Loan Funds****A Deobligation of Funds**

Under certain circumstances, the authorized agency official may need to consider a deobligation of loan funds. If the conditions for the loan or LOC cannot be met after completing the appeal process, the authorized agency official must execute FSA-2072 to cancel the actual obligation.

**B FAXing FSA-2072**

FSA-2072 should be FAXed to the State Office that will process the cancellation or deobligation through GLS.

**267 FSA Loan Servicing Responsibilities (Continued)****C Multi-State PLP Lender File Review**

Where PLP lenders are approved to make and service loans in multiple States, it may be beneficial to both FSA and the lender to conduct a multi-State file review to meet the file review requirement. This review can benefit:

- FSA by:
  - helping to lead toward a more consistent handling of the reviews and the associated findings
  - having an opportunity to identify and correct inconsistent practices of the lender or FSA
- lenders by:
  - gaining a better understanding of across-the-board FSA expectations of the lender
  - having minimal disruption to their State operations as a result of FSA file reviews.

To ensure that multi-State reviews are given full consideration, the following procedures will be followed.

- In January of each year, the National Office will contact each lender that has PLP status in a minimum of 3 States and the appropriate States in which that lender has PLP status. This contact will determine, based upon the lender and the States' opinion, whether a multi-State review is necessary. If it is determined that a multi-State review is necessary, the National Office will take the lead in contacting the lender and coordinating the review. Multi-State reviews may be scheduled at any time during the year.
- In January of each year, the National Office will provide a list of lenders that have PLP status in only 2 States to appropriate Farm Loan Chiefs. Farm Loan Chiefs will be responsible for contacting each other to determine whether a multi-State review is necessary. State Offices will take the lead in coordinating the reviews. Farm Loan Chiefs will determine review participants.

The multi-State review will not alleviate the lender of their responsibility to provide authorized agency officials access to any particular file or files of the lender if in the authorized agency official's opinion an additional review is necessary.

## 267 FSA Loan Servicing Responsibilities (Continued)

**D Authorized Agency Official Review of PLP Lender Loan Files**

PLP loan file reviews will be documented by completing the review checklist based on the individual lender's CMS. All review checklists will be either prepared or approved by the National Office. The review of PLP loan files will be based on the terms and conditions specified in the Lender's Agreement.

**Note:** As the National Offices updates PLP checklists during the lender's renewal or amendment, the States will need to include a question or provide documentation on the last checklist developed from the National Office, that the interest rate charged at loan closing meets the requirements outlined in paragraph 135.

The following questions should be considered during the loan file review.

- Do the files contain sufficient information to document that the underwriting and servicing was consistent with the Lender's Agreement?
- Were servicing actions implemented in a manner consistent with the Lender's Agreement?
- Was servicing prudent and reasonable?

**E Authorized Agency Official Response to Loan File Review**

During the lender loan file reviews, the authorized agency official shall hold an entrance and exit conference with the lender. At the entrance conference, the authorized agency official will outline the purpose of the review and request any information that will be required to complete the review. At the exit conference, the authorized agency official will discuss with the lender any deficiencies as well as the lender's accomplishments. The authorized agency official will forward a letter to the lender outlining the findings of the loan file review.

Letters or reports from lender visits and loan file reviews must be filed according to 25-AS, Exhibit 40.5, with copies forwarded to DD. If the review reveals frequent deficiencies, a \*--report should be forwarded to SED. Copies of letters from all PLP reviews, regardless of findings, should be forwarded to DAFLP, LSPMD to be filed in the lender's PLP file.--\*

If the lender is under an enforcement action imposed by the lender's regulatory agency, that finding will be documented in the letter to the lender outlining review findings, and a copy provided to SED. SED shall contact DAFLP, LSPMD.

**281 Transfers and Assumptions (7 CFR 762.142(d)) (Continued)****D FSA Response to Request for Transfer and Assumption**

**The Agency will review, approve or reject the request in accordance with the time frames in § 762.130 of this part (Part 6).**

**The Agency approves the transfer and assumption by executing a modification of the guarantee to designate the party that assumed the guaranteed debt, the amount of the debt at the time of the assumption, including interest that is being capitalized, and any new loan terms, if applicable.**

The authorized agency official will execute FSA-2245 and provide it to the lender for attachment to the original Loan Guarantee.

**The Agency will agree to releasing the transferor or any guarantor from liability only if ~~the requirements of § 762.146(c) (paragraph 361) are met.~~**

The authorized agency official should treat a request for a transfer as an application for a new guaranteed loan. If all of the program requirements are met the transfer and assumption should be approved by FSA.

The authorized agency official will attach the assumption agreement to the Loan Guarantee ~~or FmHA-449-34.~~ To notify NFAOC, Farm and Community Services Branch of the ~~assumption,~~ complete and forward FSA-2246. Guaranteed loan fees are not required for transfer and assumption.

**The lender will provide the Agency copies of any agreements executed to carry out the servicing action.**

**282 Additional Loans or Advances (7 CFR 762.146(a))**

**A Additional Loans or Advances**

**SEL and CLP lenders must not make additional loans or advances without prior written approval of the Agency, except as provided in the borrower's Loan or Line of Credit Agreement.**

**The PLP lender may make additional loans or advances in accordance with the lender's agreement with the Agency.**

**286 Consolidation of Debt (7 CFR 762.146(e)) (Continued)****B Request for Consolidation**

SEL's must submit a feasible plan to FSA for concurrence before consolidating loans. CLP and PLP lenders may consolidate loans as long as the requirements of this paragraph are met.

**C Lender Actions to Consolidate Loans**

**A new note or line of credit agreement will be taken. The new note or line of credit agreement must describe the note or line of credit agreement being consolidated and must state that the indebtedness evidenced by the note or line of credit agreement is not satisfied. The original note or line of credit agreement must be retained.**

**The interest rate for a consolidated OL loan is the negotiated rate agreed upon by the lender and the borrower at the time of the action, subject to the loan limitations for**  
**\*--each type of loan. The new interest rate may not exceed the maximums established in**  
**paragraph 135.--\***

**The Agency approves the consolidation by executing a modification of guarantee. The modification will indicate the consolidated loan amount, new terms, and percentage of guarantee, and will be attached to the originals of the guarantees being consolidated. If loans with a different guarantee percentage are consolidated, the new guarantee will be at the lowest percentage of guarantee being consolidated.**

**Any holders must consent to the consolidation, or the guaranteed portion must be repurchased by the lender.**

**286 Consolidation of Debt (7 CFR 762.146(e)) (Continued)****D FSA Response to Consolidation Request**

The authorized agency official must approve of a SEL request for consolidation. When SEL submits a request for a loan consolidation, the authorized agency official should verify the following:

- only OL's and LOC's are being considered for consolidation
- the consolidation does not cause the loan principal to exceed program loan limitations
- the consolidation does not adversely affect the value of the security and the lender's security position.

The authorized agency official must complete FSA-2236 based on the information received from SEL and submit it to NFAOC, Farm and Community Services Branch, along with a memorandum describing which loans were consolidated.

If a PLP or CLP lender consolidates loans:

- copies of documents will be obtained
- compliance with regulations will be verified through annual file reviews
- FSA-2236 is completed and submitted to NFAOC, Farm and Community Services Branch, along with a memorandum describing which loans were consolidated.

**287 Substitution of Lender (7 CFR 762.105)****A Overview**

When a borrower wants to move their guaranteed loan from 1 lender to another, or a lender wants to sell a guaranteed loan to another lender, with or without the borrower's consent, FSA must process a substitution of lender.

**B Lender Requirements**

**A new eligible lender may be substituted for the original lender, if the original lender concurs, under the following conditions.**

- **The Agency approves of the substitution in writing by executing a modification of the guarantee to identify the new lender, the amount of debt at the time of the substitution and any new loan terms if applicable. The new lender agrees in writing to:**
  - **assume all servicing and other responsibilities of the original lender and to acquire the unguaranteed portion of the loan**
  - **execute a lender's agreement if one is not in effect**
  - **submit a request to the authorized agency official that the new lender be approved as a substitute lender for the loan**
  - **give any holder written notice of the substitution. If the rate and term are changed, written concurrence from the holder or repurchase is required.** The authorized agency official shall review the FSA file and determine if the loan has been sold. If the loan has been sold, the authorized agency official shall remind the lender of special considerations warranted by its sold status.

## 287 Substitution of Lender (7 CFR 762.105) (Continued)

**B Lender Requirements (Continued)**

- The authorized agency official shall review the borrower and lender's substitution request as follows:
  - determine whether the requirements of this section are met
  - determine whether the new lender possesses the ability to service agricultural loans and, if necessary, discuss the loan with the lender and ensure that they are aware of their responsibilities
  - \*--notify NFAOC, Farm and Community Services Branch of the substitution by--\* completing and submitting FSA-2243.
- **The original lender will assign their promissory note, lien instruments, loan agreements, and other documents to the new lender. The guarantee documents will then be assigned to the new lender.** The original lender must:
  - **assign their promissory note, lien instruments, loan agreements, and other documents to the new lender**
  - **if the loan is subject to an existing IA Agreement, submit a request for subsidy for the partial year that they have owned the loan**

**Note:** FSA-2221 can then be transferred to the new lender. When a substitution is being processed, authorized agency officials should review the file to determine whether the loan has IA. If so, they should remind the:

  - original lender of the need for a subsidy request
  - new lender of special servicing requirements of a loan with IA.
- if the original lender does not concur, the substitution cannot take place. If the borrower still wants to move their loan, the new lender may refinance the debt of the original lender.

287 Substitution of Lender (7 CFR 762.105) (Continued)

**C Lender Name or Ownership Changes**

**When a lender begins doing business under a new name or undergoes an ownership change the lender will notify the Agency.** If the lender simply changes their name and \*--there is no change in ownership, location, or TIN, the authorized agency official shall make the change in GLS on the Lender Maintenance Screen.--\*

\* \* \*

**The lender's CLP or PLP status is subject to reconsideration when ownership changes.** If a status lender is merged with or purchased by a nonstatus lender, and the original lender's management, operating policies, CMS, and personnel are changed as a result, the lender's CLP or PLP status should be revoked. If the newly merged or purchased lender will continue to operate the status lender substantially as it has been managed in the past, revocation may not be necessary. The nonstatus lender will apply for status or their present status will be revoked. If a lender sells any guaranteed loans in their entirety, SED shall determine whether volume requirements of subparagraphs 49 E or 52 E are still being met.

**\*--The lender will execute a new lender's agreement when ownership changes.--\***

**287 Substitution of Lender (7 CFR 762.105) (Continued)****C Lender Name or Ownership Changes (Continued)**

The new lender must provide FSA with:

- its new TIN
- a list of all its branches where they will service guaranteed loans, their addresses, and responsible contacts.

**Note:** An interim request for subsidy payment from the original lender is not required when the entire lender has changed.

\*--FSA-2243 must be completed and submitted to NFAOC, Farm and Community Services Branch. One FSA-2243 may be completed with a list of the names, FSA case numbers,--\* and loan numbers for the entire guaranteed loan portfolio of the lender attached.

Although guaranteed lenders are responsible for informing FSA when ownership changes occur, acquiring lenders are often unaware of this responsibility. If the authorized agency official becomes aware that a lender with FSA-guaranteed loans has been purchased by or merged with another lender, the authorized agency official shall contact the new management and remind them of their responsibilities under existing Lender's Agreement and the need to process a substitution. If authorized agency officials learn that a lender has been closed or placed in receivership by a financial institution regulatory agency, they shall contact their SED for guidance.

## 288 Servicing SAA's (7 CFR 762.147) (Continued)

**F Servicing Recapture Debt**

**If recapture is triggered under the Shared Appreciation Agreement and the borrower is unable to pay the recapture in a lump sum, the lender may do 1 of the following.**

- **Reschedule the recapture debt with the consent of the Agency, provided the lender can document the borrower's ability to make amortized payments on the recapture debt plus pay all other obligations. In such case, the recapture debt will not be covered by the Guarantee.** The lender will send FSA its share of every payment when it's received.
- **Pay the Agency its pro rata share of the recapture due. In such case, the recapture debt of the borrower will be covered by the Guarantee.**

**\*--Note:** FSA-2247 will be completed and submitted to NFAOC, Farm and Community Services Branch to indicate the new maturity date, if applicable, including the amortization period of the recapture. If the guaranteed loan has matured, complete FSA-2244 and submit it to NFAOC, Farm and Community Services Branch indicating that the termination will be reversed and the loan reinstated.--\*

- **Service the account in accordance with § 762.149.**

**If recapture is triggered, and the borrower is able, but unwilling to pay the recapture in a lump sum, the lender will service the account in accordance with § 762.149.**

**Any shared appreciation recaptured by the lender will be shared on a pro-rata basis between the lender and the Agency.**

**All appraisal fees will be paid by the lender.** The lender may pass the fee on to the borrower. The borrower has 30 calendar days to repay the debt in a lump sum after receiving a notice of the appreciation due to the lender.

The authorized agency official shall process recapture payments by completing FSA-2254 **\*--and forwarding it with payment to NFAOC, Farm and Community Services Branch.--\***

**288 Servicing SAA's (7 CFR 762.147) (Continued)****G Basis for the Amount of Recapture**

Because of 2 consecutive years of drought that destroyed crops, a farmer and lender devised a restructuring plan where \$200,000 of remaining debt was written down to \$100,000 and FSA-2253 was executed. FO had been guaranteed by FSA at 90 percent. An appraisal at the time of the writedown valued the farmer's security at \$75,000.

One year later the farmer sells his farm for \$85,000. The Basis for the Amount of Recapture is equal to:

Value of real estate security (appraisal or sale price, whichever one is higher) at the time of a recapture triggering event minus value of real estate security when FSA-2253 was executed.

Basis for the Amount of Recapture:  $\$85,000 - \$75,000 = \$10,000$ .

Since Basis for the Amount of Recapture is positive, the borrower will be required to pay the lender a percentage of the recaptured monies. The percentage to be paid to the lender within the first 4 years of FSA-2253 execution is 75 percent (the percentage drops to 50 percent 4 years after FSA-2253 execution). Therefore, the farmer owes his lender the following:

$\$10,000 \times 75\% = \$7,500$  due the lender.

FSA is entitled to the portion of the shared appreciation equal to the rate of the guarantee on the loan. Therefore, in this case, FSA's pro-rata share is equal to:

$\$7,500 \times 90\% = \$6,750$  due FSA.

At least annually, the authorized agency official will contact all lenders with active FSA-2253's to determine whether any FSA-2253 monies have been collected. To help lenders in their FSA-2253 monitoring responsibilities, a copy of the letter in subparagraph H may be used by FSA employees when performing this annual lender contact.

**312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145)  
(Continued)****A General Requirements (Continued)**

- **The lender's security position will not be adversely affected because of the restructuring. New security instruments may be taken if needed, but a loan does not have to be fully secured in order to be restructured, unless it is restructured with a balloon payment. When a loan is restructured using a balloon payment, the lender must take a lien on all assets and project the loan to be fully secured at the time the balloon payment becomes due, in accordance with 7 CFR 762.145 (b)(4).**

**Note:** If the lender takes additional security as part of the loan restructuring, a list of the new security items and their estimated values should be forwarded to the authorized agency official along with all other restructuring materials according to paragraph 313.

- **Any holder agrees to any changes in the original loan terms.**

**All lenders will submit copies of any restructured notes or lines of credit to the Agency.**

**\*--For CL, the lender must ensure that the borrower is maintaining the practice for which CL was made.--\***

**B Lender Approval**

If a co-borrower or co-signer is required to execute a note in conjunction with a restructuring, the lender must provide the name, Social Security number, and current address of the co-borrower or co-signer to FSA.

**313 Specific Lender Requirements for Loan Restructuring (7 CFR 762.145)****A SEL Request for Restructuring**

**Standard eligible lenders must obtain prior written approval of the Agency for all restructuring actions.**

After SEL has restructured the loan, the lender must submit:

- FSA-2248 indicating that the loan is current
- copies of restructured notes or LOC's.

After SEL has submitted all of these documents, FSA shall:

- review the documents for compliance
- input FSA-2248 into GLS
- execute FSA-2245 and provide a copy to the lender, if applicable
- \*--complete and forward FSA-2249 to NFAOC, Farm and Community Services Branch.--\*

**Note:** See 1-FLP:

- subparagraph 29 D for loan approval limits
- subparagraph 29 G for guaranteed loan restructuring limits.

## 327 Deferrals (7 CFR 762.145(d))

**A General Description**

A deferral postpones the payment of principal and interest on CL, FO, OL, or LOC to accommodate a temporary inability of the borrower to make scheduled payments. Loan principal can be deferred in whole or part. If the deferment period is 1 year or less, interest can be deferred in whole or in part. Interest may only be deferred in part if the deferral period extends over 1 year.

\*--A deferral may be particularly useful for borrowers who have lost contracts with their current contractor, but have obtained a contract with a new contractor that will **not** begin immediately. The authorized agency officials should immediately inform affected lenders that a 90-calendar-day forbearance, extension, or loan modification can be approved if the lender believes the problem (loss of contract or reduction of bird or hog placement) can be resolved in a timely manner. The 90-calendar-day forbearance will be considered only if all other servicing actions, such as rescheduling of debt, deferral, or writedown, will **not** resolve the problem. At the end of the 90-calendar-day period, the lender **must** resume their regular servicing actions.

If the:

- problem is **not** resolved and the loan account is delinquent, the lender will proceed with default servicing
- loss of contract puts the loan in nonmonetary default based on the promissory note or loan agreements, the lender will review the promissory note and determine whether they may proceed with default servicing
- lender is **not** pursuing liquidation for loans in nonmonetary default, the lender and borrower must be actively seeking other sources of income.

Most guaranteed loans impacted have lender's agreements that require interest accrual to cease 90 calendar days from the date of the decision to liquidate. The agreement to exercise forbearance allows for a liquidation decision to be made, if necessary, when the forbearance period is complete. However, in all cases, the loan guarantee will **not** cover interest beyond 210 calendar days from the payment due date.--\*

**327 Deferrals (7 CFR 762.145(d)) (Continued)****B Conditions**

The following conditions apply to deferrals.

- **Payments may be deferred up to 5 years, but the loan may not be extended beyond the final due date of the note.**
- **The principal portion of the payment may be deferred either in whole or in part.**
- **Interest may be deferred only in part. Payment of a reasonable portion of accruing interest as indicated by the borrower's cash flow projections is required for multi-year deferrals.**
- **There must be a reasonable prospect that the borrower will be able to resume full payments at the end of the deferral period.**

The amount of principal and interest deferred must be based on the borrower's current ability to pay, and projections about ability to pay in the future. If the deferral period is to extend beyond 1 year, only a portion of the interest can be deferred.

If a LOC deferral exceeds 1 year, then LOC must be restructured and no new advances can be made. For LOC deferrals for less than 1 year there must be either inventory on hand to cover the carryover debt balances or the borrower must show repayment of the carryover debt plus the new operating cycle advances. If the LOC deferral is 1 year or less, it is  
\*--unnecessary to notify NFAOC.--\*

The loan may be rescheduled after the deferral if payments as scheduled cannot be made.

**C Lender Request to Defer a Loan**

To request a deferral, SEL lenders must submit documentation according to the requirements listed in paragraph 312. Based on this documentation, the authorized agency official will notify the lender in a timely manner whether or not the deferral plan is approved.

CLP lenders must submit documentation according to paragraph 313, after completing the loan restructuring.

PLP must restructure loans according to the Lender's Agreement and provide post-restructuring documentation to FSA according to paragraph 313.

**344 FSA Responsibilities in Bankruptcy Proceedings****A Monitoring Responsibilities**

The authorized agency official must review the default status report, submitted by the lender and periodically monitor the lender's files to ensure that all necessary actions are taken by the lender concerning a bankruptcy case. This review should include verifying that the lender:

- files proof of claim and all necessary papers and pleadings concerning the case
- attends and where necessary participates in meetings of the creditors and all court proceedings
- seeks adequate protection of the collateral
- advises the authorized agency official of the status of the bankruptcy action
- requests modification or dismissal of any plan of reorganization if it appears that additional recoveries are likely or if the borrower fails to comply with the requirements of the plan.

During a bankruptcy proceeding, the authorized agency official must:

- determine the necessity of an independent appraisal of collateral
- review documentation supporting loss claims, including expense claims, submitted by the lender.

**344 FSA Responsibilities in Bankruptcy Proceedings (Continued)**

**B Review of Bankruptcy Loss Claim**

The authorized agency official must:

- review FSA-2254 submitted by the lender, for accuracy, to ensure that FSA-2254 is coded correctly
- accept the loss claim or contact the lender to obtain revisions or additional information
- forward the claim to SED or its designee.

**Note:** The payment of any loss claim under a Chapter 7 or reorganization bankruptcy establishes a Federal debt. In the case of a Chapter 7, Regional OGC opinion is required to determine if the borrower is or is not subject to offset. The payment of a claim under bankruptcy reorganization will not be subject to offset. See subparagraph 363 B for additional guidance.

All loss claims must be approved by SED. Following approval, SED shall forward approved \*--loss claims to NFAOC, Farm and Community Services Branch.--\*

**345-354 (Reserved)**

**359 Lender Submission of Estimated Loss Claim (7 CFR 762.149) (Continued)****E FSA Approval of Protective Advances**

FSA will approve a request for a protective advance if the request is reasonable and the value of the security would decrease significantly if the advance was not made. FSA will respond within 14 calendar days to an SEL and CLP written request for concurrence on a protective advance. Concurrence with protective advances can be provided separately from approval of the liquidation plan.

PLP lenders will make protective advances according to the Lender's Agreement.

**F FSA Approval and Payment of Estimated Loss Claim**

The estimated loss claim may be reviewed and approved separately from the liquidation plan using FSA-2295. The estimated loss claim is submitted on FSA-2254 to the authorized agency official. After reviewing FSA-2254, the authorized agency official shall forward FSA-2254 and supporting documentation to SED with a recommendation to approve or dispute the estimated loss claim.

If SED finds the estimated loss claim to be accurate, SED shall approve the payment within 30 calendar days of estimated loss claim submission. If FSA wants to dispute the estimated loss claim, FSA shall attempt to resolve the differences with the lender within 30 calendar days of the submission.

\*--After approval by SED, SED shall forward FSA-2254 to NFAOC, Farm and Community Services Branch for payment of the estimated loss claim according to 1-FLP, paragraph 5.

NFAOC, Farm and Community Services Branch shall issue a check to the lender within--\* 30 calendar days of receiving FSA-2254. The PLP estimated loss claim will be paid after a brief review for accuracy.

## 359 Lender Submission of Estimated Loss Claim (7 CFR 762.149) (Continued)

**G Application of Estimated Loss Payment**

**The lender will discontinue interest accrual on the defaulted loan at the time the estimated loss claim is paid by the Agency. The Agency will not pay interest beyond \*-210 days from the payment due date on loans made on or after July 10, 2008. If the\*- lender estimates that there will be no loss after considering the costs of liquidation, an estimated loss of zero will be submitted and interest accrual will cease upon approval of the estimated loss and never later than 210 days from the payment due date.**

**\*-Note:** For loans made before July 10, 2008, interest accrual will not be paid beyond 90 calendar days from the date of the decision to liquidate.

Interest may be paid in addition to the 210 calendar days allowed by this paragraph by the number of days the FSA review and approval of the claim extends beyond 30 calendar days when the delays were caused by FSA.

**Note:** For Chapter 12 and 13 bankruptcies, if the bankruptcy is dismissed before liquidation, interest accrual may exceed 210 calendar days from the payment due date. During the bankruptcy, interest continues to accrue, but the days for calculating interest termination do not count against the lender because the lender does not have the authority to liquidate. In such cases, the authorized agency official shall document that interest accrual exceeded 210 calendar days because of bankruptcy, and any other supporting documentation, in GLS. National Office approval does not need to be requested.--\*

**The application of the loss claim payment to the account does not automatically release the borrower of liability for any portion of the borrower's debt to the lender.** The estimated loss payment compensates the lender for the loss, but does not reduce the loan balance or cure a delinquency, and should not be reflected as such on FSA-2248.

**360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)****F FSA Approval and Payment of Final Loss Claim (Continued)**

If a lender's loss claim is denied or reduced, SED shall notify the lender in writing immediately of the decision. Lenders may appeal this decision according to 1-APP.

**Note:** For loans made before February 12, 1999, denied lender's loss claims will be handled according to FmHA Instructions 1980-A and 1980-B in effect at the time the guarantee was issued. See Exhibit 16.

When the final FSA-2254 is accepted by the authorized agency official and approved by \*--SED, SED shall FAX FSA-2254, including final loss claims with no losses to NFAOC, Farm and Community Services Branch for payment or processing. The final loss claim will be--\* paid up to the maximum amount allowed, as provided in subparagraph 195 C. When a loan is a total loss, the loss payment may exceed the original guaranteed principal and accrued interest, if it includes emergency advances or protective advances.

**G Overpayment**

**If the final loss is less than the estimated loss, the lender will reimburse the Agency for the overpayment plus interest at the note rate from the date of the estimated loss payment.**

The lender's ledger provided with the final loss claim should reflect that since the estimated claim was paid, the following has occurred:

- application of liquidation proceeds net of expenses
- approved protective advances
- any voluntary payments
- no additional interest accrual except on protective advances.

The ledger should not reflect that the FSA-estimated loss claim was applied as a regular payment. The amount of overpayment or underpayment will be calculated on FSA-2254. \*--The interest due on any loss claim will be calculated by NFAOC, Farm and Community Services Branch based on the borrower's rate of interest and the date the estimated claim was paid. If the lender wants to submit a check with their request for a final loss claim, this amount may be obtained by contacting the NFAOC, Farm and Community Services Branch--\* technician before submitting FSA-2254.

**H Return of Guarantee**

**The lender will return the original Guarantee marked paid after receipt of a final loss claim.**

The final loss claim payment will be sent by EFT whenever possible. Return of the Guarantee is not required before EFT or delivery of a check. After verification that the final loss claim has been paid, the account will be terminated in GLS.

**361 Release of Liability After Liquidation (7 CFR 762.146(c))****A Overview**

For loans made using FSA-1980-25 or FSA-1980-28 with the revision date before July 20, 2001, after a final loss claim has been paid, the lender may release the borrower or any guarantor from liability with FSA concurrence if the conditions of subparagraph B can be met.

**B Loans Made Using FSA-1980-25 or FSA-1980-28 With a Revision Date Before July 20, 2001**

**After a final loss claim has been paid on the borrower's account, the lender may release the borrower or guarantor from liability if:**

- **the Agency agrees to the release in writing**
- **the lender documents its consideration of the following factors concerning the borrower or guarantors:**
  - **the likelihood that the borrower or guarantor will have a sufficient level of income in the reasonably near future to contribute to a meaningful reduction of the debt**
  - **the prospect that the borrower or guarantor will inherit assets in the near term that may be attached by the Agency for payment of a significant portion of the debt**
  - **whether collateral has been properly accounted for, and whether liability should be retained in order to take action against the borrower or a third party for conversion of security property**
  - **the availability of other income or assets which are not security**
  - **the possibility that assets have been concealed or improperly transferred**
  - **the effect of other guarantors on the loan**
  - **cash consideration or other collateral in exchange for the release of liability.**

**The lender will execute its own release of liability documents.**

The lender will submit a narrative to the authorized agency official explaining the borrower or entity should be released from liability. The authorized agency official may ask for documentation to support the lender's argument. The authorized agency official will forward all relevant material to SED for review and approval.

**361 Release of Liability After Liquidation (7 CFR 762.146(c)) (Continued)**

**C Loans Made Using FSA-1980-25, FSA-1980-28, Application for Guarantee, or Preferred Lender Application With the July 20, 2001, or Later Revision Date**

For loans made using FSA-1980-25, FSA-1980-28, Application for Guarantee, or Preferred Lender Application with the July 20, 2001, or later revision date, a lender's request to release the borrower of liability after liquidation of the collateral but before the payment of a final loss claim can only be approved by DAFLP. The payment of a final loss claim on these loans establishes a Federal debt that is subject to offset. (Collection of the Federal debt will be pursued according to 7 CFR 762.149(m). See paragraph 363.)

SED's shall thoroughly evaluate all requests and forward them to DAFLP with their recommendation. All requests will include an analysis along with supporting documentation that includes a monetary analysis as to why such an exception is in the Government's best interest. DAFLP will evaluate each request on a case-by-case basis. DAFLP's decision is final and is not appealable.

## 362 Miscellaneous Liquidation Items (7 CFR 762.149)

**A Future Recovery**

**The application of the loss claim payment to the account does not automatically release the borrower of liability for any portion of the borrower's debt to the lender. The lender will continue to be responsible for collecting the full amount of the debt and sharing future recoveries with the Agency in accordance with paragraph (j) of this section.**

**The lender will remit any recoveries made on the account after the Agency's payment of a final loss claim to the Agency in proportion to the percentage of guarantee in accordance with the lender's agreement until the account is paid in full or otherwise satisfied.**

A lender receiving a loss payment must complete and return in a timely manner a report on its collection activities, FSA-2261, for each unsatisfied account for three years following payment of loss claims.

In late October of each year, the authorized agency official will forward FSA-2261 with instructions to lenders that have received a loss claim because of liquidation in the past 3 years. FSA-2261 must be completed and returned by November 30.

**Note:** FSA-2261 will not be completed for Chapter 7 liquidation bankruptcy cases that have received a discharge.

SED's shall compile State reports and submit the results to the National Office upon request.

When FSA's share of an amount is received, the funds will be deposited according to 3-FI. The following items will be completed on FSA-2254:

- enter code 4 in item 5, "Report Type Code"
- enter the date funds were received in item 15, "Date of Settlement"
- enter the amount received in item 51, "Amount Due FSA by Lender".

\*--FSA-2254 will be FAXed or sent to NFAOC, Farm and Community Services Branch,--\* according to 1-FLP, paragraph 5.

## 362 Miscellaneous Liquidation Items (7 CFR 762.149) (Continued)

**A Future Recovery (Continued)**

For loans made using FSA-1980-25, FSA-1980-28, Application for Guarantee, or Preferred Lender Application with a July 20, 2001, or later revision date, lenders may only issue IRS-1099-C on the unguaranteed portion of the debt once the lender has met its future recovery obligations.

Once FSA has concluded its collection efforts, then FSA will cancel any remaining debt and report to IRS accordingly.

**B FSA Option to Liquidate**

**At its option, the Agency may liquidate the guaranteed loan as follows.**

- **Upon Agency request, the lender will transfer to the Agency all rights and interests necessary to allow the Agency to liquidate the loan. The Agency will not pay the lender for any loss until after the collateral is liquidated and the final loss is determined.**
- **If the Agency conducts the liquidation, interest accrual will cease on the date the Agency notifies the lender in writing that it assumes responsibility for the liquidation.**

Upon the recommendation of SED, DAFLP may approve liquidation of a guaranteed loan by FSA.

The lender will transfer to FSA all rights and interests necessary to allow the authorized agency official to liquidate the loan.

SED shall consult with OGC to answer questions relating to the assignment and transfer of the lender's loan documents to FSA. After the loan is transferred, the authorized agency official shall summarize the history of case, list all of the loan security and its estimated value, and address any other issues that SED or OGC have about the liquidation. SED shall refer the case to OGC to process the request for liquidation by the Government. SED shall \*--send FSA-2262 to NFAOC, Farm and Community Services Branch, and the authorized--\* agency official shall oversee the liquidation. If requested by the lender, FSA shall provide an update on the liquidation proceedings. Interest accrual will stop when FSA notifies the lender in writing that FSA is assuming responsibility of the liquidation process. The final loss payment to the lender will not include interest beyond the date FSA took responsibility to liquidate. In this event, the lender is not paid for any loss until the collateral is liquidated and the final loss is determined.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors  
(7 CFR 762.149(m))**

**A Establishment of a Federal Debt**

**[7 CFR 762.149(m)] Any amounts paid by the Agency on account of liabilities of the guaranteed loan borrower will constitute a Federal debt owing to the Agency by the guaranteed loan borrower. In such case, the Agency may use all remedies available to it, including offset under the Debt Collection Improvement Act of 1996 (DCIA), to collect the debt from the borrower. Interest charges will be established at the note rate of the guaranteed loan on the date that the final loss claim is paid.**

Federal debt is established on the effective date of the final loss claim payment. All individuals liable for the debt will be subject to offset. FSA will use non-centralized administrative offset, including IAO of payments made by USDA, and centralized offset from the U.S. Department of Treasury's TOP, and by any other applicable debt collection methods to collect the debt owed to FSA.

FSA shall obtain copies of the promissory note, the original application, the loan guarantee, the final loss claim, and current interest rate as of the final loss payment date, if a variable rate loan, as documentation of the establishment of a Federal debt.

The authorized agency official shall ensure that all co-borrowers and co-signers are entered in GLS.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors  
(7 CFR 762.149(m)) (Continued)**

**B Guaranteed Final Loss Claim Payments Not Subject to Offset**

Final loss claim payments for borrowers who executed FSA-1980-25 with a revision date of July 27, 1999, or earlier, or FSA-1980-28 with a revision date of April 7, 1999, or earlier, shall not be offset.

Loans approved using FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date and Application for Guarantee or Preferred Lender Application that are discharged in bankruptcy, will establish a Federal debt, but generally are not subject to offset. Any case where a final loss claim was paid after a Chapter 7 discharge should be processed as follows:

- all pertinent information, such as loss claim and documentation on the bankruptcy including the discharge order, is to be provided to the Regional OGC, requesting their opinion as to whether or not offset can be pursued
- document the case file with OGC's recommendation:
  - if Regional OGC's opinion is that the loan is not subject to offset, the debtor shall be removed from referral to IAO and TOP through the GLS maintenance screens and debts discharged in bankruptcy will be written off upon receipt of the discharge order; SED shall FAX or mail a copy of the discharge order along with a memorandum \*--requesting that the debt be written off to NFAOC, Farm and Community Services Branch--\*
  - if Regional OGC's opinion is that the loan is subject to offset, then immediately follow the requirements of subparagraphs 363 D through G.

**Notes:** Any debt reaffirmed under Chapter 7 bankruptcy on which a final loss claim is later paid, is considered a Federal debt and shall be subject to offset.

In a reorganization bankruptcy, if the confirmed plan is not successfully completed and the bankruptcy is dismissed, the payment of a final loss claim will be considered a Federal debt and shall be subject to offset.

**C Payments Not Subject to Offset**

The following payments are not subject to offset:

- Federal crop insurance indemnity payments
- the initial payment for planting expenses under certain conservation programs
- program payments ineligible for offset.

Payments will not be offset when the authorized agency official determines that it is not in the best interest of the Government.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors  
(7 CFR 762.149(m)) (Continued)**

**D Debtor Notification of FSA's Intent to Offset**

Immediately upon confirmation of a final loss claim payment, the authorized agency official shall provide the debtor and any co-debtors notification of intent to offset using Exhibit 17, according to this subparagraph and 7 CFR Part 3.

Exhibit 17 must be sent to debtors by certified mail. If Exhibit 17 is returned, the authorized agency official shall use first class mail or personal delivery.

The date Exhibit 17 was received by the debtor and/or co-debtor will be entered in the "Notified Date" field using the GLS Debt Offset Maintenance Screen for:

- tracking
- referral of debt for offset.

**\*--Note:** GLS will be updated for the debtor and/or co-debtor with the date of the electronic verification or return receipt of the debtor notification of FSA's intent to offset that is sent by certified mail to a debtor's last known address. This date shall be entered in the "Demand Letter" field using the GLS Debt Offset Maintenance Screen. A copy of the electronic verification will be placed in the case file.--\*

The authorized agency official shall provide written notification to debtors a minimum of:

- 30 calendar days before affecting non-centralized administrative offset and IAO
- 60 calendar days before affecting TOP.

If a USDA payment will be made to a debtor within 30 calendar days of the payment of a final loss claim and FSA finds that failure to take the offset would substantially prejudice the Government's ability to collect the debt, FSA shall notify the debtor that FSA will/has offset the payment due using Exhibit 18.

Exhibit 18 shall:

- contain the reasons FSA had to affect IAO and non-centralized administrative offset
- be sent to the debtor as soon as possible.

The debtor's pro rata share of entity payments will be offset according to 7 CFR Part 3 and RD Instruction 1951-C, section 1951.106 after the nondebtor entity members have been notified using Exhibit 19 or 20, as appropriate.

**Note:** The authorized agency official shall request written concurrence from SED before sending Exhibit 18 or 20.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors  
(7 CFR 762.149(m)) (Continued)****D Debtor Notification of FSA's Intent to Offset (Continued)**

Authorized agency officials shall follow RD Instruction 1951-C, section 1951.103 subparagraphs (c) through (g) to handle debtor requests received as a result of the receipt of Exhibits 17 through 20.

Debtors proposing an agreement to repay the debt as an alternative to offset must include the full amount of the Federal debt. The Federal debt must be paid within a short period of time.

**E Salary Offset**

The authorized agency official shall determine whether collection by salary offset is feasible according to 7 CFR Part 3 and RD Instruction 1951-C, section 1951.111.

**F Referral of Debt for IAO Offset**

The authorized agency official shall refer debtors:

- immediately for IAO and non-centralized administrative offset if Exhibit 18 or 20 was sent
- for IAO and non-centralized administrative offset 30 calendar days after sending Exhibit 17 or 19, and/or after the conclusion of a review or appeal.

The authorized agency official must complete the debtor's and/or co-debtor's IAO referral information, in GLS on the Debt Offset Maintenance Screen, for the debt to be referred for offset.

**Note:** Debtors who are ineligible for IAO or who later become ineligible for IAO shall be removed from referral in GLS on the Debt Offset Maintenance Screen.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors  
(7 CFR 762.149(m)) (Continued)**

**G Referral of Debt to TOP**

The authorized agency official shall refer debtors to TOP 60 calendar days after:

- Exhibit 17 or 18 was sent
- the conclusion of a review or appeal.

The authorized agency official must complete the debtor's TOP referral information, in GLS on the Debt Offset Maintenance Screen, for the debt to be referred for offset. After the information is entered, debtors will be programmatically referred according to the established Treasury quarterly referral schedule.

\*--After the debt is referred for TOP, NFAOC will send Exhibit 21. The date of Exhibit 21--\* will be shown on the debtor's GLS maintenance screen.

**Note:** Debtors who are ineligible for TOP or who later become ineligible for TOP shall be removed from referral in GLS on the Debt Offset Maintenance Screen.

**H State Office Responsibility**

SED shall ensure that FSA employees responsible for servicing FLP guaranteed loans notify all County Offices where the debtor receives Federal payments that these payments are to be offset.

DD shall ensure that all County Offices are updated monthly on debtors whose payments are eligible to be offset.

**Note:** Management reports for debts currently referred for IAO and TOP are available in GLS.

IAO and TOP collections taken by FSA will be discontinued when a guaranteed borrower and/or co-borrower are called to report for induction or military service. Co-borrowers associated with the debt must also be suspended from offset collections in GLS in an effort to reduce hardship on the family. Offsets should not be taken during the period of active duty and 3 months thereafter. Any collections received as a result of offset, **after** the date the borrower and/or co-borrower were called to active duty, will be refunded. State Offices shall \*--make refund request to NFAOC, Farm and Community Services Branch.--\*

Offsets shall be suspended by State Offices by accessing the GLS Debt Offsets Maintenance Screen and:

- selecting the Reason Deleting as "Other"
- inputting the Why Agency Deleting as "National Defense Act"
- inputting the delete date.

**Note:** This information should be entered for both IAO and TOP.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors  
(7 CFR 762.149(m)) (Continued)**

**I Collections and Refunds**

Amounts collected through administrative offset will be applied to the debtor’s account according to 3-FI using the Guaranteed Collection Codes in this table.

<b>Code</b>	<b>Description</b>
70	Administrative Offset – Other
71	Administrative Offset – DCP
72	Administrative Offset – LCP
73	Administrative Offset – CRP
74	Administrative Offset – EQIP
75	Administrative Offset – Tobacco
76	Administrative Offset – Peanuts
77	Administrative Offset – Rice
78	Administrative Offset – LDP/Markt Asst Loan
79	Administrative Offset – DCP in Stay
80	Voluntary Collection
81	DOJ Collection
82	Debt Settlement Collection
83	Other Collection

**Notes:** Collections will be applied to the oldest delinquent Federal debt first.

According to 58-FI, paragraph 164, delinquent debts due to FSA will be collected before an assignment is honored.

Lender recoveries, voluntary, and other collections, except IAO, DOJ, and Debt Settlements, for loans subject to offset with a debt offset receivable established, must have FSA-2254 \*-completed manually and FAXed to NFAOC, Farm and Community Services Branch for--\* processing. The collection will be processed as an offset collection.

Refunds of amounts offset will be made within 45 calendar days if FSA determines that an amount should not have been offset or that the debtor has prevailed in an appeal. SED shall \*-approve and submit refund requests to NFAOC, Farm and Community Services Branch.--\*

**J Notifying Lender of FSA Collections**

County Offices shall notify the lender of any collections received through IAO or TOP by November 30 of each year. The annual notification shall include the following:

- amount collected by loan number
- current balance of the Federal debt.

**Note:** County Offices can obtain account information from the GLS loan offset view screen.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors  
(7 CFR 762.149(m)) (Continued)**

**K Debt Settlement**

Once a final loss claim is paid, FSA will be able to consider settlement offers received directly from the debtor. Compromise and adjustment offers should be compared against other collection options available, such as IAO and TOP. The option that offers the greatest recovery to the Government should be pursued.

FSA shall process a compromise or adjustment offer according to RD Instruction 1956-B, section 1956.66.

The debt settlement will only cover the Federal debt owed by the debtor. FSA shall notify the lender of the approval of a debt settlement.

After all payments under the compromise or adjustment offer have been received, the remaining balance of the debt will be written off. SED shall FAX or mail a copy of \*--RD 1956-1 along with a memorandum requesting that the debt be written off to NFAOC, Farm and Community Services Branch.--\*

**L Bankruptcy Effect**

FSA, subject to advice provided by the Regional OGC, will immediately file a proof of claim upon notification of a bankruptcy filing for any debtor subject to offset. At a minimum, the following shall be filed with the proof of claim as evidence of the debt:

- FSA-1980-25, FSA-1980-28, Application for Guarantee, or Preferred Lender Application
- FSA-1980-27 or Loan Guarantee
- copy of promissory note
- documentation of FSA's final loss claim payment to the lender.

Bankruptcy filing will halt any FSA offsetting actions. The debtor shall be removed from referral of IAO and TOP through the GLS maintenance screens.

Debts discharged in bankruptcy will be written off upon receipt of the discharge order. SED shall FAX or mail a copy of the discharge order along with a memorandum requesting that \*--the debt be written off to NFAOC, Farm and Community Services Branch.--\*

**M Write Off of Debt When the Debtor Is Released From Liability by DAFLP**

Debtors released from liability under subparagraph 361 C will have their outstanding debt written off. SED shall FAX or mail a copy of DAFLP approval along with a memorandum \*--requesting that the debt be written off to NFAOC, Farm and Community Services Branch.--\*

**375 Repurchase of Guaranteed Portion From a Secondary Market Holder (7 CFR 762.144)  
(Continued)****C Purchase of the Loan or Note by FSA**

**With its demand on the Agency, the holder will include:**

- **a copy of the written demand made upon the lender**
- **originals of the Guarantee and note properly endorsed to the Agency, or the original of the Assignment of Guarantee**
- **a copy of any written response to the demand provided by the lender to the holder**
- **an account which FSA can forward the purchase amount by EFT.**

**The amount due the holder from the Agency includes unpaid principal, unpaid interest to the date of demand, and interest which has accrued from the date of demand to the proposed payment date.**

The authorized agency official will select a proposed settlement date no later than 30 calendar days from the date of the holder's demand letter to FSA. FSA will only pay interest that accrues based on the accrual method established by the terms of the promissory note.

**Upon Agency request, the lender will provide a current statement stating the unpaid principal and interest owed by the borrower and the amount due the holder. A bank officer must certify the statement. Any discrepancy between the amount claimed by the holder and the information submitted by the lender must be resolved by the lender and the holder before payment will be approved by the Agency.**

**The Agency will not participate in resolution of any such discrepancy. When there is a discrepancy, the 30 day Agency payment requirement to the holder will be suspended until the discrepancy is resolved (subparagraph A).**

**375 Repurchase of Guaranteed Portion From a Secondary Market Holder (7 CFR 762.144)  
(Continued)**

**C Repurchase of the Loan or Note by FSA (Continued)**

Within 30 calendar days of the holder's demand for purchase, the authorized agency official shall:

- review the borrower's loan file

**Note:** If the file indicates that a rescheduling or reamortization could correct the default then the authorized agency official should remind the lender of their responsibility for expeditiously liquidating the loan collateral in the event of an FSA purchase. Restructuring of the loan cannot occur once FSA purchase occurs.

- verify the amounts owed to the lender and the holder
- \*--complete FSA-2250 and forward it to the NFAOC, Farm and Community Services Branch for processing.--\*

**At the time of purchase by the Agency, the original Assignment of Guarantee (FSA-1980-36 or FSA-2242) will be assigned by the holder to the Agency without recourse, including all rights, title, and interest in the loan.**

**Purchase by the Agency does not change, alter, or modify any of the lender's obligations to the Agency specified in the Lender's Agreement or the Guarantee. Nor does the purchase waive any of the Agency's rights against the lender. The Agency succeeds to all rights of the holder under the Guarantee including the right to set-off against the lender.**

**D Repurchase Price of the Loan or Note**

**The repurchase by the lender will be for an amount equal to the portion of the loan held by the holder plus accrued interest.**

**The Agency Guarantee will not cover servicing fees that the lender accrues after the repurchase.**

When the holder makes a demand on FSA to purchase the guaranteed portion of the loan, the purchase price will be equal to the unpaid principal and accrued interest. See subparagraph E.

## 376 Actions After Agency Repurchase (7 CFR 762.144) (Continued)

**A Request for Lender Repayment (Continued)**

Once FSA purchases the guarantee from the holder, the authorized agency official shall immediately notify the lender in writing that they must continue to service the loan and pass all payments to FSA according to FSA-1980-27. The authorized agency official will request 1 of the following actions by the lender within 60 calendar days.

- Payment of the entire purchase amount (guaranteed portion plus accrued interest) of the loan held by FSA. Details of the purchase will be provided in the FSA request including:
  - date demand was made on the lender
  - date demand was made on FSA
  - name of the previous holder
  - amount of purchase price paid by FSA
  - daily interest accrual on the purchase amount.

**Notes:** The authorized agency official shall complete FSA-2251 and forward the payment \*-to NFAOC, Farm and Community Services Branch.--\*

The lender must complete FSA-2241 indicating that the guarantee is to be terminated.

- A properly completed FSA-2254 with loan ledgers and supporting documents. FSA-2254 will be coded for final loss review by SED or designee. If the loss amount is less than the amount held by FSA, the loss claim must include a check from the lender for the difference, plus interest up to the date of payment (subparagraph 360 F).
- A liquidation plan, if not already received (subparagraph 358 B). Interest accruing to FSA as holder will continue until payment is received from the lender. If liquidation is projected to take longer than 180 calendar days after FSA purchase, the lender will be requested to submit a final loss claim based on receiving the market value of the collateral. See FSA-2254 for calculation of the final loss claim.

FSA will make similar requests of the lender again after 90 and 120 calendar days. If the lender refuses or fails to comply with the request after 180 calendar days, then SED will follow the procedures in subparagraph B.

**376 Actions After Agency Repurchase (7 CFR 762.144) (Continued)****A Request for Lender Repayment (Continued)**

If a lender fails to comply with the requests, SED shall:

- notify the lender of FSA's intent to collect the purchase amount by administrative offset according to RD Instruction 1951-C

**Notes:** RD 1951-C-1 or a similar format may be used.

An administrative offset will occur against future loss claims the lender may submit.

- refer the case to the Regional OGC for referral to the US Attorney's office to initiate legal action to collect the amount owed FSA for purchase
- determine whether lender status should be revoked according to 7 CFR 762.106(a)(2)(ix), if the lender is a PLP or CLP lender. See Part 4 for further information on revoking lender status.

**B Failure to Reimburse FSA**

If the lender does not reimburse FSA within 180 calendar days, **the lender will be liable for the repurchase amount and any expenses incurred by the Agency to maintain the loan in its portfolio or liquidate the security. While the Agency holds the guaranteed portion of the loan, the lender will transmit to the Agency any payment received from the borrower, including the pro-rata share of liquidation or other proceeds.**

**If the borrower files for reorganization under the provisions of the bankruptcy code or pays the account current while the purchase by the Government is being processed, the Agency may hold the loan as long it determines this action to be in the Agency's interest. If the lender is not proceeding expeditiously to collect the loan or reimbursement is not waived under this paragraph, the Agency will demand payment by the lender and collect the purchase amount through administrative offset of any claims due the lender.**

Upon approval by SED, FSA may continue as holder of the guaranteed portion of the loan until it can be refinanced or the bankruptcy plan is completed, whichever comes first. In such a situation, the authorized agency official shall notify the lender that the lender must send the pro rata share of the borrower's payments directly to FSA.

## Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

## Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2250	FSA Purchase of a Guaranteed Loan Portion		375
FSA-2251	Lender's Guaranteed Loan Payment to USDA		376
FSA-2252	Farm Loan Programs Guaranteed Writedown Worksheet		328, Ex. 12
FSA-2253	Shared Appreciation Agreement for Guaranteed Loans		181, 288, 328, 341, Ex. 12
FSA-2254	Guaranteed Loan Report of Loss		136, 288, 328, 342, Part 14, 376, Ex. 12
FSA-2261	Report on Collection Activities on Liquidated Accounts		266, 362, Ex. 12
FSA-2262	Notice of Liquidation Responsibility		362
FSA-2291	Lender's Processing Checklist		65, 95
FSA-2292	Guaranteed Loan Processing Checklist		65
FSA-2293	Annual File Review Checklist for SEL and CLP Lenders		267
FSA-2294	Debt Writedown Review Checklist		329
FSA-2295	Guaranteed Estimated Loss Review Checklist for SEL and CLP Lenders		342, 359
FSA-2296	Guaranteed Loan Final Loss Review Checklist		360
FSA-2297	Lender Training and Collaboration Report		21
IRS-1099-C	Cancellation of Debt		362
IRS-8379	Injured Spouse Claim and Allocation		Ex. 17, 18
NRCS CPA-1155	Conservation Plan or Schedule of Operations		66
RD 1951-C-1	Notice of Intent to Collect by Administrative Offset		376
RD 1956-1	Application for Settlement of Indebtedness		363
RD-1980-64	Interest Assistance Agreement		224, 228, 230
UCC1	Financing Statement		364
W-2	Wage and Tax Statement		152

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

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
AASM	Application Authorization Security Management	73, Ex. 5
ACT	Consolidated Farm and Rural Development Act	1, 108, 286
ADPB	average daily principal balance	228, Ex. 10
CAFO	Concentrated Animal Feeding Operation	181, 358, Ex. 15
CL	conservation loan	Text, Ex. 2
CMS	Credit Management System	Text
EL	emergency livestock loan	108
EO	economic opportunity loan	108
FmHA	Farmers Home Administration	108, Part 9, Part 11, 360
GFO	guaranteed farm ownership loan	135
GLOC	guaranteed line of credit	108
GOL	guaranteed operation loan	135
IA	interest assistance	18, Parts 9, 11-15, Ex. 10
IAO	Internal Administrative Offset	363, Ex. 2, 17, 18
INA	Immigration and Nationality Act	Ex. 7
LIBOR	London Interbank Offered Rate	135
LINC	Lender Interactive Network Connection	73, 266, Ex. 5
LOC	line of credit	Text
NFAOC	National Finance and Accounting Operations Center	Text, Ex. 10, 21
NPO	nonprofit organization	111
PLP	Preferred Lender Program	Text, Ex. 12
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 7
SAA	Shared Appreciation Agreement	286, 288, Ex. 2
SBA	Supervised Bank Accounts	20, 21, Ex. 6
SDMS	State Directive Management System	84
SEL	Standard Eligible Lender	Text, Ex. 12
USCIS	U.S. Citizenship and Immigration Services	Ex. 7, 8

Re delegations of Authority

This table lists the redelegations of authority in this handbook.

Redelegation	Reference
Administering handbook provisions	20

**Memorandum of Understanding**  
  
*between the*  
**U.S. Small Business Administration**  
  
**and the**  
  
**U.S. Department of Agriculture**

**I. PURPOSE**

The U.S. Small Business Administration (SBA) and the U.S. Department of Agriculture (USDA), together known as the "Agencies" or the "Participants" -- believe that there are small businesses and agricultural producers with underserved financial needs in rural areas.

Small businesses and small agricultural producers, including those owned or operated by minorities, women or veterans, would benefit from a joint effort by the Agencies to encourage sustainable growth and development financed by or assisted by:

- Loan guarantees from SBA
- Loan guarantees, direct loans, and grants from USDA

The Agencies enter into this Memorandum of Understanding (MOU) striving to better serve rural small businesses by:

1. Improving opportunities for rural small businesses to start and grow
2. Coordinating the delivery of technical assistance programs

--\*

\*--MOU Between SBA and USDA (Continued)

3. Increasing the number of rural small business loans guaranteed or made by the Participants, commensurate with the funding made available for these programs
4. Facilitating the development and strengthening of relationships across the Agencies' approved lenders, intermediaries, and networks of resource partners
5. Developing relationships with Federal, State, county, and local agencies; private organizations; and commercial and financial institutions to facilitate and support the development of strong rural small businesses
6. Fostering and supporting sustainable development, livable wage jobs, and quality of life objectives and principles
7. Fostering collaboration between the Agencies to ensure that financing is available to agricultural producers

Each Agency will apply its expertise and experience according to its legislative mandate, to assist small businesses and agricultural producers in rural areas.

## II. AGENCIES

### U.S. Department of Agriculture (USDA)

USDA provides leadership on food, agriculture, natural resources, rural development, nutrition, and related issues based on sound public policy, the best available science, and efficient management. USDA works to expand economic opportunity through innovation, helping rural America to thrive; promotes agriculture production sustainability that better nourishes Americans while also helping feed others throughout the world; and preserves and conserves our Nation's natural resources through restored forests, improved watersheds, and healthy private working lands.

### Small Business Administration (SBA)

SBA acts under the Small Business Act of 1953, as amended, and the Small Business Investment Act of 1958, as amended, to aid, counsel, assist, and protect the interests of small business. SBA guarantees loans and provides business development assistance to small businesses. SBA administers its programs through district offices and U.S. Export Assistance Centers throughout the United States. SBA provides additional services through its network of resource partners managed by the Office of Entrepreneurial Development (OED): the Small Business Development Centers (SBDC), SCORE, Women's Business Centers (WBC), and Veterans Business Outreach Centers (VBOC).

## III. SCOPE

Many rural parts of the country have suffered decades of poverty reflected in unemployment and underemployment. Shifting demand, global competition, and changing demographics have escalated the conditions that cause pockets of persistent poverty, loss of jobs, declining population, and lack of investment and operating capital in many rural areas. The Agencies intend to work together to stimulate small business creation

\*--MOU Between SBA and USDA (Continued)

and expansion in rural areas.

The Agencies each intend to use their respective resources to provide small businesses and agricultural producers in rural areas with loans, loan guarantees, grants and technical assistance in an effort to help build diverse and sustainable economies, reverse population decline, create and sustain jobs, and improve quality of life. When possible, the Agencies will coordinate efforts with their lenders, intermediaries, networks of resource partners, State, county, and local agencies to help rural small businesses and agriculture producers start, grow, and thrive.

The Agencies' resource partners, such as Historically Black Colleges and Universities, Land-Grant Universities, Cooperative Extension Service, and other education institutions may be asked to participate in the various ways as the Agencies work together to help strengthen the rural economy. Through the cooperation outlined in this MOU, the Agencies will support smart growth strategies to enhance the livability and sustainability of rural communities, combat urban sprawl, and promote growth that strengthens and diversifies rural economies.

The Agencies realize that some joint training and outreach activities contemplated in this MOU may be subject to additional negotiation and a separate signed agreement pursuant to SBA's cosponsorship authority (15 U.S.C. § 633(h)) and include input from SBA OED program management offices.

#### IV. AREAS OF COLLABORATION

The Agencies intend to coordinate delivery of their respective programs to rural areas by joint activities which may include, but are not limited to, the following:

##### Marketing and Outreach

1. Each Agency's field offices and OED program offices intend to advise potential small business and agricultural applicants of the other Agency's credit programs, that may support all or a portion of their financing needs. The Agencies field offices will exchange promotional and reference materials, including brochures and training schedules, and will distribute the other Agency's information to its field network and potential applicants when appropriate.
2. Each Agency's field offices intend to coordinate referrals of small business and agricultural applicants to one another and to each party's network of resource partners when appropriate and consistent with each Agency's mission.
3. Each Agency intends to coordinate its outreach to local and national financial institutions to increase awareness of the relevant Agency programs and the special characteristics of and potential for economic development in areas, subject to the availability of funds.
4. The Agencies will work with SBA OED program offices to encourage their networks of resource partners to refer rural small businesses and agricultural producers to the other Agency's resources, where appropriate. USDA's network includes National and State Rural Partnership Councils, State and sub-State Offices, revolving loan fund and technical assistance intermediaries, Appropriate Technology Transfer to Rural Areas, National and State employee associations, State Department

\*--MOU Between SBA and USDA (Continued)

of Agriculture offices, Cooperative Extension Service offices, agricultural lenders, and Land-Grant Universities. SBA's network includes Small Business Development Centers, SCORE Chapters, Veteran Business Outreach Centers, and Women's Business Centers. By mutual agreement, the Agencies may identify pairings of State and district offices to explore mutual best practices available to serve clients.

5. Within the limits of their respective authorities, the Agencies intend to develop working relationships with other Federal, State, county, and local agencies; private organizations; and educational and financial institutions to facilitate and support the development of strong rural businesses.

Use of Technology

The Agencies will provide links to each other's Internet Home Pages and also link to BusinessUSA. Each Agency will ensure that the locations and addresses of the other Agency's field offices may be accessed from its Web site. To the extent available and practicable, other technology links will be explored and implemented by mutual consent. In addition, Application Program Interface (API) may be developed to allow data to synch automatically with BusinessUSA for calendar, events, local offices, and program information (including FAQs etc.), subject to the availability of funds.

Agency Cross Training

Each Agency, to the extent practical and to the extent funds are available, intends to develop joint field training seminars and provide representatives to explain programs, credit analysis techniques, and processing and servicing policies to the staff of the other Agency during these training seminars along with information regarding their lenders, intermediaries, and networks of resource partners and the services that they provide.

SBA – in conjunction with its OED Program Managers' relationship with the Small Business Development Centers, (SBDCs), Women's Business Centers (WBCs) and SCORE Chapters – will help facilitate cross training opportunities between SBDC, WBC and SCORE counselors and , Rural Development (RD) and Farm Service Agency (FSA) State Directors, and members of Rural and Agriculture Interest Section on Loan and Grant programs for rural small businesses and agriculture producers, and other members of USDA's network as appropriate. For example, resource partners of one Agency may be invited to the other's conferences to provide training on its respective programs/services.

Joint Lending Engagements

The Agencies will continue exploring ways each Agency may capitalize on the strengths of the existing loan program processes and procedures already established by each Agency, such as delegated lending authority and lender oversight requirements.

Local and Regional Food Supply Network Lending

The Agencies will exchange information and discuss ways to increase lending to small agricultural producers and other borrowers who provide locally grown produce or play a role in the local food supply chain.

Harmonizing Loan Program and Forms

\*--MOU Between SBA and USDA (Continued)

In order to serve the largest number of rural small businesses as efficiently as possible, the Agencies will explore the possibility of making their financial programs more complementary, such as minimizing differences in processing and closing procedures, to the extent permitted by the statutes and regulations that govern the respective programs. Any harmonization efforts will be documented through a separate written agreement.

Program Management and Review

1. At least semi-annually, each SBA District Director, Branch Manager, or designee will meet with his/her USDA counterpart, RD State Director and FSA State Executive Director, or designee, and other members of USDA as appropriate to review previous joint activities and outline additional cooperative efforts. They should try to initiate, in cooperation with local organizations and within each Agency's respective authorities, at least one joint outreach event or project each year to support the growth and development of rural businesses in their districts.
2. SBA District Directors and OED Program Managers, and at a minimum, RD State Directors and FSA State Executive Directors will designate a senior staff member to implement the special projects contemplated under this MOU and coordinate service delivery.
3. At least annually, SBA's Associate Administrator for Field Operations, SBA's Associate Administrator for International Trade, SBA's Associate Administrator for Entrepreneurial Development, USDA's Administrator for Business and Cooperative Programs, Rural Business Service's (RBS) Deputy Administrator for Business Programs, and FSA's Deputy Administrator for Farm Loan Programs, or their designees, and other members of USDA appropriate will review the previous year's joint activities and outline any additional cooperative efforts needed to further the purposes of this MOU.

BusinessUSA

BusinessUSA.gov (BusinessUSA) is an official website of the U.S. Government and serves as a centralized, one-stop platform for businesses seeking information on Federal government program and services that can be used to grow their companies and increase employment.

Beginning in 2013, USDA will collaborate with SBA to provide BusinessUSA with information on its entire loan and grant programs. SBA and USDA will also work together to customize the existing "Loans and Grants" tile on BusinessUSA to include a selection for rural designation. This will allow for a one-stop resource for visitors seeking information on Federal government loans and grants available to businesses located in rural areas – areas with populations of 50,000 or less.

**V. TERM, AMENDMENTS AND TERMINATION**

This MOU supersedes any prior MOUs on this subject and will take effect when signed by the Participants and remain in effect for 3 calendar years, at which time the Participants may extend the MOU for an additional 2 years by mutual written agreement. The Participants may amend this MOU at any time by mutual written agreement. Either Participant may terminate this MOU upon giving 60 days written notice to the other. This agreement is subject to applicable statutes and regulations.

USDA and SBA and their respective agencies and offices will handle their own activities and utilize their own

**\*--MOU Between SBA and USDA (Continued)**

resources, including the expenditure of their own funds, in pursuing these objectives. Each participant will carry out its separate activities in a coordinated and mutually beneficial manner.

Nothing in this MOU shall obligate either USDA or SBA to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of USDA and SBA will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.

This MOU is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

**VI. CONTACT PERSONS**

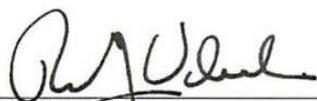
The responsible officers for this MOU shall be:

- SBA, Meagan Gardner, Special Advisor to the Associate Administrator for Field Operations
- USDA, Todd Batta, Senior Advisor to the Secretary

**VII. SIGNATURES**

The following individuals have authority to commit their respective Agencies to the terms of this MOU:

Department of Agriculture (USDA)

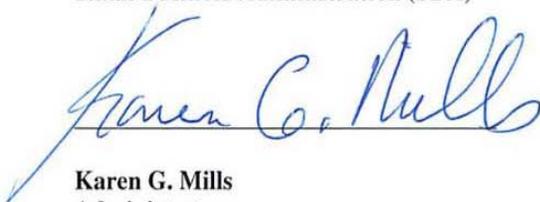


Thomas J. Vilsack  
Secretary

9.4.13

Date

Small Business Administration (SBA)



Karen G. Mills  
Administrator

AUG 22 2013

Date

**Calculations and Formulas (Continued)**

**Average Daily Principal Balance and IA Payment Calculations**

Calculate ADPB by multiplying the principal balance times the actual number of days it is outstanding. The sum of the daily principal balance is then divided by the total calendar days outstanding for a partial year or by 365 calendar days for a full year regardless of the interest accrual method.

The following is an example of a full year calculation for ADPB.

<b>Date</b>	<b>Number of Days</b>	<b>Principal Balance</b>	<b>Total</b>
January 1 – April 15	104	\$25,000	\$2,600,000
April 16 – July 15	91	\$20,000	\$1,820,000
July 16 – September 15	62	\$15,000	\$930,000
September 16 – January 1	108	\$10,000	\$1,080,000
<b>Total</b>	<b>365</b>		<b>\$6,430,000</b>

$\$6,430,000 \div 365 = \$17,616.44$  ADPB for a full year.

The following is an example of a **partial year** calculation for ADPB.

<b>Date</b>	<b>Number of Days</b>	<b>Principal Balance</b>	<b>Total</b>
June 12 – August 2	51	\$15,000	\$765,000
August 3 – September 28	57	\$10,000	\$570,000
September 29 – October 29	31	\$12,000	\$372,000
<b>Total</b>	<b>139</b>		<b>\$1,707,000</b>

$\$1,707,000 \div 139 = \$12,280.58$  ADPB for the partial year.

**Note:** For the purpose of calculating ADPB for payment of IA, for loans made after June 8, 2007, the principal balance for calculating interest assistance shall not exceed \$400,000 or the original loan amount, whichever is less, on any given day.

**Calculations and Formulas (Continued)**

**Average Daily Principal Balance and IA Payment Calculations (Continued)**

The following is an example of a loan, made under the rule limiting IA to 5 years and \$400,000 or the original loan amount, whichever is less, that is restructured on July 1<sup>st</sup>, with capitalized interest above the original loan amount. For purposes of this example, the original loan amount was \$300,000.

The lender's actual ledger may look like the following.

<b>Date</b>	<b>Number of Days</b>	<b>Principal Balance</b>	<b>Total</b>
January 1 – July 1	181	\$280,000	\$50,680,000
July 2 – January 1	184	\$310,000	\$57,040,000
<b>Total</b>	<b>365</b>		<b>\$107,720,000</b>

$\$107,720,000 \div 365 = \$295,068.49$  ADPB for a full year.

For purposes of calculating IA on this loan, ADPB should be calculated as follows.

<b>Date</b>	<b>Number of Days</b>	<b>Principal Balance</b>	<b>Total</b>
January 1 – July 1	181	\$280,000	\$50,680,000
July 2 – January 1	184	\$300,000	\$55,200,000
<b>Total</b>	<b>365</b>		<b>\$105,880,000</b>

$\$105,880,000 \div 365 = \$290,082.19$  ADPB for a full year.

- The lender can use interest basis (360, 365, 360/365) as indicated by the promissory note for calculating interest for the borrower. Some methods result in a slightly higher interest payment by the borrower; however, this is irrelevant to the amount FSA will pay, which is fixed at 4 percent.
- An interest assistance claim submitted with interest accrual based on 360 and then multiplied by 365 is not acceptable.
- If a loan is closed on a 365-calendar-day basis, interest that accrues on February 29 is not \*--recognized by the NFAOC computer system and will not be paid.--\*
- GLS does not count the first day of the claim period. The ending day of a claim period becomes the first day on the next claim period.

**Notice of Referral to the Department of Treasury to Collect Through the Treasury Offset  
\*--Program (TOP) - Sent by NFAOC Only--\***

**Notice of Referral to the Department of Treasury to  
Collect Through the Treasury Offset Program (TOP)**

Dear [Insert name of debtor]:

Our records indicate that the Farm Service Agency (FSA) paid a final loss claim to your lender on your guaranteed loan account and that amount is considered a Federal debt you now owe FSA. FSA previously demanded payment and notified you of intended debt collection actions and your rights in resolving the delinquency. As notified, FSA will use centralized administrative offset through the Treasury Offset Program (TOP) as required by the Debt Collection Improvement Act, 31 U.S.C. 3716, the Federal Claims Collection Standards, 31 C.F.R. parts 900-904, and the USDA administrative offset regulations at 7 C.F.R. Part 3 to collect your delinquent debt.

The time periods for resolving this matter have expired and your delinquent debt has been referred to TOP. Interest is accruing daily on this debt. The total amount due will continue to increase until the debt is paid or settled.

A representative of the Department of Treasury will contact you regarding offsets of Federal payments after they occur. To avoid offset of an Internal Revenue Service (IRS) tax refund where a joint Federal income tax return is filed and your spouse is not responsible for the debt, please contact your local IRS office before filing your return to learn how to protect your spouse's share of the refund.

For further information, call the toll-free number at 1-800-428-9643.

Sincerely,

