

§ 1951.908

7 CFR Ch. XVIII (1-1-05 Edition)

(4) If a borrower has moved and left a forwarding address, the certified mail will be forwarded. If no forwarding address is given, the mail will be returned to the county office. The servicing official will immediately send the documents from the certified mail package to the borrower's last known address, first class mail. The borrower's response date for a completed application will begin on the date of receipt of the certified mail or 3 days following the date of first class mailing, whichever is earlier.

(5) An application for loan service programs must include the following forms (available in any agency office), and data, unless the information is already in the borrower's case file and still current, as determined by the approval official:

(i) Attachment 2 or 4 of exhibit A to this subpart, response form to apply for loan servicing.

(ii) Form 410-1, "Application for FmHA Services," including a current (within 90 days) financial statement of all individuals and entities personally liable for the FLP debt.

(iii) Form 431-2, "Farm and Home Plan," or any other form or submission acceptable to the agency that sets forth a plan of operation and the necessary information. Commodity prices supplied by the agency will be used to complete the forms.

(iv) Form 440-32, "Request for Statement of Debts and Collateral."

(v) Form RD 1910-5, "Request for Verification of Employment."

(vi) Form AD-1026, "Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification," if the one on file with the agency does not reflect all the land owned and leased by the borrower.

(vii) Form SCS CPA-26, "Highly Erodible Land and Wetland Determination," if not previously on file with the agency for the farm operation. This form is included as part of the application after being completed by NRCS. (This form is available at NRCS local offices.)

(viii) If the applicant wants to be considered for a conservation contract, a map or copy of an aerial photo of the farm, on which the applicant must show that portion of the farm and ap-

proximate acres to be considered in a request for debt restructuring provided for in the conservation contract program.

(ix) The most recent five years' income tax returns and supporting documents, unless the borrower has been farming for less than five years. In such case, income tax returns and supporting documents for the tax years that the borrower farmed.

(x) If the borrower is applying for debt settlement, Form RD1956-1, "Application for Settlement of Indebtedness."

(6) The borrower will be provided with copies of these forms when Exhibit A is sent, and may request copies of regulations and the forms manual inserts (FMI) in writing within 30 days of receipt of the loan servicing notice. If these latter items are not provided within 10 days of such a request, the borrower's time for submission of a complete application will be increased by the period of delay in excess of 10 days caused by the Agency.

(7) Not more than one 60-day period will be provided to a borrower to respond to the notice of loan service programs except in accordance with § 1951.908. Subsequent notices as provided for in this section will not be issued until the first notice is resolved.

[57 FR 18626, Apr. 30, 1992, as amended at 62 FR 10123, Mar. 5, 1997; 69 FR 5263, Feb. 4, 2004]

EDITORIAL NOTE: At 69 FR 5267, Feb. 4, 2004, § 1951.907(c) was amended; however, due to unclear amendatory instruction, the amendment could not be incorporated.

§ 1951.908 Servicing financially distressed current borrowers.

A borrower who is financially distressed, but is not yet delinquent on FLP payments, may request servicing at any time.

(a) *Notification.* If a current plan of operation demonstrates that the borrower is or will be financially distressed, as defined in § 1951.906, or if the borrower otherwise requests servicing, the servicing official will provide attachments 1 and 2 of exhibit A of this subpart.

(b) *Eligibility.* To be considered for servicing in accordance with this section, the borrower must submit to the

county office within 60 days Attachment 2 of exhibit A of this subpart and a complete application in accordance with the requirements of § 1951.907(e).

(1) The eligibility requirements of § 1951.909(c) (1) and (2) apply to servicing under this section.

(2) Eligible financially distressed borrowers who are current on their FLP loan payments may be considered for the Primary Loan Service programs described in §§ 1951.909(e) (1), (2) and (3).

(3) Financially distressed borrowers who are not delinquent are not eligible for writedown of debt or buyout as described in 1951.909.

(c) *Processing the application.* The servicing official must process a completed application and notify the borrower of the decision.

(1) Current borrowers will be considered only for the Primary Loan Servicing programs described in §§ 1951.909 (e) (1), (2), and (3). The servicing official must use the Debt and Loan Restructuring System (DALR\$) program, in accordance with exhibit J-1 of this subpart, to determine if a feasible plan can be developed as defined in § 1951.906.

(2) If a feasible plan can be developed, the borrower will be sent exhibit B of this subpart with attachment 1 and the printout of the DALR\$ calculations as notification of the favorable decision. The borrower must accept the offer within 45 days of its receipt by returning attachment 1 to exhibit B of this subpart or the offer will expire. If the borrower accepts, loan restructuring will be processed in accordance with §§ 1951.909 (e) (1), (2), or (3), as applicable.

(3) If a feasible plan cannot be developed, the borrower will be informed of the reasons for the adverse decision. The DALR\$ printout will be attached.

(4) Current borrowers who have received notices under this section and who do not apply for primary loan servicing, or who refuse an offer to restructure their debt, and later become 90 days past due on the FLP loan payment, will be sent notices as described in § 1951.907.

(5) Borrowers whose accounts are not delinquent may receive rescheduling, reamortization, consolidation, or deferral under this subpart only after they have paid at least a portion of the in-

terest due on their FLP debt. The portion due will be based on the applicant's ability to pay, as determined by thoroughly analyzing the farm operation, including any off-farm income. The payment must be made on or before the date that restructuring is closed. Borrowers in non-monetary default, but not delinquent on their FLP debt, must cure the non-monetary default before they may be considered for servicing under this paragraph.

[62 FR 10124, Mar. 5, 1997]

§ 1951.909 Processing primary loan service programs requests.

(a) *Servicing official responsibilities.* (1) After receipt of attachment 2 or 4 and a completed application in accordance with § 1951.907(e), the servicing official will consider all primary service programs options in this subpart. That official must use the Debt and Loan Restructuring System (DALR\$) computer program, in accordance with exhibit J-1 of this subpart for borrowers who submit a new application, to attempt to find the combination of loan service programs that will result in a feasible plan. Borrowers who request loan servicing and who have disposed of all the FLP loan security, including Collection-Only borrowers, will be processed in accordance with part 1956, subpart B, of this chapter. If the application includes a request for the Conservation Contract program, as indicated by the submission of the information required in § 1951.907(e)(5)(viii), the servicing official will determine whether the borrower is eligible, based on criteria as set forth in exhibit H of this subpart. If the borrower is eligible, the servicing official will make an estimate of the information needed to permit the DALR\$ program to make the calculations of feasibility of the Conservation Contract. The assumptions used to establish the estimates will be based on the servicing official's knowledge of the farmland values, the borrower's repayment ability, and the proposed contract acreage. When the DALR\$ calculations for restructuring are completed, the borrower will be notified as set forth in paragraph (h) of this section.

(2) When jointly liable individual borrowers have been divorced and one has