substantially similar to Exhibit A of this Subpart (available in any FmHA or its successor agency under Public Law 103–354 office), and mailed to the borrower by ''Certified Mail, Return Receipt Requested,'' with a copy to the State Director; and, for a case identified in an OIG audit report, copies to the OIG office which conducted the audit and the Planning and Analysis Staff of the National Office. This letter will be sent to all borrowers who received unauthorized assistance, regardless of amount. The letter will:

(1) Specify in detail the reason(s) the assistance was determined to be unauthorized;

(2) State the amount of unauthorized assistance to be repaid according to Exhibit D of this Subpart (available in any FmHA or its successor agency under Public Law 103–354 office); and

(3) Establish an appointment for the borrower to discuss with the County Supervisor the basis for FmHA or its successor agency under Public Law 103–354's claim; and give the borrower an opportunity to provide facts, figures, written records or other information which might refute FmHA or its successor agency under Public Law 103–354's determination that the assistance received was unauthorized.

(b) If the borrower meets with the County Supervisor, the County Supervisor will outline to the borrower why the assistance was determined to be unauthorized. The borrower will be given an opportunity to provide information to refute FmHA or its successor agency under Public Law 103–354's findings. When requested by the borrower, the County Supervisor may grant additional time for the borrower to assemble documentation. When an extension is granted, the County Supervisor will specify a definite number of days to be allowed and establish the follow up necessary to assure that servicing of the case continues without undue delay.

§ 1951.558 Decision on servicing actions.

When the County Supervisor is the same official who approved the unauthorized assistance, the District Director must review the case before further actions are taken by the County Supervisor.

(a) *Payment in full.* If the borrower agrees with FmHA or its successor agency under Public Law 103–354's determination and agrees to repay in a lump sum, the County Supervisor may allow a reasonable period of time (not to exceed 90 days) for the borrower to arrange for repayment. The amount due will be the amount stated in the letter as shown in Exhibit A of this subpart (available in any FmHA or its successor agency under Public Law 103–354 office). The County Supervisor will remit collections to the Finance Office according to the Forms Manual Insert (FMI) for Form FmHA or its successor agency under Public Law 103–354 451–2, ''Schedule of Remittances,'' for application to the borrower's account as an extra payment. After a borrower repays an unauthorized interest subsidy benefit in a lump sum, the loan will be serviced in accordance with § 1951.561(a)(3) of this subpart. In the case of unauthorized assistance which was identified in an OIG audit, the County Supervisor will report the repayment as outlined in § 1951.568(a) of this subpart.

(b) *Continuation with borrower.* If the borrower agrees with FmHA or its successor agency under Public Law 103–354's determination or is willing to repay but cannot repay the unauthorized assistance in a lump sum within a reasonable period of time, continuation may be authorized. Servicing actions outlined in § 1951.561 of this subpart will be taken, provided all of the following conditions are met:

(1) The borrower did not provide false information as defined in § 1951.552(d) of this subpart.

(2) It would be highly inequitable to require prompt repayment of the unauthorized assistance; and

(3) Failure to collect the unauthorized assistance in full will not adversely affect FmHA or its successor agency under Public Law 103–354's financial interests.

(c) *Liquidation of loan(s) or legal action to enforce collection.* When a case cannot be handled according to the provisions of paragraph (a) or (b) of this section, or if the borrower refuses to execute

the documents necessary to make account adjustments or establish an obligation to repay the unauthorized assistance as provided in §1951.561 of this subpart, or when a borrower fails to respond to the initial letter prescribed in §1951.557 of this subpart within 30 days, one of the following actions will be taken:

(1) *Active borrower with a secured loan.* (i) The County Supervisor will send Exhibit B of this subpart (available in any FmHA or its successor agency under Public Law 103–354 office.)

(ii) If the borrower wants to voluntarily convey, the County Supervisor will follow the directions in §1955.10 or §1955.20 as applicable, of subpart A of part 1955 of this chapter.

(iii) If the borrower does not appeal, does not repay the unauthorized assistance in full, does not voluntarily convey, voluntarily sell or refinance the entire FmHA or its successor agency under Public Law 103–354 debt, the borrower's account will be accelerated and there will be no appeal of this action. The County Supervisor and District Director will follow the directions in §1955.15 of subpart A of part 1955 of this chapter.

(iv) Forced liquidation will not be pursued when:

(A) The amount of unauthorized assistance outstanding, including principal, accrued interest, and recoverable costs charged to the account, is less that $1,000; or

(B) It can be clearly documented that it would not be in the best financial interest of the Government to force liquidation. If the servicing official wishes to make an exception to forced liquidation under paragraph (c)(1)(B) of this section, a request for an exception under §1951.569 of this subpart will be made.

(v) Account adjustments will be made by FmHA or its successor agency under Public Law 103–354 without the signature of the borrower according to §1951.568(a)(5) of this subpart. In these cases, the borrower will be notified by letter of the actions taken with a copy of Forms FmHA or its successor agency under Public Law 103–354 1951–12, ''Correction of Loan Account,'' or 1951–13, ''Change in Interest Rate,'' as applicable, enclosed to reflect the adjustments.

(2) *Inactive borrower or active borrower with unsecured loan such as collection-only or unsatisfied balance after liquidation.* The County Supervisor will document the facts in the case and submit it to the State Director who will request the advice of OGC on pursuing legal action to effect collection. The State Director will tell OGC what assets, if any, are available from which to collect.

[50 FR 45777, Nov. 1, 1985, as amended at 53 FR 35717, Sept. 14, 1988]

§§ 1951.559–1951.560 [Reserved]

§ 1951.561 Servicing options in lieu of liquidation or legal action.

When all of the conditions outlined in §1951.558(b) of this subpart are met, servicing options outlined in this section will be considered; and accounts will be serviced according to this section and §1951.568 of this subpart.

(a) *Active borrower*—(1) *Entire loan, or loan servicing unauthorized.* When the entire loan, or all or a portion of primary loan servicing, is determined to be unauthorized because the borrower was not eligible, or because the loan or primary loan servicing was approved for unauthorized purposes, the following alternatives will be considered in the order listed:

(i) Execution of Form FmHA or its successor agency under Public Law 103–354 1965–11, ''Accelerated Repayment Agreement,'' according to §1965.26(e) of subpart A of part 1965 of this chapter, for loans secured by real estate, or rescheduling according to Subpart A of this part, for loans not secured by real estate, based on the borrower's repayment ability.

(ii) Refinancing with another type of FmHA or its successor agency under Public Law 103–354 loan to repay the unauthorized loan, if the borrower is eligible for the type loan being considered.

(iii) When the case cannot be handled according to paragraph (a)(1)(i) or (a)(1)(ii) of this section, continuance with the loan on the existing terms may be approved, and the loan will, thereafter, be serviced as an authorized loan.