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Subpart A—Overview

§ 767.1 Introduction.

(a) *Purpose.* This part describes the Agency's policies for:

- (1) Managing inventory property;
- (2) Selling inventory property;
- (3) Leasing inventory property;
- (4) Managing real and chattel property the Agency takes into custody after abandonment by the borrower;
- (5) Selling or leasing inventory property with important resources, or located in special hazard areas; and
- (6) Conveying interest in real property for conservation purposes.

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(b) *Basic policy.* The Agency maintains, manages and sells inventory property as necessary to protect the Agency's financial interest.

§ 767.2 Abbreviations and definitions.

Abbreviations and definitions for terms used in this part are provided in § 761.2 of this chapter.

§§ 767.3–767.50 [Reserved]

Subpart B—Property Abandonment and Personal Property Removal

§ 767.51 Property abandonment.

The Agency will take actions necessary to secure, maintain, preserve, manage, and operate the abandoned security property, including marketing perishable security property on behalf of the borrower when such action is in the Agency's financial interest. If the security is in jeopardy, the Agency will take the above actions prior to completing servicing actions contained in 7 CFR part 766.

§ 767.52 Disposition of personal property from real estate inventory property.

(a) *Preparing to dispose of personal property.* If, at the time of acquisition, personal property has been left on the real estate inventory property, the Agency will notify the former real estate owner and any known lienholders that the Agency will dispose of the personal property. Property of value may be sold at a public sale.

(b) *Reclaiming personal property.* The owner or lienholder may reclaim personal property at any time prior to the property's sale or disposal by paying all expenses incurred by the Agency in connection with the personal property.

(c) *Use of proceeds from sale of personal property.* Proceeds from the public sale of personal property will be distributed as follows:

- (1) To lienholders in order of lien priority less a pro rata share of the sale expenses;
- (2) To the inventory account up to the amount of expenses incurred by the Agency in connection with the sale of personal property;

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(3) To the outstanding balance on the FLP loan; and

(4) To the borrower, if the borrower's whereabouts are known.

§§ 767.53–767.100 [Reserved]

Subpart C—Lease of Real Estate Inventory Property

§ 767.101 Leasing real estate inventory property.

(a) The Agency may lease real estate inventory property:

(1) To the former owner under the Homestead Protection Program;

(2) To a beginning farmer or socially disadvantaged farmer selected to purchase the property but who was unable to purchase it because of a lack of Agency direct or guaranteed loan funds;

(3) When the Agency is unable to sell the property because of lengthy litigation or appeal processes.

(b) The Agency will lease real estate inventory property in an “as is” condition.

(c) The Agency will lease property for:

(1) Homestead protection in accordance with part 766, subpart D, of this chapter.

(2) A maximum of 18 months to a beginning farmer or socially disadvantaged farmer the Agency selected as purchaser when no Agency loan funds are available; or

(3) The shortest possible duration for all other cases subject to the following:

(i) The maximum lease term for such a lease is 12 months.

(ii) The lease is not subject to renewal or extension.

(d) The lessee may pay:

(1) A lump sum;

(2) On an annual installment basis; or

(3) On a crop-share basis, if the lessee is a beginning farmer or socially disadvantaged farmer under paragraph (a) of this section.

(e) The Agency leases real estate inventory property for a market rent amount charged for similar properties in the area.

(f) The Agency may require the lessee to provide a security deposit.

(g) Only leases to a beginning farmer or socially disadvantaged farmer or

Homestead Protection Program participant will contain an option to purchase the property.

[72 FR 63358, Nov. 8, 2007, as amended at 73 FR 74345, Dec. 8, 2008]

§ 767.102 Leasing non-real estate inventory property.

The Agency does not lease non-real estate property unless it is attached as a fixture to real estate inventory property that is being leased and it is essential to the farming operation.

§ 767.103 Managing leased real estate inventory property.

(a) The Agency will pay for repairs to leased real estate inventory property only when necessary to protect the Agency's interest.

(b) If the lessee purchases the real estate inventory property, the Agency will not credit lease payments to the purchase price of the property.

§§ 767.104–767.150 [Reserved]

Subpart D—Disposal of Inventory Property

§ 767.151 General requirements.

Subject to § 767.152, the Agency will attempt to sell its inventory property as follows:

(a) The Agency will combine or divide inventory property, as appropriate, to maximize the opportunity for beginning farmers or socially disadvantaged farmersto purchase real property.

(b) The Agency will advertise all real estate inventory property that can be used for any authorized FO loan purpose for sale to beginning farmers or socially disadvantaged farmers no later than 15 days after the Agency obtains title to the property.

(c) If more than one eligible beginning farmer or socially disadvantaged farmer applies, the Agency will select a purchaser by a random selection process open to the public.

(1) All applicants will be advised of the time and place of the selection.

(2) All drawn offers will be numbered.

(3) Offers drawn after the first will be held in suspense pending sale to the successful applicant.