§ 765.1  
Introduction.

(a) Purpose. This part describes the policies for servicing direct FLP loans, except for borrowers who are delinquent, financially distressed, or otherwise in default on their loan.

(b) Servicing actions. Servicing actions described in this part include:
   (1) Limited resource reviews;
   (2) Graduation to commercial credit;
   (3) Application of payments;
   (4) Maintaining and disposing of security;
   (5) Transfer of security and assumption of debt; and
   (6) Servicing accounts of deceased borrowers.

(c) Loans covered. The Agency services direct FLP loans under the policies contained in this part. This part is not applicable to Non-program loans, except where noted.

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

§§ 765.3–765.50  [Reserved]

Subpart B—Borrowers With Limited Resource Interest Rate Loans

§ 765.51  Annual review.

(a) A borrower with limited resource interest rate loans is required to provide the Agency annually the operation’s financial information to determine if the borrower can afford to pay a higher interest rate on the loan. The Agency will review the information provided in accordance with §761.105 of this chapter.

(b) If the borrower’s farm operating plan shows that the debt service margin exceeds 110 percent, the Agency will increase the interest rate on the loans with a limited resource interest rate until:
   (1) A further increase in the interest rate results in a debt service margin of less than 110 percent; or
   (2) The interest rate is equal to the interest rate currently in effect for the type of loan.

(c) Except as provided in paragraph (d) of this section, the Agency will increase the limited resource interest rate to the current interest rate for the type of loan, if the borrower:
   (1) Purchases items not planned during the term of the loan;
   (2) Refuses to submit information the Agency requests for use in reviewing the borrower’s financial condition;
   (3) Ceases farming, as described in §765.253; or
   (4) Is ineligible due to disqualification resulting from Federal crop insurance violation according to 7 CFR part 718.

(d) If the borrower has limited resource interest rate loans that are deferred, the Agency will not change the interest rate during the deferral period.

§§ 765.52–765.100  [Reserved]

Subpart C—Borrower Graduation

§ 765.101  Borrower graduation requirements.

(a) In accordance with the promissory note and security instruments, the borrower must graduate to another source of credit if the Agency determines that:
   (1) The borrower has the ability to obtain credit from other sources; and
   (2) Adequate credit is available from other sources at reasonable rates and terms.

(b) The Agency may require partial or full graduation.

(1) In a partial graduation, all FLP loans of one type (i.e. all chattel loans or all real estate loans) must be paid in
§ 765.152 Types of payments.

(a) Regular payments. Regular payments are derived from, but are not limited to:

(1) The sale of normal income security;
(2) The sale of farm products;
(3) Lease income, including mineral lease signing bonus;
(4) Program or disaster-related disbursements from USDA or crop insurance entities; and
(5) Non-farm income.

(b) Extra payments. Extra payments are derived from any of the following:

(1) Sale of chattel security other than normal income security;
(2) Sale of real estate security;
(3) Refinancing of FLP debt;
(4) Cash proceeds of insurance claims received on Agency security, if not being used to repair or replace the security;
(5) Any transaction that results in a loss in the value of any Agency basic security;
(6) Refunds of duplicate program benefits or assistance to be applied on CL or EM loans; or
(7) Refunds of unused loan funds.

(c) Payments from sale of real estate. Notwithstanding any other provision of this section, payments derived from the sale of real estate security will be treated as regular payments at the Agency’s discretion, if the FLP loan will be adequately secured after the transaction.