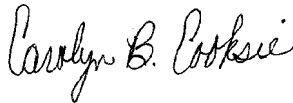


For: State and County Offices

**1951-S Servicing of *Pigford* Cases Whose Claims Have Been Closed
and National Office FLP Programmatic Review**

Approved by: Deputy Administrator, Farm Loan Programs



1 Overview

A

Background

The *Pigford v. Veneman* class action lawsuit has affected how FSA services delinquent FLP loan accounts.

B

Purpose

This notice:

- provides guidance on
 - servicing *Pigford* claimants whose claims have been closed and who are financially distressed or delinquent on their FSA FLP debt
 - servicing delinquent or financially distressed accounts while a claim under the *Pigford Lawsuit* is still pending
 - selling inventory property that was previously owned by a claimant
- obsoletes Notices FLP-246 and FLP-251.

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1 Overview (Continued)

C

Contact

County Offices shall contact the State Office with any questions. State Offices shall contact:

- Lynn Muncy, LSPMD, at 202-720-6834, for questions concerning this notice and the review process
 - Polly Anderson, LSPMD, at 202-720-2558, for questions concerning the notification of final decisions
 - Mary Ann Romero, LSPMD, at 202-720-3101, for inventory property issues.
-

2 Servicing Actions for Closed *Pigford* Claims

A

County Office Action

Upon receiving notification that there is a final decision on the claim of a delinquent *Pigford* claimant, the County Office will service the account according to the following:

Note: Final decision on a claim occurs in either of the following circumstances:

- the adjudicator issues a decision and the claimant does not request a Monitor review within the 120-calendar-day specified timeframe (from most recent adjudicator's decision)
- the adjudicator issues a decision on the claim, the claimant requests a Monitor review, and the Monitor issues a decision not to refer the claim to the adjudicator for re-examination.

for **pre-acceleration** cases:

- renotify all delinquent and financially distressed non-accelerated *Pigford* claimants of 1951-S servicing rights once a final decision has been rendered on their claim using the guide letter in Exhibit 1
 - after all 1951-S servicing rights have been concluded and before acceleration of any *Pigford* claimant, submit the borrower's case file with a completed FSA-580 and FSA-581 to the State Office requesting National Office review.
-

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2 Servicing Actions for Closed *Pigford* Claims (Continued)

A

**County Office
Action
(Continued)**

for **pre-foreclosure** cases, submit:

- cases that have been accelerated, except cases held by DOJ, to the State Office for forwarding to the National Office
- the same information as requested for the pre-acceleration review.

Note: Cases reviewed by the National Office under the pre-acceleration review process of this notice do not need to be reviewed again by the National Office before foreclosure.

B

**State Office
Action**

State Offices shall do the following:

- prepare a cover letter requesting National Office review and consent to proceed with acceleration and foreclosure
- forward the case file and cover letter to the National Office, with FSA-580 and FSA-581, showing the State Civil Rights Review Group has completed their review
- send the case file using Federal Express to:

Director
USDA/FSA/LSPMD
1250 Maryland Ave, SW Suite 500
Washington, DC 20024-0523.

C

**National Office
Action**

The National Office will:

- review the case file for regulatory compliance to ensure that all servicing and appeal rights were properly administered before further consideration of acceleration and foreclosure
 - notify the State Offices in writing of appropriate guidance on each case upon completing the review.
-

3 Servicing Actions for Pending *Pigford* Claims

A

Acceleration and Foreclosure

Until final decisions are received for individual cases through the court-ordered Consent Decree process, the policy of not accelerating or foreclosing against claimants remains in effect. Do not take acceleration or foreclosure action until a final decision has been issued and the National Office review has been conducted according to subparagraph 2 C.

SED's must receive National Office concurrence on a case-by-case basis before accelerating loans and foreclosing on security that belongs to African American farmers who are not currently claimants under the Consent Decree but may have a late claim affidavit pending with the Arbitrator.

Note: In all cases where there is potential fraud in borrowers' loan relationships with FSA, for example, conversion, the cases would generally be referred to the Office of Inspector General (OIG) with copies to OGC. In cases where the borrowers are claimants, continue to refer the particulars of the situations to OIG with copies to OGC. When cases are referred, include any applicable information concerning the claimant's status under the Consent Decree.

B

Inventory Property

The policy of not selling inventory property formerly owned by claimants that were acquired through foreclosure remains in effect. In cases where the property was not acquired through foreclosure, SED's shall ensure that they receive National Office concurrence on a case-by-case basis before advertising and again before selling inventory property previously owned by a claimant.

Further guidance will be provided when concurrence is no longer necessary for the sale of inventory property.

C

Appeal Hearing Pending

In some offices a claimant may have an appeal hearing in suspension pending the adjudication of their claim. When FSA is notified that the claim has been adjudicated, the office should then notify the Appeal Hearing Officer of the name of the claimant, and whether the claimant prevailed or was denied. For prevailing claimants, also provide the type of relief awarded by the adjudicator (such as cash, return of offset, loan cancellation, etc.) and the amount of the relief.

The FSA official will also notify the Appeal Hearing Officer, if the borrower is delinquent and the account has not been accelerated, that the borrower is being renotified according to subparagraph 2 A.

Guide Letter for Borrowers in *Pigford v. Veneman* Class Action

[Claimant Name]
[Claimant Address]

Claim #: [Claim #]

Dear [Claimant]:

The Farm Service Agency (FSA) has been informed that your claim under the *Pigford v. Veneman* class action lawsuit has been finalized. FSA is re-notifying all members of the class who are financially distressed or delinquent on their FSA farm loan program loans, but not yet accelerated, so that they may have another opportunity to apply for loan servicing programs. These programs are available to help resolve a borrower's delinquent loans or other loan servicing issues.

Attached is the "Notice of the Availability of Loan Servicing and Debt Settlement Programs for Delinquent Farm Borrowers" with attachments. Please review and complete the enclosed forms within 60 calendar days of your receipt of the enclosed notice if you wish to apply for loan servicing, or the other benefits listed in the notice. If you need assistance in completing any of the forms, you may request the servicing official to assist you. If you have any questions, please contact our office at [telephone number].

Sincerely,

Farm Loan Manager