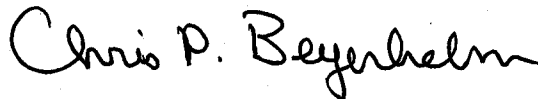


For: FSA Offices

Sale of Inventory Property

Approved by: Acting Deputy Administrator, Farm Loan Programs



1 Overview

A Background

The Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246), which became law on June 18, 2008, included a provision under Section 5302 requiring FSA to advertise its inventory property for sale to socially disadvantaged applicants as well as beginning farmers before it is available to the general public.

7 CFR 767.151 and 5-FLP, paragraph 776 explain the general process for advertising and selling inventory property. All inventory property must be advertised for sale to beginning and socially disadvantaged farmers or ranchers **before** it is available to the general public according to FSA’s enabling statute (7 U.S.C. 1985 (c)).

The Consent Decree in Civil Action No. 97-1978, *Pigford v. Vilsack*, mandates priority consideration for claimants who prevailed on their claim and, therefore, requires certain changes in disposing of inventory property. This right to priority consideration must be exercised no later than April 14, 2005, or 2 years after the date the prevailing claimant completes the Consent Decree claims process, whichever is later.

B Purpose

This notice:

- clarifies the process for advertising and selling inventory properties to beginning and socially disadvantaged farmers or ranchers and prevailing claimants from the *Pigford* Consent Decree process
- modifies policies addressed in Notice FLP-500 by adding socially disadvantaged applicants to the advertising process.

Disposal Date	Distribution
February 1, 2010	All FSA Offices; State Offices relay to County Offices

Notice FLP-530

1 Overview (Continued)

C Contact

If there are any questions about this notice:

- County Offices shall contact the State Office
- State Offices shall contact Marcus D. Graham, LSPMD, at 202-720-3103.

2 Advertising and Selling Inventory Property

A Implementation for Beginning and Socially Disadvantaged Farmers

All inventory property will continue to be advertised for sale to beginning and socially disadvantaged farmers or ranchers unless it meets the criteria identified in subparagraph B. However, any prevailing claimant from the *Pigford* Consent Decree process may exercise their 1-time right to priority consideration in response to the advertisement, provided the *Pigford* Consent Decree process is complete, and the written notice of the request is timely.

The initial paragraph in the advertisement must state the following:

“The property is being offered for sale to those individuals whom the Farm Service Agency (FSA) considers qualified beginning and/or socially disadvantaged farmers or ranchers, and all prevailing claimants in the civil action *Pigford vs. Vilsack*. Prevailing claimants who are qualified beginning and/or socially disadvantaged farmers or ranchers will be given first priority consideration in the purchase of this property. If more than one beginning and/or socially disadvantaged farmer or rancher or more than one of a combination of both who are prevailing claimants submit an application, priority within this group will be determined by lottery. Qualified beginning and socially disadvantaged farmers or ranchers must be in need of FSA credit assistance either in the form of direct FSA financing or an FSA guaranteed loan. For other requirements and information on how to qualify as a beginning and/or socially disadvantaged farmer or rancher, you may contact your local FSA office.”

Prevailing claimants from the *Pigford* Consent Decree process seeking priority consideration **must** submit written notice of the request to FSA. In addition, a prevailing claimant **must** either submit an actual application for inventory property or for a loan at the time of the request for priority consideration or must have an application for inventory property or for a loan already pending with FSA.

If applications are received from beginning and/or socially disadvantaged farmers or ranchers who are **not** prevailing claimants, and prevailing claimants who are **not** beginning and/or socially disadvantaged farmers or ranchers, priority remains with the beginning and/or socially disadvantaged farmers or ranchers.

If, in response to the advertisement in this subparagraph, an application is received only from a prevailing claimant who is **not** a beginning and/or socially disadvantaged farmer or rancher, the property shall be offered to the applicant at market value.

Notice FLP-530

2 Advertising and Selling Inventory Property (Continued)

A Implementation for Beginning and Socially Disadvantaged Farmers (Continued)

In summary, priority consideration will be in the following order:

- prevailing claimants who are beginning farmers and/or socially disadvantaged farmers or ranchers
- beginning farmers and/or socially disadvantaged farmers or ranchers
- prevailing claimants who are **not** beginning farmers and/or socially disadvantaged farmers or ranchers.

B Implementation for All Others

Real property will be advertised for sale to the general public according to 7 CFR 767.151 and 5-FLP, paragraph 776, if the property meets 1 of the following criteria:

- is **not** sold in response to the advertisement to a beginning or socially disadvantaged farmer, rancher, or prevailing claimant
- **cannot** be used for agricultural purposes
- **cannot** be used to carry out the objectives of financing available through the applicable loan program.

Prevailing claimants may exercise their right to priority consideration to purchase inventory property under the *Pigford* Consent Decree between the time of the advertisement and COB on the last workday **before** the scheduled public auction, if they notify FSA, in writing, of their intent.