Questions and Answers Related to the Establishment of Voluntary Flexible Agreements Pursuant to the Department of Education's August 14, 2013 Federal Register Notice

August 28, 2013

Selection

Q1 What is the Department's expectation as to when it will execute VFAs with the agencies selected?

A1 As soon as possible once the Department has finished its evaluation of the agencies that submit Letters of Request for a VFA. Department staff will then begin discussion with each selected agency to finalize the terms of the formal VFA agreement. We expect that all of the VFAs will include the same provisions.

Q2 Has the Secretary established parameters for its selection that relate to such things as Claims Rate, Reserve Ratio, Cost of Collections history, recovery rates, ombudsman complaint levels, etc.?

A2 As stated under the *Selection* section in the notice, the Secretary will evaluate an agency's request to participate under the VFA by reviewing the agency's Letter of Request, required accompanying documentation, and other relevant information that is available to the Secretary.

General

Q3 What funding will be available to the VFA participating agency to pay for the activities included in the notice?

A3 A VFA participating agency will be expected to cover the costs of all activities related to the loans and service areas transferred to them under the VFA in the same way they do for activities related to their current portfolio and service area(s). Generally, agencies pay these costs from Operating Fund revenues or with non-federal sources. There will not be any other federal support provided.

Q4 Does the Department envision any scenario under which it might split a portfolio among multiple VFA participating agencies?

A4 The notice included that possibility. This allows the Secretary flexibility in the disposition of a closing agency's portfolios.

Federal Fund – Please refer to the following Q&As as a group, as they describe the special handing of reinsurance and the Federal Fund that will apply to the loans transferred to a VFA participating agency.

Q5 Will transferred loans receive 100 percent reinsurance from the Secretary?

A5 Yes, reinsurance on loans transferred to a VFA participating agency will be paid at 100 percent. Reinsurance for a VFA participating agency's existing portfolio will continue to be paid at the regular statutory rate.

Q6 Will the Secretary pay reinsurance on a "just-in-time" basis?

A6 Yes, reinsurance on loans that are transferred under the VFA will be paid on a just-in-time basis. Reinsurance for the agencies' existing portfolio will continue to be paid using the current process.

Q7 What will be the disposition of the terminating agency's Federal Fund?

A7 Because reinsurance on loans transferred under the VFA will be paid at 100 percent and under a just-in-time process, there will be no need for the VFA participating agency to maintain a significant portion of the terminating agency's Federal Fund. Therefore, except for a small contingent amount (to be decided), most of the terminating agency's Federal Fund will revert to the Secretary. As a result, the statutory minimum Federal Fund reserve requirement for the outstanding transferred portfolios will be waived in the VFA.

Q8 The notice states that the VFA participating agency must maintain separate records for the transferred portfolio. What does this mean?

A8 For reasons partially related to the reinsurance and Federal Fund answers above, the monitoring, reporting, reconciliation, and application of performance metrics must be applied separately to each of the loan portfolios transferred to a VFA participating agency. For example, separate Forms 2000 submissions must be provided for each of those portfolios, as well as for the agency's existing portfolio. In addition, any special reporting that VFA participating agencies will be required to submit to the Secretary will be in a standard format determined by the Secretary.

That said, each VFA participating agency will determine how it will maintain, process, and otherwise support loans from transferred portfolios. More detail on this issue will be provided during discussions between the Department and the selected agencies.

Revenues and Fees

Q9 Please provide more detail on the information included in the *Schedule of Revenues and Fees* section of the notice.

A9 As noted in the *Federal Register* notice, the revenues and fees that will apply to each of the transferred loan portfolios will differ from the revenues and fees that apply to the agency's existing portfolio. Under the VFA, the Secretary's share of outstanding principal and interest collected on defaulted loans will be 100% in all instances except in the case of collections received through loan rehabilitations, where it will be 93% of outstanding principal and interest at the time of rehabilitation with the VFA participating agency retaining 100% of the collection costs assessed (up to 18.5%).

Q10 What percent of a Direct Consolidation Loan that pays off a defaulted loan is the VFA participating agency allowed to keep?

A10 The VFA participating agency will keep 100% of collection fees charged to the borrower that are included as part of the consolidation loan on the payoff date and 0% of the included principal and interest repaid through the consolidation.

Q11 What percent of a cash or AWG payment on a defaulted loan is the VFA participating agency allowed to keep to apply towards collection costs?

A11 The VFA participating agency will keep 100% of assessed collection fees up to the published maximum rate under all collection methods except for payments secured through the Treasury Offset Program (TOP) where the Secretary retains 100% of the amount collected.

Q12 Assuming the VFA participating agency will be required to sell rehabilitated loans to an eligible lender, will the Secretary reimburse the VFA participating agency the amount of any applicable lender discounts in addition to the 7% retention rate?

A12 No

Q13 What happens if the VFA participating agency does not have adequate lender interest for loan rehabilitation sales?

A13 Currently we are not aware of guaranty agencies experiencing problems selling rehabilitation-eligible loans. If a problem does occur, we do not believe that it would limited to only loans transferred under a VFA and will require the Department to address the issue for the entire FFEL Program portfolio.

Q14 The notice contains the financial terms for the VFA participating agency. What are the terms for the terminating agency?

A14 The VFA will only apply to the VFA participating agency. The terminating agency will be responsible for covering its outstanding costs and expenses.

Q15 Which agency will be liable for the repayment of Default Aversion Fees (DAF) to the Federal Fund on loans where the DAF was taken before the transfer?

A15 We expect that the terminating agency will pay an amount from its Operating Fund to the VFA participating agency to cover any DAF contingent liability. The amount would be based on the DAF that was transferred to the terminating agency's Operating Fund that is still subject to reversal and the historical likelihood of that happening. The VFA participating agency would then be liable for repayment of DAF on loans where the DAF was taken before the transfer.

Conversion Costs

Q16 Who will be responsible for the conversion costs of the transfer, including any deconversion costs associated with the terminating agency's servicing contracts?

A16 In general, we expect that the terminating agency will be responsible for any costs related to its transfer and conversion and the VFA participating agency for its costs. Because conversion related costs will differ for each transfer, we believe that the two agencies should, in their first conversion discussion, determine what those conversion related costs are and which agency will have responsibility for which costs. Neither agency can use Federal Fund resources to cover these costs, nor will there be any other federal support provided.

This approach is consistent with recent transactions in which one agency has closed and transferred its responsibilities to another agency.

Compliance

Q17 Does the 45% cap on consolidating defaulted loans apply to the transferred portfolio?

A17 Yes, the cap would apply on a portfolio by portfolio basis.