

FSA

HANDBOOK

Direct Loan Servicing – Debt Collection and Resolution

To access the transmittal page click on the short reference

For State and County Offices

SHORT REFERENCE

7-FLP

UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct Loan Servicing – Debt
Collection and Resolution
7-FLP**

Amendment 8

Approved by: Acting Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 2 A has been amended to remove 3-FI and update 25-AS to 32-AS for records management.

Subparagraph 61 D has been amended to update references to 64-FI, paragraph 91.

Subparagraph 62 D has been amended to correct form numbers.

Subparagraph 63 B has been amended to provide direction on stopping administrative offset for accounts with repayment agreements established by Treasury while at cross-servicing.

Subparagraph 81 E has been amended to update reference to 64-FI, Part 5.

Subparagraph 81 F has been amended to update reference to 64-FI, paragraph 82, and to add a note providing guidance about accessing FWADM.

Subparagraph 81 G has been amended to update reference to 64-FI, Part 5, and reference to 1-FI, subparagraphs 98 B and G.

Subparagraph 81 H has been amended to add a note about unlinking co-borrowers.

Subparagraph 101 C has been added to reference subparagraph 131 B for servicing county employee salaries subject to TOP.

Subparagraph 104 A has been amended to update the DLS user's guide reference to link, view, update, and unlink co-borrowers.

Subparagraphs 104 B and 105 A have been amended to introduce new FSA-2723 for TOP deletion.

Subparagraph 221 A has been amended for clarification.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraphs 224 A, 225 A through D, 226 A, 245 D, and 248 A have been amended to update references to CSNG/Artiva, formerly FedDebt.

Paragraph 352 has been amended to change the title to “Servicing FSA Debts That Are Under DOJ’s Jurisdiction”.

Subparagraph 402 B has been amended to provide clarification regarding acceleration and security.

Subparagraph 405 A has been amended to provide clarification that an asset investigation is part of the supporting documentation.

Subparagraph 407 A has been amended to add SFLO and re-delegation of SED authority.

Subparagraph 407 B has been amended to remove borrower notification requirement when debt is cancelled using FSA-2731.

Subparagraph 408 C has been amended to permit SED’s to re-delegate authority to cancel delinquent adjustment agreements.

Exhibit 8, subparagraph B has been amended to include response timeframes and to provide direction on rejection of late ARA applications.

Exhibit 17 has been amended to update the calendar for quarterly referrals to TOP System.

Exhibit 19 has been amended to correct a reference.

Exhibit 29, subparagraph 5 D has been amended to update reference to Treasury’s cross-servicing system.

Amendment Transmittal (Continued)

Page Control Chart		
TC	Text	Exhibit
1, 2	1-3, 1-4 3-1, 3-2 3-5, 3-6 3-31, 3-32 3-33 4-1, 4-2 4-7, 4-8 8-1, 8-2 8-5 through 8-8 9-7, 9-8 9-9 11-1, 11-2 12-5, 12-6 12-6.5, 12-6.6 (add) 12-21, 12-22 12-27 through 12-32	1, pages 1-4 8, pages 1, 2 17, page 1 19, page 1 29, pages 5, 6 34, pages 1, 2

Table of Contents

Page No.

Part 1 Introduction and Purpose

1	Purpose and Sources of Authority	1-1
2	Related References.....	1-3
3	FLP Forms	1-4
4-20	(Reserved)	

Part 2 Overview of DCIA and FCCS Delinquent Debt Requirements

21	Overview.....	2-1
22	Debtor Notification	2-3
23	Alternative to Offset	2-4
24	No SOL for Offset	2-4
25-60	(Reserved)	

Part 3 Internal Administrative Offset

61	Overview and Authority	3-1
62	Offset Notification	3-3
63	General Requirements and Due Process	3-6
64-80	(Reserved)	
81	Offset Procedures, Reports, and Automation	3-31
82-100	(Reserved)	

Part 4 TOP

101	Quarterly Screening Process for TOP.....	4-1
102	Discrimination Complaints and TOP.....	4-1
103	(Withdrawn--Amend. 4)	
104	TOP Screens and Process.....	4-2
105	County Office Responsibilities	4-6
106	State Office Responsibilities.....	4-8
107	Handling Debtor Responses to Exhibit 7.....	4-11
108-130	(Reserved)	

Part 5 Federal Salary Offset

131	Introduction.....	5-1
132	Debt Referral and Matching Process	5-2
133	Feasibility and Certifying Official	5-3
134	Due Process Notification and Hearings	5-4
135-160	(Reserved)	

Part 6 (Reserved)

161-200	(Reserved)	
---------	------------	--

Table of Contents (Continued)

Page No.

Part 7 Servicing Unsecured Account Balances and CNC Classification

201	Servicing Requirements for Unsecured Account Balances	7-1
202	CNC Classification	7-2
203-220	(Reserved)	

Part 8 Cross-Servicing

221	Overview	8-1
222	Discrimination Complaints at Cross-Servicing	8-1
223	Cross-Servicing Process.....	8-2
224	FSA Collection Activity	8-5
225	CSNG/Artiva.....	8-6
226	Debt Settlement Offers	8-7
227-240	(Reserved)	

Part 9 AWG

241	Overview	9-1
242	Required Agency Notification	9-3
243	Referral to Treasury	9-3
244	Borrower Requests.....	9-4
245	AWG Hearing According to 31 CFR 285.11(f).....	9-5
246	Garnishment.....	9-8
247	Processing Garnishment Amounts and Collections.....	9-8
248	Changes to Garnishment Amount.....	9-9
249-280	(Reserved)	

Part 10 (Reserved)

281-350	(Reserved)	
---------	------------	--

Part 11 Monitoring, Servicing, and Settling Judgment Debts

351	Monitoring Judgment Debts	11-1
352	Servicing FSA Debts That Are Under DOJ's Jurisdiction	11-2
353	Servicing Judgment Debts Returned by DOJ	11-3
354	Debt Settlement of Judgment Debts	11-4
355-400	(Reserved)	

Table of Contents (Continued)

Page No.

Part 12 Debt Settlement

401	Overview.....	12-1
402	Types of Debt Settlement.....	12-5
403	Cancellation without Borrower/Debtor Signature (FSA-2731).....	12-13
404	Debt Settlement Requested by Borrower/Debtor (FSA-2732)	12-18
405	Review Timeframes and Responsibilities.....	12-22
406	Borrower Repayment Ability.....	12-24
407	Approval and Rejection	12-27
408	Payments and Servicing - Approved FSA-2732.....	12-31

Table of Contents (Continued)

Exhibits

1	Reports, Forms, Abbreviations, and Redelegations of Authority
2	Definitions of Terms Used in This Handbook
3	(Reserved)
4	State Supplements
5, 6	(Reserved)
7	Example of Due Process Letter to Refer Debt to Treasury for TOP, Cross-Servicing, and AWG
8	Alternative Repayment Agreements (ARA's)
9-11	(Reserved)
12	Pro Rata Offset of Entity Payments
13	FSA Documentary Review or Hearing for FSA-2701
14-16	(Reserved)
17	Timeframe for Quarterly Referrals to TOP
18	TOP Offset Programmatic Delete Codes
19	TOP Offset Manual Online Screen Delete Codes
20	TOP Offset Online Screens
21-28	(Reserved)
29	AWG Reference Guide for LSPMD
30-33	(Reserved)
34	Approving Debt Settlements Under FCCS
35	Optional Guide to Document Asset Search
36-38	(Reserved)
39	Completed Examples of FSA-2731, Cancellation of Debt Without Application, and FSA-2731A, Cancellation of Debt Without Application (Continuation)

Part 1 Introduction and Purpose**1 Purpose and Sources of Authority****A Handbook Purpose**

This handbook is designed to assist FSA in understanding:

- regulations governing:
 - internal administrative offset
 - TOP
 - federal salary offset
 - CNC classification and servicing
 - cross-servicing
 - AWG
 - debt settlement
- roles and responsibilities in implementing regulations and other responsibilities in offset, cross-servicing, and debt settlement.

B Sources of Authority

The sources of authority for this handbook include the following for internal administrative offset, Federal salary offset, debt settlement, cross-servicing (including AWG), TOP, and FCCS:

- 7 CFR Part 3
- 7 CFR Part 1951, Subpart C
- 7 CFR Part 1956, Subpart B
- 31 CFR Part 285
- 31 CFR Parts 901 through 904
- various laws and statutes passed by Congress, including CONACT and DCIA.

***--Note:** 7 CFR 1951-C and 7 CFR 1956-B are being used until replaced by a regulation pending with the FSA Regulatory Review Group.--*

1 Purpose and Sources of Authority (Continued)

C Regulation References

Text in this handbook that is published in the CFR is printed in **bold** text. The CFR citation is printed in brackets in front of the text. The references and text:

- are intended to highlight the requirement in the CFR
- may be used to support adverse FSA decisions.

Note: Cross-references printed in bold cite a CFR section. The handbook paragraph or subparagraph where the cross-referenced CFR text can be found is printed in nonbold text in parenthesis (within the bold text).

Example: Subparagraph 243 A provides “[**7 CFR 3.53(c)**] **Upon expiration of the 60-day period for review, or upon completion of a review under subpart F that upholds the agency’s determination of the debt [Parts 2 and 3], USDA will transfer the debt for collection through administrative wage garnishment as well as other means through cross-servicing or centralized administrative offset.**”

Note: The text “**review under subpart F**” refers to 7 CFR 3.53(c). The nonbold reference indicates that 7 CFR 3.53(c) is included in Parts 2 and 3.

2 Related References

A Related FSA Handbooks

The following FSA handbooks concern FLP.

IF the area of concern is about...	THEN see...
appeals and mediation	1-APP.
civil rights compliance and administration for FSA programs	18-AO.
common management and operating provisions for program management activities, functions, and automated applications, such as forms that cannot be accepted by FAX	1-CM.
direct loanmaking	3-FLP.
direct loan regular or routine servicing	4-FLP.
direct loan servicing – special and inventory property management	5-FLP.
disaster designations	1-DIS.
Emergency Loan Seed Producers Program, Horse Breeder Loan Program, Indian Tribal Land Acquisition Program, Special Apple Loan Program, Land Contract Guarantee Program, and servicing of minor loan programs	6-FLP.
employee development and training	6-PM.
environmental requirements	1-EQ.
environmental risk management	2-EQ.
general and administrative regulations governing FLP, and implementing NAD final determinations	1-FLP.
guaranteed loan making and servicing	2-FLP.
personnel management, such as employee conflict of interest	3-PM.
offset procedures and automation	3-PL, 58-FI, 63-FI, 64-FI.
procedures for collecting, maintaining, or disclosing data or information about an individual	3-INFO.
procedures for making records available to the public, other Federal Agencies, and Congress	2-INFO.
* * *	* * *
State and county organization and administration policies, procedures, principles, and standards, such as work organization	16-AO.
--records management	32-AS.--

B Handbook Link

Following are useful links to handbooks:

- <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=empl&topic=hbks>
- <http://inside.fsa.usda.gov/>.

2 Related References (Continued)

C State Supplements

See Exhibit 4 for State supplements required by this handbook. SED's are authorized to issue State supplements to this handbook in addition to State supplements listed in Exhibit 4, according to 1-FLP, subparagraph 2 C.

3 FLP Forms

A Form References

Except as provided in this paragraph, this handbook references forms according to the forms numbering system that became effective December 31, 2007. Forms executed before December 31, 2007, may have a number different from that referenced. See 1-FLP, Exhibit 5 for a comparison of form numbers before and after December 31, 2007.

Note: See Exhibit 1 for titles of forms referenced in this handbook.

B Notary Acknowledgement

*--See 1-FLP, subparagraph 3 C for guidance on notary acknowledgement for forms.

C Applicant and Borrower Signatures

See 1-FLP, subparagraph 3 D for guidance on applicant and borrower signatures.

D State-Modified National Forms

See 1-FLP, subparagraphs 3 E and H for guidance on State-modified national forms.

E State-Created Forms

See 1-FLP, subparagraphs 3 F and H for guidance on State-created forms.

F Other Sources of Forms

See 1-FLP, subparagraph 3 G for guidance on other sources of forms.--*

4-20 (Reserved)

Part 2 Overview of DCIA and FCCS Delinquent Debt Requirements

21 Overview

A Requirements

--DCIA and FCCS require Agencies to use various collection tools, including TOP and-- cross-servicing. These requirements are found in:

- 7 CFR Part 3 for DCIA and FCCS for all USDA Agencies
- 31 CFR Part 285 for DCIA for all Government Agencies
- 31 CFR Parts 900 through 904 for FCCS for all Government Agencies.

[7 CFR 3.1(a)] (3) The regulations in this part do not preclude the Secretary from collection, compromise, suspension, or termination of debts as otherwise authorized by law. In such cases the laws and implementing regulations that are specifically applicable to claims collection activities of a particular agency generally shall take precedence over this part.

[7 CFR 3.1(b)] (2) USDA agencies may issue regulations to supplement this part in order to meet the specific requirements of individual programs.

--FSA must coordinate DCIA and FCCS requirements with CONACT requirements when servicing delinquent FLP debt. CONACT requirements are in 5-FLP and referenced-- where applicable.

The Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) revised the offset requirement for FLP borrowers who have program discrimination complaints accepted by the Office of Adjudication. Delinquent accounts involved in an accepted discrimination complaint will be serviced according to 1-FLP, subparagraph 41 I.

Borrowers entering the Armed Forces are impacted by the Servicemembers Civil Relief Act of 2003 and the Ronald W. Reagan National Defense Authorization Act for FY 2005. Both Acts affect FSA loan servicing. See 4-FLP, Part 11.--*

21 Overview (Continued)

B Timing of Collection Actions

[7 CFR 3.30(a)] Agencies are required by law to transfer delinquent, nontax, legally enforceable debts to Treasury for collection through cross-servicing and through centralized administrative offset. Additionally, USDA has chosen to transfer debts to Treasury for collection through administrative wage garnishment. Agencies need not make duplicate referrals to Treasury for all these purposes; a debt may be referred simultaneously for purposes of collection by cross-servicing, centralized administrative offset, and administrative wage garnishment where applicable. However, in some instances a debt exempt from collection via cross-servicing may be subject to collection by centralized administrative offset so simultaneous referrals are not always the norm. This subpart sets forth rules applicable to the transfer of debts to Treasury for collection by cross-servicing. Rules for transfer to Treasury for centralized administrative offset are set forth in subpart D (Part 4), and for administrative wage garnishment in subpart E (Part 9).

Section 331 D of CONACT requires that borrowers receive loan servicing notification before FSA can take various collection actions.

FLP debt is generally eligible for internal administrative offset and referral to TOP before it is eligible for referral to cross-servicing.

For FLP debt, FSA:

- collects through internal administrative offset as soon as the borrower has received the loan servicing notification package and offset notification

Note: Internal offset includes FSA program payments and other payments within USDA, such as NRCS payments.

- refers debt to TOP for centralized administrative offset after debts are certified as eligible according to Part 4

Note: This is generally after internal offset is already in place, mainly because of the longer TOP due process timeframe (60 calendar days versus 30 calendar days) and automation requirements involved with referring delinquent debt to Treasury. TOP includes Federal payments, such as Social Security benefits, vender payments, etc. Some State payments are also included because of reciprocal agreements with Treasury. In addition, Federal salary offset is currently administered through TOP.

21 Overview (Continued)

B Timing of Collection Actions (Continued)

- refers debt to cross-servicing after all security is liquidated.

Note: AWG is currently administered through the cross-servicing program.

IF for...	THEN see...
--internal administrative offset--	Part 3.
TOP	Part 4.
Federal salary offset	Part 5.
cross-servicing	Part 8.
AWG	Part 9.

--22 Debtor Notification*A Notification--***

The agency official will inform the debtor as required under 7 CFR 3.11(b). These notifications are included, as applicable, in the following:

- loan servicing notification packages (5-FLP, paragraphs 67 and 68)
- FSA-2701, FSA-2702, FSA-2703, and FSA-2704
- 60-day due process letter (Exhibit 7) to refer delinquent debt to Treasury
- FSA-2710
- FSA-2716 and FSA-2717.

Notes: Excusing or waiving interest and administrative costs does not apply to FLP loans according to 7 CFR 3.17(g). Interest and penalties on FLP debt are determined by the promissory notes.

FLP debt is not referred to cross-servicing based on the “over 180 calendar days delinquent” requirement. 7 CFR 3.31 states that referral is not required if the debt is in litigation or foreclosure. FLP debt is generally referred after all loan servicing has been completed and all security has been liquidated according to 5-FLP.

23 Alternative to Offset

A ARA's

Debtors may submit a written ARA as an alternative to FSA collecting delinquent debt through administrative offset (Part 3), TOP (Part 4), salary offset (Part 5), cross-servicing (Part 8), and AWG (Part 9) according to 7 CFR 3.11(b)(4) and 7 CFR 3.16. See Exhibit 8 for reviewing ARA requests.

24 *--No SOL for Offset

A Nonjudgement and Judgement Debt

There is no SOL for offset of nontax debt, pursuant to 31 U.S.C. 3716.

B Judgement Lien Certification

There is a 20 year SOL for offset on a judgement lien, with the option of a one-time renewal for 20 additional years when proper notice of renewal has been filed, pursuant to 28 U.S.C. 3201.

However, offset collection of judgment debt pursuant to 31 U.S.C. 3716 is not tied to the SOL for the lien.

28 U.S.C. 3003(b) provides additional guidance about offsets in relation to other Federal and State laws.

See paragraph 353 for additional information about collecting and servicing judgement--* debt.

25-60 (Reserved)

--Part 3 Internal Administrative Offset*61 Overview and Authority****A General**

Administrative offset is required by DCIA. FSA uses noncentralized internal administrative offset (this Part) within USDA, and centralized offset through TOP (Part 4).--*

[7 CFR 3.43(a)] ... a creditor agency may make a request directly to a payment authorizing agency to offset a payment due a debtor to collect a delinquent debt... Also, non-centralized administrative offsets include USDA internal administrative offsets, for example, of CCC payments to pay Farm Service Agency (FSA) delinquent debts.

[7 CFR 3.43(d)] Payment authorizing agencies shall comply with offset requests by creditor agencies to collect debts owed to the United States, unless the offset would not be in the best interests of the United States with respect to the program of the payment authorizing agency, or would otherwise be contrary to law. Appropriate use should be made of the cooperative efforts of other agencies in effecting collection by administrative offset.

Any FSA payments or commodity loans due to a borrower will be offset for the collection of a delinquent debt owed to FSA, with the following exceptions:

- the initial payment for planting expenses under CRP
- loan funds from FLP loans or other Federal loan programs
- CAT indemnity payments.

B Authority

[7 CFR 1951.102(a)] Collections of delinquent debts through administrative offset will *--be taken in accordance with 7 CFR part 3, subpart B (7 CFR, Part 3, Subpart D) and §1951.106.

Note: 7 CFR Part 3, subpart B moved to subpart D after 7 CFR 1951.102 was most recently revised by FSA.--*

61 Overview and Authority (Continued)

C State Office Responsibility

SED's will ensure that:

- no FSA payments including CRP (except for the initial payment for planting expenses), PFC, LDP, market loan payments, EQIP, LIP, SIP, ECP payments, any other disbursements, and commodity loans are made to a producer who is also 90 calendar days past due on an FLP debt
- authorized FSA employees are correctly sending the offset notices according to paragraph 62 and Exhibit 12, and updating, maintaining, and monitoring delinquent debt and eligibility information:
 - in the web-based subsidiary system according to 64-FI and 3-PL
 - in FSAFS according to 58-FI, paragraphs 160, 161, 404, and 405 and 63-FI, Part 5.

D DD's Responsibility

DD's will ensure that:

- offset notification lists in subparagraph 81 B are updated monthly
- the lists are provided to all County Offices where the borrower farms
- delinquent FLP debt has been recorded in the web-based subsidiary files, using "FSA Debt" as the "Source of Delinquent Debt Determination", according to 64-FI, *--paragraph 91 and 3-PL (Rev. 2), paragraph 33
- the "Other Agency Claim" flag is set in Financial Services, Customer Profile and NPS, according to 64-FI, paragraph 91--*
- information on FLP delinquent debt is updated timely and accurately in FSAFS according to 63-FI, Part 5
- applicable program payments are offset, and the offset monies are properly credited to delinquent FSA debts.

62 Offset Notification

A When 90 Calendar Days Delinquent

[7 CFR 3.41(c)] The Notice of Intent to Collect by Administrative Offset shall be included as part of a demand letter issued under §3.11 (paragraph 21) to advise the debtor of all debt collection possibilities that the agency will seek to employ.

The authorized agency official will send the following by certified mail:

- FSA-2701 to each borrower who is 90 calendar days past due

Notes: The offset notice will be sent in the same envelope with the loan servicing notification package. The notices will be placed back to back with a blank sheet of bold colored paper in between.

If the borrower was previously sent PLS notices for nonmonetary default, or is actively being serviced as 90 calendar days past due, a new PLS notice will not be reissued.

- FSA-2702 to each nonborrower entity as required.

If the certified mail is not accepted by the borrower or borrower entity, the authorized agency official will ensure that the:

- envelope is placed in the borrower's case file
- documents from the certified mail package are sent to the last known address by first-class mail.

B Notice Requirements for Offset of Payments to Entities Related to Debtors

If the debtor will receive all, or part, of a payment because of participation in an entity, the authorized agency official will consult the Regional OGC, as needed, to determine whether FSA has a legally enforceable right under State or Federal law, including common law, to pursue payment from the entity.

See Exhibit 12 for additional information about the following:

- offsetting entity payments
- definition of an entity for this paragraph and Exhibit 12 only
- determining debtor's participation in an entity
- guidance on explaining the situation to the Regional OGC.

62 Offset Notification (Continued)

B Notice Requirements for Offset of Payments to Entities Related to Debtors (Continued)

The FBP will document the basis of FSA's right to pursue the entity payment.

Collection of delinquent debts through administrative offset may be taken against a debtor's pro rata share of payments due any entity in which the borrower participates.

Notice will be given to nonborrower entities subject to pro rata offset where practicable to do so. Written concurrence from the State Office must be obtained if it is not practicable to notify nonborrowers. The borrower's file must be documented accordingly.

Notices to nonborrower entities should be sent at the same time as notices to borrowers. The entity notice should contain no specific debtor information other than sufficient information to identify the debtor (usually the name is sufficient) and the amount of the debtor's deficiency.

Appeal rights to NAD will be provided so the entity has an opportunity to challenge the extent of the debtor's interest in the nondebtor entity.

Note: Notice shall be mailed to any person who is authorized by State law to receive service on behalf of the entity. For example, in most States notice provided to the registered agent is sufficient notice for a corporation. Each State should consult their respective Regional OGC to determine what notice is sufficient for the entity involved.

C When Insufficient Time for Prior Notice and Opportunity to Review

[7 CFR 3.41(b)(3)] ...when there is insufficient time before payment would be made to the debtor/payee to allow for prior notice and an opportunity for review. ...the agency shall give the debtor such notice and an opportunity for review as soon as practicable and shall promptly refund any money ultimately found not to have been owed to the government.

In cases where the notice in subparagraph A was sent, and a farm program payment is scheduled to be paid before the time periods for review and appeal in connection with the *--notice have expired, the authorized agency official will determine whether failure to offset--* the payment would substantially prejudice the Government's ability to collect the debt, such as where possible insolvency of the debtor might encourage competition among creditors for funds.

62 Offset Notification (Continued)**C When Insufficient Time for Prior Notice and Opportunity to Review (Continued)**

If the payment should be offset, the authorized agency official will:

- request concurrence from SED to send FSA-2703 (borrower) and/or FSA-2704 (nonborrower entity)
- insert the reasons for taking immediate offset on FSA-2703 and FSA-2704

Note: Examples might include:

- loans are seriously undersecured
- loans are seriously delinquent with little attempt to make payments
- the borrower has a history of unauthorized disposition of security
- the borrower has a history of paying unsecured accounts or junior lienholders first and failure to collect the payments would result in additional financial losses to the Government.
- attach FSA-2701 when mailing FSA-2703
- attach FSA-2702 when mailing FSA-2704
- send the forms by certified mail.

Note: Offset is prohibited until an FLP loan is 90 calendar days past due.

D Timeframes

Timeframes will commence from the date certified mail is accepted by the borrower, or 3 calendar days following the date of first-class mailing.

Offset will begin for:

- *--FSA-2701 and FSA-2702 on the 31st calendar day, or when a stay of offset expires according to paragraph 63
- FSA-2703 and FSA-2704 immediately.--*

63 General Requirements and Due Process

A Feasibility

SED will work with OGC to obtain a written determination in cases where it is not feasible to use offset. Determinations will consider legal impediments to administrative offset, such as the 1-action rule in a State where pursuing offset could jeopardize FSA's ability to foreclose on the security, contract provisions, or degree of certainty as to the factual basis (other than the debt amount) of the Government's claim.

Determinations concerning legal impediments, and relevant communications with the Regional OGC and/or DOJ, should be documented in the borrower's case file.

B Resolving the Delinquency

To prevent administrative offset, the borrower must:

- pay the account current or in full
- *--submit a proposed ARA that is approved by SED

Note: Must be processed timely according to paragraph 405.

- submit a debt settlement offer on FSA-2732 that is approved by SED
- for cases referred to cross-servicing, establish a repayment agreement with Treasury.

Note: FSA's receipt of a payment through cross-servicing should not automatically remove a delinquent borrower from offset. Only cases where Treasury has accepted a repayment agreement should be removed from administrative offset.--*

C Stays

Offset can be stayed when a debtor requests FSA review according to Exhibit 13 or FSA accepts ARA. Stay will not be granted when:

- PLS has begun and is not concluded
- FSA determines that a situation exists that requires proceeding with offset
- a debtor appeals to NAD.

If offset collections are later determined not to be subject to offset, they will be promptly paid to the debtor.

63 General Requirements and Due Process (Continued)**D Inspect and Copy Records**

[7 CFR 3.42(a)] A debtor who intends to inspect or copy agency or USDA records with respect to the debt must notify the creditor agency in writing within 30 days of the date of the Notice of Intent to Collect by Administrative Offset. In response, the agency must notify the debtor of the location, time, and any other conditions, consistent with part 1, subpart A, of this title, for inspecting and copying, and that the debtor may be liable for reasonable copying expenses. A decision by the agency under this paragraph shall not be subject to review under subpart F or by NAD under 7 CFR part 11.

See 2-INFO if a debtor requests a copy of their file or records. FSA will pay copying costs for 1 copy. If a debtor requests to inspect or copy FSA records after the 30-calendar-day timeframe, access will be provided; however, no stay of administrative offset will occur. See 3-INFO:

- *--paragraph 17 for records holding office responsibility
- paragraph 20 for legal basis for withholding information.

E ARA

[7 CFR 3.42(b)] The debtor may, in response to the Notice of Intent to Collect by Administrative Offset, propose to the creditor agency a written agreement to repay the debt as an alternative to administrative offset.

ARA's will be considered according to Exhibit 8.--*

* * *

F FSA Documentary Review or Hearing

[7 CFR 3.42(c)] A debtor must request an administrative review of the debt under subpart F (this paragraph) within 30 days of the date of the Notice of Intent to Collect by Administrative Offset.

See Exhibit 13 for * * * FSA documentary review or hearing.

64-80 (Reserved)

--81 Offset Procedures, Reports, Automation--**A Timing of Offset**

[7 CFR 3.43 (b)] A non-centralized administrative offset may be effected 31 days after the date of the Notice of Intent to Collect by Administrative Offset, any time after the final determination in an administrative review conducted under subpart F upholds the creditor agency's decision to offset, or any time after the creditor agency notifies the debtor that its repayment proposal submitted under §3.42(c) (subparagraph 63 E) is not acceptable if the 30-day period for the debtor to seek review of the Notice has expired, unless the creditor agency makes a determination under §3.41(b)(3) (subparagraph 62 C) that immediate action to effectuate the offset is necessary.

B Requesting * * * Offset

[7 CFR 3.43(c)] A payment authorizing agency may conduct a non-centralized administrative offset only after certification by a creditor agency that:

- (1) The debtor has been provided notice and opportunity for review as set forth in §3.41; (paragraph 62) and**
- (2) The payment authorizing agency has received written certification from the creditor agency that the debtor owes the past due, legally enforceable delinquent debt in the amount stated, and that the creditor agency has fully complied with its regulations concerning administrative offset.**

After the expiration of stays or the conclusion of applicable reviews, the authorized agency official will notify the State Office of borrowers who are subject to offset, including individually liable members of entities and nonborrower entities.

As long as the account remains in default subsequent notice is not required to notify the State Office to continue offset.

*** * ***

81 Offset Procedures, Reports, Automation (Continued)**C Continuation of Offset**

[7 CFR 3.41(b)(4)] ... With respect to loans paid on an installment basis, notice and opportunity to review under this part may only be provided once for the life of the loan upon the occurrence of the first delinquent installment. ... Any interest accrued or any installments coming due after the offset is initiated also would not require a new notice and opportunity to review.

Once offset collection is in place, it continues until the account is brought current, paid in full, not eligible for offset (such as during certain bankruptcy proceedings, etc.), or otherwise resolved.

If the account is brought current, any subsequent delinquency requires new notification of FSA's intent to collect the delinquency through offset.

D Offset Collections

Collections received through offset will be processed as regular payments and credited to the delinquent debts. Payments will have an application code "A".

If the debtor owes more than 1 type of FSA debt, the priority of the delinquent FSA debts to be paid from offset collections will be according to 58-FI and 4-FLP.

E Refunds

Refunds of amounts offset, plus interest, will be made within 45 calendar days if FSA determines an amount should not have been offset or that the debtor has prevailed in an administrative appeal.

The 90-calendar-day Treasury bill rate will be used to calculate interest payable to the debtor.

***--Note:** See 64-FI, Part 5, for processing FLP refunds through NRRS.--*

81 Offset Procedures, Reports, Automation (Continued)**F Reports**

For relevant reports, refer to the following:

- 63-FI, paragraph 178 for FWADM Active Other Agency Offset Profiles Report
- *--64-FI, paragraph 82 for a list of FWADM reports in NRRS--*
- 1-FLP, Part 3 for DLS, GLS, FOCUS, and Data Mart
- 3-PL (Rev. 2), Part 8 for delinquent debt determinations in web subsidiary:
 - subparagraph 305 N for a list of all delinquent debtors
 - paragraph 303 for a specific borrower.

--Note: For guidance on accessing FWADM, see 1-FI, Part 8.--

G FSAFS, NRRS and NPS

FSAFS is used to establish, modify, and cancel “Other Agency Debt” indicators to offset FP program payments to collect delinquent FLP debt. See 63-FI, Part 5.

NRRS is used for remittances and receipts, and to refund offset collections received for FLP *--debt when needed. See 64-FI, Part 5.

NPS is used to process FP program payments and internal administrative offsets to collect delinquent FLP debt. See 1-FI, subparagraphs 98 B and G.--*

H Canceling Offset

The authorized agency official will notify the State Office to remove a borrower from internal administrative offset, TOP (Part 4), and cross-servicing (Part 8), as applicable, when a delinquent debt:

- has been resolved according to subparagraph 63 B, or
- is no longer eligible for other reasons such as bankruptcy, or a determination that offset is not feasible according to subparagraph 63 A.

--Note: To unlink 1 or more co-borrowers, see subparagraph 104 A.--

82-100 (Reserved)

Part 4 TOP

101 Quarterly Screening Process for TOP**A Background**

The Debt Collection Act, as amended by DCIA, requires that delinquent debtors be referred to TOP for administrative offset of Federal and some State Government payments. The Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) revised the offset requirement for FLP borrowers who have program discrimination complaints accepted by the Office of Adjudication.

B Purpose

This part provides guidance on:

- the 2-step process required to certify FSA direct FLP delinquent borrower/co-borrower debts to Treasury for offset on an ongoing, quarterly basis
- determining eligibility for referring borrower/co-borrower debts to Treasury for TOP offset
- refunding co-borrower TOP offsets
- instructions for updating co-borrowers/related entities in the DLS Customer Profile
- instructions for deleting:
 - borrowers/co-borrowers on TOP offset update screens
 - bankruptcy cases.

***--C Offset of County Office Employees**

County employee salaries are subject to offset through Treasury's TOP (see subparagraph 131 B).

For assistance in processing offset for County Office employees, State Offices should contact DCIB according to 1-FLP, subparagraph 5 D.--*

102 Discrimination Complaints and TOP**A Accepted Complaints**

Delinquent accounts involved in an accepted discrimination complaint will be serviced according to 1-FLP, subparagraph 41 I.

Accounts that have no security remaining, which have been accelerated or where all loans are mature, such as those classified CNC, will continue to accrue interest and be subject to administrative offset.

In cases where loans are not eligible for TOP, according to 1-FLP, subparagraph 41 I, use delete code "11" to remove them from the TOP Offset Screens.

103 (Withdrawn--Amend. 4)**104 TOP Screens and Process****A Co-Borrower Selection and Changes**

Co-borrower information for TOP is selected from the DLS Customer Profile. In DLS, co-borrowers are considered related entities. To link, view, update, and unlink related entities through the loan making process, follow the procedure in the DLS * * * User's Guide, Part 4. To view, create, and update related entity information through the loan *--servicing process, follow the procedure in the DLS User's Guide, Section 8.3.5.

The guide may be found on the FLP Software User Guides web page located at https://inside.fsa.usda.gov/program-areas/daflp/software-manuals/index.--*

B TOP Weekly Update

All loans on the Borrowers Eligible for TOP Offset Certified Screen will be available for review and manual deletion on an ongoing weekly basis. DCIB and State Offices have delete capability; County Offices and FaSB have view capability. State Offices are responsible for processing all deletes. The monthly RC 540 and its parts will be used to programmatically update or delete certified borrower/co-borrower loan information at TOP each weekend. The screens will be taken down by 2:30 p.m. c.t. on Fridays and made available on Tuesdays.

*--Send FSA-2723 to the State Office to request "TOP delete only".

Send FSA-2722 to NFAOC through the State Office and check Box 4B for TOP delete when also requesting a recall from cross-servicing, TOP refund, cross-servicing refund, and/or reporting a change/update to information previously submitted on FSA-2721.

The State Office will delete the applicable loans from TOP before sending FSA-2722 to NFAOC.--*

C Debtors Displayed on Borrowers Eligible for TOP Offset Screens

The monthly RC 540 and its parts will be used on an ongoing basis to select and update delinquent loans eligible for offset. The TOP Selection process is usually run the last 2 weeks of the quarter. The screens will be made available to State and County Offices according to the timeframe in Exhibit 17.

104 TOP Screens and Process (Continued)

C Debtors Displayed on Borrowers Eligible for TOP Offset Screens (Continued)

The screens will be displayed with all delinquent loans for:

- borrowers/co-borrowers who are not at TOP and fall into 1 or more of the following categories:
 - 90 calendar days past due
 - at least \$25 delinquent
 - **not** flagged “BAP”
 - **not** a boll weevil loan
 - **not** flagged “SAA”

Notes: Loans listed will include Apple loans, Bureau of Reclamation loans, and debts classified CNC.

Borrowers on full-time active duty in the Armed Forces are not eligible for TOP. See 4-FLP, Part 11 for guidance on servicing borrowers on full-time active duty.

- debtors/co-debtors who have:
 - employee defalcations
 - judgments **not** currently certified
 - delinquent equity receivables or loan suspensions
 - delinquent leases
 - TPJ’s, both borrower and third parties, if they are in SCIMS and linked as related entities in the DLS Customer Profile
 - filed bankruptcy, but have not been flagged “BAP”.

***--Note:** An automatic stay only affects debtors who are named in the bankruptcy filing.

Example: In Chapter 12 cases, 11 U.S.C 1201 provides that co-debtors are protected from collection efforts such as offset. However, this co-debtor stay only applies to “consumer debts.” FSA debt is not consumer debt because it is made for business/farming purposes. Co-debtors who are not named in the bankruptcy filing should not be removed from offset.--*

To prevent selection for TOP when a borrower/co-borrower is no longer eligible for TOP, such as individual bankruptcy, release from liability, deceased, etc., users must:

- delete the loan on TOP screens with the appropriate code
- unlink the co-borrower as a related entity in the DLS Customer Profile.

104 TOP Screens and Process (Continued)**C Debtors Displayed on Borrowers Eligible for TOP Offset Screens (Continued)**

If a co-borrower later becomes eligible for TOP, such as when a bankruptcy is dismissed, remove or change the “BAP” flag, and/or link the co-borrower as a related entity, as appropriate.

Loans will be selected each quarter, even if manually deleted in a prior quarter, if the loan continues to appear delinquent on ADPS and no circumstance would generate a programmatic delete. Specific examples are ineligible judgment loans, SAA loans, loans involved in bankruptcy with no “BAP” or “SAA” flag on the account, and loans related to a settlement agreement or a problem case being worked by NFAOC where ADPS transactions have not been processed. See Exhibits 18 and 19 for descriptions of programmatic delete codes and the manual delete codes available for State Office use.

To accommodate TOP selection for TPJ loans, the third party’s name, address, and TIN must be entered in SCIMS. Ensure that the third party is not already in SCIMS before attempting to add them. The third party must also be linked as a related entity in the DLS Customer Profile. Select “co-borrower” as the type of related entity. The TOP selection process will bring in all loans. The loans for the primary borrower and any original co-borrowers should be deleted, if appropriate. This will leave only the third party’s debt in TOP.

Borrowers who have requested loan servicing or debt settlement are eligible for offset until the loans have been brought current through payment or restructure, or a settlement or repayment plan has been approved by FSA.

Salary offset collections for delinquent debtors are being handled by Treasury through the TOP offset process. These payments will be biweekly and have a “T” application code.

D State Tax Refunds and State Vendor Payments Included in TOP Centralized Offset

DCIA contains a provision that allows the State to enter into reciprocal agreements with Treasury to collect unpaid State debt by offset of Federal nontax payments and the Federal Government to collect delinquent nontax debt by offset of State payments.

The 60-day TOP Due Process Notification Letter (Exhibit 7) was modified to include State payments.

104 TOP Screens and Process (Continued)**E TOP Refunds**

--FAX FSA-2722 to DCIB at the ECM FAX number in 1-FLP, subparagraph 5 D, only if a-- refund is needed, or the loan needs to be recalled from cross-servicing.

Note: FSA-2722 is only to be used for TOP and cross-servicing refunds and cross-servicing recalls. If FSA-2722 is used for an internal administrative offset or regular payment refund request, processing of the refund may be delayed.

Refunds must be made to the specific person who was offset. DCIB will determine whether the refund will be manual or programmatic. The refund will be programmatic if the person receiving the refund is in ADPS and no other name will be on the check. Full refunds will include the TOP fee amount. Partial refunds will not include the TOP fee amount.

The following information must be provided on FSA-2722, item 16B, if a check must be sent to other than the County Offices:

- name of the person or persons to whom the check should be made payable
- address where the check should be mailed

Note: Manual refunds may be sent directly to the borrower's/co-borrower's address; however, this is discouraged because the County Office then has no confirmation the refund was received. It is critical to specify where the check must be sent.

- effective date the borrower/co-borrower was no longer eligible for offset (the date of bankruptcy filing, date paid current, repayment agreement date, etc.) and which person was involved.

Note: To ensure timely and accurate processing of refund requests, all FSA-2722 refund requests must be FAXed to DCIB only * * *, not to FaSB. DCIB monitors and tracks all refunds.

104 TOP Screens and Process (Continued)**E TOP Refunds (Continued)**

When completing FSA-2722 for a borrower/co-borrower who has a monthly offset occurring or the amount of the offset is unknown and the offset needs to be refunded, enter the following:

- in item 13, the amount of the offset in ADPS Online History, which is the amount of the offset taken by Treasury minus any TOP and/or salary offset fees
- in item 16B, the date specified should be the date the loan was no longer eligible for offset, such as the bankruptcy filing date, date SED signed the settlement agreement, etc.

Note: It is not necessary to wait to FAX FSA-2722 until the offset appears on ADPS. However, FSA-2722's will be held by * * * DCIB until the payment arrives and is applied to the loan. This usually takes 2 to 3 weeks from the date of offset.

105 County Office Responsibilities**A Screening**

On an ongoing basis, County Offices will be provided view-only access to the TOP Offset Online Screens. Since County Offices do not have the authority to delete loans on the TOP Offset Online Screens, County Offices must:

- review the Borrowers Eligible for TOP Offset Screens and determine whether each debtor shown is eligible to receive a 60-day TOP Due Process Notification Letter, or is being referred to TOP for offset

Note: It is critical that borrowers/co-borrowers on this screen are reviewed for TOP due process notification eligibility.

- review the Borrowers Eligible for TOP Offset Certified Screens on an ongoing basis to determine whether any loans need to be removed from TOP

105 County Office Responsibilities (Continued)

A Screening (Continued)

- review Exhibit 18 for delete codes that will be programmatically generated based on the ADPS status of the debtor's account

Note: No County Office action is needed for debtors who meet the delete code criteria in Exhibit 18.

- FAX all FSA-2722 and supporting documentation to the State Office, if a loan needs to be deleted, recalled from cross-servicing, or an offset payment needs to be refunded based on criteria in Exhibit 18 or 19
- *--send FSA-2723 to the State Office instead of FSA-2722, when only requesting TOP delete--*
- verify the accuracy of any flags on the debtor's account and correct, if necessary
- remove ineligible co-borrowers from TOP eligibility by updating/unlinking them in the DLS Customer Profile.

Note: This action will keep borrowers from being selected in subsequent quarters, but will not programmatically delete the loan from TOP Offset Online Screens. They must still be deleted by the State Office in the current quarter, using the applicable codes.

B Accessing Borrower/Co-Borrower Accounts

County Offices can view borrower/co-borrower loans in ADPS, on the TOP Offset Online Screens according to Exhibit 20.

For debtors whose files are being handled in another office, contact that office for a determination of eligibility.

If the County Office is unable to access any borrowers/co-borrowers and the authorized agency servicing official is aware that there should be debtors on the screens, contact the State Office.

On an ongoing basis, State Offices will be provided access to both of the TOP Offset Online Screens. The responsibility for deleting loans now rests with the State Office; however, the screening process is the responsibility of both the State and County Offices.

106 State Office Responsibilities**A TOP Certification**

At the end of each quarter, the TOP Offset Online Screens will be taken out-of-service and all debts not deleted on the Borrowers Eligible for TOP Offset Screen will be certified to Treasury for offset. The Borrowers Certified for Treasury Offset Report will be mailed to State and County Offices within 2 weeks after certification. Borrowers/co-borrowers displayed on this report will be moved to the Borrowers Eligible for TOP Offset/Certification Screen for weekly update capability.

See Exhibit 17 for a tentative timeframe for the quarterly referral process. If changes to the timeframe are needed, a message will be:

- displayed on the ADPS Message Screen
- e-mailed to TOP Coordinators in each State Office.

B Screening

Delete codes cannot be changed or removed at any time. Loans deleted in error will be picked up for screening in the next selection process. See Exhibit 17 for deadlines for entering delete codes.

Note: Delete codes should be entered during the pre-certification screening process.

State Offices will enter a delete code for each loan that is ineligible, based on criteria in Exhibit 19. **Do not use codes that are not included in Exhibit 18 or 19.** Delete code information is tracked and used for quarterly Congressional reporting.

Note: No State Office action is needed for debtors who meet the delete code criteria in Exhibit 18, unless there is a suspend code on an account (“ZSPC” on the ADPS AI Screen). A suspend code will prevent a TOP borrower/co-borrower from being deleted programmatically, even if there is a fully paid code on the loan.

State Offices that transfer loans to a spouse must correct the borrower/co-borrower related entity information in DLS Customer Profile.

106 State Office Responsibilities (Continued)**B Screening (Continued)**

Judgment loans must be carefully reviewed before determining TOP eligibility. DOJ is responsible for referring debts to TOP when DOJ has jurisdiction. In some cases, DOJ may request that FSA refer debts on DOJ's behalf. Do **not** refer a judgment under DOJ jurisdiction **without** contacting LSPMD at 202-720-1658. If the loan needs to be deleted, use delete code "05".

"CAP" and "FAP" flagged loans are included on the TOP Offset Online Screens. The presence of 1 of these flags on the account is not a determining factor for whether a debtor should be deleted. Review the debtor file to determine eligibility as follows:

- "CAP" flagged accounts should be deleted with code "03" only if the debt is being handled by OGC
- "FAP" flagged accounts should be deleted with code "01" only if offset could jeopardize litigation under State law.

CNC loans must be carefully reviewed before determining TOP eligibility.

If any nonjudgment loan becomes ineligible, input the proper delete code and notify DCIB
--immediately by FAXing FSA-2722 to the ECM FAX number in 1-FLP, subparagraph 5 D.--

C Accessing Debtor/Co-Debtor Accounts

State Offices:

- will have online capability to delete loans serviced by their County Offices
- may access the TOP Offset Online Screens as described in Exhibit 20.

106 State Office Responsibilities (Continued)

D Deleting Debtors/Co-Debtors

After accessing debtors through the Borrowers Selection Menu, options “1”, “2”, “3”, or “4”, delete a loan and any cost item related to the loan according to the following table, if ineligible for offset.

Step	Action
1	<p>On the Borrowers Selection Menu, for options:</p> <ul style="list-style-type: none"> • “1” and “2”, input all delete codes needed for all borrower/co-borrower loans displayed on the page before pressing “Enter” <p>Note: Borrowers and co-borrowers are not necessarily eligible for deletion for the same reason or at the same time.</p> <ul style="list-style-type: none"> • “3” and “4”, input the applicable delete code from Exhibit 19 in the “DLT CDE” field on the line for the loan number to be deleted. <p>Note: If all of a borrower’s/co-borrower’s loans are to be deleted, input a delete code for each loan.</p>
2	<p>PRESS “Enter”.</p> <p>Note: Users must PRESS “Enter” for each page, if a delete code has been entered. If users PRESS “PF8” or “PF7” without pressing “Enter” first, the delete code will not be processed.</p> <p>Once users PRESS “Enter”, “Borrower(s) Processed” will be displayed on the bottom-left of the screen. The current date will be displayed in the “Delete Date” column in the center of the screen. To verify the delete codes have processed, ENTER “5” to return to the Subsystem Selection Menu, and PRESS “Enter” again. The delete codes will be displayed in the loan line under the “Delete Code” column, on the left.</p>
3	<p>Continue this process for all pages displayed for the requested State or County Office or for the requested debtor.</p>

***--107 Handling Debtor Responses to Exhibit 7**

A Inspect and Copy Records

See subparagraph 63 D.

B ARA

ARA's will be considered according to Exhibit 8.

C Debt Settlement

See Part 12.

D Review

Do **not** use Exhibit 13 for this review. Debtors were provided an opportunity for review according to Exhibit 13 and NAD appeal, when they received FSA-2701 and/or FSA 2702.

FSA is required to include in Exhibit 7, a statutory 60-day timeframe to request review before referring debts to TOP.

The review, in response to Exhibit 7, is a review of "the validity of the delinquent debt amount".--*

***--107 Handling Debtor Responses to Exhibit 7 (Continued)**

D Review (Continued)

SED designee shall:

- review the information and documentation submitted by the debtor
- determine if the information submitted by the debtor indicates that the outstanding balance or amount delinquent needs to be corrected in FSA's records/automated financial system, and/or if the debt is otherwise currently not eligible for TOP
- provide a written response to the borrower.

If the account needs to be corrected, and/or if the debt is otherwise not eligible for TOP, State Office shall:

- provide the necessary information to FASB (see 1-FLP, subparagraph 5 B for contact information) to correct the account
- delete the debtor from the TOP screens according to subparagraph 106 D.

Note: After an account balance is corrected, the debt may still be delinquent. If necessary, the State Office should consult with OGC to determine if new Internal Administrative Offset notices (Part 3), and/or PLS (5-FLP) need to be sent.--*

108-130 (Reserved)

Part 5 Federal Salary Offset**131 Introduction****A Authority**

Federal salary offset for delinquent FLP debt is processed according to statutory requirements in 37 U.S.C. 3716, OPM regulations at 5 CFR Part 550 subpart K, USDA regulations at 7 CFR Part 3 subpart G, and FSA regulations at 7 CFR 1951.111 * * * .

***--Note:** FSA is in the process of adopting 7 CFR Part 3 through a regulation pending with the Regulatory Review Group.--*

B USDA Federal Salary Determination

[7 CFR 3.70(c)] These regulations do not apply to debts owed by FSA county executive directors or county office employees. Salaries of those employees are subject to administrative offset as provided in 7 CFR part 792 or part 1403.

County employee salaries are:

- **not** considered Federal salaries for the purpose of offset collection
- subject to administrative offset through Treasury's TOP (Part 4).

Federal employee salary offset collections are also received through Treasury's TOP, after additional due process has been provided.

132 Debt Referral and Matching Process**A Debts in TOP**

[7 CFR 3.72(c)] Mandatory centralized administrative offset. Debts may be referred to Treasury under §3.44 for collection through salary offset in accordance with 31 CFR 285.7.

[5 CFR 550.1108] Under 31 U.S.C. 3716, creditor agencies must notify the Secretary of the Treasury of all debts that are delinquent as defined in the FCCS (over 180 days) so that recovery may be made by centralized administrative offset. This includes those debts the agency seeks to recover from the pay account of an employee of another agency via salary offset. The Secretary of the Treasury and other Federal disbursing officials will match payments, including Federal salary payments, against these debts. Where a match occurs, and all the requirements for offset have been met, the payments will be offset to collect the debt. Prior to offset of the pay account of an employee, an agency must comply with the requirements of 5 U.S.C. 5514, this subpart, and agency regulations issued thereunder. Specific procedures for notifying the Secretary of the Treasury of a debt for purposes of collection by centralized administrative offset are contained in 31 CFR part 285 and the FCCS.

Delinquent debt must be in TOP (Part 4) before FSA can receive Federal salary offset collections.

B Notification From Treasury

When Treasury matches a Federal salary to a delinquent FLP debt that is at TOP:

- Treasury notifies NFAOC
- NFAOC notifies the applicable State Office
- State Office determines whether Federal salary offset is feasible (paragraph 133) and ensures that Federal salary offset due process is given to the debtor (paragraph 134), within 15 calendar days of receiving notification from NFAOC.

133 Feasibility and Certifying Official**A Feasibility**

[7 CFR 1951.111(c)] Salary offset is feasible if:

- (1) The cost to the Government of collecting salary offset does not exceed the amount of the debt. County Committee members are exempt from salary offset because the amount collected by salary offset would be so small as to be impractical.**
- (2) There are not any legal restrictions to the debt, such as the debtor being under the jurisdiction of a bankruptcy court.**

If there are legal restrictions to collecting the debt, such as bankruptcy or a civil rights complaint, the debt is also not eligible for TOP and should be recalled (Part 4).

Note: COC member salaries referenced in this subparagraph are also exempted by 7 CFR 3.70 (paragraph 131).

B Certifying Official

[7 CFR 1951.111(b)(1)] Certifying Officials—State Directors; State Executive Directors; the Assistant Administrator; Finance Office; Financial Management Director; Financial Management Division, and the Deputy Administrator for Management, National Office.

SED is the certifying official for Federal salary offset feasibility determinations and due process notifications.

134 Due Process Notification and Hearings

A Due Process

The State Office ensures that FSA-2710 and FSA-2711 are sent to all liable debtors.

If debtors do not request a hearing within 30 calendar days of receiving FSA-2710:

- State Office notifies NFAOC and provides the following:
 - a memorandum or cover letter
 - copies of due process letters
 - copies of any mail receipts
 - other documentation as needed
- NFAOC notifies Treasury that due process has been provided and salary offset can begin.

B Hearings

Hearing officers for Federal salary offset are being provided by Treasury.

If debtors request a hearing:

- State Office notifies NFAOC and provides the following:
 - a memorandum or cover letter
 - copies of due process letters
 - copies of any mail receipts
 - other documentation as needed
- NFAOC notifies Treasury of the request
- Treasury provides for a hearing
- State Office ensures that an FSA representative is available to participate in a telephone hearing
- Treasury issues a hearing decision.

134 Due Process Notification and Hearings (Continued)

C ARA

ARA's will be considered according to Exhibit 8. * * *

D Other Collection Actions

[7 CFR 3.78(e)] The determination that the amount of the debt at this hearing is the final agency action on this matter regarding the existence and amount of the debt for purposes of executing salary offset under 5 U.S.C. 5514. However, even if the hearing official determines that a debt may not be collected by salary offset, but the creditor agency finds that the debt is still valid, the creditor agency may still seek collection of the debt by other means authorized by this part.

--If the hearing officer determines FSA cannot collect through salary offset, the debt stays in TOP to receive other offset collections, such as from IRS tax refunds, Federal-- travel reimbursement payments, etc. (Part 4). If eligible, the debt may also be collected through cross-servicing (Part 8) or AWG (Part 9).

135-160 (Reserved)

Part 6 (Reserved)

161-200 (Reserved)

Part 7 Servicing Unsecured Account Balances and CNC Classification**201 Servicing Requirements for Unsecured Account Balances****A Issuing FSA-2716 and FSA-2717**

After all security has been liquidated, and all proceeds have been applied to the account, the authorized agency official will send FSA-2716 and FSA-2732 to all liable borrowers.

In cases of voluntary liquidation and/or third party foreclosures, FSA loans might not have been delinquent at the time of sale. As appropriate, the authorized agency official will ensure that all applicable loan servicing and offset notices are sent according to Parts 2, 3, and 4.

For conveyance and according to 5-FLP, subparagraphs 497 A and 517 A, the authorized agency official can accept a borrower's conveyance offer and deny a borrower's debt settlement request that was submitted with the conveyance offer. In these cases, after all appeal rights have been concluded and the conveyance has been processed, the authorized agency official will send FSA-2717 to all liable borrowers for any remaining account balance.

If FSA loans were not delinquent at the time of conveyance, the authorized agency official will ensure that all applicable offset notices are sent according to Parts 2, 3, and 4.

***--Note:** If the account has not been accelerated or is not fully matured, see 5-FLP Part 15 to determine if 5-FLP Exhibit 48 must be sent.--*

B Continued Servicing

The authorized agency official will determine whether the debt can be classified as CNC if borrowers do **not**:

- pay the debt in full or submit a completed FSA-2732 within 30 calendar days of the date on FSA-2716
- pay the debt in full within 30 calendar days of the date on FSA-2717.

Internal administrative offset, TOP, and Federal salary offset will continue until the delinquency is cured.

C No Remaining Liable Borrowers

If there is a remaining account balance and there are no liable borrowers for the debt because of bankruptcy discharge, death, etc., the authorized agency official will prepare FSA-2731 recommending cancellation according to Part 12.

202 CNC Classification**A Required Notification Before CNC**

Before classifying debt as CNC, borrowers must have received the following:

- all applicable loan servicing notices
- FSA-2701, FSA-2702, FSA-2703, FSA-2704, or previous authorized form, as applicable
- 60-day due process letter (Exhibit 7) sent as part of the TOP screening procedure in Part 4
- FSA-2716 or FSA-2717 or previous authorized form, as applicable
- *--acceleration notice unless all accounts have been fully matured.

Notes: See 5-FLP Part 15 for acceleration process.

If state law considers voluntary conveyance offers and the completion of FSA-2732 as the borrowers acknowledgment that the debt is fully due and payable, an Acceleration Notice is not required. SED should work with OGC on state supplement if needed.--*

Any applicable timeframes about the information in this part must have expired and all security liquidated, conveyed, released, or otherwise resolved.

B Determining CNC Eligibility and Classification Processing

The authorized agency official will:

- use FSA-2720 to determine CNC eligibility
- submit CNC eligible debt on FSA-2720 to the State Office through DD
- ensure that eligible debts are classified CNC using transaction code 3K, class of write off code 5
- ensure that CNC debt is referred to cross-servicing for collection according to Part 8.

Note: See restrictions for CNC associated with discrimination complaints in 1-FLP, subparagraph 41 K.

C Servicing Debts Not Eligible for CNC

The authorized agency official will:

- determine whether the debt can be debt settled according to Part 12
- monitor debt that is **not** eligible for CNC or debt settlement until it:
 - becomes eligible for CNC
 - is paid in full
 - is debt settled, or otherwise resolved.

Part 8 Cross-Servicing

221 Overview

A Overview

--TOP, cross-servicing, and AWG must be considered when processing debt settlement-- offers under Part 12. If a greater recovery of taxpayer dollars is possible through referral to Treasury for cross-servicing and/or AWG, then the debt must be referred to Treasury.

As part of cross-servicing, Treasury, or its contracted PCA's, perform various collection actions, such as calling debtors, sending letters to debtors, skip tracing, and negotiating debt settlement offers. FLP debts must be referred to TOP before they are referred for cross-servicing and they must remain at TOP for cross-servicing actions to be taken. Therefore, while debts are at cross-servicing, they are also at TOP and subject to offsets. In addition, Treasury administers AWG through the cross-servicing program; therefore, separate referral to AWG is not required. See Part 9 for AWG information.

Note: Borrowers on full-time active duty in the Armed Forces will not be referred for cross-servicing. See 4-FLP, Part 11 for guidance in servicing borrowers on active duty.

222 Discrimination Complaints at Cross-Servicing

A Accepted Complaints

CNC accounts involved in an accepted discrimination complaint according to 1-FLP, subparagraph 41 I, are **not** eligible for cross-servicing. If a CNC debtor files a program discrimination complaint and the Office of Adjudication accepts the complaint as valid, immediately FAX FSA-2722 and supporting documentation to DCIB at the ECM FAX number in 1-FLP subparagraph 5 D to recall the debt from cross-servicing. However, CNC debts are still eligible for administrative offset. For:

- servicing accounts with an accepted discrimination complaint, see 1-FLP, subparagraph 41 I
- administrative offset information, see Parts 2 and 3.

223 Cross-Servicing Process

A TOP Screen Certification

The referrals of debt to cross-servicing and TOP are separate processes. However, a debt must have been certified to TOP to be referred for cross-servicing. The information on the TOP screens is used to validate eligibility for both processes.

B Referring Debt to Cross-Servicing

If the debt is determined to be eligible for CNC according to Part 7, the State Office shall:

- process transaction code “3K” in ADPS with a class of write off code “5” for all debt types except leases, TPJ’s, and equity receivables
- *--refer debts to cross-servicing by completing and FAXing FSA-2721 to DCIB to the ECM FAX number in 1-FLP subparagraph 5 D--*
- submit FSA-2721 to DCIB by the 15th of each month to ensure that debts are included in the end of the month referral

Note: Borrowers and co-borrowers (including liable spouses) shall be listed on FSA-2721 with their TIN’s and must be referred at the same time. The debtor’s last known address will be provided on FSA-2721 if TIN cannot be identified. This debt will be referred to cross-servicing manually. Debts without TIN cannot be referred to TOP.

- respond to each dispute on the debt.

Note: Multiple disputes on the same debt may be received because Treasury and 2 different PCA’s to collect the debt. If Treasury does not receive FSA’s dispute response within 60 calendar days, the debt will be returned as uncollectible.

The State Office will also receive notification from DCIB when the following occur:

- compromises are offered
- initial cross-servicing payments are received
- debts are returned from cross-servicing
- debt has been resubmitted per State Office request.

223 Cross-Servicing Process (Continued)

C Recalling Debts From Cross-Servicing

When, because of such things as bankruptcy protection, debts no longer meet CNC requirements, the State Office will recall debts from cross-servicing by completing and *--FAXing FSA-2722, with supporting documentation, to DCIB at the ECM FAX number in 1-FLP, subparagraph 5 D.--*

Note: These debts should also be deleted immediately on the TOP screens by the State Office, if applicable.

D Debt Recalled From Cross-Servicing

When a debt has been recalled from cross-servicing because it currently does **not** meet the CNC certification requirements on FSA-2720, such as when the borrower files for bankruptcy protection, the authorized agency official will:

- ensure that transaction code 3K, class of write off code 5, is reversed
- review the debt for possible debt cancellation, if appropriate

Example: After consultation with the Regional OGC, the determination may be made that the debt is not eligible for CNC in a community property State where 1 obligor received a Chapter 7 bankruptcy discharge and another co-obligor did not. However, the still liable co-obligor would like to debt settle the loans.

- *--complete debt cancellation according to Part 12, or continue monitoring the debt, as--* applicable.

223 Cross-Servicing Process (Continued)**D Debt Recalled From Cross-Servicing (Continued)**

If the debt was recalled from cross-servicing because the borrower filed bankruptcy, which has now been dismissed, it is possible that the debt did not complete the 2-year cross-servicing process.

- If the authorized agency official determines that the account should be canceled, the cancellation will be completed according to Part 12.
- If the authorized agency official determines the account should be resubmitted, and the State Office concurs, the State Office will complete and submit FSA-2721 to DCIB by the FAX number provided in 1-FLP, subparagraph 5 D and note that the case was previously recalled because of the borrower filing bankruptcy; however, the bankruptcy has been dismissed.

Note: For Treasury to accept the account, DCIB will place an “X” at the end of the case number. This only applies to cases under this scenario. Because of the limited character space available, only the primary borrower and case number can be resubmitted.

If additional assistance is needed in resubmitting the account to Treasury, the State Office will contact DCIB as shown in 1-FLP, subparagraph 5 D.

***--Notes:** See restrictions in 1-FLP, subparagraph 41 K, for resubmitting an account to cross servicing after a discrimination complaint.

For all cases that need to be resubmitted, please write “resubmitted” at the top of the FSA-2721.--*

E Debt Returned From Cross-Servicing

Debts returned from cross-servicing shall be resolved according to Part 12.

224 FSA Collection Activity

A Debts Referred to Cross-Servicing

Treasury regulations require that FSA stop all collection activity on debts referred for cross-servicing, including AWG, except TOP offsets, Federal salary offsets, and internal administrative offsets.

Debtors referred to cross-servicing are provided with payment instructions from Treasury and/or PCA's. Debtors must make their payments to Treasury or PCA because there is a significant Treasury/PCA fee debtors must pay.

When a voluntary payment is received from CNC borrowers, the:

- County Office shall call the State Office
- *--State Office shall check the borrower's current cross-servicing status on CSNG/Artiva--* (paragraph 225).

Note: If needed, call DCIB at the telephone number in 1-FLP, subparagraph 5 D for assistance.

If the account has been referred to cross-servicing, the State Office shall notify the County Office to:

- prepare a memorandum to DCIB stating the following:
 - that the payment should have been sent to cross-servicing
 - amount of the check
 - debtor's name
 - TIN
 - relationship to the borrower's or co-borrower's loan
 - case number and loan number
- mail the check and memorandum to DCIB at the address in 1-FLP, subparagraph 5 D.

Borrowers referred to cross-servicing will continue to have FSA-2065 and, if applicable, IRS Form 1098 generated at calendar year-end if the account had activity. County Offices shall forward FSA-2065 to the borrower and a copy to the State Office.

--225 CSNG/Artiva*A CSNG/Artiva and Cross-Servicing**

Treasury manages the cross-servicing program through CSNG/Artiva. FSA State Offices shall access CSNG/Artiva to check on the status of FSA cases referred to Treasury.

B Requesting Access

To request access to CSNG/Artiva, contact the Treasury Agency Liaison at **FedDebt.Liaison@fiscal.treasury.gov** for the most recent versions of forms for completion. The program code for FSA Farm Loan Programs is 2KC01MOMKC1A.

Note: The e-mail address still uses “FedDebt” at the present time.

C URL

The URL to access CSNG/Artiva periodically changes.

Effective June 7, 2018, the URL is
<https://xservice.fiscal.treasury.gov/csp/prod/os.artiva.web.page.main.cls>.

Clicking on the hyperlink, or using the web browser to access the URL will direct users to the webpage to enter their “user ID” and password.

Notes: The webpage may look slightly different each time Treasury changes the URL.

Users must use the Chrome web browser.

D IT Issues

Treasury’s IT desk for help with CSNG/Artiva can be contacted by links in the system, or--* by calling 304-480-7777.

226 Debt Settlement Offers

A From Borrower

CNC debt may be settled by FSA upon application by the borrower according to Part 12, **if the debt has not been referred to Treasury for cross-servicing, or if all of the borrower's loans have been returned from cross-servicing.** If a CNC borrower submits or ~~inquires about a debt settlement application, the State Office shall access CSNG/Artiva to determine whether the account has been referred for cross-servicing. See paragraph 225 for access.~~

IF the account has...	THEN inform the borrower that...
been referred for cross-servicing and at least 1 loan is still at cross-servicing	the debt is now at Treasury and negotiations need to be with Treasury. Borrowers: <ul style="list-style-type: none"> • may contact Treasury at 1-888-826-3127 • have no appeal rights for settlements rejected by Treasury and returned to FSA.
either of the following: <ul style="list-style-type: none"> • not been referred for cross-servicing (and this referral is not required) • all of the borrower's/co-borrower's loans have been returned from cross-servicing 	a debt settlement offer may be considered. See Part 12 for processing debt settlements.

Note: If a debt settlement offer is received after the State Office has submitted the debt for cross-servicing referral on FSA-2721, but the debt has not yet been referred, the State Office should notify DCIB immediately by FAX at the ECM FAX number in 1-FLP, subparagraph 5 D. Include the terms of the debt settlement offer and request a delay in referring the debt for cross-servicing until a decision is made. Notify DCIB immediately when a decision is made. If the offer is rejected, and all appeal rights exhausted, the debt will be sent to Treasury for cross-servicing in the next referral.

--226 Debt Settlement Offers (Continued)*A From Borrower (Continued)**

Treasury will notify FSA and request concurrence for some repayment agreements and compromises. This notification is done on a loan-by-loan basis, not by account. In cases where a debtor has more than one FSA loan referred to cross-servicing and FSA is advised of an agreement to compromise or adjust 1 loan or several loans, but not all of the debt, SED's may approve the settlement agreements on a loan-by-loan basis.

Cancellation of any loan balances remaining on the compromised or adjusted loans will **not** be processed until all:

- payments have been received as agreed
- loans eligible for referral to the cross-servicing program for that debtor have been returned, with or without payment agreements, to FSA
- co-borrower issues are resolved, including recall and returns.--*

226 Debt Settlement Offers (Continued)**B From Treasury**

If a repayment agreement, adjustment offer, or compromise offer has been negotiated by Treasury, State Offices shall:

- receive Treasury's DMS action form or concurrence request from * * * DCIB about a repayment agreement/adjustment offer or compromise offer
- receive a list of all debts Treasury has returned from cross-servicing for the month from DCIB
- based upon the information in the case file, determine whether the debt is eligible for settlement through the proposed repayment/adjustment offer, compromise offer, or if the debt may be canceled.

SED shall:

- obtain concurrence from the U.S. Attorney or FSA FLP National Office, if necessary
- sign the DMS action form
- ENTER "Y" or "N" in the "Approved" column, as applicable
- *--FAX to DCIB at the ECM FAX number in 1-FLP, subparagraph 5 D.--*

Note: If an offer is not approved, include supporting documentation to substantiate why greater repayment is warranted. Approved agreements must not exceed 5 years according to Part 12.

227-240 (Reserved)

Part 9 AWG**241 Overview****A AWG**

AWG allows a Federal Agency to require a non-Federal employer to withhold up to 15 percent of an employee's disposable income to pay nontax delinquent debt. Treasury, on behalf of the Federal Agency, is authorized to issue a wage garnishment order to collect the debt. The employer will be required to send the amounts deducted to Treasury for payment to the Federal Agency. AWG is governed by Federal law.

Debts referred to Treasury for cross-servicing are generally eligible for AWG.

The AWG Reference Guide for LSPMD (Exhibit 29) is for National Office use in the AWG process.

FLP is implementing AWG through the authority provided in:

- USDA-wide regulations at 7 CFR Part 3
- Government-wide regulations published by Treasury at 31 CFR Part 285.

B Process

AWG is administered through Treasury's cross-servicing program. If an FLP debt is classified CNC and referred to cross-servicing according to Part 8, Treasury will:

- determine whether it will use AWG to collect the FLP debt
- perform all necessary due process notifications.

The only times FLP will need to become involved in the AWG process are when:

- borrowers request to inspect and/or copy their FLP records

Note: See subparagraph 244 A for guidance.

- Treasury requests FLP's assistance in evaluating a debt settlement offer or ARA

Note: See subparagraph 244 B for guidance.

- borrowers request a hearing.

Note: See subparagraph 245 A for guidance.

241 Overview (Continued)**B Process (Continued)**

The overall process when a borrower requests an AWG hearing is as follows:

- Treasury will notify OCFO that a hearing was requested
- OCFO will notify LSPMD that a hearing was requested
- Treasury will notify LSPMD and the borrower of the hearing date, etc.
- LSPMD will:
 - notify the * * * State Office servicing the account that a hearing was requested
 - request any documentation or information needed for the hearing
- the State Office will provide the documentation or information to LSPMD
- LSPMD will be the FLP representative at the hearing
- Treasury's hearing official will make a decision and notify all parties.

C Debt Settlement Offers

While FLP debt is referred to Treasury for AWG and/or cross-servicing, borrowers must submit any debt settlement offer to Treasury and/or Treasury's PCA servicing the debt. If needed, Treasury and/or PCA will forward the debt settlement request to FSA for review through NFAOC or OCFO.

Accounts eligible for AWG and/or cross-servicing are classified CNC (3K class of write off code 5). If a CNC borrower submits or inquires about a debt settlement application, see Part 8.

D Other Collection Actions Authorized

DAFLP will continue to use all applicable collection tools, including centralized
 --administrative offset through TOP (Part 4) and internal administrative offset (Part 3).--

242 Required Agency Notification**A Initial Notifications**

DAFLP satisfies these requirements, including FSA's intent to collect through AWG, in the 60-day due process letter that is sent by NFAOC before referring FLP debt to Treasury for TOP. See Exhibit 7 for an example of this due process letter.

A paragraph in the 60-day due process letter advises FLP borrowers that after liquidation of loan security, any remaining loan balance may be referred to Treasury for collection through PCA's (generally referred to as "cross-servicing") and AWG.

B Subsequent Notification

In some cases, there can be a time delay of several years between receiving the notice in subparagraph A for TOP when the account is initially delinquent and referral of debt to cross-servicing after liquidation or conveyance of all security.

Therefore, after liquidation or conveyance of all security, FSA-2716 or FSA-2717 is sent to borrowers to remind them that the unsecured balance owed on their loans will be sent to Treasury for collection through cross-servicing and AWG. FSA-2716 and FSA-2717 also give borrowers an additional opportunity to resolve the debt before it is actually referred for cross-servicing and AWG.

Note: FSA-2716 or FSA-2717 will be sent as an attachment to 5-FLP, Exhibit 48 for unsecured accounts that have not been previously accelerated.

243 Referral to Treasury**A Referral Required**

[7 CFR 3.53(c)] Upon expiration of the 60-day period for review, or upon completion of a review under subpart F that upholds the agency's determination of the debt * * *, USDA will transfer the debt for collection through administrative wage garnishment as well as other means through cross-servicing or centralized administrative offset.

Borrowers are provided an additional opportunity to review the debt when they receive the 60-day due process letter (Exhibit 7), which is sent before referring the debt to Treasury. See *--subparagraphs 63 F, 107 D, and Exhibit 13.--*

243 Referral to Treasury (Continued)**B Collection Through AWG**

FLP debt will be collected through AWG by Treasury and/or Treasury's PCA's after FSA:

- classifies the account CNC
- refers the debt to cross-servicing according to Part 8.

Note: CNC accounts involved in an accepted discrimination complaint according to 1-FLP, subparagraph 41 I, are **not** eligible for AWG or cross-servicing. See paragraph 222 and 1-FLP, subparagraph 41 I for servicing CNC accounts with an accepted discrimination complaint.

244 Borrower Requests**A Request to Inspect and/or Copy Records**

Borrowers may make a request to inspect and/or copy records. FLP State and local offices may receive the request directly from the borrower, or it may be forwarded on the borrower's behalf from Treasury, OCFO, or LSPMD. All FLP offices must respond in a timely manner to these requests. See 3-INFO, paragraphs 17 and 20 for information about records holding office responsibility and legal basis required for withholding information.

B Request for ARA

Treasury may request assistance from DAFLP, through OCFO, in determining the acceptability of ARA, or debt settlement offers. State Offices must respond in a timely manner.

The authorized agency official may recommend acceptance of ARA if the amount offered:

- before an AWG hearing is reasonable based on the debtor's ability to repay the debt, **or** is at least equal to the estimated amount that would be collected through enforced AWG
- is at least equal to the amount established in the hearing decision and/or garnishment order.

* * *

Note: ARA's will be considered according to Exhibit 8. * * *

245 AWG Hearing According to 31 CFR 285.11(f)**A Hearing Request**

The debtor has a statutory right to a hearing with respect to the existence and amount of the debt claimed or the terms of the proposed repayment schedule under the garnishment order (hardship).

The hearings are generally conducted by teleconference, and the hearing official establishes the date and time.

B Timely Requests

Treasury will:

- make the decisions for FLP because borrowers submit the requests directly to Treasury
- determine whether AWG will begin before a hearing in cases where hearing requests are **not** timely.

C Hearing Official

Treasury, Bureau of the Fiscal Service will provide hearing official services for AWG hearing requests.

D Hearing Procedure

Treasury's hearing official will send the hearing information to the borrower, OCFO, and LSPMD.

The pre-hearing Order sent to LSPMD establishes the hearing date and the date that the following must be submitted to the hearing official and borrower:

- narrative about the existence, computation of amount, and documentation of FLP debt
- any information about the borrower's ability to repay all or part of the debt through AWG
- copies of the proposed hearing exhibits
- list of the proposed hearing exhibits
- list of the proposed hearing witnesses.

245 AWG Hearing According to 31 CFR 285.11(f) (Continued)

D Hearing Procedure (Continued)

LSPMD, or its designee, shall:

- request documentation from the applicable State Office, NFAOC, and OGC as needed
- review all relevant documentation about the case
- prepare the hearing exhibits, list of hearing exhibits, and list of hearing witnesses
- send copies of hearing documents to the hearing officer and borrower
- participate in the teleconference hearing
- respond to any follow-up questions from the hearing official in a timely manner.

FLC, or designee, shall prepare:

- a narrative including the following:
 - the existence, computation of amount, and documentation of FLP debt
 - any information the State or local FSA office may have about the borrower's ability to repay all or part of the debt through AWG
 - a statement confirming that all security that was pledged for the loans was liquidated and the proceeds were applied to the account
- copies of the promissory notes
- printout of each loan showing principal, interest, and daily interest accrual as of the date printed, with a notation showing which items are administrative expense/recoverable cost items
- any documentation, such as a debt settlement application, financial statements, etc., FSA may possess about the borrower's ability to repay all or part of the debt through the garnishment process
- name, address, e-mail, telephone number, and FAX number of the contact person for the case.

Ensure that documentation is assembled and e-mailed, in a manner that protects PII, to
*--LSPMD at **SM.FSA.DCWa7.AWG**--*

Note: The e-mail subject should read “AWG Hearing – (Borrower's Name and State)”.

In cases where LSPMD requests that an FLP employee familiar with the servicing of the case be available to participate in the AWG teleconference, FLC shall designate which FLP employee from the State shall participate.

245 **AWG Hearing According to 31 CFR 285.11(f) (Continued)****D Hearing Procedure (Continued)**

Any requests for additional information or documentation from Treasury, OCFO, or the hearing official must be responded to immediately to ensure timely processing.

If a borrower's circumstances change so that AWG would not be appropriate at any time before the AWG hearing is held, or during the time period between hearing and receiving the hearing official's decision, the State Office must notify LSPMD, and see Parts 3, 4, and 8 to determine whether the debt must also be removed from cross-servicing TOP and/or internal administrative offset.

Examples: If the borrower files for bankruptcy protection, the debt is no longer eligible for cross-servicing, AWG, or TOP.

If the borrower provides a notice of employment termination that he or she received, the borrower must also submit the letter to Treasury and/or PCA
--servicing the account. The State Office will access CSNG/Artiva, and review any CSNG/Artiva documentation and servicing notes, to determine whether-- the letter was accepted by Treasury as notification that the borrower is no longer employed, and will notify LSPMD accordingly. LSPMD will notify OCFO and Treasury's hearing official, if a hearing is no longer necessary, etc. In cases of employment termination, AWG would not be appropriate. However, internal administrative offset, and continued referral to cross-servicing and TOP may be appropriate based on the criteria in Parts 3, 4, and 8.

If AWG hearings are canceled, LSPMD will notify the State Office accordingly.

E Burden of Proof and Hearing Record

[31 CFR 285.11(f)(8)] (i) The agency will have the burden of going forward to prove the existence or amount of the debt.

(ii) Thereafter, if the debtor disputes the existence or amount of the debt, the debtor must present by a preponderance of the evidence that no debt exists or that the amount of the debt is incorrect. In addition, the debtor may present evidence that the terms of the repayment schedule are unlawful, would cause a financial hardship to the debtor, or that collection of the debt may not be pursued due to operation of law.

F AWG Decision

The hearing official sends the AWG decision to the borrower, OCFO, and LSPMD. LSPMD will notify the applicable State Office.

The issuance of proposed garnishment orders by Treasury shall not be subject to appeal to NAD under 7 CFR Part 11. Hearings will be conducted according to 31 CFR 285.11(f).

246 Garnishment**A Withholding Order**

Treasury sends the withholding order to the employer on behalf of DAFLP.

B Employer Certification

Treasury sends the certification to the employer on DAFLP's behalf. The employer returns the completed form to Treasury.

247 Processing Garnishment Amounts and Collections**A Employer Processing**

The employer submits withheld amounts to Treasury. Treasury sends the funds to FSA in automated reports.

B FLP Processing

AWG collections will be included with all other collections received from Treasury through cross-servicing and/or TOP. Monies collected are applied to borrowers' loans according to 3-FI and 4-FLP, Part 5.

When Treasury reviews an account, they are reviewed by individual loans, not by the total debt owed by the borrower. As such, once an individual loan is paid in full, Treasury ceases AWG collections and returns the account to FSA. Even in instances where the borrower has more than 1 loan covered by AWG, the subsequent loans will be returned because Treasury has ceased collections. Therefore, when a borrower has more than 1 loan that should be paid

--from AWG, the State Office will contact DCIB for assistance in resubmitting any additional loans to Treasury to resume collection through AWG. See 1-FLP, subparagraph 5 D for DCIB contact information.--

* * *

--DCIB must notify Direct Loan FaSB to reverse the CNC classification code (3K class of write-off code 5) to apply AWG or cross-servicing collections. After applying collections, Direct Loan FaSB must re-establish the CNC classification code, as appropriate.--

248 Changes to Garnishment Amount**A Following Involuntary Separation**

In many cases, FSA will **not** know when borrowers are working or unemployed. AWG is processed through Treasury's cross-servicing program. While accounts are referred to AWG and/or cross-servicing, FLP borrowers must communicate directly with Treasury and/or PCA's about their financial circumstances.

When contacted by borrowers after a garnishment order is established, State and local FSA offices shall advise borrowers that they must contact Treasury and/or PCA directly. The contact information is in the letters that borrowers receive from PCA and/or Treasury. The *--status of the debt at Treasury and/or PCA is available in CSNG/Artiva.

Do not recall debts from AWG or cross-servicing, or edit any information in CSNG/Artiva--* based on a borrower's claim that he or she is no longer working. The borrower must contact Treasury and/or PCA to report this information, and it will be verified by PCA and/or Treasury.

B Financial Hardship

At this time, hardship requests for FLP debt are reviewed by Treasury. Treasury will make any hardship determination on DAFLP's behalf and notify the borrower's employer of any needed adjustments to the garnishment amount.

In cases where the garnishment amount has been adjusted because of hardship, Treasury will periodically request updated financial information from the FLP borrower to determine whether the hardship still exists and/or if the garnishment amount must be adjusted again.

Treasury uses a cost-of-living calculator to determine an appropriate garnishment amount. The calculator considers the debtor's individual financial circumstances and the cost-of-living where the debtor lives. The regional cost-of-living amounts are adjusted each year based on information compiled by IRS.

C Debt Paid in Full

In cases where the debt is paid in full, Treasury will notify the employer to discontinue garnishment for FLP.

249-280 (Reserved)

Part 10 (Reserved)

281-350 (Reserved)

Part 11 Monitoring, Servicing, and Settling Judgment Debts**351 Monitoring Judgment Debts****A Monitoring Status**

State Offices shall monitor the status of all judgments with DOJ, except pending foreclosure judgments, to determine whether:

- any collections have been made on the judgment in the last 12 months
- the account has been referred to Department of Treasury for TOP and/or cross-servicing.

B Request Return

State Offices shall request that DOJ return judgments if no collections have been made by DOJ in the last 12 months.

Note: Consult with the Regional Attorney to determine whether State law prevents FSA from pursuing offset collection or referring deficiency judgments for TOP.

***--C Contact Number For DOJ**

For cases that have been submitted to DOJ, the contact number for status updates is 202-532-4343.--*

--352 Servicing FSA Debts That Are Under DOJ's Jurisdiction--**A Internal Administrative Offset**

Under FSA and CCC offset regulations at 7 CFR 792.7 and 1403.7, DOJ is not entitled to priority in requesting offset of FSA Farm Program payments. To achieve the greatest recovery on judgment debt, it is FLP's policy to use FLP's priority under 7 CFR 792.7 and 1403.7 regulations whenever possible and appropriate. Therefore, State and County Offices shall:

- determine whether the borrower will receive Farm Program payments and request written DOJ concurrence to pursue collection of these monies as applicable
- pursue internal administrative offset according to Part 3 after obtaining DOJ concurrence
- notify DOJ of all administrative offset collections received and applied to the judgment accounts.

B TOP Referral

DOJ is responsible for referring * * * debts under its control to TOP and it is DOJ's policy to do so while DOJ is pursuing collection of the debt. If the debt is selected for TOP during FSA's TOP referral process, the debt must be deleted from the TOP Eligible Screens at the end of each quarter using delete code "05". When DOJ returns the case to FSA, DOJ withdraws the debt from TOP, and it is FSA's responsibility to refer the debt to TOP according to Part 4.

C DOJ Fees

If the borrower's account is referred to DOJ for foreclosure and/or other collection action after foreclosure, such as a deficiency judgment or enforcing a judgment lien, any attorney's fees and any fees charged by DOJ will be added to the debt.

D Debt Settlement

Settlements negotiated and approved by DOJ will be completed under FCCS authorities as set forth in Exhibit 34.

353 Servicing Judgment Debts Returned by DOJ

A Servicing Accounts Returned by DOJ

Service accounts returned by DOJ according to the following table.

IF the judgment lien has...	THEN...
<p>not expired</p>	<ul style="list-style-type: none"> • pursue internal administrative offset according to Part 3 if collection of Farm Program payments is possible • refer the account to Treasury for TOP offset according to Part 4, cross-servicing according to Part 8, and AWG according to Part 9, as appropriate. State Offices shall: <ul style="list-style-type: none"> • complete FSA-2720 and classify the account as CNC by processing transaction code “3K” with a class of writeoff code “5”, except for employee defalcations and TPJ’s •*--submit FSA-2721 to DCIB by FAX at the ECM FAX number in 1-FLP, subparagraph 5 D.--* <p>Notes: In cases where an acceptable debt settlement offer is received from the debtor before referral to cross-servicing, the State Office may process it according to Parts 8 and 12.</p> <p>Referral of the debt to cross-servicing is required unless any of the exceptions under 31 CFR 285.12 applies or if the borrower is no longer eligible for cross-servicing. The exceptions are included in FSA-2720.</p>
<p>expired (20 years from the date of judgment, unless renewed)</p> <p>Note: If the U.S. Attorney states the judgment expired after 10 years, then consult the Regional Attorney to determine whether the judgment can be revived.</p>	<p>cancel the debt according to Part 12.</p> <p>Note: If continuing to offset after the judgment lien has expired, get confirmation from the Regional Attorney that continuing to offset is allowed. Also consider if partial cancellation would be appropriate in these instances.</p>

354 Debt Settlement of Judgment Debts***--A 7 CFR 1956-B**

7 CFR 1956 subpart B is being used until replaced by a regulation pending with the Regulatory Review Group. Before publication of the regulation, judgment debts shall be canceled, compromised, or adjusted similarly to Parts 8 and 12, Exhibit 34, and 7 CFR 1956 subpart B.

B Documentation

Insert any of the following that apply in FSA-2731 and/or FSA-2732:--*

- U.S. Attorney's file is closed
- judgment has expired 20 years after the judgment date, and the judgment is not renewed

Note: If the U.S. Attorney states that the judgment expired after 10 years, consult the regional OGC to determine whether the judgment can be revived.

- debt was returned from cross-servicing as uncollectible
- debtor is unable to pay any part of the debt and has no reasonable prospect of being able to pay any part of the debt
- debt cannot be collected through Federal salary offset and/or AWG.

C Releasing Judgment Lien by DOJ

The State Office shall notify the U.S. Attorney's office that it has canceled debt subject to a judgment lien. The notice should request that this judgment lien be released.

355-400 (Reserved)

Part 12 Debt Settlement

*--401 Overview

A Authorities

[7 CFR 1956.51] This subpart delegates authority and prescribes policy and procedures for settlement of debts owed to the United States under the Farm Credit loan programs of the Farm Service Agency (FSA).

CONACT, according to 7 CFR Part 1956, Subpart B, will continue to be used to process most debt settlements.

See paragraph 402 for the different types of CONACT debt settlements, and paragraphs 403 and 404 for guidance on processing each type.

[7 CFR 1956.51] ... Settlement of claims against third party converters, and Economic Opportunity (EO) loans is authorized under the Federal Claims Collection Standards, 4 CFR parts 101-105 (moved to 31 CFR 900-904).

[7 CFR 3.19] An agency shall follow the standards set forth in 31 CFR part 902 for the compromise of debts pursuant to 31 U.S.C. 3711 arising out of the activities of, or referred or transferred for collection services to, that agency, except where otherwise authorized or required by law.

[7 CFR 3.21] An agency shall promptly refer to Justice for litigation debts on which aggressive collection activity has been taken in accordance with this part, and that cannot be compromised by the agency or on which collection activity cannot be suspended or terminated in accordance with 31 CFR parts 902 and 903. Agencies shall follow the procedures set forth in 31 CFR part 904 in making such referrals.

FCCS, according to FSA regulations at 7 CFR Part 1956-B and USDA wide regulations at 7 CFR Part 3, will continue to be used for the following:

- claims against third party converters
- borrowers who have received previous debt forgiveness
- nonprogram loans
- judgment debt that has been serviced according to paragraph 353.

See Exhibit 34 for FCCS debt settlement.

Note: For cases that are a combination of judgment and nonjudgment debt, and the judgment is retained by DOJ according to paragraph 352, coordinate debt settlement of the judgment debt and nonjudgment debt with DOJ as the approval official.--*

--401 Overview (Continued)*B Approval Forms**

Use FSA-2731 for individuals and entities listed on the promissory note when a signature is not needed. See paragraph 403.

Use FSA-2732 when the debtor requests debt settlement. If a borrower is unable to act, another party having legal authority to act on the borrower's behalf may sign the FSA-2732 and any other required forms. See paragraph 404.

Cases with multiple debtors may use a combination.

Example: 2 borrowers are liable for the debt. Borrower "A" dies or is discharged, etc. Borrower "B" submits FSA-2732, requesting a debt settlement. FSA-2731 will be completed for borrower "A" and attached to FSA-2732 and the debt settlement application processed under paragraph 404.

C Other Factors to Consider

Other factors that may influence the type of debt settlement, or acceptability of a debt settlement offer:

- OGC has advised in writing that the debt is legally unenforceable
- offset collections are being received, but are not sufficient to significantly reduce the balance owed.

Include documentation as applicable when reviewing debt settlement according to paragraph 403 or 404.

Use FSA-2732 and paragraph 404 when the debtor requests debt settlement.

Use FSA-2731 and paragraph 403 in all other cases.--*

--401 Overview (Continued)*D Youth Loans**

Notwithstanding any other FSA regulation, forgiveness of youth loan debt, because of circumstances beyond the borrower's control, does not preclude the applicant, or any member of an entity applicant, from obtaining additional direct or guaranteed loans from FSA. This includes assumption of FSA debt or any other financial assistance that cites this part as part of its eligibility. The criteria for determining whether the forgiveness was beyond the borrower's control are the same criteria used in 7 CFR 766.104(a)(1). Any borrower who met those criteria before the youth loan was forgiven will not be denied loan assistance based on forgiveness of youth loan debt. Debt that was forgiven on any other type of loan, even with the same borrower, is still considered according to present regulations and can preclude the applicant from receiving a loan from FSA.

Past debt forgiveness on a youth loan, or an existing delinquency on a youth loan, does not preclude the borrower from receiving direct or guaranteed student loans.

Any borrower who receives debt forgiveness on a youth loan, or requests information from FSA to provide any creditor, shall be provided FSA-2727 by mail or in person.--*

401 Overview (Continued)**E Joint Debtors**

[7 CFR 1956.57] (j) *Joint debtors*. Settlement may not be approved for one joint debtor unless approved for all debtors. “Joint debtors” includes all parties (individuals, partnerships, joint operators, cooperatives, corporations, estates) who are legally liable for payment of the debt.

(1) Separate and individual adjustment offers from joint debtors must be accepted and processed only as a joint offer. Joint debtors must be advised that all debtors will remain liable for the balance of the debt until all payments due under the joint offer have been made.

(2) A separate Form FmHA or its successor agency under Public Law 103-354 1956-1 (FSA-2732) will be completed by each debtor, unless the debtors are members of the same family and all necessary financial information on each debtor can be shown clearly on a single application. Separate applications will be sent to the State Office as a unit.

***--F Offer to Pay Debt in Full Over Time**

Offers to pay debt in full over time should be considered and processed in the same manner as adjustment offers under subparagraph 402 B. In order to pay the debt in full without a loss to the government, interest will continue to accrue based on the promissory note interest rate.--*

--402 Types of Debt Settlement*A Compromise**

[7 CFR 1956.66] Nonjudgment debts which the debtor is unable to pay may be compromised or adjusted in accordance with applicable provisions of this section, and the debtor may retain the security property, if any. Application will be made on Form RD 1956-1 (FSA-2732) by the debtor; or if the debtor is unable to act, by another party having legal authority to act for the debtor.

[7 CFR 1956.66 (a)] FLP debts. The debt or any extension thereof on which compromise or adjustment is requested does not have to be due and payable under the terms of the note or other instrument, or because of acceleration by written notice prior to the date of application.

[7 CFR 1956.57 (e)] Proceeds from the disposal of security prior to approval of a debt settlement offer. A debtor is not required to have disposed of the security prior to application for debt settlement for a loan to be settled. However, if a debtor has disposed of security prior to applying for debt settlement, proceeds from the disposed security must first be applied on the debtor's account, irrespective of an application for debt settlement unless the conditions specified in §1956.66 of this subpart are met.

[7 CFR 1956.66 (a)(1)] Security may be retained by the debtor if the debtor offers an amount at least equal to the current fair market value (including any crop security) less any prior lien amounts. Any remaining unsecured debt may be debt settled.

[7 CFR 1956.66 (c)] Unsecured debts. Unsecured debts considered under this paragraph (c) are most frequently account balances remaining after the debtor has sold security property to another party/entity, the security has been liquidated through foreclosure, or FmHA or its successor agency under Public Law 103-354 has accepted a deed in lieu of foreclosure and the borrower was not released from liability. An offer to compromise or adjust an unsecured debt must represent the maximum amount FmHA or its successor agency under Public Law 103-354 determines the debtor can pay based on a current financial statement and other information available to FmHA or its successor agency under Public Law 103-354.

Note: See paragraph 404 for processing compromise offers.--*

402 Types of Debt Settlement (Continued)

B Adjustment

[7 CFR 1956.66 (a)(2)] Where the debtor is able to pay an amount in excess of the lump sum compromise offer, an adjustment offer must call for a lump sum payment as set out in paragraph (a)(1) (paragraph 402A) of this section, plus any additional amounts the Agency determines the debtor is able to pay over a period of time not to exceed 5 years.

Note: The initial payment for an adjustment offer must be at least as much as the total value of all security that the debtor is retaining.

[7 CFR 1956.66 (c)] ... An adjustment offer is to be scheduled for payment over the shortest period FmHA or its successor agency under Public Law 103-354 determines is feasible, but not to exceed 5 years.

[7 CFR 1956.57 (c)] ... It is impossible in cases eligible for debt settlement to forecast accurately the debtor's future repayment ability over a long period of time; consequently, the period of time during which payments on settlement offers are to be made should not exceed five years... Adjustment offers will not be approved in any case unless there is reasonable assurance that the debtor will be able to make the payments as they become due.

When a debtor can pay more than a lump sum compromise payment over time, the debtor must provide documentation that funds are, or will be, available to pay the adjustment offer through its term.

Adjustment offers to pay the debt in full over time will be processed as authorized below:

[7 CFR 3.16] Collection in installments.

(a) Whenever feasible, agencies shall collect the total amount of a debt in one lump sum. If a debtor is financially unable to pay a debt in one lump sum, agencies may accept payment in regular installments. Agencies shall obtain financial statements from debtors who represent that they are unable to pay in one lump sum and independently verify such representations whenever possible (see 31 CFR 902.2(g) for methods of verification) (see paragraph 404). Agencies that agree to accept payments in regular installments shall obtain a legally enforceable written agreement from the debtor that specifies all terms of the arrangement and that contains a provision accelerating the debt in the event of default.

***--Notes:** The “legally enforceable” written agreements for FLP are FSA-2732 and the underlying promissory notes.

For FLP, acceleration must follow the CONTACT requirements and be based on the terms of the loan notes, not the terms of the offer; therefore, the provisions accelerating the adjustment offer debt do not apply to FLP. See 5-FLP.--*

402 Types of Debt Settlement (Continued)

B Adjustment (Continued)

(b) The size and frequency of installment payments shall bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments shall be sufficient in size and frequency to liquidate the debt in three years or less.

(c) Security for deferred payments shall be obtained in appropriate cases. Agencies may accept installment payments notwithstanding the refusal of the debtor to execute a written agreement or to give security, at the agency's option.

***--Note:** For FLP, this could be assets that were not already pledged as security when the loans were made.--*

Use FSA-2732 and paragraph 404.

--402 Types of Debt Settlement (Continued)*C Cancellation Requested by Borrower/Debtor (FSA-2732)**

[7 CFR 1956.70] (a) The debt or any extension thereof on Farmer Programs debts do not have to be due and payable under the terms of the note or other instrument, or because of acceleration by written notice prior to the date of application. Debts due the FmHA or its successor agency under Public Law 103-354 may be canceled upon application of the debtor, or if a debtor is unable to act, upon application of a guardian, executor, or administrator, subject to the following conditions:

(1) The FmHA or its successor agency under Public Law 103-354 employee in charge of the account furnishes a report and favorable recommendation concerning the cancellation.

(2) There is no known security for the debt and the debtor has no other assets from which the debt could be collected.

(3) The debtor is unable to pay any part of the debt and has no reasonable prospect of being able to do so.

Note: See paragraph 404 when cancellation is requested by debtor or someone authorized to act on behalf of a debtor.

D Cancellation Without Borrower/Debtor Signature

[7 CFR 1956.70] (c) Signature of debtor cannot be obtained. Debts of a living debtor may be canceled if it is impossible or impracticable to obtain a signed application and the requirements in paragraph (a) of this section concerning cancellation with application have been met or if the debt has been discharged in bankruptcy and there is no security (subparagraph 402 G). Form FmHA or its successor agency under Public Law 103-354 1956-1 will state:

(1) The sources of information obtained.

(2) That a current effort was made to obtain the debtor's application and the date of such effort.

(3) The specific reasons why it was impossible or impracticable to obtain the signature of the debtor and, if the debtor refused to sign, the reason(s) given.

Note: See paragraph 403 for cancellation when the signature of the debtor:

- cannot be obtained, **or**
- is not needed by FSA to administratively cancel uncollectible debt.--*

--402 Types of Debt Settlement (Continued)*E Deceased Borrower/Debtor**

[7 CFR 1956.57 (i)] Settlement of claims against estates. Settlement of a claim against an estate under the provisions of this subpart will be based on the recovery that may reasonably be expected, taking into consideration such items as the security, costs of administration, allowances of minor children and surviving spouse, allowable funeral expenses, and dower and courtesy rights, and specific encumbrances on the property having priority over claims of the Government.

[7 CFR 1956.70 (b)] Without application. Debts due the FmHA or its successor agency under Public Law 103-354 may be canceled upon a report and the favorable recommendation of the employee in charge of the account in the following instances:

(1) Deceased debtors. The following conditions must exist:

(i) There is no known security; and

(ii) An administrator or executor has not been appointed to settle the debtor's estate and the financial condition of the estate has been investigated and it has been established that there is no reasonable prospect of recovery; or

(iii) An administrator or executor has been appointed to settle the estate of the debtor; and

(A) A final settlement has been made and confirmed by the probate court and the Government's claim was recognized properly and the Government has received all funds it was entitled to, or

(B) A final settlement has not been made and confirmed by the probate court but there are no assets in the estate from which there is any reasonable prospect of recovery, or

(C) Regardless of whether a final settlement has been made, there were assets in the estate from which recovery might have been affected but such assets have been disposed of or lost in a manner which OGC advises will preclude any reasonable prospect of recovery by the Government.

Notes: See paragraph 404 when debt settlement is requested by administrator or executor of the Estate, heir, or other authorized person.

See paragraph 403 for all other deceased debtors.--*

--402 Types of Debt Settlement (Continued)*F Disappeared Borrower/Debtor**

[7 CFR 1956.70 (b)(2)] *Disappeared debtors.* The debt may be canceled without application where the debtor has no known assets or future debt-paying ability, has disappeared and cannot be found without undue expense, and there is no existing security for the debt. Reasonable efforts will be made to locate the debtor. These efforts will generally include contacts, either in person or in writing, with postmasters, motor vehicle licensing and title authorities, telephone directories, city directories, utility companies, State and local governmental agencies, other Federal agencies, employees, friends, and credit agency skip locate reports, known relatives, neighbors and County Committee members. Also, the debtor's loan file should be reviewed carefully for possible leads that may be of assistance in locating the debtor. The efforts made to locate the debtor, including the names and dates of contacts, and the information furnished by each person, will be fully documented in the appropriate space on Form FmHA or its successor agency under Public Law 103-354 1956-1 (FSA-2731).

Notes: Some efforts to locate the debtor would be considered an “undue expense” and are not necessary because they duplicate efforts made through Treasury’s cross-servicing program.

Debtor addresses should be maintained and updated according to 1-FLP, paragraph 46, 5-AS, paragraph 77, and 1-CM, paragraph 198. Unsecured debts should be sent to cross-servicing using the debtor’s most recent address.

See paragraph 403 for debt settlement of disappeared debtor.--*

--402 Types of Debt Settlement (Continued)*G Bankruptcy Discharge**

[7 CFR 1956.70 (b)(3)] Debtors discharged in bankruptcy. If there is no security for the debt, debts discharged in bankruptcy shall be cancelled by use of the appropriate Agency form with the attachments noted below. No attempt will be made to obtain the debtor's signature. If the debtor has executed a new promise to pay prior to discharge and has otherwise accomplished a valid reaffirmation of the debt in accordance with advice from OGC, the debt is not discharged.

(i) Chapter 7 Bankruptcy cases will be documented with a copy of the "Discharge of Debtor" order(s) by the court for all obligors.

(ii) For debts identified as being part of an unsecured claim under Chapter 11, the cancellation will be documented with a copy of the organization plan, copy of the order by the court confirming the plan, a copy of the order completing the plan (a similar order), and an opinion by OGC that the confirming order has discharged the obligor(s) of liability to that part of the debt.

(iii) For debts identified as being part of an unsecured claim under chapters 12 or 13, the cancellation will be documented with a copy of the reorganization plan and confirmation order, as above, a copy of the order completing the plan and closing the case, and an opinion by OGC that the completion order has discharged the obligor(s) of liability to that portion of the debt.

Notes: If the debtor has executed a new promise to pay prior to discharge and has otherwise accomplished a valid reaffirmation of the debt in accordance with advice from OGC, the debt is not discharged.

See paragraph 403 for debt settlement of debtors discharged in bankruptcy.--*

--402 Types of Debt Settlement (Continued)*H Borrower/Debtor Can Pay in Full But Refuses**

Debtor can pay in full but refuses or offers compromise/adjustment, but refuses to sign offer.

Debts which the debtor may have the ability to pay in full but has refused to do so may be compromised or adjusted in the following situations.

[7 CFR 1956.67] (a) When the full amount cannot be collected because of the refusal of the debtor to pay the debt in full and the OGC advises that the Government is unable to enforce collection in full within a reasonable time by enforced collection proceedings, the debt may be compromised. In determining inability to collect, the following factors will be considered:

(1) Availability of assets or income which may be realized by enforced collection proceedings, considering the applicable exemptions available to the debtor under State and Federal law.

(2) Inheritance prospects within 5 years.

(3) Likelihood of debtor obtaining nonexempt property or income within 5 years, out of which there could be collected a substantially larger sum than the amount of the present offer.

(4) Uncertainty as to price the security or other property will bring at forced sale.

(b) The debt may be compromised or adjusted when the OGC has advised in writing that:

(1) There is a real doubt concerning the Government's ability to prove its case in court for the full amount of the debt, and

(2) The amount offered represents a reasonable settlement considering:

(i) The probability of prevailing on the legal issues involved.

(ii) The probability of proving facts to establish full or partial recovery, with due regard to the availability of witnesses and other pertinent factors.

(iii) The probable amount of court costs and attorney's fees which may be assessed against the Government if it is unsuccessful in litigation.

(c) When the cost of collecting the debt does not justify enforced collection of the full amount, the amount accepted in compromise or adjustment may reflect an appropriate discount for administrative and litigation costs of collection. Such discount will not exceed \$2,000 unless the OGC advises that in the particular case a larger discount is appropriate. The cost of collecting may be a substantial factor in settling small debts but normally will not carry great weight in settling large debts.--*

--402 Types of Debt Settlement (Continued)*H Borrower/Debtor Can Pay in Full But Refuses (Continued)**

In unusual cases, a debtor may submit a compromise or adjustment offer but refuse to sign FSA-2732. In these cases, use:

- FSA-2732 to describe the offer
- applicable forms and available financial information in paragraph 404
- the following authority:

[7 CFR 1956.68] Debts of a living debtor may be compromised or adjusted if it is impossible or impracticable to obtain a signed application and all other requirements of this section applicable to compromise or adjustment with a signed application have been met. Form FmHA or its successor agency under Public Law 103-354 1956-1 will show:

(a) The sources from which the information was obtained.

(b) That a current effort was made to obtain the debtor's signature and the date(s) of such effort.

(c) The specific reasons why it was impossible or impracticable to obtain the signature of the debtor and, if the debtor refused to sign, the reason(s) given.--*

***--403 Cancellation without Borrower and/or Debtor Signature (FSA-2731)**

A Overview

When cancellation of debt does not require borrower's signature, agency officials will cancel the debt using FSA-2731. Borrower signature is not required as follows:

- all debt returned from cross-servicing as uncollectible
- all debt returned from cross-servicing after paying compromise or adjustment offer (subparagraph C)
- obligor has been discharged of the debt under Chapter 7 bankruptcy or reorganization bankruptcy (Chapter 11, 12, or 13)

Note: A partial debt settlement may be appropriate in this case.

- obligor is deceased or defunct and there are no assets from which FSA can collect
- DOJ settlement negotiated instead of foreclosure or judgment, plea agreement, or the remaining balance of the debt is not covered by the judgment and determined by OGC to be legally without merit

Note: A partial debt settlement may be appropriate in this case.

- DOJ, Civil Division settlement because of prior debt forgiveness with outstanding principal of \$100,000 or greater (Exhibit 34)
- cancellation of judgment debt unless borrower requests cancellation according to paragraph 404
- OGC has determined that the debt is legally without merit
- partial debt settlement
- obligor signature cannot be obtained or has disappeared.

Note: FSA-2731 will also be used to supplement the information on FSA-2732 for any borrower who is not required to submit a signed application.

For CFR procedure/authority references, see paragraph 402.--*

--403 Cancellation without Borrower and/or Debtor Signature (FSA-2731) (Continued)*B Documentation Needed**

Except for debt returned from cross-servicing, (see subparagraph C) the following documentation is needed to cancel debt without borrower/debtor signature.

- FSA-2731 and the following, if applicable, for:
 - debts legally without merit, written OGC determination
 - deceased debtors (FSA-2490)
 - bankruptcy cases:
 - Chapter 7 – attach a copy of the “Discharge of Debtor” order(s) by the court for all obligors
 - Chapters 11, 12, and 13 unsecured claims:
 - organization plan (Chapter 11)
 - reorganization plan (Chapters 12 and 13)
 - confirmation order by the court confirming the plan
 - order completing the plan (a similar order)
 - written opinion by OGC that the confirming order has discharged the obligor(s) of liability for that part of the debt.

Note: See Exhibit 39 for completed examples of FSA-2731 and FSA-2731A.--*

--403 Cancellation without Borrower and/or Debtor Signature (FSA-2731) (Continued)*C CNC Debt Returned From Cross-Servicing**

Debt classified as CNC and returned from cross-servicing after Treasury has taken all appropriate collection actions shall be canceled.

Step	Office	Action
1	State Office	Cancellation
		<p>The account balance shall be canceled when:</p> <ul style="list-style-type: none"> • all of the loans eligible for referral to the cross-servicing program have been referred but returned for the debtor and any co-debtors • all payments have been received from any compromise or adjustment offers negotiated by Treasury. <p>There are no collections that FSA could receive through AWG or Federal salary offset.</p> <p>Note: Accounts on AWG or Federal salary offset returned in error by Treasury will be returned by the State Office for continued collection through DCIB.</p> <p>Canceling a debtor's account balance will be completed under the authorities set forth in this part and 7 CFR 1956-B, section 1956.70, as appropriate. Treasury's return of an account from cross-servicing as uncollectable will serve as documentation that the requirements of section 1956.70 have been met. Neither a credit report nor further contact with the borrower is needed. If 1 or more of a debtor's loans have been canceled using the debt cancellation authority under FCCS, the remaining account balance may be canceled under this part. If a debtor has received debt forgiveness under CONACT authorities, such as a write-down through PLS, the remaining account balance may be canceled according to Exhibit 34.</p>

--*

--403 Cancellation without Borrower and/or Debtor Signature (FSA-2731) (Continued)*C CNC Debt Returned From Cross-Servicing (Continued)**

Step	Office	Action
1 (Cntd)	State Office (Cntd)	<p style="text-align: center;">Cancellation</p> <p>SED's shall:</p> <ul style="list-style-type: none"> process the loan cancellation as appropriate using FSA-2731 <p>Note: Documentation that all debt has been returned from cross-servicing as uncollectable will be attached to FSA-2731.</p> <ul style="list-style-type: none"> prepare a memorandum advising DCIB of the cancellation FAX the signed memorandum to DCIB. <p>Note: The State Office shall obtain any necessary concurrence before canceling the debt.</p> <p>When canceling remaining loan balances owed on debts compromised by Treasury:</p> <ul style="list-style-type: none"> document the information about the compromise on FSA-2731 process transaction code "3K" using class of write off code "1" for the compromised debt process transaction code "3K" using class of write off code "4" for the balance of the debt returned as uncollectible the effective date for all 3K transactions shall be the date SED or DAFLP, as the Administrator's designee, signed FSA-2731.

--*

--403 Cancellation without Borrower and/or Debtor Signature (FSA-2731) (Continued)*C CNC Debt Returned From Cross-Servicing (Continued)**

Step	Office	Action
2	State Office	Repayment/Adjustment Offers and Compromise Offers
		Will receive notification from DCIB once the full amount of the repayment/adjustment or compromise has been collected and applied to the debt.
		Approved Cancellations
		<ul style="list-style-type: none"> • Will provide DCIB a copy of FSA-2731 authorizing the cancellation in instances where cancellations cannot be processed by the State Office. This will enable DCIB to forward FSA-2731 to FaSB to process the cancellation. • Will receive a memorandum from DCIB once the cancellation has been completed.
3	State Office	<p>Attach NFAOC memorandums, State Office memorandums, and any applicable forms to the State Office copy of FSA-2720 or previous form.</p> <p>Forward a copy of the DCIB memorandum and any applicable forms to FLM.</p>
4	County Office	<p>File NFAOC memorandums, State Office memorandums, and any applicable forms in the case file.</p> <p>After all payments have been processed, stamp the promissory notes “Satisfied by Completed Adjustment Offer”, “Satisfied by Approved Compromise”, or “Satisfied by Approved Cancellation”, as applicable, and return the satisfied notes to the borrower.</p> <p>Continue monitoring the account in cases where the debt is returned as uncollectible, but is not or cannot be canceled at that time. Once a determination is made to cancel, or it becomes eligible for cancellation, proceed to process the cancellation according to this part and Exhibit 34, as applicable.</p>

--*

--404 Debt Settlement Requested by Borrower/Debtor (FSA-2732)*A Information Needed**

[7 CFR 1956.57(b)] A debtor requesting debt settlement must submit complete and accurate information from which a full determination of his/her financial condition can be made. This should include, where applicable, but is not limited to, obtaining verification of employment, providing expense verification, verifying farm program benefits (e.g., Farm Service Agency/Commodity Credit Corporation payments), and examining county records to determine what other assets the debtor has or recently disposed of. When a FLP debtor is continuing to farm, a farm operating plan must be obtained. Also, where a spouse is not a co-debtor the spouse's income will be considered in meeting family living expenses. If it appears that a debtor will not be able to pay in full and the indebtedness is eligible for settlement under this subpart, action should be taken, if possible, to avoid unnecessary litigation to enforce collection. If the debt is eligible for settlement, the debt settlement authorities of FmHA or its successor agency under Public Law 103-354 should be explained and the privileges thereof extended to the debtor. The information obtained from the debtor should be documented on a debt settlement form.

Each debtor/co-debtor requesting debt settlement must submit the following:

- FSA-2732
- FSA-2735
- FSA-2037, or other balance sheet, or current financial statement

Note: A household may submit a joint balance sheet.

- FSA-2038, or other business plan projection, if operating a business
- FSA-2004
- FSA-2005
- FSA-2015, or other written verification for all:
 - debts greater than \$1,000
 - bank or other financial institution records for the past 12 months
- verification of assets including, but not limited to, certificates of deposit, individual retirement accounts, retirement and pension funds, mutual funds, stocks, bonds, and accounts receivable--*

--404 Debt Settlement Requested by Borrower/Debtor (FSA-2732) (Continued)*A Information Needed (Continued)**

- FSA-2014, or other written verification of non-farm income

Note: Verification of a non-debtor spouse income is also needed for consideration in meeting family living expenses.

- Federal income tax returns for the last 3 years
- other information required to obtain a clear understanding of each borrower's financial condition.

Notes: FSA-2731 will be used to supplement the information on FSA-2732 for any borrower/debtor not required to submit a signed application.

For accounts where the last remaining liable debtor is deceased and the FSA-2490 indicates that FSA will be filing a claim, the applicable information needed for debt settlement can be provided by the administrator or executor of the Estate, heir, or other authorized person who can sign FSA-2732. FSA-2490 will be attached to FSA-2735 or FSA-2732.

Exception: For cases where the full amount of the unsecured debt cannot be collected in a reasonable time by legal or enforced collection proceedings, FSA may consider a debt settlement offer submitted by a borrower without requiring complete financial information. OGC written concurrence must be obtained in these cases. However, National Office concurrence is not needed. See subparagraph 402 H.

B Continued Collection

Borrowers may request debt settlement before the debt is referred to Treasury's cross-servicing program (Part 8) pursuant to 7 CFR part 3 and 31 CFR part 285.

Submission of a debt settlement offer will not prevent, suspend, or delay collection activities required by DCIA, including but not limited to administrative offset, and salary offset. These collections will continue while FSA verifies and reviews the financial information submitted with the debt settlement request.--*

--404 Debt Settlement Requested by Borrower/Debtor (FSA-2732) (Continued)*C Eligible Debt**

Debt may be considered eligible for settlement when:

- all security has been liquidated and the proceeds, less any prior lien amounts, have been applied to the debt, or
- FSA receives a lump sum payment as part of the debt settlement offer that is equal to the security's current market value, less any prior lien amounts.

Note: The lump sum payment for the security's market value may be submitted by the borrower, an individual authorized to act for the borrower pursuant to a power of attorney document or court order, or an individual who is not an obligor on the debt but who has an ownership interest in the security.

[7 CFR 1956.57 (g)] (1) Debts cannot be settled:

(i) If the matter has been referred either to the Office of the Inspector General (OIG) under §1962.49(a) of subpart A of part 1962 of this chapter or to Office of the General Counsel (OGC) because of suspected criminal violation, or criminal prosecution is pending ... unless, the OIG has declined to investigate the matter or, OGC has advised otherwise, or the case is in the hands of the United States Attorney.

(ii) If a request for referral to the United States Attorney to institute a civil action to protect the interest of the Government has been made by FmHA or its successor agency under Public Law 103-354.

(iii) Except as provided in paragraph (g)(3) of this section, if the case has been referred to the United States Attorney and is not closed.

(2) If a debtor's account is involved in a fiscal irregularity investigation in which final action has not been taken or the account shows evidence that a shortage may exist and an investigation will be requested, the account will not be approved for settlement.

(3) When a claim has been referred to, or a judgment has been obtained by the United States Attorney.

[7 CFR 1956.57 (h)] State Directors will obtain, when necessary, advice from the OGC in handling proposed debt settlement actions which involve legal problems.--*

--404 Debt Settlement Requested by Borrower/Debtor (FSA-2732) (Continued)*C Eligible Debt (Continued)**

See 5-FLP, paragraph 421 for handling civil and criminal cases.

See 5-FLP, Part 10 for fiscal irregularities and unauthorized assistance.

See 7-FLP, Part 11 for monitoring, servicing, and settling judgment debt.

[31 CFR 285.12 (c)] (2) On behalf of the creditor agency, Fiscal Service will take appropriate action to collect or compromise the transferred debt.

According to Treasury regulations, FSA debtors wanting to debt settle must work with Treasury while their debt is referred to the cross servicing program. See paragraph 226.

[7 CFR 1956.57 (l)] No previous debt forgiveness. Debt settlement may not be approved for any direct Farm Loan Programs loan if the borrower has received debt forgiveness on any other direct loan as defined in §1956.54 (Exhibit 2) of this subpart.

Accounts with previous debt forgiveness will be debt settled according to Exhibit 34.

D Eligible Debtors

All debtors are considered eligible for debt settlement, unless the borrower is indebted on another active FLP loan that the borrower cannot or will not debt settle.

E CFR

For CFR procedure/authority references to use on FSA-2733, item 4B, see paragraph 402.--*

405 Review Timeframes and Responsibilities

A FLM

Within 30 days, **FLM** will review all relevant information and forward to DD, a debt settlement package containing the following:

- memorandum with FLM's recommendation
- FSA-2732 and any applicable forms:
 - FSA-2735
 - FSA-2737
 - FSA-2731 for co-debtors who are not required to sign FSA-2732 and FSA-2735
 - FSA-2490 for deceased borrowers
 - FSA-2080 for release of liability.

Note: Any related release of liability, such as a withdrawing joint obligor, must be approved using FSA-2080, and the transaction must be correctly processed **before** processing any approved debt settlement. This will ensure that the withdrawing joint obligor does not receive IRS Form 1099-C. For additional information, see 4-FLP, Part 8; 4-FLP paragraph 251; and 5-FLP paragraph 84.

- *--FSA-2733 and supporting documentation, including asset investigation--*

Note: Exhibit 35 may be used as an optional guide to document asset investigation and/or search (Item #14A on FSA-2733).

- relevant and applicable servicing office files.

B DD

Within 30 calendar days of receiving the debt settlement package, or within 60 calendar days of the borrower submitting all needed information (whichever is less), the **DD** will:

- review the case file
- sign FSA-2733
- forward the debt settlement package to the State Office.

--405 Review Timeframes and Responsibilities (Continued)*C State Office**

Within 30 days of receiving the debt settlement package, or within 90 days of the borrower submitting all needed information (whichever is less):

- **FLP State Office Review Official and Farm Loan Chief** will review the debt settlement package and sign FSA-2733, before it is presented to SED
- the **SED** will sign all applicable forms and letters to:
 - approve the borrower's request for debt settlement, or
 - deny/reject the borrower's request and provide appeal rights, or
 - recommend the debt settlement be approved by the Administrator or DOJ.

D Referrals to DOJ and FLP National Office

Referrals to:

- DOJ will be processed according to Exhibit 34
- DAFLP to use the Administrator's approval authority will include:
 - the memorandum from SED recommending approval
 - the debt settlement package
 - a legal opinion from the Regional Attorney addressing the statute of limitations, if applicable
 - any additional information requested by DAFLP and/or the Administrator.--*

--406 Borrower Repayment Ability*A Maximum Amount**

A borrower's offer to debt settle must represent the maximum amount that FSA determines the borrower can pay based on:

- a review of the borrower's financial circumstances (subparagraph B), and
- the largest amount that is likely to be recovered through enforced collection (subparagraph C).

B Acceptable Offer

The acceptability of a debt settlement offer will be based on the requirements in this part, a review of the information provided in paragraph 404, and the following.

[7 CFR 1956.66 (a)(3)] (i) Statement of indebtedness owed on any prior liens. Statements will be retained in the debtor's file.

(ii) Value of existing security as determined by a current appraisal made or obtained by the Agency. The appraisal will be retained in the debtor's file.

(iii) Debtor's total present income and probable sources, amount and stability of income over the next 5 years. Old age pensions, other public assistance, and veteran's disability pensions will not be considered as sources of funds for making compromise and adjustment offers.

Note: DCIA does not exempt old age pensions, public assistance, etc., from offset collection, and only Treasury has the authority to exempt various pensions and payments, as follows.

[31 U.S.C. 3716 (c)(3)(A)] (i) Notwithstanding any other provision of law ... except as provided in clause (ii), all payments due to an individual under—

(I) the Social Security Act,

(II) part B of the Black Lung Benefits Act, or

(III) any law administered by the Railroad Retirement Board (other than payments that such Board determines to be tier 2 benefits),

shall be subject to offset under this section.

(ii) An amount of \$9,000 which a debtor may receive under Federal benefit programs cited under clause (i) within a 12-month period shall be exempt from offset.--*

--406 Borrower Repayment Ability (Continued)*B Acceptable Offer (Continued)**

[31 U.S.C. 3716 (c)(3)(B)] The Secretary of the Treasury shall exempt from administrative offset ... The Secretary may exempt other payments from administrative offset ... The Secretary shall report to the Congress annually on exemptions granted under this section.

For FLP debt, the only sources of income that should **not** be considered as available to pay compromise and adjustment offers are those listed by Treasury at the following link <http://fms.treas.gov/debt/dmexmpt.pdf>

(iv) Amount of debtor's other debts.

(v) Amount of debtor's essential family living expenses, and farm or business operation expenses necessary to continue the operation, if applicable.

(vi) Age and health when the debtor is largely depending on income from an occupation where manual labor is required.

(vii) Size of debtor's family, their ages and health.

(viii) Value of debtor's assets in relation to debts and liens of third parties. Reasonable equity in a modest nonsecurity homestead occupied by the debtor will not be considered as available for settlement. Nonsecurity property in excess of minimum family living needs which is not exempt from levy and execution should be considered in determining the debtor's ability to pay.

Every debtor's circumstances are different. However, in cases where debtors have difficulty providing specific documentation for expenses, the following links may be helpful as an optional guide:

- <http://www.irs.gov/Individuals/Collection-Financial-Standards>
- <http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Local-Standards-Transportation>
- <http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Local-Standards-Housing-and-Utilities>
- http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/National-Standards-Food-Clothing-and-Other-Items.--*

--406 Borrower Repayment Ability (Continued)*C Determining Largest Enforced Collection Amount**

The largest enforced collection amount is as follows.

FSA equity in the security

+ (plus)

Amount that could likely be collected through:

cross-servicing (Part 8)

AWG (Part 9)

Federal salary offset (Part 5)

TOP (Part 4)

When a debt settlement offer is submitted, the authorized Agency official will:

- determine if the debt settlement amount offered is more than what would likely be collected through enforced collection
- make a decision or recommendation to debt settle according to 7 CFR 1956-B and this part.

D Negotiating Settlement

[7 CFR 1956.57 (c)] ... In negotiating a settlement, all of the factors which are pertinent to determining ability to pay will be discussed to assist the debtor in arriving at the proper type and terms of a settlement. The present and future repayment ability of a debtor, the factors mentioned in this subpart, and any other pertinent information will be the basis of determining whether the debt should be collected in full, compromised, adjusted, canceled ... Debtors have the right to make voluntary settlement offers in any amount should they elect to do so.

When negotiating a settlement, the following will be discussed to assist the debtor:

- repayment ability and a debt settlement amount (subparagraph B) that is based on the financial documentation (subparagraph 404 A)
- types of settlement (paragraph 402)
- if collection is likely through cross-servicing, the 20-30 percent collection fee charged by Treasury and it's PCA's
- any other relevant information such as unaccounted for security etc.--*

407 Approval and Rejection**A Approval/Rejection Authority**

--SED's may delegate to FLC, FLS, DD, FLM, and/or SFLO the authority to reject debt-- settlement requests only in cases where debtors do not provide all necessary documentation/information. Appeal rights must be provided with the rejection letter.

SED may approve or reject:

- cancellations of accounts where all obligors are properly included on FSA-2731 or were previously released using FSA-2080, without regard to the size of the debt, unless there was a previous debt forgiveness

Note: For previous debt forgiveness, see Exhibit 34.

- proposed debt settlements that require using FSA-2732 (with or without FSA-2731) when the outstanding balance of the indebtedness involved in the settlement, less the amount of any compromise or adjustment offer, is less than \$1 million, including principal, interest, and other charges.

The Administrator or designee must approve or reject debt settlements that require using FSA-2732 (with or without FSA-2731) when the outstanding balance of the indebtedness involved in the settlement, less the amount of any compromise or adjustment offer, is \$1 million or more, including principal, interest, and other charges.

When FSA-2731 is used with FSA-2732, the settlement code for the account (3K transaction) will be for the settlement approved on FSA-2732. Settlement of the debt will be approved on FSA-2732.

407 Approval and Rejection (Continued)**B Approval Processing and Notification**

The approval official will execute completed FSA-2731 or FSA-2732 and FSA-2737, whichever is applicable, and will process the forms according to each of the form's instructions. If a "Compromise", "Adjustment", or "Bankruptcies" is involved, FaSB must process FSA-2731 or FSA-2732. The State Office will process Chapter 7 bankruptcy cases when there is no remaining security.

The adjustment or reorganization bankruptcy amount is created by FaSB into a new loan number with a 1M transaction. FaSB will also flag the account SAA.

For adjustments:

- The effective date of the 1M will be the earlier of the date of approval as indicated on FSA-2732, or the payment date if a payment was submitted with the offer.
- If the borrower intends to pay the account in full, interest will accrue based on the Promisory Note interest rate from which the adjustment account was created.
- If the borrower intends to pay an adjustment offer which will not pay the account in full, interest will accrue at zero percent interest.
- Payments will be established based on the approved adjustment agreement and as stated on FSA-2732.

For reorganization bankruptcies interest will accrue and payments will be established as directed by the court order.

When debtors request settlement using FSA-2732, the approval official will notify them in writing of approval and the approximate amount that will be reported to IRS according to 26 U.S.C. 6050P; and 26 CFR 1.6050 P-1. However, adjustment offers will not be reported until after the final payment is applied. The following will also be done for all compromise and adjustment offers:

- the specific amount and terms of the offer will be stated
- the accounts settled will be identified by reference to the accounts shown on FSA-2732.

* * *

When using FSA-2732, the approval official will send FSA-2737.

Once the debt settlement is approved, the servicing official will ensure that the account is removed from internal administrative offset, TOP, and cross-servicing, as applicable.

407 Approval and Rejection (Continued)**C Requesting Additional Information**

If rejection appears to be necessary because of a lack of information, or because the amount offered is inadequate, SED may request that the employee in charge of the account obtain additional information or make an effort to obtain an acceptable offer, as appropriate under the circumstances. Rejection of an offer will be withheld in these cases until sufficient time has elapsed to allow the debtor to submit information or a new offer. All settlement offers will be handled according to the timeframes in paragraph 405.

D Rejection Processing and Notification

The authorized official in subparagraph A will insert the reasons for rejection on FSA-2737 and sign and date FSA-2732 and FSA-2737.

The servicing official will:

- retain the original FSA-2732 and a copy of FSA-2737
- return case files and copies of FSA-2732 and FSA-2737 to the employee in charge of the account
- request FaSB to return any adjustment or compromise payment held by NFAOC to the borrower, in care of the employee in charge of the account
- return any adjustment or compromise payment held by the State Office to the borrower, in care of the employee in charge of the account:
 - send FSA-2737 to the debtor
 - *--provide appeal rights according to 1-APP using FSA-2737.--*

E Unauthorized Approval

If unauthorized approval of a debt settlement is identified, the settlement application with supporting documentation should be forwarded to the correct approval official provided in subparagraph A for post approval. If the debt settlement cannot be post-approved, the correct approval official will provide additional guidance on servicing the account.

407 Approval and Rejection (Continued)

F Requesting Exception Authority for Debt Settlement

[7 CFR 1956.99] The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. The Administrator will exercise this authority only at the request of the State Director and on the recommendation of the appropriate program Assistant Administrator. Requests for exceptions must be made in writing by the State Director and supported with documentation to explain the adverse affect on the Government's interest, propose alternative courses of action, and show how the adverse affect will be eliminated or minimized if the exception is granted. Any settlement actions approved by the Administrator under this section will be documented on Form FmHA or its successor agency under Public Law 103-354 1956-1 and returned to the State Office for submission to the Finance Office.

SED must submit an exception request by e-mail to DAFLP at **SM.FSA.DCWa2.AdmException** or **adminexception@wdc.usda.gov**. The e-mail subject should read “Administrator’s Exception to (7-FLP, paragraph (include paragraph number)) – (Borrower’s Name and State)”. An attachment must fully describe the status of the account, including the following:

- a brief background on the case
- total outstanding FSA indebtedness, loan types, and amounts
- current status of the account

Note: If the account is delinquent, where is it in PLS?

- type of security (chattel or real estate) and value
- prior liens
- proposed plan of action that warrants the exception request
- what procedure is to be waived
- the adverse effect to FSA resulting from compliance with the regulation and how it would be eliminated or minimized through the exception
- how the action is in the best financial interest of the Government
- additional information SED thinks is needed to review the case.

* * *

408 Payments and Servicing - Approved FSA-2732**A Payments**

Debtors must submit compromise and lump sum payments within 45 days calendar of being notified that their debt settlement offer was approved.

Once the borrower complies and makes all payments as agreed under the approved adjustment offer, all remaining loan balances, if any, will be canceled with a 3K, CWC, 2 transaction.

B Failure to Pay

Failure to pay any compromise or adjustment amount approved by the Agency by the date(s) agreed will result in cancellation of the agreement with appeal rights under 1-APP.

C Delinquent Adjustment Agreements

[7 CFR 1956.96] A 90-day extension for making the payments may be given by the Agency when the circumstances of the case justify an extension. A decision not to extend the time for making payments is not appealable. If the debtor is delinquent under the terms of the adjustment agreement and is likely to be financially unable to meet the terms of the agreement, the Agency may cancel the existing agreement and process a different type of settlement more consistent with the debtor's repayment ability, provided the facts in the case justify such action. The cancellation of an adjustment agreement is appealable. If an agreement is cancelled, any payments received shall be retained as payments on the debt owed at the time of the adjustment agreement.

***--Note:** SED's may delegate to FLC, FLS, DD, FLM, and/or SFLO authority to cancel delinquent adjustment agreements.--*

D Promissory Notes

The notes will be returned to the debtor or to the debtor's legal representative when:

- cancellation is processed using FSA-2732
- all payments have been made as agreed in compromise and adjustment cases.

The original and copies of notes will be stamped "Satisfied by Approved Compromise," "Satisfied by Approved Cancellation," or "Satisfied by Completed Adjustment Offer." Security instrument(s) will be released of record according to State law.

When FSA-2731 is used, the notes will be placed in the debtor's case file. However, if the debtor requests the notes, they may be stamped "Satisfied By Approved Cancellation" and returned.

In case of a transfer of security with assumption for less than the debt, the promissory note will be attached to the assumption agreement covered by the note and kept in the transferee's file.

--408 Payments and Servicing - Approved FSA-2732 (Continued)*E Restrictive Notations**

Checks or check transmittal letter containing restrictive notations such as "Settlement in full" or "Payment in full," or in those exceptional instances when the debtor refuses to sign the FSA-2732 in connection with a compromise offer, will be forwarded to the State Office where they will be retained until approval or rejection of the offer. The use of restrictive notations will be discouraged to the fullest extent possible.

F NFAOC Handling

[7 CFR 1956.85(b)(1)] All payments evidenced by Form FmHA or its successor agency under Public Law 103-354 451-2, "Schedule of Remittances," bearing the legend "Compromise Offer—FmHA or its successor agency under Public Law 103-354" or "Adjustment Offer—FmHA or its successor agency under Public Law 103-354," will be held in the Deposits Fund Account by the Finance Office until notification is received from the State Office of the approval or rejection of the offer. In cases of approved offers, remittances will be applied in accordance with established policies, beginning with the oldest loan included in the settlement, except that when the request for settlement includes loans made from different revolving funds the Finance Office will prorate the amount received, on the basis of the total principal balance due the respective revolving funds. Upon notification of a rejection of a debtor's offer and receipt of a request from the State Director for a refund, the Finance Office will refund to the debtor, in care of the employee in charge of the account, the amount held in the Deposits Fund Account representing a rejected compromise or adjustment offer.--*

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

None.

Forms

This table lists the forms referenced in this handbook.

Number	Title	Display Reference	Reference
FSA-2004	Authorization to release Information		404
FSA-2005	Creditor List		404
FSA-2014	Verification of Income		404
FSA-2015	Verification of Debts and Income		404
FSA-2037	Farm Business Plan Worksheet Balance Sheet		Ex. 8
FSA-2038	Farm Business Plan Worksheet Projected/ Actual Income and Expense		Ex. 8
FSA-2065	Annual Statement of Loan Account		224
FSA-2080	Release From Personal Liability		403, 405, 407
FSA-2490	Deceased Borrower Report		402, 403, 404, 405
FSA-2701	Notice of Intent to Collect by Administrative Offset		22, 62, 107, 202, Ex. 8, 13
FSA-2702	Notice of Intent to Collect by Administrative Offset for Non-Borrower Entity		22, 62, 202
FSA-2703	Notice to Debtor That Administrative Offset Has Been Exercised and Intent to Collect by Administrative Offset		22, 62, 202
FSA-2704	Notice to Debtor That Administrative Offset Has Been Exercised and Intent to Collect by Administrative Offset for Non-Borrower Entity		22, 62, 202
FSA-2707	Alternative Repayment Agreement for Administrative Offset or TOP		Ex. 8
FSA-2710	Notification of Salary Offset		22, 134, Ex. 8
FSA-2711	Alternative Repayment Agreement for Federal Salary Offset		134, Ex. 8
FSA-2716	Notice Advising of Potential Referral to Treasury for Cross-Servicing and the Availability of Debt Settlement		22, 201, 202, 242
FSA-2717	Notice Advising of Potential Referral to Treasury for Cross-Servicing		22, 201, 202, 242

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2720	Checklist for “Currently Not Collectible” Debt		202, 223, 353, 402
FSA-2721	List of Currently Not Collectible (CNC) Debts Eligible To Be Referred to Treasury for Cross-Servicing		104, 223, 226, 353
FSA-2722	Update to TOP and Cross-Servicing Information		104, 105, 106, 222, 223
FSA-2723	TOP Delete Only		104, 105
FSA-2727	Youth Loan (YL) Debt Forgiveness		401
FSA-2731	Cancellation of Debt Without Application	Ex. 39	Text
FSA-2731A	Cancellation of Debt Without Application (Continuation)	Ex. 39	402
FSA-2732	Debt Settlement Application (RD-1956-1) Application for Settlement of Indebtedness)		Text
FSA-2733	Review, Certification and Recommendation on Debt Settlement Application		405
FSA-2735	Household Income and Expense Worksheet		404, 405
FSA-2737	Notice Advising of Decision on Debt Settlement Applications		401, 405, 407
IRS Form 1098	Mortgage Interest Statement		224
IRS Form 1099-C	Cancellation of Debt		405

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
ARA	alternative repayment agreement	23, 63, 107, 134, 241, 244, Ex. 8, 13, 29
AWG	administrative wage garnishment	Text, Ex. 2, 7, 8, 29
BAP	bankruptcy action pending	104, Ex. 18, 19
CAP	court action pending	106
CNC	currently not collectible	Text
CONACT	Consolidated Farm and Rural Development Act	1, 21, 401, 402, 403, Ex. 34
CSNG	Cross-Servicing Next Generation	224, 225, 226, 245, 248
DCIB	Debt Collection Improvement Branch, NFAOC	101, 104, 106, 222, 223, 224, 226, 247, 353, 403
DMS	debt management service	224, 226
ECM	Enterprise Content Management	104, 106, 222, 223, 226, 353

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM (Continued)

Approved Abbreviation	Term	Reference
FAP	foreclosure action pending	106, Ex. 19, 20
FaSB	Farm Service Branch, NFAOC	104, 247, 402, 403
FCCS	Federal Claims Collection Standards	Text
FmHA	Farmer's Home Administration	Ex. 20
FSAFS	FSA Financial Services software	61, 81
NFAOC	National Financial and Accounting Operations Center	104, 132, 134, 223, 241, 242, 245, 403, 408, Ex. 17, 20
PCA	Private Collection Agency	221, 223, 224, 241-243, 245, 248, Ex. 2, 29
PLS	primary loan servicing	62, 63, 134, 244, 402, 403, Ex. 8
SAA	subject to approved adjustment Note: When reference is made to the financial "flag"/designation for an account where FSA has approved a borrower's debt settlement offer as documented on FSA-2732.	104, Ex. 18
SOL	statute of limitations	24, Ex. 34
TPJ	third party judgment	104, 223, 353
YL	youth loan	Ex. 2

Redelegations of Authority

Redelegation	Reference
SED's may delegate to FLC, FLS, DD, FLM, and/or SFLO the authority to:	
<ul style="list-style-type: none"> reject debt settlement requests in cases where debtors do not provide all necessary documentation/information. 	407
Note: Appeal rights must be provided with the rejection letter.	
<ul style="list-style-type: none"> cancel delinquent adjustment agreements. 	408

Definitions of Terms Used in This Handbook

***--Acceleration**

Acceleration is a demand by a lender for immediate repayment of the entire balance of a debt if the security instrument or promissory note is breached. When FSA accelerates an account, the entire loan balance is due in 30 calendar days.--*

Adjustment

Adjustment is a form of settlement that reduces the financial obligation to the Agency, conditioned upon the completion of payment of a specified amount at a future time. An adjustment is not a final settlement until all payments have been made under the agreement.

Administrative Wage Garnishment (AWG)

AWG is a garnishment program used to collect delinquent nontax Federal debt from borrowers who have private sector jobs. AWG is:

- authorized by DCIA
- administered by Treasury.

Agency

Agency is the Farm Service Agency (FSA), including its employees, State and area committee members, and any successor Agency.

Agency Official

Agency official is any employee within FSA. This term is used when the action does not require inherent or delegated authority.

Approval Official

Approval official is the specific employee who has the authority to approve or deny the described action.

Authorized Agency Official

Authorized agency official is an employee who has either inherent or delegated authority to complete the described action.

***--Automatic Stay**

Automatic stay refers to the prohibition of collection activities against the debtor or efforts to obtain possession of the debtor's property or security interest in the debtor's property during the course of bankruptcy.--*

Definitions of Terms Used in This Handbook (Continued)

*--Bankruptcy Trustee

A Bankruptcy Trustee is a court-appointed person who oversees execution of the confirmed bankruptcy plan. A trustee is less frequently used in Chapter 7 and Chapter 11 bankruptcies than in Chapter 12 and 13 bankruptcies.--*

Borrower (or Debtor)

Borrower (or debtor) is an individual or entity that has an outstanding obligation to the Agency or to a lender under any direct or guaranteed FLP loan, without regard to whether the loan has been accelerated. The term “borrower” includes all parties liable for such obligation, including collection-only borrowers, except for debtors whose total loans and accounts have been voluntarily or involuntarily foreclosed, sold or conveyed, or who have been discharged of all such obligations owed to the Agency or guaranteed lender.

Cancellation

Cancellation is the final discharge of, and release of liability for, a financial obligation to the Agency on which no settlement amount has been paid.

*--Centralized Administrative Offset – from 7 CFR 3.3

Centralized administrative offset means referral of a debt to the Treasury Offset Program (TOP) for offset of payments made to a debtor by Federal agencies other than USDA.

Certified Mail

Certified mail is a delivery service offered by USPS that allows the sender proof of mailing, as well as proof of delivery.

Notes: Certified mail service provides the following:

- electronic verification that an article was delivered or delivery attempt was made

Note: If the item was delivered, the electronic verification provides the date, time, and location of delivery.

- proof of delivery record (copy of the recipient’s signature) that is kept at the post office for 2 years after mailing. If needed, the signature proof can be requested after mailing by purchasing the “Return Receipt After Mailing” service.

“Return Receipt” is an additional feature that may be purchased but is **not** required.--*

Chapter 7

A Chapter 7 bankruptcy involves liquidation of the debtor’s assets. The proceeds from liquidation are applied to the court-allowed debt.

Definitions of Terms Used in This Handbook (Continued)

Chapter 11

A Chapter 11 bankruptcy is a business reorganization form of bankruptcy. The debtor has an exclusive right to file a reorganization plan within 120 calendar days after filing for bankruptcy. After the 120-calendar-day period, the debtor loses the exclusive right to file a reorganization plan, and others may file a plan. This chapter is generally discharged at closing. The plan does not have to be concluded within a specific timeframe.

Chapter 12

A Chapter 12 bankruptcy provides special debt repayment relief for family farmers and family fishermen. This chapter is targeted to family farmers with 50 percent of gross income from farming. The farmer's debt must not exceed \$3.237 million and 80 percent of the farmer's debts must originate from farming. The debtor must file a plan within 90 calendar days after the First Meeting of Creditors. The court determines the point of discharge (usually at the end of the third or fifth year). The reorganization plans must be paid out in 5 years.

Chapter 13

A Chapter 13 bankruptcy involves reorganization for wage-earners. The debtor must have regular income. A portion of that income will be set aside for distribution to creditors by the trustee. The plan is generally filed at time of petition and must be paid out in 5 years. The court determines the point of discharge, which is usually at the end of the third or fifth year.

*--Chattel Security

Chattel security is property that may consist of, but is not limited to: Crops; livestock; aquaculture species; farm equipment; inventory; accounts; contract rights; general intangibles; and supplies that are covered by financing statements and security agreements, chattel mortgages, and other security instruments.

Civil Action

Civil action is a court proceeding to protect the Agency's financial interests. A civil action does not include bankruptcy and similar proceedings to impound and distribute the bankrupt's assets to creditors, or probate or similar proceedings to settle and distribute estates of incompetents or decedents, and pay claims of creditors.

Civil action may include obtaining possession of property from borrowers or third parties, judgments on indebtedness evidenced by notes or other contracts or judgments for the value of converted property, or judicial foreclosure.--*

Definitions of Terms Used in This Handbook (Continued)***--Closed**

Closed usually refers to when the bankruptcy plan has been paid in full, the security has been fully accounted for or remanded back to the creditor and proceeds distributed according to the bankruptcy. However, the bankruptcy is not closed until the bankruptcy judge closes the case with an order. Normally, collection activities or attempts to sell or gain possession of security cannot resume until the bankruptcy is closed.--*

Compromise

Compromise is the settlement of an FLP debt or claim by a lump-sum payment of less than the total amount owed in satisfaction of the debt or claim.

Conveyance

Conveyance is a method of liquidation by which the borrower transfers title of the security property to the lender.

Cross-Servicing

Cross-servicing is the centralized collection of nontax Federal debt by the Department of Treasury or by Treasury's PCA's according to:

- 7 CFR Part 3, Subpart C
- 31 CFR 285.12
- 31 CFR 901.1(e).

***--Debt (or Claim) – from 7 CFR 3.3**

Claim and debt are synonymous and interchangeable, and refer to an amount of money, funds, or property that has been determined by an agency official to be due the United States from any person, organization, or entity, except another Federal agency.--*

Definitions of Terms Used in This Handbook (Continued)

Debt Forgiveness

Debt forgiveness is a reduction or termination of a debt under the Act in a manner that results in a loss to the Agency.

(1) Debt forgiveness may be through:

- (i) Writing down or writing off a debt pursuant to 7 U.S.C. 2001;
- (ii) Compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981; or
- (iii) Paying a loss pursuant to 7 U.S.C. 2005 on a FLP loan guaranteed by the Agency.

(2) Debt forgiveness does not include:

- (i) Debt reduction through a conservation contract;
- (ii) Any writedown provided as part of the resolution of a discrimination complaint against the Agency;
- (iii) Prior debt forgiveness that has been repaid in its entirety;
- (iv) Consolidation, rescheduling, reamortization, or deferral of a loan; or
- (v) Forgiveness of YL debt, due to circumstances beyond the borrower's control.

The Agency will use the criteria in 7 CFR 766.104(a)(1) to determine if the circumstances were beyond the borrower's control.

*--Debtor – from 7 CFR 3.3

Debtor means a person who owes a delinquent, nontax debt to the United States.--*

Debt Settlement

Debt settlement is a compromise, adjustment or cancellation of an FLP debt.

*--Delinquent – from 7 CFR 3.3

Delinquent means a debt that has not been paid by the date specified in the agency's initial written demand for payment or applicable agreement or instrument (including a post-delinquency payment agreement), unless other satisfactory payment arrangements have been made, or as otherwise defined by program specific statutes or regulations.--*

Definitions of Terms Used in This Handbook (Continued)

Delinquent Borrower

Delinquent borrower, for loan servicing purposes, is a borrower who has failed to make all scheduled payments by the due date.

Discharge

A discharge is a court order, which relieves the debtor's obligation to pay the creditor any amounts unless already accounted for in a bankruptcy plan.

*--Dismissed

Dismissed usually refers to when the court makes the determination that the bankruptcy petition is not necessary, or the debtor fails to perform according to an established bankruptcy plan. It is the creditor's or Trustee's responsibility to bring nonperformance of a plan to the court's attention. When a bankruptcy is dismissed, the creditors' original security positions, payment schedules, and amounts owed are re-established, as if bankruptcy was never filed.

Disposable Pay - for AWG purposes, from 7 CFR 3.52

Disposable pay means that part of the debtor's compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld. For purposes of this section, "amounts required by law to be withheld" include amounts for deductions such as social security taxes and withholding taxes, but do not include any amount withheld pursuant to a court order.

Disposable Pay - for Federal Salary Offset purposes

Disposable pay means that part of a Federal employee's compensation that is calculated pursuant to regulations published by OPM at 5 CFR 550.1103.

Employee – from 7 CFR 3.71

For Federal salary offset, **Employee** means a current employee of an agency, including a current member of the Armed Forces or a Reserve of the Armed Forces, but does not include a FSA county executive director or county office employee

Employer - from 7 CFR 3.52

For AWG, **Employer** means a person or entity that employs the services of others and that pays their wages or salaries. The term employer includes, but is not limited to, State and local governments, but does not include an agency of the Federal government.--*

Definitions of Terms Used in This Handbook (Continued)***--Entity**

For loan servicing and debt settlement purposes, **Entity** means a corporation, partnership, joint operation, cooperative, limited liability company, trust, or other legal business organization, as determined by the Agency, that is authorized to conduct business in the state in which the organization operates. For Pro Rata Offset purposes, see Exhibit 12.

Entity member

Entity member means all individuals and all embedded entities, as well as the individual members of the embedded entities, having an ownership interest in the assets of the entity.

Equity

Equity is the money value of a property or of an interest in a property in excess of claims or liens against that property.

Family Living Expenses

Family living expenses are the costs of providing for the needs of family members and those for whom the borrower has a financial obligation, such as alimony, child support, and care expenses of an elderly parent.

Family Members

Family members are the immediate members of the family residing in the same household with the borrower, or, in the case of an entity, with the operator.

Farm Loan Programs

Farm Loan Programs are Agency programs to make, guarantee, and service loans to family farmers authorized under the Act or Agency regulations.

Farm Program

Farm Program payments are benefits received from FSA for any commodity, disaster, or cost share program.

Foreclosed

Foreclosed is the completed act of selling security either under the power of sale in the security instrument or through judicial proceedings.--*

Definitions of Terms Used in This Handbook (Continued)***--Foreclosure Sale**

Foreclosure sale is the act of selling security either under the power of sale in the security instrument or through judicial proceedings.

Garnishment - from 7 CFR 3.52

Garnishment means the process of withholding amounts from an employee's disposable pay and the paying of those amounts to a creditor in satisfaction of a withholding order.

Garnishment Order (or Withholding Order) – from 7 CFR 3.52

Withholding order means any order for withholding or garnishment of pay issued by an agency, or judicial or administrative body. For purposes of this section, the terms “wage garnishment order” and “garnishment order” have the same meaning as “withholding order.”

Household Living Expenses

Household living expenses are the costs of providing for the needs of family members and those for whom the borrower has a financial obligation, such as alimony, child support, and care expenses of an elderly parent.

Internal Administrative Offset – from 7 CFR 3.3

Internal administrative offset means a non-centralized administrative offset between a USDA creditor agency and a USDA payment authorizing agency.

Joint Operation

Joint operation is an operation run by individuals who have agreed to operate a farm or farms together as an entity, sharing equally or unequally land, labor, equipment, expenses, or income, or some combination of these items. The real and personal property is owned separately or jointly by the individuals.

Judgment (or Judgment Debt)

Judgment debt is established by a lender after a judgment is obtained through a legal process. A deficiency judgment can be obtained in cases where the liquidated security was not sufficient to pay the FLP debt in full and there are other assets from which collection can be made. A criminal, or restitution, judgment can be obtained in cases where security was sold and the monies were not submitted to FSA to be applied to the FLP debt. A criminal/restitution judgment can be obtained against the seller of the security (generally the FLP debtor, or other person who has access to the security), or the buyer of the security. A judgment obtained against the buyer of the security is generally referred to as third party judgment. The judgment debt accrues interest and other fees or costs according to the judgment order issued by the court.--*

Definitions of Terms Used in This Handbook (Continued)**Lien**

***--Lien is a legally enforceable claim against real or chattel property of another obtained as security for the repayment of indebtedness or an encumbrance on property to enforce payment of an obligation.**

Liquidated

Liquidated is the completed act of selling security pledged as collateral.--*

Loan Servicing Programs

Loan servicing programs include any primary loan servicing program, conservation contract, current market value buyout, and homestead protection.

***--Market Value**

Market value is the amount that an informed and willing buyer would pay an informed and willing, but not forced, seller in a completely voluntary sale.

Mortgage

Mortgage is a legal instrument giving the lender a security interest or lien on real or personal property of any kind. The term “mortgage” also includes the terms “deed of trust” and “security agreement.”

Non-Program Loan

Non-program loan is a loan on terms more stringent than terms for a program loan that is an extension of credit for the convenience of the Agency, because the applicant does not qualify for program assistance or the property to be financed is not suited for program purposes. Such loans are made or continued only when it is in the best interest of the Agency.

Non-Centralized Administrative Offset – from 7 CFR 3.3

Non-centralized administrative offset means an agreement between a USDA creditor agency and a payment authorizing agency to offset the payments made by the payment authorizing agency to satisfy a USDA debt. An internal administrative offset is a type of non-centralized administrative offset.--*

Definitions of Terms Used in This Handbook (Continued)**Office of the General Counsel (OGC)**

OGC is the OGC of the U.S. Department of Agriculture. Unless otherwise indicated, OGC refers to the Regional Attorney or Attorney-in-Charge in an OGC Field Office.

***--Offset** – from 7 CFR 3.3

Offset means withholding funds payable by the United States to, or held by the United States for, a person to satisfy a debt owed by the payee.

OGC – from 7 CFR 3.3

OGC means the USDA Office of the General Counsel.

Past Due

Past due is when a payment is not made by the due date.

Prior Lien/Lienholder

A prior lien is a lien that is recorded in front of an FSA lien on the same security. The individual or entity that has filed this lien is the prior lienholder.

Program Loans

Program loans include CL, FO, OL, and EM. In addition, for loan servicing purposes the term includes existing loans for the following programs no longer funded: SW, RL, EE, ST, and RHF.

Promissory Note

Promissory note is a written agreement to pay a specified sum on demand or at a specified time to the party designated. The terms “promissory note” and “note” are interchangeable.--*

Recoverable Cost

Recoverable cost is a loan cost expense chargeable to either a borrower or property account.

***--Reviewing Officer** -from 7 CFR 3-3--*

Reviewing officer means a person designated by a creditor agency as responsible for conducting a hearing or providing documentary review on the existence of the debt and the propriety of an administrative collection action.

Definitions of Terms Used in This Handbook (Continued)**Security**

Security is property or right of any kind that is subject to a real or personal property lien. Any reference to “collateral” or security property” will be considered a reference to the term “security”.

***--Security Instrument**

Security instrument includes any document giving the Agency a security interest on real or personal property.

Transfer and Assumption

Transfer and assumption is the conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of a loan in return for the assuming party's binding promise to pay the debt outstanding or the market value of the collateral.

Treasury Offset Program (TOP)

TOP is the centralized offset of payments to collect delinquent, nontax debts owed to Federal Agencies and States (including past-due child support) according to:

- 7 CFR Part 3, Subpart D
- 31 CFR Part 285, Subpart A
- 31 CFR 901.3(b).

Unaccounted for Security

Unaccounted for security is security for a direct or guaranteed loan that was misplaced, stolen, sold, or otherwise missing, where replacement security was not obtained or the proceeds from its sale have not been applied to the loan.

U. S. Attorney

U. S. Attorney is an attorney for the United States Department of Justice.

Veteran

Veteran is any person who served in the military, naval, or air service during any war as defined in section 101(12) of title 38, United States Code.

Youth Loan

Youth loan is an operating type loan made to an eligible rural youth applicant to finance a modest income-producing agricultural project.--*

State Supplements

The following table lists required State supplements.


Subparagraph	Required State Supplement
3 B	Guidance on notary acknowledgement.
3 C	Guidance on signature requirements.
3 E	Using State-specific and State-created forms.

Note: SED's shall:

- issue State supplements according to 1-AS, paragraph 216
- obtain approval of State supplements according to 1-AS, paragraph 220.

Example of Due Process Letter to Refer Debt to Treasury for TOP, Cross-Servicing, and A WG

The following is an example of the Due Process Letter to Refer Debt to Treasury.

 United States Department of Agriculture Rural Development Office of the National Financial and Accounting Operations Center 4300 Goodfellow Boulevard St. Louis, MO 63120 Voice 314.457.4152 Fax 314.457.4292	<div style="text-align: right;">JULY 14, 2015</div> <p>Dear Debtor/Co-debtor:</p> <p>Our records indicate that you are more than 90 days past due on a loan(s), or are subject to an outstanding judgment, have a delinquent lease or an equity receivable owed to the United States Department of Agriculture, Farm Service Agency (FSA). Under Federal law, Federal Agencies are required to offset any eligible Government payments due you to resolve the delinquent debt.</p> <p>Enclosed is a list of the delinquent debt(s) and the amount(s) due as of MM/DD/YYYY. You have 60 days to resolve this delinquent debt before an offset of payments will be made.</p> <p>The following options are available, if applicable, for settling this debt:</p> <ul style="list-style-type: none"> Fully pay the delinquent debt outstanding at your local servicing office on or before MM/DD/YYYY. The amount could change because of protective advances, servicing actions, interest accrual, previous offsets, or other collections. Contact your local office for the correct amount. Make delinquent settlement arrangements with your local servicing office. If immediate payment is not possible or would create a serious financial hardship, you may request consideration of a written repayment/settlement agreement with FSA. Any such settlement proposal must be submitted in writing before and accepted by the Agency no later than MM/DD/YYYY. Your request must state your repayment proposal, including the specific terms. A current and signed financial statement must be provided with any settlement proposal or installment repayment request. The financial statement must list all income and expenses, and contain a balance sheet listing all assets and liabilities. An Agency approved repayment/settlement agreement must be in place to prevent offset. Inform your local servicing office of any bankruptcy proceedings. Debtors who have filed for bankruptcy and have an automatic stay in effect are not subject to collection through offset while the stay remains in place. If this provision applies, please submit a copy of the bankruptcy petition to your local servicing office immediately. Inform your local servicing office if you, as a borrower or co-borrower, are on active military duty. FSA borrowers called to active duty may be eligible for additional servicing options, including exclusion from referral to Treasury Offset Program (TOP). If this provision applies, please submit a copy of your military activation papers to your local servicing office by MM/DD/YYYY. <p>If your delinquent debt is a judgment debt, a delinquent lease, or the debt has been accelerated, administrative farm loan servicing authorities are no longer applicable.</p> <p>If the delinquent debt is not involved in a bankruptcy proceeding, or is not paid in full or settled by MM/DD/YYYY, the United States Treasury Department will be notified to collect by offset from the following Federal/State government payments due you, if applicable:</p> <ul style="list-style-type: none"> Income tax refunds State tax refunds Federal salary, including military pay Federal retirement pay, including military retirement pay Contract or vendor payments State vendor payments Certain Federal benefits payments, such as Social Security (other than Supplemental Security Income), Railroad Retirement (other than tier 2), and Black Lung (part B) benefits Other Federal/State payments, including certain loans to you, that are not exempt from offset <p>USDA is an equal opportunity provider and employer.</p> <p>If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.</p>
---	--

**Example of Due Process Letter to Refer Debt to Treasury for TOP, Cross-Servicing, and AWG
(Continued)**

United States Department of Agriculture

All delinquent debt is referred to commercial credit bureaus on a quarterly basis.

Any debt remaining after all loan security has been liquidated may also be referred to Treasury for potential referral to private collection agencies and possible administrative wage garnishment. The amount referred for collection will include the delinquent principal, any accrued interest, protective advances and collection costs. The debt may also be referred to the United States Department of Justice for collection.

You have the right to inspect and obtain a copy of the records for the listed delinquent debt. To do so, send a written request to your local servicing office. Please provide your Social Security Number or Employer Identification Number and your complete mailing address with the request.

You have the right to request a review of the validity of the delinquent debt amount. Any request for such review must be made in writing to your local servicing office by MM/DD/YYYY. If you disagree with the delinquent debt amount and wish to dispute the record, please explain the reason for your challenge and include any written documents or evidence to support your position. You will be notified in writing of a determination.

If you are a Federal employee, you will have the opportunity for a hearing prior to FSA's submitting the debt for Federal salary offset. You will receive more information in a separate notice if this option applies to you.

Additional interest is accruing daily on this debt. The amount due will continue to increase until the delinquency is paid or the account is settled. Any debt written off by the Agency will be reported to Internal Revenue Service (IRS) on Form 1099-C, Cancellation of Debt.

If a joint Federal income tax return is filed, and your spouse is not responsible for this debt, please contact your local IRS office before filing your return to learn how to protect your spouse's share of the refund.

For further information, please call your local servicing office or our toll-free number, 800-428-9643.

USDA is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Alternative Repayment Agreements (ARA's)

A General

ARA does not prevent, suspend, or delay any 5-FLP delinquent loan servicing actions or responsibilities. All servicing actions, including but not limited to PLS, debt settlement, acceleration, and foreclosure, continue to be processed * * *.

Debtors may submit a written ARA as an alternative to FSA collecting delinquent debt through offset, cross-servicing, and wage garnishment, according to 7 CFR 3.11(b)(4) and 7 CFR 3.16. Additional ARA authorities and requirements that are applicable to specific collection actions are:

- internal administrative offset (Part 3) according to 7 CFR 3.42(b)
- TOP (Part 4) according to 7 CFR 1951.137(b)(4) and 7 CFR 3.42(b)

Note: 7 CFR Part 1951 will no longer apply after the draft regulation is published in final.

- Federal salary offset (Part 5) according to 7 CFR 1951.111(f)

Note: After the draft regulation is published in final, 7 CFR Part 1951 will no longer apply. The new authority will be 7 CFR 3.80 and there will be some changes in procedure at that time, such as providing another ARA opportunity to the debtor after an appeal hearing decision has been issued.

- cross-servicing (Part 8) according to 7 CFR 1951.137(b)(4), 7 CFR 3.31(c), and 31 CFR 285.12(c)(3)

Note: After the draft regulation is published in final, 7 CFR Part 1951 will no longer apply.

- AWG (Part 9) according to 7 CFR 3.53(d), 7 CFR 3.31(c), and 31 CFR 285.11(e)(2).

ARA:

- may only be used to prevent or suspend the collection actions listed in this Exhibit
- must be acceptable to FSA
- does not preclude FSA from pursuing other debt collection remedies as permitted and/or required by DCIA and FCCS
- *--does not amend, replace, or supersede any signed promissory notes, security agreements,--* judgments, or other debt instruments.

Alternative Repayment Agreements (ARA's) (Continued)

B Notification

Borrowers are notified of the opportunity to submit ARA or written repayment plan when they receive:

- ~~**~~--FSA-2701 for internal administrative offset and TOP; FSA-2701 provides the borrower with a 30-calendar day response period.
- 60-calendar day due process letter (Exhibit 7) sent before referral to Treasury, which includes notification concerning TOP and, if a balance remains after liquidation of security, cross-servicing and AWG; Exhibit 7 provides the borrower with a 60-calendar day response period
- FSA-2710 for Federal salary offset; FSA-2710 provides the borrower with a 30-calendar day response period--*
- notification from Treasury concerning cross-servicing and AWG.

Borrowers may submit their proposed ARA or written repayment plan along with FSA-2037 and ~~**~~--FSA-2038 to FSA for internal administrative offset, TOP, and Federal salary offset. Late applications will be rejected by the authorized agency official. Rejection of ARA requests are not appealable. See subparagraph C. After debts are referred to cross-servicing, borrowers--* must submit ARA request to Treasury or its collection agents for cross-servicing and AWG using any forms Treasury may require.

C Reviewing and Processing ARA Requests

The authorized agency official will:

- review ARA requests (FSA-2707, FSA-2711, or other written format) and all information/documentation necessary to make a decision concerning the borrower's proposal
- request any additional documentation needed to show that the debtor can make the proposed payments on time

Example: If a debtor proposes to sell nonsecurity property and submit the proceeds to FSA to resolve the delinquent FLP debt, FSA may require a copy of the sales contract and/or loan closing documents.

- provide SED with sufficient documentation to make a decision concerning acceptance or rejection of the ARA request
- notify the debtor in writing of FSA's decision within 45 calendar days. A copy of the ARA with SED decision will be returned to the borrower
- ensure that a copy of ARA and any correspondence are maintained in the borrower's case file.

Note: If ARA request is approved, the letter will instruct the borrower to comply with the repayment plan.

Alternative Repayment Agreements (ARA's) (Continued)**C Reviewing and Processing ARA Requests (Continued)**

--For internal administrative offset and TOP, the payments must resolve the delinquency timely. An ARA will not circumvent the servicing or exceed the timeframes established under 5-FLP, Parts 3 and 4.--

For Federal salary offset, the proposed payments do not need to bring the account current, but must be the maximum amount the debtor can pay, up to 15 percent of disposable pay. See subparagraph E for disposable pay calculation.

Rejection of ARA requests is not appealable. However, debtors may pursue any remaining review or appeal rights concerning FSA's decision to pursue the various collection actions and should be reminded if there is any time remaining to appeal.

ARA requests accepted by FSA will be monitored and serviced according to subparagraph D.

D Monitoring and Servicing ARA's

The authorized agency official will monitor ARA's accepted by FSA to ensure that all payments *--are received on time as agreed. ARA should be monitored until the account is paid current or the agreement must be canceled because of noncompliance.

Note: ARA does not amend, replace, or supersede the promissory note.--*

If the agreement must be canceled, the authorized agency official will:

- consult with the State Office before sending additional collection notices to the debtor
- provide timely notification to the debtor
- determine where in the collection or review/appeal process FSA may continue
- continue with all applicable and appropriate collection actions.

E Disposable Pay Calculation for FSA-2711

[7 CFR 1951.111] ... Not more than 15 percent of the employee's disposable pay can be offset per pay period, unless the employee agrees to a larger amount.

Pursuant to OPM regulations, disposable pay for Federal salary offset is calculated as follows.

[5 CFR 550.1103] Disposable pay means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld (other than deductions to execute garnishment orders in accordance with parts 581 and 582 of this chapter). Among the legally required deductions that must be applied first to determine disposable pay are levies pursuant to the Internal Revenue Code (title 26, United States Code) and deductions described in §581.105(b) through (f) of this chapter.--*

Alternative Repayment Agreements (ARA's) (Continued)

--E Disposable Pay Calculation for FSA-2711 (Continued)--

[5 CFR 581.105] In determining the amount of any “moneys due from, or payable by, the United States” to any individual, there shall be excluded amounts which:

(a) Are owed by the individual to the United States, except that an indebtedness based on a levy for income tax under section 6331 of title 26 of the United States Code, shall not be excluded in complying with legal process for the support of minor children if the legal process was entered prior to the date of the levy;

(b) Are required by law to be deducted from the remuneration or other payment involved, including, but not limited to:

(1) Amounts withheld from benefits payable under title II of the Social Security Act where the withholding is required by law;

(2) Federal employment taxes;

(3) Amounts mandatorily withheld for the United States Soldiers' and Airmen's Home;

(4) Fines and forfeitures ordered by a court-martial or by a commanding officer; and

(5) Amounts deducted for Medicare;

(c) Are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he/she were entitled. The withholding of additional amounts pursuant to section 3402(i) of title 26 of the United States Code may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding;

(d) Are deducted as health insurance premiums, including, but not limited to, amounts deducted from civil service annuities for Medicare where such deductions are requested by the Health Care Financing Administration;

Alternative Repayment Agreements (ARA's) (Continued)***--E Disposable Pay Calculation for FSA-2711 (Continued)--***

(e) Are deducted as normal retirement contributions, not including amounts deducted for supplementary coverage. For purposes of this section, all amounts contributed under sections 8351 and 8432(a) of title 5 of the United States Code to the Thrift Savings Fund are deemed to be normal retirement contributions. Amounts withheld as Survivor Benefit Plan or Retired Serviceman's Family Protection Plan payments are considered to be normal retirement contributions. Except as provided in this paragraph, amounts voluntarily contributed toward additional retirement benefits are considered to be supplementary; or

(f) Are deducted as normal life insurance premiums from salary or other remuneration for employment, not including amounts deducted for supplementary coverage. Both Servicemen's Group Life Insurance and "Basic Life" Federal Employees' Group Life Insurance premiums are considered to be normal life insurance premiums; all optional Federal Employees' Group Life Insurance premiums and life insurance premiums paid for by allotment, such as National Service Life Insurance, are considered to be supplementary.--*

Pro Rata Offset of Entity Payments

A Definition of Entity for This Exhibit Only

[7 CFR 1951.102(b)(7)] *Entity* means a corporation, joint stock company, association, general partnership, limited partnership, limited liability company, irrevocable trust, revocable trust, estate, charitable organization, or other similar organization participating in the farming operation.

B Determining Debtor's Participation in an Entity

[7 CFR 1951.106(b)] Collections of delinquent debts through administrative offset may be taken against a debtor's pro rata share of payments due any entity in which the debtor participates when:

- (1) It is determined that FSA has a legally enforceable right under state law or Federal law, including program regulations at 7 CFR 792.7(l) and 1403.7(q), to pursue the entity payment;
- (2) A debtor has created a shell corporation before receiving a loan, or after receiving a loan, established an entity, or has reorganized, transferred ownership of, or otherwise changed in some manner the debtor's operation or the operation of a related entity for the purpose of avoiding payment of the FSA, FLP debt or otherwise circumventing Agency regulations;
- (3) Assets used in the entity's operation include assets pledged as security to the Agency which have been transferred to the entity without payment to the Agency of the value of the security or Agency consent to transfer of the assets;
- (4) A corporation to which a payment is due is the alter ego of a debtor; or
- (5) A debtor participates in, either directly or indirectly, the entity as determined by FSA.

C Additional Guidelines

The following guidelines will be used to explain the situation to the Regional OGC.

- When was the entity formed? If it appears that the entity was formed to avoid the collection of an FSA debt, then this may be an indication that the entity may be the **alter ego** of the debtor. This determination is, however, not the controlling factor because pre-existing entities may be used as **alter egos**. The formation of an entity to avoid an offset is unacceptable and the debtor's **pro rata** share of any payments due the entity will be offset.
- After the entity is formed or after the entity has taken over the farming operation, has the farming operation really changed? In other words, is the entity just a new front for the individual's on-going farming operation? Compare the information on the FSA payment limitation forms. Is the borrower still performing the labor or management of the farming operation as before when there was no entity?

Pro Rata Offset of Entity Payments (Continued)

C Additional Guidelines (Continued)

- Does the borrower own all or a major portion of the stock of the entity?
- Is the borrower an officer, director, or general manager of the entity?
- Do the borrower and entity have the same business offices?
- Did the borrower provide for or arrange for the financing of the entity?
- Is the borrower or entity adequately capitalized to run the farming operation?
- Where does the entity's capital come from?
- What are the entity's assets? Does it have a bank account, financial reserves, farm equipment, land or leased land, or other assets needed to operate a farm?
- Did the stockholders or partners in the entity actually make capital investments in the entity in exchange for the stock, or ownership interest, which they received? Is the ownership in the same proportion as the capital investments made?
- Does the borrower keep his property and business separate from that of the entity? Are the offices separate? Are there separate bank accounts? How are the entity funds, if any, used? Are they used to pay the expenses of the borrower? How does the borrower use the funds? Does the borrower pay the expenses of the entity? If so, are these loans formally documented with notes and security instruments? Does the entity repay the loans with interest at the current market rate?
- Does the borrower and entity observe corporate formalities, such as keep separate books and records, hold shareholder and board meetings, and have a corporate resolution authorizing the corporate representative to borrow money and otherwise conduct the business of the entity?
- Did the entity pay the State franchise taxes for corporations? Did the entity file a separate corporate or partnership income tax return? Did the entity pay salaries or other compensation to its officers? Did the entity ever declare a dividend? Does the borrower make all of the corporate decisions?

***--FSA Documentary Review or Hearing for FSA-2701**

A General

See paragraph 107 for TOP review.

A request for review must be made within 30 days of receipt of FSA-2701.--*

Reviews will be:

- conducted by the reviewing officer designated by SED
- limited to the existence of the debt, status of the delinquency, amount of the debt or delinquency, and propriety of the offset
- based on FSA records plus other relevant documentary evidence that may be submitted by the debtor within 10 calendar days after the request for FSA review is received.

Note: An FSA employee will **not** be the reviewing officer for any administrative offset case where the employee was involved in making the decision to offset.

The debtor:

- must submit a written explanation of why the debtor disagrees with offset and seeks review
- may request a documentary review or hearing.

The reviewing officer must notify the debtor in writing:

- whether the review will be by documentary review or by hearing
- of the reason why a hearing will not be granted, if the debtor requested one
- of the procedures to be used in reviewing the documentary record
- of the date, location, and procedures to be used if review is by hearing.

B Timeframe

Unless otherwise arranged by mutual written agreement between the debtor and FSA, any documentary review or meeting will be conducted not less than 10 calendar days and no more than 45 calendar days after receipt of the request for review.

FSA Documentary Review or Hearing (Continued)

C Hearings

Hearings will be conducted as informally as possible and in a fair and expeditious manner.

The reviewing officer will not use the formal rules of evidence about the admissibility of evidence or the use of evidence once admitted. However, clearly irrelevant material should not be considered, whether or not any party objects.

Any party to the hearing may offer exhibits, such as copies of financial records, telephone memoranda, or agreements, provided the opposing party is notified at least 5 workdays before the hearing.

Debtors may represent themselves or may be represented at their own expense by an attorney or other person.

The reviewing officer must document the substance of all significant matters discussed during the hearing; however, no official record or transcript of the hearing needs to be created. If a debtor requests that a transcript be made, it will be at the debtor's expense.

D Reviewing Officer's Decision

After the hearing or documentary review, the reviewing officer will:

- issue a written decision within 30 calendar days after the hearing or the documentary review

Note: The deadline for issuing the decision may be extended by the reviewing officer for good cause, but for no more than 30 calendar days without consent of the debtor. With the consent of the debtor, the deadline may be extended an additional 30 calendar days (for a total of 60 calendar days beyond the original deadline).

- promptly distribute copies of the decision to the FSA local servicing office, the debtor, and the debtor's representative
- if the decision is not in the debtor's favor:
 - give appeal rights to NAD
 - notify the debtor that within 15 calendar days of the reviewing officer's decision, the debtor may submit ARA, according to 7 CFR 3.42 (Exhibit 8).

FSA Documentary Review or Hearing (Continued)

D Reviewing Officer's Decision (Continued)

The decision:

- will include supporting rationale for the decision
- does not need to be lengthy or formal in style
- must address the substantive issues
- should address any significant procedural matter that was in dispute before or during the hearing or documentary review.

If the debtor does not appeal to NAD, the FSA reviewing officer's decision is final. Before any appeal hearing to NAD, the reviewing officer's decision constitutes FSA's final informal Agency decision as to the following issues:

- all issues of fact relating to the basis of the debt, including the existence of the debt and the propriety of the administrative offset, in cases where the debtor previously had not been offered due process
- the existence of the debt and the propriety of the administrative offset, in cases where the debtor previously had been afforded due process as to issues of fact relating to the basis of the debt.

E Appeals

Appeals will be conducted by NAD according to 7 CFR Part 11 and 1-APP. When borrowers request NAD appeal, their right to request review by FSA according to this exhibit will be considered waived.

Timeframe for Quarterly Referrals to TOP

The following is a timeframe for quarterly referrals to TOP.

*--

Process	Date(s)
FY 2018 4th Quarter TOP Referral	
New selection <u>1/</u>	June 23, 2018
Critical pre-letter screening	June 26, 2018 to July 6, 2018
FO mails 60-day due process letters	July 10, 2018
Pre-certification screening	July 10, 2018 to September 14, 2018
Certification <u>2/</u>	September 15, 2018 <u>3/</u>
FY 2019 1st Quarter TOP Referral	
New selection <u>1/</u>	September 15, 2018 <u>3/</u>
Critical pre-letter screening	September 18, 2018 to October 5, 2018
FO mails 60-day due process letters	October 9, 2018
Pre-certification screening	October 9, 2018 to December 14, 2018
Certification <u>2/</u>	December 15, 2018 <u>4/</u>
FY 2019 2nd Quarter TOP Referral	
New selection <u>1/</u>	December 15, 2018 <u>4/</u>
Critical pre-letter screening	December 18, 2018 to January 4, 2019
FO mails 60-day due process letters	January 8, 2019
Pre-certification screening	January 8, 2019 to March 15, 2019
Certification <u>2/</u>	March 16, 2019 <u>4/</u>
FY 2019 3rd Quarter TOP Referral	
New selection <u>1/</u>	March 23, 2019
Critical pre-letter screening	March 26, 2019 to April 5, 2019
FO mails 60-day due process letters	April 9, 2019
Pre-certification screening	April 9, 2019 to June 14, 2019
Certification <u>2/</u>	June 15, 2019
FY 2019 4th Quarter TOP Referral	
New selection <u>1/</u>	June 22, 2019
Critical pre-letter screening	June 25, 2019 to July 5, 2019
FO mails 60-day due process letters	July 9, 2019
Pre-certification screening	July 9, 2019 to September 20, 2019
Certification <u>2/</u>	September 21, 2019

1/ This includes all debts that appear eligible on ADPS, even if deleted in prior quarterly process.

2/ Loans with no delete code are moved from the “Borrower Eligible (“N”) screens to the “Certified (Y)” screens.

3/ The FY 2018 4th Quarter Certification is run on the same day as the FY 2019 1st Quarter Selection.

4/ The FY 2019 1st Quarter Certification is run on the same day as the FY 2019 2nd Quarter Selection.--*

TOP Offset Programmatic Delete Codes

The following are delete codes that will be programmatically generated based on ADPS status of the debtor's account.

Code	Description
02	Account has a "BAP" or "SAA" flag.
13	<ul style="list-style-type: none">• A cost item reversal put a "Z99" paid code on the account.• Transaction code "4A" or "4D" put a "Z97" paid code on the account.• Equity Receivable record suspended or amortized.
17	Loan is current or paid in full by cash payment.
19	<ul style="list-style-type: none">• Loan is satisfied by other than those reasons in codes "13", "17", and "38".• No address or invalid address.• Suspension loan amortized.
38	Account has been written off with a class of writeoff code other than "5".

Notes: If the account status in ADPS generates a delete code, both the borrower and co-borrower loans will be programmatically deleted using the same delete code.

A suspend code (ZSPC on AI Status Screen) prevents a programmatic delete.

TOP Offset Manual Online Screen Delete Codes

The following are descriptions of programmatic delete codes and the manual delete codes available for State Office use, and codes to use for FSA-2722 items 14 A, 16 A, and 16 B.

Code	Description
01	Foreclosure. Not eligible for offset under state law. Existence of a “FAP” flag is not a determining factor. These are accounts referred to OGC or DOJ for foreclosure and collection by offset would jeopardize the litigation under state law.
02	<p>Bankruptcy. Loan is either:</p> <ul style="list-style-type: none"> discharged in bankruptcy and debtor no longer liable under the jurisdiction of a bankruptcy court and the debt has not been reaffirmed. <p>Note: Existence of “BAP” flag is used during programmatic screening, and will prevent an account from being selected for TOP referral.</p>
03	OGC. Loan is referred to OGC for legal action (but is not code “01” or “02”) and offset is prohibited.
04	Judgement. Judgement that is not eligible for FSA to refer to TOP and is not code “05” or “09”. Provide details in FSA-2722, item 16 B.
05	Judgement-DOJ. Judgement is being serviced by DOJ.
06	Forbearance-disaster declaration.
07	Active military. Service members Civil Relief Act and/or Ronald W. Reagan National *--Defense Authorization Act. See 4-FLP, Part 11 for additional information.--*
09	Judgement-Expired. Past the 20-year statute of limitations and judgement was not renewed. See paragraph 353 for additional information.
10	Correction pending. Loan is being corrected.
11	Moratorium 2008 Farm Bill.
13	Deceased. Borrower is deceased and debt will be moved to a living co-debtor.
16	Repayment plan. A plan has been approved by FSA that will bring the account current.
17	<p>Timing and/or Suspend. Either:</p> <ul style="list-style-type: none"> timing of cash applications on ADPS will not generate a delete code in time to prevent referral to TOP, and the debtor is eligible for deletion because the payment will cure the delinquency loan is paid in full, but there is a suspended code on the account (“ZSPC” on the ADPS AI Screen is greater than zero.)
38	Deceased Debt Settlement Pending. Borrower is deceased and the debt is in the process of being settled because there are no other liable parties to the debt, there is no security, and no collection is possible from the estate.
N/A	For unique circumstances listed in FSA-2722, item 16 A.

TOP Offset Online Screens

A Online Screen Information

The Borrowers Eligible for TOP Offset Screen and Borrowers Eligible for TOP Offset Certified Screen will be displayed with borrower and co-borrower information as follows.

Field/Line	Information
ST CTY TIN	Primary borrower's case number.
TIN	TIN for the primary borrower or co-borrower.
CO	Co-borrower's permanent alphabet letter (A-Z) or number (1-9) as a unique identifier. Note: It is critical that all co-borrowers' names, addresses, and TIN's be updated in SCIMS on an ongoing basis. The co-borrower/related entity status must be updated in the DLS Customer Profile.
Case Number (Located under "Name" column)	The borrower's name will be displayed, if there are no co-borrowers selected or if both borrower and co-borrower are selected. The co-borrower's name will be displayed, if only the co-borrower is selected. Note: For each co-borrower loan selected, the co-borrower's name will be displayed between the TIN and loan number.
FLG (Located over "Delete Date" column)	"F" will be displayed if the account has a "FAP" flag.

TOP Offset Online Screens (Continued)

B Accessing Online Screens

County Offices may view and State Offices may modify borrower/co-borrower loans by selecting “TOPOFFST” on the Online Submenu Selection Menu. A borrower/co-borrower could have loans on both the Borrowers Certified for TOP Offset (Y) Screen and Borrowers Eligible for TOP Offset (N) Screen, depending on the status of each loan on ADPS. However, an individual loan for either a borrower or co-borrower may only be on 1 of the screens.

From the Borrower Select Menu, use the following applicable option.

Option	Authorized Users	Step	Action
1	State Office	1	In the “Enter State” field, enter the 2-digit non-FIPS State code (former FmHA State code).
		2	In the “View Certified Borrowers” field, enter either of the following: <ul style="list-style-type: none"> • “Y”, if the Borrower Eligible for TOP Offset/Certified Screen is needed • “N”, if the Borrowers Eligible for TOP Offset Screen is needed.
		3	PRESS “Enter”. All borrower/co-borrower loans on that screen for the State will be displayed.
2	State and County Offices	1	In the “Enter State” field, enter the 2-digit non-FIPS State code (former FmHA State code).
		2	In the “Enter State and County” field, enter all 5 digits of FSA’s servicing office mail code.
		3	In the “View Certified Borrowers” field, enter either of the following: <ul style="list-style-type: none"> • “Y”, if the Borrower Eligible for TOP Offset/Certified Screen is needed • “N”, if the Borrowers Eligible for TOP Offset Screen is needed.
		4	PRESS “Enter”. All borrower/co-borrower loans on that screen for the State will be displayed.

TOP Offset Online Screens (Continued)

B Accessing Online Screens (Continued)

Option	Authorized Users	Step	Action
3	State and County Offices	1	In the “Enter Case Number” field, enter the entire 15-digit case number.
		2	In the “View Certified Borrowers” field, enter either of the following: <ul style="list-style-type: none"> • “Y”, if the Borrower Eligible for TOP Offset/Certified Screen is needed • “N”, if the Borrowers Eligible for TOP Offset Screen is needed.
		3	PRESS “Enter”. All borrower/co-borrower loans on that screen for the State will be displayed.
4	State and County Offices	1	In the “Enter Tax ID” field, enter the 9-digit TIN for the primary borrower.
		2	In the “View Certified Borrowers” field, enter either of the following: <ul style="list-style-type: none"> • “Y”, if the Borrower Eligible for TOP Offset/Certified Screen is needed • “N”, if the Borrowers Eligible for TOP Offset Screen is needed.
		3	PRESS “Enter”. All borrower/co-borrower loans on that screen for the specified borrower TIN will be displayed. Note: Do not enter a co-borrower TIN because this will display a “Borrower Not Found” message. Entering borrower TIN will display any eligible co-borrowers.
5	State and County Offices		PRESS “Enter” to return to the Online Submenu Selection Menu.
6-12	NFAOC		In the “Enter Option Code” field, enter applicable code to enable or disable the TOP screens, as needed.

AWG Reference Guide for LSPMD

1 Treasury Actions

A Determination to Use AWG

Once the borrower's account has been referred to Treasury for cross servicing, Treasury appoints PCA to act as an agent on behalf of Treasury to collect the debt. If an agreement cannot be reached on a payment method, AWG payments may be a tool used for collection. If Treasury elects to pursue collection through AWG, PCA will provide the borrower a notice at least 30 calendar days in advance notifying them as follows:

- that AWG may be held against their paycheck
- provide them the opportunity to inspect and copy Agency records related to the debt
- they may enter into a repayment agreement
- they may request a hearing to determine the validity of the debt, amount of the debt, or the debtor's ability to pay
- they have 15 calendar days to respond to the letter and if they do not respond within 15 calendar days, Treasury will issue the garnishment order and apply a 15 percent garnishment rate against their paychecks.

2 Borrower Requests

A Request to Inspect and/or Copy Records

If the borrowers request to inspect and/or copy records, the FLP State and local offices must respond in a timely manner to these requests. See 3-INFO:

- paragraph 17 for information about records holding office responsibility
- paragraph 20 for information about legal basis for withholding information.

AWG Reference Guide for LSPMD (Continued)

2 Borrower Requests (Continued)

B Request for ARA

Borrowers may submit a written repayment agreement as an alternative to collection of the FLP debt through AWG. These requests are processed by Treasury, or PCA assigned by Treasury, to service the debt. Treasury may request assistance from FSA in determining the acceptability of ARA or debt settlement offers. In these cases, FLP offices must respond in a timely manner.

The authorized agency official may recommend acceptance of ARA according to
--paragraph 244 and Exhibit 8.--

ARA's do **not** replace any signed promissory notes, security agreements, judgments, or other debt instruments.

C Request for Hearing

If the borrower requests a hearing within 15 calendar days, PCA notifies Treasury to suspend AWG against the debtor until the completion of the hearing process.

If the borrower's hearing request is received after 15 calendar days, FSA will provide a hearing to the borrower. However, Treasury will issue the garnishment order to the employer without any delay.

3 AWG Hearings According to 31 CFR 285.11(f)

A Hearing Process

Treasury will forward request of hearing to OCFO, and OCFO will notify LSPMD.

A docket number and hearing date is supplied by Treasury's hearing official.

The hearing official will communicate the hearing information to the debtor, OCFO, and LSPMD.

AWG Reference Guide for LSPMD (Continued)

3 AWG Hearings According to 31 CFR 285.11(f) (Continued)

A Hearing Process (Continued)

The borrower can request to inspect their records held by FSA or delay the hearing date. Only justifiable grounds can delay the hearing.

Before the hearing, LSPMD and the debtor must provide evidence (subparagraph 245 D) to assist the hearing official in their ruling. The hearing official will notify LSPMD and the borrower of the deadlines for the submission of evidence for a written hearing.

The hearing can be held in-person, written, or by telephone. Most of Treasury's hearings are written hearings. LSPMD and the borrower will submit documents and other evidence to allow the hearing official to determine a decision.

Depending on the difficulty of the hearing, LSPMD or the borrower may seek legal representation at their own expenses.

FSA does not have to provide more than 1 hearing, based on the same grounds or objections, unless the debtor has new evidence. If a debtor has materially changed financial circumstance from the last hearing, FSA should grant the debtor another hearing to determine hardship.

B AWG Decision

The AWG hearing should be completed within 60 calendar days. During the hearing, if the borrower fails to appear, the debtor waives their right to a hearing and a calculated amount of AWG (not more than 15 percent) will be applied to the borrower's paycheck.

No garnishment will be held or collected against the debtor until Treasury's hearing official issues an AWG hearing decision even if the decision takes more than 60 calendar days.

The decision may have either of the following outcomes:

- if the debt is valid and should be collected, Treasury's hearing official will calculate the amount of AWG to be withheld

Note: The total AWG percentage of the debtor's paychecks depends on exclusions and financial hardships.

- if the debt is invalid, the debt is terminated.

AWG Reference Guide for LSPMD (Continued)

3 A WG Hearings According to 31 CFR 285.11(f) (Continued)

B A WG Decision (Continued)

The final hearing decision and any additional information are sent to OCFO, FSA, and the borrower. LSPMD will notify the applicable State Office.

If the decision terminates AWG, Treasury notifies PCA that the garnishment process has been terminated and the garnishment order is not executed.

[31 CFR 285.11(f)(12)] The hearing official's decision will be the final agency action for the purposes of judicial review under the Administrative Procedure Act (5 U.S.C. 701 et seq.).

4 Garnishment

A Withholding Order

When the hearing official decides the debt is valid, Treasury will issue a garnishment order that contains a certification of employer document and stipulates the amount of AWG to apply to the borrower's wages.

B Employer Certification

The employer complies with the order and returns the certification of employee document to Treasury.

C Only One Garnishment Order

DCIA authorizes Federal Agencies or collection agencies under contract with them to garnish up to 15 percent of the disposable earnings to repay defaulted debts owed the U.S. Government.

AWG Reference Guide for LSPMD (Continued)

4 Garnishment (Continued)

D Multiple Garnishment Orders

The total of all garnishment orders shall not exceed 25 percent of the employee's disposable earnings.

Both FLP and Farm Programs can obtain garnishment orders. The garnishment order with the earliest date has priority. The priority, or first, garnishment order will most likely receive a greater portion of the garnished wages.

Example: Garnishment Order A has priority over Garnishment Order B. Garnishment Order A is for the full maximum of 15 percent for a single garnishment order. Garnishment Order B must **not** exceed 10 percent ($25\% - 15\% = 10\%$).

E Borrower Consent to Garnish Larger Amount

Withholding a larger amount will be negotiated and documented by the debtor's written consent, which will be provided to FLP, Treasury or PCA, and/or the debtor's employer.

5 Processing Garnishment Amounts and Collections

A Employer Processing

The employer submits withheld amounts to Treasury. Treasury sends the funds to FSA in automated reports. Throughout the life of the garnishment, PCA will monitor the garnishments to ensure that the employer complies with the order.

B Right of Action

If the employer fails to comply with the order, PCA notifies Treasury and Treasury may take legal action against the employer to collect the debt.

C FLP Processing

AWG collections will be included with all other collections received from Treasury through cross-servicing and/or TOP.

AWG Reference Guide for LSPMD (Continued)

5 Processing Garnishment Amounts and Collections (Continued)

D Borrowers With More Than One FSA loan

If the debtor has more than one FSA loan, 1 loan will go through the AWG process and the others will continue through the normal referral process and be sent to PCA's for servicing. Once the loan being collected through AWG is paid in full, the other loans will be returned to FSA because there are no collections.

--Treasury's cross-servicing system was designed to prevent duplication of a debt by-- blocking the use of the Agency debt ID more than once under FSA's bureau code. To resubmit the debt to Treasury for AWG collection, alter the Agency debt ID by adding an alpha character to the end of the original Agency debt ID.

Example: Agency debt ID is 123-45-6789. Resubmit the account as 123-45-6789A. If there are additional loans, continue adding alpha characters in order; such as A, B, C, etc.

During the AWG hearing process, the hearing official deals with the debtor's total FSA debt. There is no need to repeat the hearing process for each individual FSA loan.

6 Changes to Garnishment Amount

A Following Involuntary Separation

Borrowers must communicate directly with Treasury and/or PCA's about their financial circumstances while accounts are referred to AWG and/or cross-servicing.

B Financial Hardship

Treasury will make any hardship determination on DAFLP's behalf and notify the borrower's employer of any adjustments to the garnishment amount. In cases where the garnishment amount has been adjusted because of hardship, Treasury will periodically request updated financial information from the FLP borrower to determine whether the hardship still exists and/or if the garnishment amount must be adjusted again.

7 Ending Garnishment and Refunds

A Ending Garnishment

In cases where the debt is paid in full, Treasury will notify the employer to discontinue garnishment for FLP.

If the debtor has more than one FSA loan, FSA must resubmit each additional loan to Treasury according to subparagraph 247 B.

Approving Debt Settlements Under FCCS

1 Previous Debt Forgiveness and Nonprogram Loans

Based on the Federal Agriculture Improvement and Reform Act of 1996, borrowers are only entitled to 1 debt forgiveness under the CONACT direct loan program. There are no exceptions.

However, even though previous debt forgiveness has been received, debt settlements can be *--processed outside CONACT authorities. **This approval is based on FCCS at 31 CFR 902.1(a) for authority in paragraph 2, and 31 CFR 902.1 (b) for authority in paragraph 3, and not CONACT.**

Nonprogram loans and claims against third party converters may only be settled under FCCS standards.

2 SED Approval Authority

SED's are authorized to approve:

- settlement of debt when the claim, exclusive of interest, penalties, and administrative costs is less than \$100,000

Note: Follow Part 12 for guidance in accepting and processing debt settlement requests. A copy of this exhibit will be attached to FSA-2732. For debt settlements that do not require the borrowers signature, use FSA-2731.

- cancellation of debts discharged under Chapter 7, 11, 12, or 13 of the bankruptcy code, regardless of the amount of the debt

Note: The cancellation will be processed according to FSA-2731, if there are no remaining liable debtors.

- settlements **negotiated and approved** by DOJ

Note: Attach a copy of the DOJ approval to FSA-2731 or FSA-2732, as applicable.

- settlement of debt regardless of amount, when the local OGC determines that the debt is legally without merit.

Note: A copy of the OGC opinion and this exhibit will be attached to FSA-2731 or FSA-2732, as applicable.

- settlement of debts that are not eligible for referral to DOJ, according to 31 CFR 904.4, because they are less than the referral amount.--*

Approving Debt Settlements Under FCCS (Continued)

3 Referral to DOJ

If SED recommends settlement, but cannot approve the settlement according to paragraph 2, then SED must forward it to the Regional OGC with the following:

- information collected under Part 12
- completed Claims Collection Litigation Report, as required by 31 CFR 902.1, and 31 CFR 904.2.

If the Regional OGC concurs, any other information needed shall be included and forwarded to DOJ Civil Division or DOJ's Nationwide Central Intake Facility (NCIF), according to 31 CFR 904.1.

Settlements referred to DOJ that are rejected by DOJ will be denied by SED for the reasons stated by DOJ.

Borrowers will not be provided appeal rights for settlements rejected under this authority. However, rights to a NAD review of FSA's "appealability" decision will be provided.

Note: For cases that are a combination of judgment and nonjudgment debt, and the judgment is retained by DOJ, coordinate debt settlement of the judgment debt and nonjudgment debt with DOJ as the approval official.

Settlements which **cannot** be recommended or forwarded to DOJ, will be rejected by SED. Appeal rights will be provided according to 1-APP.

For the applicable addresses for NCIF and the DOJ Civil Division, see the "Agency Briefing Guide" link <https://www.justice.gov/jmd/debt-collection-management-staff>

***--Optional Guide to Document Asset Search**

Asset Search for (Borrower's Name)
Prepared by (Name of FLO/FLM) – (Title of FLO/FLM)
(Date Completed)

(Borrower's name) are FSA Borrowers. An asset search of the _____ County Courthouse has been completed and the following is for your information.

- (Borrower's name).
- Date of Birth: _____.
- Security Property locate at or was located at: _____ (sold).
- New mailing address: _____.
- Social Security Number/s: XXX-XX-XXXX and XXX-XX-XXXX.
- (Borrower) is employed with _____ and (Borrower) is employed with _____.
- Income is approximately \$_____ per year.
- No record of Bankruptcy filings.
- Financial Institution account balances are normal checking and savings at _____ Bank, accounts for IRA Mutual Funds, Insurance annuities have been accounted for.
- A document search of the Courthouse records in _____ County did not reveal any other records other than the mortgages and financing statements in which FSA has taken. They sold security property and all monies have been applied to the account. There are no known remaining assets in which to collect from. Records revealed the following:
 - Real Estate Mtg – FSA 4/13/94 BK 00617 PG 00475 – 0.50 acres/dwelling
 - Real Estate Mtg – FSA 4/1/97 BK 00673 PG 00383 – 0.50 acres/dwelling
 - Real Estate Mtg – FSA 5/15/97 BK 00676 PG 00387 – 0.50 acres/dwelling
 - Real Estate Mtg – FSA 6/9/98 BK 00774 PG 00229 – 0.50 acres/dwelling
 - UCC-1 4/13/94 – FSA - 94-433
 - UCC-1 4/1/97 – FSA – 97-359.--*

***--Optional Guide to Document Asset Search (Continued)**

- There were no delinquent Real Estate taxes.
- There were no State or Federal Tax liens outstanding.
- There were no Judgments on file.
- There were no mechanics liens on file.
- There were no Lis Pendens on file.
- There is no net recovery value in which to collect from.
- No other Real Estate owned.
- Financial records and/or tax returns are made part of file for review of future repayment ability or other assets or income available to apply to the indebtedness.
- Efforts to collect the debt have been made by way of administrative offset, and liquidation of security, to include real estate. Disposition of all property was accounted for on FSA-2040. The monies were applied to the account as an extra payment. A deficiency judgement is not requested due to lack of assets and no repayment ability.
- There is no known or predicated future inheritance.
- Based upon this examination of records, this information is made to and for the benefit of USDA/FSA.--*

Completed Examples of FSA-2731, Cancellation of Debt Without Application, and FSA-2731A, Cancellation of Debt Without Application (Continuation)

A Example 1

In the following completed example of FSA-2731, the borrowers have been returned from cross-servicing and the co-borrower is liable for all debt.

*--

This form is available electronically.					
FSA-2731 (12-12-16)		U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency			Position 2
CANCELLATION OF DEBT WITHOUT APPLICATION (RD-1956-1)					
1. Account No: 00-000-000000000000					
2. Debt Owed Agency as of Date (MM-DD-YYYY) 02-03-2015		3. Total Principal*: \$ 174,805.42		4. Total Interest*: \$ 36,731.48	
5. Total: \$ 211,536.90					
6. Primary Borrower Name or Co-Borrower Name	7. Fund Code and Loan Number	8. Principal *	9. Interest *	10. Total	11. Settlement Code 1/
6A. Joe Smith	45-01	6,431.05	1,225.63	7,656.68	01
	41-02	118,155.54	12,780.29	130,935.83	01
	44-04	5,394.01	351.46	5,745.47	01
	43-10	4,297.24	272.69	4,569.93	01
	44-17	40,527.58	22,101.41	62,628.99	01
6B. Mary Smith					
<input checked="" type="checkbox"/> Same as 6A <input type="checkbox"/> Different than 6A					
6C.					
<input type="checkbox"/> Same as 6A <input type="checkbox"/> Different than 6A					
6D.					
<input type="checkbox"/> Same as 6A <input type="checkbox"/> Different than 6A					
1/ ENTER THE FOLLOWING CODE(S) AS APPLICABLE in item 11 and attach supporting documentation:					
"01" - All debt returned from cross-servicing as uncollectible "02" - All debt returned from cross-servicing after paying compromise or adjustment offer "03" - Obligor has been discharged of the debt under Chapter 7 bankruptcy "04" - Obligor has been discharged of the debt under reorganization bankruptcy (Chapter 11, 12 or 13)* "05" - Obligor is deceased or defunct "06" - DOJ settlement negotiated in lieu of foreclosure or Judgment* plea agreement, or the remaining balance of the debt is not covered by the Judgment and determined by OGC to be legally without merit. "07" - DOJ - Civil Division settlement without application due to prior debt forgiveness with outstanding principal of \$100,000 or greater "08" - Cancellation of Judgment debt "09" - OGC has determined that the debt is legally without merit "10" - Partial debt settlement* "11" - Obligor signature cannot be obtained or has disappeared and it is not in the Agency's best financial interest to refer the account to cross-servicing *For partial cancellation, enter the loan(s) and balance(s) being cancelled. Enter the remaining loan(s) and balance(s) under "remarks"					

--*

Completed Examples of FSA-2731, Cancellation of Debt Without Application, and FSA-2731A, Cancellation of Debt Without Application (Continuation) (Continued)

A Example 1 (Continued)

*--

FSA-2731 (12-12-16)		Page 2 of 2		
12. Have all obligors been listed on this form? If "NO", attach this form and supporting documentation to FSA-2732 and/or attach FSA-2080(s) and supporting documentation to this form. NOTE: If FSA-2732 is submitted by another liable party, settlement of the account must be processed using the appropriate settlement code (3K transaction) for the type of settlement on FSA-2732.		YES	NO	N/A
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. Has the disposition of all FSA security identified on FSA-2028 been properly recorded on FSA-2045 or previous authorized form? If "NO", correct FSA-2045 or previous authorized form.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Has the disposition of all real estate security described on the mortgage or deed of trust been properly accounted for accounted for in position 5 of the case file? If "NO", include required documentation in position 5 of the case file.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. Has the disposition of all other assets pledged as security, such as stocks, assignments of insurance policies and leaseholds, been properly accounted for in position 1 of the case file? If "NO", include documentation in position 1 of the case file.		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. Remarks				
17. An obligor: <input type="checkbox"/> has <input checked="" type="checkbox"/> has not received previous debt forgiveness <input type="checkbox"/> If an obligor has received prior debt forgiveness, the requirements of 7-FLP, Exhibit 34 have been met				
REVIEW OFFICIAL'S CERTIFICATION				
<i>I have reviewed the case file and certify that documentation in the file supports the findings reported above. Based upon my review of the case file, each obligor meets the qualifications for the type of settlement code proposed.</i>				
18A. Review Official's Signature		18B. Review Official's Name		18C. Review Official's Title
<i>/s/ James Doe</i>		James Doe		Farm Loan Manager
				18D. Date (MM-DD-YYYY)
				02-03-2015
RECOMMENDING OFFICIAL'S CERTIFICATION				
19. I Recommend: <input type="checkbox"/> Approval of this Debt Settlement <input type="checkbox"/> Rejection of this Debt Settlement				
20A. Recommending Official's Signature		20B. Recommending Official's Name		20C. Recommending Official's Title (FLC or Designee)
<i>/s/ Bill Jones</i>		Bill Jones		Farm Loan Chief
				20D. Date (MM-DD-YYYY)
				02-12-2015
APPROVING OFFICIAL'S CERTIFICATION				
21. I Hereby: <input checked="" type="checkbox"/> Approve this Debt Settlement <input type="checkbox"/> Reject this Debt Settlement <input type="checkbox"/> See FSA-2732 for Decision				
22A. State Executive Director's Signature		22B. State Executive Director's Name		22C. Date (MM-DD-YYYY)
<i>/s/ Mary Brown</i>		Mary Brown		
In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.				
Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.				
To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov . USDA is an equal opportunity provider, employer, and lender.				

--*

Completed Examples of FSA-2731, Cancellation of Debt Without Application, and FSA-2731A, Cancellation of Debt Without Application (Continuation) (Continued)

B Example 2

In the following completed examples of FSA-2731 and FSA-2731A, the borrower is an entity. The entity and all of the members of the entity, except 2, were discharged from Chapter 7 Bankruptcy. Of the 2 not discharged from bankruptcy, 1 member is deceased and 1 member resides in a nursing home and is incapacitated. In addition, 1 member was liable for only 1 loan.

*--

This form is available electronically.					
FSA-2731 (12-12-16)		U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency			Position 2
CANCELLATION OF DEBT WITHOUT APPLICATION (RD-1956-1)					
1. Account No: 00-000-0000000000					
2. Debt Owed Agency as of Date (MM-DD-YYYY) 02-03-2014		3. Total Principal*: \$ 282,778.66		4. Total Interest*: \$ 631,013.87	
5. Total: \$ 313,792.93					
6. Primary Borrower Name or Co-Borrower Name	7. Fund Code and Loan Number	8. Principal *	9. Interest *	10. Total	11. Settlement Code 1/
6A. Doe Brother Farm	41-01	154,283.60	14,673.85	168,957.45	03
	44-02	65,396.46	4,013.21	72,409.67	03
	43-04	15,247.37	1,051.14	16,998.51	03
	29-08	44,151.23	11,275.67	55,426.90	03
6B. John Doe					
<input checked="" type="checkbox"/> Same as 6A <input type="checkbox"/> Different than 6A					
6C. Mary Doe					05
<input type="checkbox"/> Same as 6A <input checked="" type="checkbox"/> Different than 6A					
6D. Bill Doe					
<input checked="" type="checkbox"/> Same as 6A <input type="checkbox"/> Different than 6A					
1/ ENTER THE FOLLOWING CODE(S) AS APPLICABLE in Item 11 and attach supporting documentation:					
"01" - All debt returned from cross-servicing as uncollectible "02" - All debt returned from cross-servicing after paying compromise or adjustment offer "03" - Obligor has been discharged of the debt under Chapter 7 bankruptcy "04" - Obligor has been discharged of the debt under reorganization bankruptcy (Chapter 11, 12 or 13)* "05" - Obligor is deceased or defunct "06" - DOJ settlement negotiated in lieu of foreclosure or Judgment* plea agreement, or the remaining balance of the debt is not covered by the Judgment and determined by OGC to be legally without merit. "07" - DOJ - Civil Division settlement without application due to prior debt forgiveness with outstanding principal of \$100,000 or greater "08" - Cancellation of Judgment debt "09" - OGC has determined that the debt is legally without merit "10" - Partial debt settlement* "11" - Obligor signature cannot be obtained or has disappeared and it is not in the Agency's best financial interest to refer the account to cross-servicing *For partial cancellation, enter the loan(s) and balance(s) being cancelled. Enter the remaining loan(s) and balance(s) under "remarks"					

--*

Completed Examples of FSA-2731, Cancellation of Debt Without Application, and FSA-2731A, Cancellation of Debt Without Application (Continuation) (Continued)

B Example 2 (Continued)

*--

FSA-2731 (12-12-16)		Page 2 of 2		
<p>12. Have all obligors been listed on this form? If "NO", attach this form and supporting documentation to FSA-2732 and/or attach FSA-2080(s) and supporting documentation to this form.</p> <p>NOTE: If FSA-2732 is submitted by another liable party, settlement of the account must be processed using the appropriate settlement code (3K transaction) for the type of settlement on FSA-2732.</p> <p>13. Has the disposition of all FSA security identified on FSA-2028 been properly recorded on FSA-2045 or previous authorized form? If "NO", correct FSA-2045 or previous authorized form.</p> <p>14. Has the disposition of all real estate security described on the mortgage or deed of trust been properly accounted for accounted for in position 5 of the case file? If "NO", include required documentation in position 5 of the case file.</p> <p>15. Has the disposition of all other assets pledged as security, such as stocks, assignments of insurance policies and leaseholds, been properly accounted for in position 1 of the case file? If "NO", include documentation in position 1 of the case file.</p> <p>16. Remarks</p>	YES	NO	N/A	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>17. An obligor: <input type="checkbox"/> has <input checked="" type="checkbox"/> has not received previous debt forgiveness <input type="checkbox"/> If an obligor has received prior debt forgiveness, the requirements of 7-FLP, Exhibit 34 have been met</p>				
REVIEW OFFICIAL'S CERTIFICATION				
<p><i>I have reviewed the case file and certify that documentation in the file supports the findings reported above. Based upon my review of the case file, each obligor meets the qualifications for the type of settlement code proposed.</i></p>				
18A. Review Official's Signature	18B. Review Official's Name	18C. Review Official's Title	18D. Date (MM-DD-YYYY)	
<i>/s/ Sue Doe</i>	Sue Doe	Farm Loan Specialist	02-03-2015	
RECOMMENDING OFFICIAL'S CERTIFICATION				
<p>19. I Recommend: <input checked="" type="checkbox"/> Approval of this Debt Settlement <input type="checkbox"/> Rejection of this Debt Settlement</p>				
20A. Recommending Official's Signature	20B. Recommending Official's Name	20C. Recommending Official's Title (FLC or Designee)	20D. Date (MM-DD-YYYY)	
<i>/s/ Tom Brown</i>	Tom Brown	Farm Loan Chief	02-12-2015	
APPROVING OFFICIAL'S CERTIFICATION				
<p>21. I Hereby: <input checked="" type="checkbox"/> Approve this Debt Settlement <input type="checkbox"/> Reject this Debt Settlement <input type="checkbox"/> See FSA-2732 for Decision</p>				
22A. State Executive Director's Signature	22B. State Executive Director's Name	22C. Date (MM-DD-YYYY)		
<i>/s/ Fred Smith</i>	Fred Smith	02-14-2015		
<p>In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.</p> <p>Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.</p> <p>To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.</p>				

--*

Completed Examples of FSA-2731, Cancellation of Debt Without Application, and FSA-2731A, Cancellation of Debt Without Application (Continuation) (Continued)

B Example 2 (Continued)

*--

This form is available electronically.

FSA-2731A (12-12-16)		U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency		Position 2	
CANCELLATION OF DEBT WITHOUT APPLICATION (RD-1956-1) (Continuation)					
1. Account No: 00-000-0000000000					
2. Debt Owed Agency as of (Date) (MM-DD-YYYY): 02-03-2014		3. Total Principal*: \$ 282,778.66		4. Total Interest*: \$ 31,013.87	
5. Total: \$ 313,792.53					
6. Primary Borrower Name or Co-Borrower Name	7. Fund Code and Loan Number	8. Principal *	9. Interest *	10. Total	11. Settlement Code 1/
6E. Jane Doe <input type="checkbox"/> Same as 6A <input checked="" type="checkbox"/> Different than 6A	29-08	44,151.23	11,275.67	55,426.90	03
6F. Tom Doe <input type="checkbox"/> Same as 6A <input checked="" type="checkbox"/> Different than 6A					11
6G. Betty Doe <input checked="" type="checkbox"/> Same as 6A <input type="checkbox"/> Different than 6A					
6H. <input type="checkbox"/> Same as 6A <input type="checkbox"/> Different than 6A					
6I. <input type="checkbox"/> Same as 6A <input type="checkbox"/> Different than 6A					
6J. <input type="checkbox"/> Same as 6A <input type="checkbox"/> Different than 6A					

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

--*

Completed Examples of FSA-2731, Cancellation of Debt Without Application, and FSA-2731A, Cancellation of Debt Without Application (Continuation) (Continued)

C Example 3

In the following completed example of FSA-2731, the primary borrower was discharged from Chapter 7 Bankruptcy. The co-borrower, who did not file bankruptcy, subsequently requested *-debt settlement and has submitted FSA-2732.

This form is available electronically.					
FSA-2731 (12-12-16)		U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency			Position 2
CANCELLATION OF DEBT WITHOUT APPLICATION (RD-1956-1)					
1. Account No: 00-000-000000000000					
2. Debt Owed Agency as of Date (MM-DD-YYYY) 02-03-2015		3. Total Principal*: \$ 10,958.63		4. Total Interest*: \$ 1,327.04	
				5. Total: \$ 12,285.67	
6. Primary Borrower Name or Co-Borrower Name		7. Fund Code and Loan Number	8. Principal *	9. Interest *	10. Total
6A. Joe Farmer		44-01	431.05	1,225.63	1,656.68
		44-02	10,527.58	101.41	10,628.99
6B.					
<input type="checkbox"/> Same as 6A <input type="checkbox"/> Different than 6A					
6C.					
<input type="checkbox"/> Same as 6A <input type="checkbox"/> Different than 6A					
6D.					
<input type="checkbox"/> Same as 6A <input type="checkbox"/> Different than 6A					
1/ ENTER THE FOLLOWING CODE(S) AS APPLICABLE in Item 11 and attach supporting documentation:					
01 - All debt returned from cross-servicing as uncollectible *02* - All debt returned from cross-servicing after paying compromise or adjustment offer *03* - Obligor has been discharged of the debt under Chapter 7 bankruptcy *04* - Obligor has been discharged of the debt under reorganization bankruptcy (Chapter 11, 12 or 13)* *05* - Obligor is deceased or defunct *06* - DOJ settlement negotiated in lieu of foreclosure or Judgment* plea agreement, or the remaining balance of the debt is not covered by the Judgment and determined by OGC to be legally without merit. *07* - DOJ - Civil Division settlement without application due to prior debt forgiveness with outstanding principal of \$100,000 or greater *08* - Cancellation of Judgment debt *09* - OGC has determined that the debt is legally without merit *10* - Partial debt settlement* *11* - Obligor signature cannot be obtained or has disappeared and it is not in the Agency's best financial interest to refer the account to cross-servicing *For partial cancellation, enter the loan(s) and balance(s) being cancelled. Enter the remaining loan(s) and balance(s) under "remarks"					

--*

Completed Examples of FSA-2731, Cancellation of Debt Without Application, and FSA-2731A, Cancellation of Debt Without Application (Continuation) (Continued)

C Example 3 (Continued)

*--

FSA-2731 (12-12-16)		Page 2 of 2		
		YES	NO	N/A
12. Have all obligors been listed on this form? If "NO", attach this form and supporting documentation to FSA-2732 and/or attach FSA-2080(s) and supporting documentation to this form.		<input type="checkbox"/>	<input checked="" type="checkbox"/>	
NOTE: If FSA-2732 is submitted by another liable party, settlement of the account must be processed using the appropriate settlement code (3K transaction) for the type of settlement on FSA-2732.				
13. Has the disposition of all FSA security identified on FSA-2028 been properly recorded on FSA-2045 or previous authorized form? If "NO", correct FSA-2045 or previous authorized form.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Has the disposition of all real estate security described on the mortgage or deed of trust been properly accounted for accounted for in position 5 of the case file? If "NO", include required documentation in position 5 of the case file.		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
15. Has the disposition of all other assets pledged as security, such as stocks, assignments of insurance policies and leaseholds, been properly accounted for in position 1 of the case file? If "NO", include documentation in position 1 of the case file.		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. Remarks				
17. An obligor: <input type="checkbox"/> has <input checked="" type="checkbox"/> has not received previous debt forgiveness <input type="checkbox"/> If an obligor has received prior debt forgiveness, the requirements of 7-FLP, Exhibit 34 have been met				
REVIEW OFFICIAL'S CERTIFICATION				
<i>I have reviewed the case file and certify that documentation in the file supports the findings reported above. Based upon my review of the case file, each obligor meets the qualifications for the type of settlement code proposed.</i>				
18A. Review Official's Signature	18B. Review Official's Name	18C. Review Official's Title	18D. Date (MM-DD-YYYY)	
<i>/s/ Jerry Doe</i>	Jerry Doe	Farm Loan Officer	01-03-2015	
RECOMMENDING OFFICIAL'S CERTIFICATION				
19. I Recommend: <input checked="" type="checkbox"/> Approval of this Debt Settlement <input type="checkbox"/> Rejection of this Debt Settlement				
20A. Recommending Official's Signature	20B. Recommending Official's Name	20C. Recommending Official's Title (FLC or Designee)	20D. Date (MM-DD-YYYY)	
<i>/s/ Jane White</i>	Jane White	Farm Loan Chief	01-14-2015	
APPROVING OFFICIAL'S CERTIFICATION				
21. I Hereby: <input checked="" type="checkbox"/> Approve this Debt Settlement <input type="checkbox"/> Reject this Debt Settlement <input checked="" type="checkbox"/> See FSA-2732 for Decision				
22A. State Executive Director's Signature		22B. State Executive Director's Name		22C. Date (MM-DD-YYYY)
<small>In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.</small>				
<small>Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiocassette, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.</small>				
<small>To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.</small>				

--*

