



United States
Department of
Agriculture

Farmers
Home
Administration

FmHA AN No. 1006 (456)

Washington
D.C.
20250

April 13, 1984

SUBJECT: Handling of Debt Settlement Actions

TO: All State Directors, District Directors,
County Supervisors and Director, Finance Office

We have completed our annual review of debt settlements approved by State Directors during the past year. The following is a list of the major problems and discrepancies we found. State Directors should provide for appropriate training and set up screening actions needed to ensure debt settlements are processed correctly in the future:

1. A majority of the debt settlements submitted to the Finance Office were for small amounts as a result of human errors and appear to be increasing in number and size. Examples are:
 - a. Incorrect figures supplied to the Finance Office by the County Office.
 - b. Incorrect figures obtained from the Finance Office.
 - c. Recoverable costs not included in the final payoff.
 - d. Accrued interest not included in the payoff figure.
 - e. The Finance Office was not notified that the borrower's interest credit had been cancelled, the property was sold and the payoff figure was based on interest credit.
 - f. A payoff figure is requested from the Finance Office as of one date, the property is sold at a later date and the interest is not calculated accordingly.
 - g. Charges paid by voucher not submitted prior to the sale.
2. Some debt settlements that should have been approved by the Administrator were improperly approved by State Directors. When a borrower's indebtedness is \$25,000 or more including principal, interest and other charges, the State Director cannot approve the settlement of the account.

EXPIRATION DATE: February 28, 1985

FILING INSTRUCTIONS: File
Preceding FmHA Instruction 456.1



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3. Compromise offers are being deducted from the total indebtedness and if the remaining balance is within the \$25,000 State Director's authority they are being approved. The \$25,000 limitation applies to total indebtedness involved including principal, interest and other charges.

4. Adjustments, compromises and cancellations were approved for debts that were not yet due and payable. Debts must be due and payable under the terms of the notes or other instruments prior to the date of the application to be considered for compromise or adjustment. For cancellation the debt must have been due and payable or accelerated by written notice five years or more prior to the date of application. If the loans were accelerated the date of the acceleration should be indicated on the appropriate debt settlement form.

5. Debts being discharged in bankruptcy are being approved and submitted to the Finance Office without a copy of the Bankruptcy Court's Order of Discharge attached to Form FmHA 456-2, "Cancellation or Charge-off of FHA Indebtedness."

6. The FmHA indebtedness of the borrower and spouse have been debt settled by cancellation on Form FmHA 456-2 due to bankruptcy but only one borrower has been discharged in bankruptcy.

7. Form FmHA 456-1, "Application for Settlement of Indebtedness," did not contain the county committee recommendation as required by FmHA Instruction 456.1 II F.

8. Debts being charged off on Form FmHA 456-1 but no information indicated on Parts III and IV as to debtor's income and expenses so repayment ability could be determined.

9. Debts being settled on Form FmHA 456-2 because debtor's whereabouts unknown but no documentation that any effort was made to locate the borrowers as required by FmHA Instruction 456.1 V B.

10. Divorced individuals who were debtors and were released from their FmHA obligation by the divorce decree were not being included in the debt settlement. The divorce decree does not absolve the spouse of his/her FmHA indebtedness and must be included in the debt settlement.

11. Debts are not being promptly settled when they are eligible. Several reviewed were over 10 years past due and payable resulting in more interest due than principal. This is a clear indication that District Directors and County Supervisors are not servicing these accounts as required by FmHA Instruction 1951-A, §1951.7 (b)(5).

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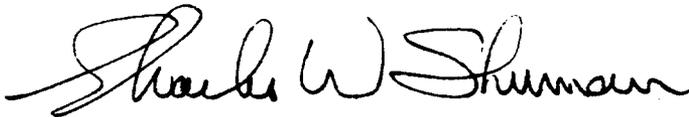
The following additional problems involving debt settlements submitted to the National Office have been observed:

1. Debt settlements were submitted without the summary prescribed in FmHA Instruction 456.2.

2. Security is not being accounted for as required in FmHA Instruction 1962-A, §1962.18 (c). The State Director should review the accounting for security before submitting the case to the National Office. Numerous cases are being returned to State Offices for an accounting.

3. Debts are not being accelerated at the time liquidation is approved as prescribed in FmHA Instructions 1955-A, §1955.15 (d) (2) and 1962-A, §1962.40 (c). This can delay debt settlement action and cause a greater loss to the Government. Bear in mind, however, that the Coleman v. Block directive provisions must be observed where they apply.

Please include this AN as a topic for review at your next staff and training meeting.



CHARLES W. SHUMAN
Administrator