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

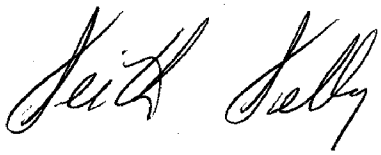
Notice FLP-158

1951-C, 1955-A, 1956-B, 1962-A

For: State and County Offices

Collecting FLP Debt Through Cross-Servicing

Approved by: Administrator



1 Overview

A Background

The Debt Collection Improvement Act of 1996 (DCIA) requires Federal agencies to transfer delinquent nontax debt to the U.S. Department of the Treasury (Treasury) for debt collection action, known as cross-servicing. Treasury's regulations implementing DCIA are found at 31 CFR 285.12.

St. Louis Finance Office, Program Reporting Branch (STL, PRB), is referring FLP debt identified as "currently not collectable" (CNC) (chargeoffs) to the Treasury for cross-servicing. Referral for cross-servicing gives Treasury and its designated private collection agencies (PCA's) the authority to settle the debt through a repayment agreement, compromise offer, or cancellation on FSA's behalf. Chief, STL, Loan Operations Division (LOD) is authorized to process settlements returned by Treasury.

Once referred, Treasury will send a demand letter to the borrower. Treasury will service the debt for 30 calendar days. If the debt is not settled within 30 calendar days, Treasury will refer the debt to 1 of the 12 PCA's who will service the debt. Borrowers with multiple loans may be sent to as many as 12 different PCA's for collection since each loan may be sent to a different PCA.

If the **first** PCA is unsuccessful after 6 months, Treasury will forward the loan to a second PCA for debt collection. If the **second** PCA is unsuccessful after 6 months, Treasury will refer the loan to FSA with a recommendation for writeoff or to the Department of Justice for further action.

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Disposal Date	Distribution
July 1, 2002	State Offices; State Offices relay to County Offices

1 Overview (Continued)

A Background (Continued)

Under cross-servicing, the debt may also be collected by Treasury through administrative wage garnishment, up to 15 percent of current net disposable pay, up to a maximum of 25 percent for multiple agencies.

In addition to referral to PCA's and administrative wage garnishment, collection action will continue under the Internal Administrative Offset Program and the Treasury Offset Program (TOP), which can include offset of Federal Government payments including the following:

- income tax refunds, up to 100 percent
- Federal salary pay, including military pay according to RD Instruction 1951-C, up to 15 percent of the current net disposable pay
- Federal retirement, including military retirement pay according to the administrative offset provisions of RD Instruction 1951-C and 7 CFR 3.32

  Note: However, if payment is being made in installments, OPM will usually not deduct more than 50 percent of the net annuity. See 5 CFR 831.1807.

- contract or vendor payments, up to 100 percent
- certain benefit payments, such as the following:
  - Social Security (other than Supplemental Security Income, SSI)
  - Railroad Retirement, other than tier 2
  - Black Lung (Part B).

  Note: When regulations are published, payments would be subject to Government-mandated thresholds.

B Purpose

This notice:

- obsoletes Notices FLP-92 and FLP-134
- informs Field Offices of actions to be taken with regard to CNC accounts

  Note: Paragraph 4 requires that certain State Office actions be completed by September 30, 2000.

- provides direction for servicing CNC accounts that have been referred for cross-servicing.

Continued on the next page

1 Overview (Continued)

C Contact

If there are any questions about this notice, contact 1 of the following according to this table.

IF there are questions about...	THEN...
FLP procedures	• County Offices shall contact the State Office • State Office shall contact Bruce Mair, LSPMD at 202-690-4009.
cross-servicing processes	State Offices shall contact STL, PRB at 314-539-2494.

2 Cancellation of Debt Before Referral for Cross-Servicing

A Statute of Limitations and Accounts Which Are "Legally Without Merit"

Debt will not be canceled if collection is possible through cross-servicing.

Treasury has informed FSA that accounts on which the 6- and 10-year statutes of limitations have run should still be referred for cross-servicing. Therefore, the statutes of limitations **will not** be the basis for canceling debt under RD Instruction 1956-B, section 1956.70.

With the exception of debts discharged in bankruptcy, debt which is "legally without merit" should be referred for cross-servicing unless OGC issues a legal opinion stating that the debt is barred from cross-servicing.

If the debtor disputes the debt and FSA cannot prove to Treasury that the debt can still be legally collected, Treasury will return the debt to the Agency with instructions to cancel the debt according to subparagraph 5 G.

Loans on which the 10-year statute of limitations has run are not eligible for TOP or internal administrative offset.

Refer to Notice FLP-149 for instructions for removing statute of limitations cases from TOP.

3 Debts CNC - Transaction Code 3K (Chargeoffs)

A New CNC's

RD Instruction 1955-A, section 1955.18(f) states that borrowers will be sent a letter similar to RD Instruction 1955-A, Exhibit F if an unsatisfied account balance remains following liquidation. Exhibit F shall be sent within 60 calendar days after all liquidation action has been completed. Borrowers who do not respond to Exhibit F shall be classified as CNC (chargeoff) within 180 calendar days after all liquidation action has been completed.

Exhibit F will not be sent:

- when a deficiency judgment will be obtained according to RD Instruction 1955-A, section 1955.18(g)
- if all parties originally liable for the debt are defunct or deceased
- if all parties originally liable for the debt have been discharged of the debt through bankruptcy or otherwise released from liability for the debt
- if OGC advises that Exhibit F should not be sent.

Before being classified as CNC (chargeoff), accounts must meet the requirements in FSA-1956-20, Referral of Farm Loan Program Debt for Cross-Servicing (CNC-Chargeoff). FSA-1956-20 is available from either of the following:

the FSA BBS Forms Library

- the FSA Forms On-line Website at http://www.fsa.usda.gov/dam/forms/fsaforms.asp.

B Maintaining Case Files

The provisions of 25-AS, subparagraphs 86 E through H, and paragraphs 88 through 90, do **not** apply to CNC accounts. Promissory notes must be retained on all CNC accounts. **The folders of CNC accounts shall be labeled "CNC Chargeoff." Maintain CNC borrower case folders separate from active and closed borrower case folders.**

State Offices will maintain the original or copy of the case folder. The State Office case folder shall include the following:

- copies of the original promissory note(s)
- FmHA 1956-1, Application for Settlement of Indebtedness, used to classify the account CNC (chargeoff)

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3 Debts CNC - Transaction Code 3K (Chargeoffs) (Continued)

B Maintaining Case Files (Continued)

- FSA-1956-20 (or FSA-1956-10, Debt Settlement and Release of Liability Checklist, if prepared before issuance of this notice)
- the delinquency loan servicing history
- for nonjudgment cases (includes both situations where a deficiency judgment was not sought and cases where no deficiency was attained), a copy of the asset investigation and credit report(s) obtained before classifying the account CNC (chargeoff)
- for monetary judgment accounts, a copy of the deficiency judgment
- a copy of the most recent financial statement submitted by the borrower
- a record of any reported changes to the borrower's financial condition.

4 Accounts Selected for Cross-Servicing Referral

A Ongoing Cross-Servicing Referral

Accounts which will be referred to Treasury for cross-servicing were processed as chargeoffs on the Program Loan Accounting System. Transaction code 3K was processed with a class of writeoff code (CWC) "5", which signifies a CNC (chargeoff) account.

The Treasury offset screening process identifies debtors who are classified CNC and puts them on the eligibility file and TOP screens. A new screening process was run in August 2000, using the August Report Code (RC) 540. See Notice FLP-149.

B State Office Responsibility

By September 30, 2000, State Offices shall complete the following.

- Review all on-hand CNC accounts which have not yet been referred to Treasury to ensure that the accounts are eligible for TOP and cross-servicing, based on requirements in subparagraph 2 A and 4 D.
- If eligible, check to see if each CNC account is on the TOP screens.

  Note: Reference Notice FLP-149.
- If eligible and not reflected on the TOP screens, FAX a list of the missing CNC accounts to STL, PRB at 314-539-6266.

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4 Accounts Selected for Cross-Servicing Referral (Continued)

B
State Office Responsibility (Continued)

- If ineligible, notify STL, PRB as instructed in subparagraph 5 C.

Do not delete CNC accounts on the TOP offset screens for any reason.

C
STL, LOD Responsibility

STL, LOD shall:

- delete CNC borrowers identified by the Field Offices as ineligible from TOP offset
- recall the same borrowers from Treasury cross-servicing, if necessary.

In 2001, STL, LOD will attempt to select any CNC accounts identified as missing. Shortly before the next referral is run, the CNC accounts will be reopened so the TOP screening process can pick up the loans on RC 540. The TOP screening process will pick up the loans as eligible for offset. The 3K transaction with CWC "5" will then be processed so the TOP screening process will identify them as CNC.

D
Criteria for Reviewing Existing CNC Debt for Cross-Servicing Eligibility

IF...	THEN State Offices shall...
promissory note does not exist	• notify STL, PRB by following instructions in subparagraph 5 C • cancel the debt according to RD Instruction 1956-B.
CNC debtor is deceased and another obligor is legally liable	process the 4D transaction to transfer the debt to the remaining obligor.
CNC debtor is deceased and there is no other obligor	• notify STL, PRB by following instructions in subparagraph 5 C • cancel the debt according to RD Instruction 1956-B.
CNC debtor filed bankruptcy, and the debt has been discharged, and another obligor remains liable	process the 4D transaction to transfer the debt to the remaining liable obligor.
CNC debtor filed bankruptcy, debt has been discharged, and no other obligor remains liable	notify STL, PRB by following instructions in subparagraph 5 C • cancel the debt according to RD Instruction 1956-B.

5 Servicing Accounts Referred for Cross-Servicing

A
Cross-Servicing Report

STL, PRB shall send a report of borrowers referred for cross-servicing to each applicable State Office following each referral.

B
Collection Activity

Treasury regulations require that FSA stop all collection activity, with the exception of referral for TOP and internal administrative offset, on debts transferred for cross-servicing.

In the event a CNC borrower takes or mails a payment to the local servicing office, call the State Office to verify if the account is at Treasury for cross-servicing. The State Office shall call STL, PRB for cross-servicing verification. If yes, write the borrower's name, case number, and loan number (if specified by the borrower on the check). Address the payment to Treasury as follows:

US DEPARTMENT OF THE TREASURY
FMS DEBT MANAGEMENT SERVICE
PO BOX 105576
ATLANTA GA 30348.

The check can be processed at Treasury even though the check is made payable to the Agency.

Borrowers referred for cross-servicing will continue to have FmHA 1951-9, Annual Statement of Loan Accounts, and if applicable, IRS Form 1098, Mortgage Interest Statement, generated at calendar yearend if the account had activity. Local servicing offices shall forward the annual statement to the borrower and a copy to the State Office.

C
Removing Borrowers From Cross-Servicing

Treasury requirements mandate that a borrower can only be removed from cross-servicing for a valid reason, such as death or bankruptcy. The recall process must be initiated by STL, PRB after notification by the State Office. State Offices shall provide a memo stating the borrower's name, case number, loan number, the reason for removal, contact name, and telephone number. FAX the memo to STL, PRB at 314-539-6266.

Do not delete CNC accounts on the TOP offset screens for any reason.

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5 Servicing Accounts Referred for Cross-Servicing (Continued)

D
Bankruptcy

Immediately notify STL, PRB by FAX at 314-539-6266 when a borrower, whose account has been termed CNC, has filed bankruptcy. Mail and FAX a copy of the bankruptcy filing to STL, PRB. If the account has been referred for cross-servicing, STL, PRB shall notify Treasury to stop collection activities and initiate debt recall procedures. The account will be serviced by the State Office and FLM according to RD Instruction 1962-A, section 1962.47.

E
Borrowers' Inquiries

CNC debt may be settled by FSA upon application by the borrower, only if the debt has not yet been referred to Treasury. If a borrower submits or inquires about a debt settlement application, the State Office shall contact STL, PRB to determine whether the account has been referred for cross-servicing. If the account has been referred for cross-servicing, notify borrowers that their debts are now at Treasury, and that their negotiations need to be with Treasury. Borrowers will not be provided appeal rights for settlements rejected by Treasury and returned to FSA.

Direct borrowers to contact Treasury at 1-888-826-3127.

F
Treasury Inquiries

Documentation about borrowers submitted to Treasury for cross-servicing may be requested by Treasury or PCA's on the Debt Management Services (DMS) Action Form. If requested, STL, PRB shall provide the information it has available. Requests for more detailed information shall be FAXed to the State Offices. Treasury has mandated a 15-calendar-day response time on the DMS Action Form from the date forwarded by Treasury. Multiple requests for the same borrower or debt may be received since multiple loans may be sent to as many as 12 different PCA's and a borrower may dispute the debt more than once. Retain a copy of the information forwarded to Treasury.

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G Account Resolution

Treasury has authority to negotiate repayment agreements and compromises, and to recommend cancellation of loans. When necessary, Treasury or FSA will obtain the U.S. Attorney's authorization on settlement of deficiency judgment chargeoffs.

Note: Treasury authorizes repayment agreements, compromises, and debt settlements on a loan-by-loan basis, not by account. FSA will be processing settlements returned by Treasury on the same basis.

Offices shall take action according to the following table.

Office	Action
	Repayment Agreements
STL, PRB	Receive DMS Action Form recommending a repayment plan.
	FAX the action form to the State Office for approval.
	Sign the action form once the approval letter is received from the State Office.
	FAX signed action form to Treasury.
State Office	Based upon information in the State Office file, by FAX, provide STL, PRB with a recommendation about the repayment agreement. The State Office recommendation must be signed by SED or designee. If the State Office does not concur, documentation supporting a greater collection must be provided. Treasury has mandated a 15-calendar-day response time on the DMS Action Form from the date forwarded by Treasury.

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G Account Resolution (Continued)

Office	Action
	Compromise Offers
STL, PRB	Receive DMS Action Form recommending a compromise offer.
	FAX the action form to the State Office for approval.
	Sign the action form once approval letter is received from the State Office.
	FAX signed action form to Treasury.
	Monitor the payments received. Once the full amount of the compromise is applied, minus Treasury and PCA fees (currently up to 28 percent), provide a memo signed by the Chief, LOD to STL, LOD, Loan Servicing Branches for cancellation of the remaining debt.
	FAX memo regarding write-off and supporting documentation to State Offices.
State Offices	Based upon information in the State Office file, by FAX, provide STL, PRB with a recommendation about the compromise offer. The State Office recommendation must be signed by SED or designee. If the State Office does not concur, documentation supporting a greater collection must be provided. Treasury has mandated a 15-calendar-day response time on the DMS Action Form from the date forwarded by Treasury.
	Attach the STL, LOD memo of debt cancellation and supporting documentation to the State Office copy of FmHA 1956-1 which was used to approve the CNC (chargeoff) debt.
	Forward a copy of the STL, LOD memo of debt cancellation and supporting documentation to FLM.

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G Account Resolution (Continued)

Office	Action
FLM	Attach the STL, LOD memo of debt cancellation and supporting documentation on top of the County Office copy of FmHA 1956-1 which was used to approve the CNC (chargeoff) debt.
	Comply with 25-AS, subparagraphs 86 E through H, and paragraphs 88 through 90. When a compromise has been paid in full, the promissary notes should be stamped, "Satisfied by Approved Compromise", and returned to the borrower.
	Cancellation of Debt
STL, PRB	Receive DMS Action Form returning debt to FSA with recommendation for cancellation.
	FAX the action form to the State Office for approval or to determine whether a deficiency judgment was obtained before classifying the account CNC (chargeoff).
	Provide supporting documentation and a memo signed by the Chief, LOD to STL, LOD Loan Servicing Branches to process all settlements approved by Treasury.
	Notify State Offices, by memorandum, when debt has been settled under cross-servicing.
State Offices	Based upon information in the State file, by FAX, provide STL, PRB with recommendation about the cancellation. If deficiency judgment was obtained, the debt cannot be canceled without the U.S. Attorney's consent. The State Office recommendation must be signed by SED or designee. If the State Office does not concur, the State Office must provide documentation supporting a deficiency judgment. The State Office recommendation must be provided within 15 calendar days from date the DMS Action Form was forwarded by Treasury. Attach the STL, LOD memo of debt cancellation on top of the State Office copy of FmHA 1956-1, which was used to approve the CNC (chargeoff) debt. See note following this table.
	Forward a copy of the STL, LOD memo of debt cancellation to FLM.

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G Account Resolution (Continued)

Office	Action
FLM	Attach the STL, LOD memo of debt cancellation on top of the County Office copy of FmHA 1956-1, which was used to approve the CNC (chargeoff) debt.
	Comply with 25-AS, subparagraphs 86 E through H, and paragraphs 88 through 90. When a cancellation is processed, the promissory notes should be stamped, "Satisfied by Approved Cancellation", and returned to the borrower.

Note: If charged off deficiency judgment cannot be canceled, the files will be marked "CNC-Deficiency Judgment". CNC-deficiency judgment files will be maintained until the deficiency judgment expires or DOJ authorizes cancellation of the debt. If the deficiency judgment expires, the debt may be canceled under RD Instruction 1956-B, section 1956.70(c) upon the written recommendation of the regional OGC.

H Previous Debt Forgiveness

Previous debt forgiveness is not relevant when debt returned by Treasury is settled. According to RD Instruction 1956-B, section 1956.84(a)(1)(iv), changing a chargeoff (CNC) of an account to a cancellation, compromise, or adjustment of the same account is not an additional debt forgiveness.