



FmHA AN No. 2110 (1951)

July 3, 1990

SUBJECT: Farmer Program Borrowers Previously Referred for Administrative Offset

TO: State Directors, District Directors, County Supervisors

PURPOSE/INTENDED OUTCOME: This Administrative Notice (AN) is issued to provide guidance on the procedures to be taken concerning those borrowers who had been referred for administrative offset between November 26, 1986, and December 7, 1987.

COMPARISON WITH PREVIOUS AN: FmHA AN No. 2095 (1951) stated that further guidance would be provided concerning borrowers previously referred for administrative offset. This AN provides that guidance.

IMPLEMENTATION RESPONSIBILITIES: The attached letter (Attachment 1) is to be sent to all borrowers who had been referred for administrative offset between November 26, 1986, and December 7, 1987. It gives those borrowers additional review and appeal rights of the offset actions taken against them between November 26, 1986, and December 7, 1987. The mailing list for this letter came from the Exhibit B's sent to the National Office per FmHA AN 2026 (1951), dated December 21, 1989. If your County and State Office reported having referred borrowers to another Federal agency for administrative offset, a list of those borrowers is attached to this AN. Attached to the County Office mailing of this AN are pre-addressed Attachment 1 letters that County Offices must send out to the listed borrowers by certified mail, return receipt requested, within 2 weeks from the date of this AN. Before sending these letters by certified mail, the County Offices should confirm the borrowers' addresses with the office files and make corrections as necessary. The Finance Office has already sent a copy of this letter to the same borrowers by regular mail.

If there are any borrowers who were offset or who have a pending FmHA Form Letter 1951-3 at an Agricultural Stabilization and Conservation Service (ASCS) office and who are not on the attached list, the County Office shall send them a copy of Attachment 1 by certified mail, return receipt requested, within 2 weeks from the date of this AN. If a County Office does not receive a list of borrowers and has borrowers who should receive a letter, send them a copy of Attachment 1 within 2 weeks from the date of this AN.

The State Office shall be responsible for making sure that letters are sent to all appropriate borrowers. Attachment 5 discusses how to fill out Postal Service Form 3877 listing all the certified letters being mailed. The County Offices shall send a completed copy of this form to the State Office immediately after mailing the certified letters. If a County Office sent a

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Instruction 1951-C



letter to a borrower who was not listed, that borrower's name and case number should also be included on Postal Service Form 3877. Within 3 weeks from the date of this AN, State Offices will return to the National Office a copy of the master list of borrowers showing the dates that the letters were sent by certified mail. State Offices shall send this report to FmHA, FMAS, Room 5049-S, Attention: Jeanne Hudec, 14th and Independence Ave, SW, Washington, DC 20250.

This letter (Attachment 1) gives these borrowers additional review and appeal rights. It explains the reasons these borrowers can contest FmHA's offset actions, and how they may ask to review, inspect and copy their records, present any written submission, and request an appeal. When the borrower is claiming hardship, the County Supervisor should request documentary evidence, whenever possible, of that hardship (e.g. doctor bills, housing and food receipts). See FmHA Instruction 1951-C, §1951.104(g), for further guidance.

Attachment 2 is to be sent to the borrower after she/he has asked for a review or presented written evidence and the County Supervisor has completed the review. The County Supervisor must make a decision within 7 days after the review and send Attachment 2 to the borrower. Remember to attach Form FmHA 1900-1 and to include the address of the National Appeals Staff if the original decision to offset is upheld by the County Supervisor.

Attachment 3 is sent to the ASCS State Office, Attention: State Executive Director, to reinstate the administrative offset request for the named borrower. The letter must be sent no less than 30 days after the borrower receives the letter in Attachment 1. It must be sent when the borrower is still eligible for offset and a) the borrower has not requested a review, or b) the borrower had a review and the County Supervisor upheld the original decision to refer the borrower for offset. Offset can proceed if the borrower initiated an appeal with the National Appeals Staff.

Attachment 4 is sent to the ASCS County Office, Attention: County Executive Director. It is to be sent when a) the borrower previously referred is no longer eligible for offset (i.e., the borrower is current or is no longer a borrower), or b) a review has been conducted and the County Supervisor has determined that the offset request should be retracted from ASCS.

FmHA has agreed, at ASCS's request, to honor all 1990 assignments made by borrowers who were previously referred for offset, and whose offset requests are being reinstated at ASCS with Attachment 3. If a borrower falls into this category, the priority for the FmHA request for administrative offset will fall after the 1990 assignment but will be ahead of any future assignments.

If you have any questions, please call Jeanne Hudec at (202) 382-8356 or FTS 382-8356.

  
LA VERNE AUSMAN  
Administrator

Attachments

ATTACHMENT 1

Dear Borrower:

This letter advises you of additional rights you may have concerning the use of Administrative Offset to collect the debt or debts you owe(d) Farmers Home Administration ("FmHA").

FmHA records indicate that between November 26, 1986, and December 7, 1987, you had a delinquent FmHA loan(s) and FmHA sought to collect some of the delinquency through administrative offset. Under the administrative offset procedure, FmHA sought to collect money that you were owed by other Federal agencies [primarily Agricultural Stabilization and Conservation Service (ASCS) and Commodity Credit Corporation (CCC)] and apply it to your debt to FmHA. You were sent a notice from FmHA indicating that FmHA would be seeking administrative offset. When FmHA determined to use administrative offset, it sent a letter to the other Federal agency or agencies which owed you funds and advised the other agency to pay FmHA instead of you.

You are eligible for these additional rights if, (a) you are currently a borrower with FmHA, and FmHA collected money from you using administrative offset; (b) you are currently a borrower with FmHA, FmHA sent an administrative offset request to another Federal agency, and that request is still pending at that agency; OR (c) you are no longer a borrower with FmHA and FmHA collected money from you using administrative offset. If you are no longer a borrower with FmHA, and an administrative offset request is pending at another Federal agency, that request will be retracted.

You have the right to a meeting with an FmHA official who will determine if the prior offset decision was correct, and the right to a full administrative appeal of the offset or offset request under FmHA's Appeal Procedure. This letter advises you of how to seek this further review.

For funds actually offset between November 26, 1986, and December 7, 1987, this review will examine:

\* whether you owed the debt or debts mentioned in the offset referral and whether the amounts FmHA claims that you owed at that time were correct, and/or

\* whether the offset of the funds during this period caused an extreme hardship for you or was unfair for some other reason.

In cases where the use of administrative offset resulted in money being paid to FmHA, the money was applied to your account when it was received. If, after the FmHA review, FmHA returns these funds to you, your account may be adjusted based on your particular circumstances and the kind of servicing your account has received. You will receive interest in accordance with FmHA regulations which will be applied as a payment to your account.

For offsets referred to another Federal agency between November 26, 1986, and December 7, 1987, but not yet collected, this review will examine:

\* whether you still owe the debt or debts mentioned in the offset referral and whether the amounts FmHA claims that you owe are correct and/or

\* whether the offset of funds in the future would create an extreme hardship for you or would be unfair for some other reason, and/or

\* whether your loan has been restructured under the FmHA Primary Loan Servicing Program, your account has been debt settled, or you have purchased the property under the net recovery buyout program.

Loans which have been restructured under the FmHA Primary Loan Servicing Program or debt settled, or the property purchased under the Net Recovery Buyout Program have had the prior delinquency cured and the referral to the other Federal agency will be canceled.

If you want to contest FmHA's offset actions between November 26, 1986, and December 7, 1987, with regard to your account, you must meet with the FmHA County Supervisor or present information in writing to the County Supervisor explaining your reasons for contending that the prior offset actions were incorrect.

#### **Your right to inspect and copy records on your loan or loans**

You have the right to inspect and copy any records concerning your account with FmHA prior to your administrative review by the County Supervisor.

#### **How to request your review and to inspect or copy records**

If you want a meeting, or if you want to inspect and copy any of FmHA's records concerning your account, you must make a written request to the FmHA County Office that services your account, or serviced your account if you are no longer a borrower. You must make your request to inspect and copy your records within 7 calendar days after you receive this notice. You must make your request for a meeting within 15 calendar days after you receive this notice. If you ask to inspect or copy records and also ask for a meeting, the meeting will be held not less than 3 working days after the date you inspect the records. The County Supervisor will tell you the date you can inspect or copy your records and the date of your meeting.

You can also, either at the meeting, or without asking for a meeting, present any written submission to the County Supervisor on why you think the debt is not owed, why the amount is not correct, or why you think administrative offset would or did create an extreme hardship or otherwise be unfair. If you want to present a written submission, you must present it within 15 calendar days after you receive this notice, or at your review.

#### **County Supervisor's Decision**

Within 7 calendar days after the meeting (or receipt of your written submission) the County Supervisor will decide whether circumstances justify a decision not to use administrative offset to collect the debt or debts you owe FmHA or to refund any money already collected through administrative offset. You will be informed of that decision in writing. You have the right to

appeal that decision, and the letter notifying you of your County Supervisor's decision will advise you how to proceed if you wish to appeal.

If the County Supervisor's decision is to go ahead with administrative offset, FmHA will begin using administrative offset to collect amounts you owe whenever your account has been accelerated (but not less than 30 days after you get this notice). If you ask for an administrative appeal, FmHA will go ahead with administrative offset during that appeal. If you win the appeal, any money collected by administrative offset will be returned to you.

#### **Combined review and meeting**

If the County Supervisor has already scheduled a meeting to discuss other loan servicing issues, you must advise the County Supervisor that you also want to discuss administrative offset at that meeting. You do not have the right to a separate meeting on administrative offset if another meeting is being held on other issues relating to your account.

#### **Last notice**

This is the last notice on administrative offset that Farmers Home Administration will send out before it continues with administrative offset. If you want to use any of the rights set out in this notice, you must take action now.

If you have any questions, contact your local FmHA County Supervisor.

Sincerely,



LA VERNE AUSMAN  
Administrator

UNITED STATES DEPARTMENT OF AGRICULTURE  
FARMERS HOME ADMINISTRATION  
(Location)

ADMINISTRATIVE OFFSET REVIEW NOTICE

(date of mailing)

Dear \_\_\_\_\_:

In response to your request for a review or to present a written submission concerning the administrative offset actions taken against you between November 26, 1986, and December 7, 1987, Farmers Home Administration (FmHA) has concluded the following:

- \_\_\_\_\_ FmHA will refund the administrative offset taken in the amount of \$\_\_\_\_\_. You will receive a check shortly. Your loan account may be adjusted based on your particular circumstances and the kind of servicing your account has received.
- \_\_\_\_\_ FmHA will retract the request for administrative offset that is pending at the Federal agency that owes you money.
- \_\_\_\_\_ FmHA will not return the money taken by administrative offset. You have the right to an administrative appeal of this decision. See the attached Form FmHA 1900-1 for your appeal rights.
- \_\_\_\_\_ FmHA will proceed with the request for administrative offset at the Federal agency that owes you money. You have the right to an administrative appeal of this decision. See the attached Form FmHA 1900-1 for your appeal rights.

If you wish to appeal this decision, a request for a hearing must be sent to the Area Supervisor, National Appeals Staff, \_\_\_\_\_ (address), postmarked no later than \_\_\_\_\_. (insert date 30 days from the date of this letter).

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with the law concerning the creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

County Supervisor

ATTACHMENT 3

UNITED STATES DEPARTMENT OF AGRICULTURE  
FARMERS HOME ADMINISTRATION  
(Location)

Date \_\_\_\_\_

Dear \_\_\_\_\_ :

The Farmers Home Administration (FmHA) requests administrative offset be reinstated for the below named delinquent debtor. This administrative offset request was originally submitted between November 26, 1986, and December 7, 1987. This debt results from default on an FmHA loan. FmHA has exhausted all other resources available to it in an attempt to collect this debt.

Name:  
Address:  
County:  
FmHA Case Number:  
Total amount delinquent:  
Principal delinquent:  
Interest delinquent:  
Delinquency as of: (date)  
Interest rate/year: (%)  
Daily accrual: (\$)

FmHA certifies that the person named in this request owes this debt and that all of the due process and other applicable requirements of 31 U.S.C. 3716, 4 CFR Part 102, and its own regulations regarding administrative offset have been met. FmHA has not been notified of any bankruptcy proceedings filed by the debtor.

Make checks payable to the "Farmers Home Administration" and mail offset funds to this office. If you have any questions concerning FmHA's request for administrative offset, please contact this office at \_\_\_\_\_ (telephone).

Sincerely,

County Supervisor

ATTACHMENT 4

UNITED STATES DEPARTMENT OF AGRICULTURE  
FARMERS HOME ADMINISTRATION  
(Location)

Date \_\_\_\_\_

Dear \_\_\_\_\_:

The Farmers Home Administration (FmHA) requests that administrative offset be canceled for the below named delinquent debtor. This FmHA borrower's name should be removed from the Agricultural Stabilization and Conservation Service (ASCS) debt register. This borrower was referred for offset between November 26, 1986, and December 7, 1987, and is no longer eligible for administrative offset.

Name:  
County:  
FmHA Case Number:

If you have any questions concerning FmHA's request for cancellation of administrative offset, please contact this office at \_\_\_\_\_ (telephone).

Sincerely,

County Supervisor

## INSTRUCTIONS FOR MAILING ADMINISTRATIVE OFFSET LETTERS

The following are guidelines from section 912 of the Domestic Mail Manual for preparing a Certified Mailing with Return Receipt Requested. Any questions you may have related to the mailing process SHOULD BE DIRECTED TO YOUR LOCAL POSTMASTER. We recommend you coordinate this mailing IN ADVANCE with your postmaster, should he/she have specific requests or suggestions. At the end of these instructions you will find diagrams of all forms and processing described for your assistance.

--Enclosed you will find a supply of Postal Service (PS) Form 3811, Domestic Return Receipt, PS Form 3800, Receipt for Certified Mail, PS Form 3877, Firm Mailing Book, and envelopes with the Administrative Offset letters inserted.

--To begin to prepare for your mailing, you will need to stamp your return address on the envelopes and on the front of PS Form 3811 (green card). The address on the green card is very important so that it may be returned to you for verification of borrower letter receipt.

--Mark the box "Certified" under "Type of Service" on the PS Form 3811. DO NOT mark the blocks for item #1 (Show to whom delivered ...) or item #2 (Restricted delivery).

--Write the borrower address in block 3 of PS Form 3811 as shown in the window of the envelope.

--Apply the green sticker from PS Form 3800 on the top middle portion of the envelope. Directly under the green sticker should be written, "Return Receipt Requested". Write the number from the green sticker in block 4 of the PS Form 3811.

--Fill in the appropriate information on each line of the PS Form 3877. This form will be your receipt to show proof of mailing and for reference if any letter needs to be traced through the Post Office.

--Apply the appropriate postage to the envelope. The total postage will be \$2.00 for each letter. The first class letter rate (.25) with the Certified fee (.85) and the Return Receipt fee (.90).

--Remove the adhesive strips from the green card and apply to the back of the envelope.

--After completing all of the above, take the letters to your local post office. The post office will postmark (date) your receipt (PS Form 3877) for proof of mailing and return to you for your records.

--Upon completion of your certified mailing, make a copy of your postmarked PS Form 3877, write your office code at the top and send it to your State Office to show you have completed your mailing.

