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

Notice FLP-95

1951-C

For: State and County Offices

Offset of Farm Program Payments Due Non-Borrower Entities to Pay Individual FLP Debt

Approved by: Deputy Administrator, Farm Loan Programs

Carolyn B. Cooksie

1 Offset Authority

A Background

Some confusion has resulted about FSA's ability to offset payments made to non-borrower entities when the offset will be obtained from the entity's FSA farm payments. DAFP has authority to offset entity payments for debt owed by individual members of the entity (as provided by 7 CFR 792.7 and 7 CFR 1403.7). Part of the confusion resulted from whether these CFRs also pertained to FLP debt, which they do not. DAFLP is not authorized, under its interim final rule issued on August 1, 1997, and its predecessor regulation, which was in effect before August 1, 1997, to request offset in the name of a non-borrower entity in which one of its delinquent individual borrowers owns an interest. The only exception is when DAFLP contends that the entity is an alter ego of the individual, which means the individual is using an entity as a mere front for doing their own private business.

B Purpose

This notice:

- clarifies that only DAFP has authority to offset farm program payments due non-borrower entities, but DAFLP does not, other than in alter ego situations
- obtains information needed because of the clarification of DAFLP offset policy.

C Contact

If there are any questions, State Offices shall contact Jerry Wishall at 202-720-1651.

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Disposal Date	Distribution
December 1, 1999	State Offices; State Offices relay to County Offices

1 Offset Authority(Continued)

D
State Office Action

SED's shall contact each County Office by November 8, 1999, to determine:

- any non-borrower entities, where DAFLP requested offset in the name of the non-borrower entity, during the years from 1998 through the date of this notice.

Note: Include prior years when DAFLP is relying on a notice of intent to offset which predates 1998.

- the total amounts offset during 1998 through the date of this notice pursuant to a DAFLP non-borrower entity request

- of the non-borrower entities from whom DAFLP requested offset, were any of these entities notified by DAFLP that an offset would be taken

- did any of these non-borrower entities appeal the offset.

After these determinations have been made, forward a list of such non-borrower entities and the amounts offset for non-borrower entities, if the entity was notified by DAFLP, to the National Office, ATTN: LSPMD, STOP 0523. Negative reports are required. Complete this report by November 22, 1999.