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

Notice FLP-156

1951-J, 1951-S, 1955-A, 1956-B

For: State and County Offices

Collection and Resolution of Shared Appreciation

Approved by: Deputy Administrator, Farm Loan Programs

Carolyn B. Cooksie

1 Overview

A Background

Based on the Federal Agriculture Improvement and Reform Act of 1996, borrowers are only entitled to one debt forgiveness under the Consolidated Farm and rural Development Act (CONACT) direct loan program. However, even though a previous debt forgiveness has been received, debt settlements can be processed outside of CONACT authorities. **Such approval is based on provisions in 31 U.S.C. Chapter 37 and not CONACT**. Agency instructions for settling accounts that have received prior debt forgiveness are in RD Instruction 1956-B, Exhibit B.

B Purpose

This notice:

- reminds County and State Offices that debt settlement of Shared Appreciation Agreements (SAA's) must be handled according to RD Instruction 1956-B, Exhibit B.
- permits partial debt settlement of the shared appreciation when it is determined to be in the Government's best interest.

C Contact

If there are any questions about this notice:

- County Offices shall contact the State Office
- State Offices shall contact Bruce Mair, LSPMD.

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

2 Collection and Resolution of Shared Appreciation

A Shared Appreciation Amortization

FmHA Instruction 1951-S, section 1951.914(e), permits the Agency to amortize shared appreciation to a nonprogram loan when certain conditions are met.

In addition to considering whether to amortize shared appreciation as a nonprogram loan under FmHA Instruction 1951-J, SED's may also approve partial debt settlement of shared appreciation under RD Instruction 1956-B, Exhibit B, provided the shared appreciation claim settled is not more than $100,000. 4 CFR Section 104.3 (Federal Claims Collection Standards) implements 31 U.S.C Section 3711 that provides authority for Agency heads to terminate collection activity and close the Agency's claim. A copy of 4 CFR Section 104.3 may be obtained from GPO's website at **www.access.gpo.gov/nara/cfr** or OGC's Regional Office. This action:

- applies only to settlement of matured SAA's
- is approved according to 31 U.S.C. 3711 and not CONACT
- is an administrative measure to debt settle monies that **cannot be collected through normal debt collection methods such as foreclosure, offset, or judgment**.

Example: Mr. Brown's SAA matures. The Agency determines that Mr. Brown owes $50,000 shared appreciation. Based upon his cash flow, Mr. Brown does not have the ability to repay more than $45,000 of the amount owed, which includes both secured and unsecured portions. He can repay all of the secured and some of the unsecured portions.

The $45,000 portion is restructured as a nonprogram loan according to section 1951.914(e). SED approves cancellation of the remaining $5,000 due on SAA under RD Instruction 1956-B, Exhibit B.

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B Notifying Borrowers in Nonmonetary Default

According to FmHA Instruction 1951-S, section 1951.914(d)(2), borrowers will be considered in monetary and nonmonetary default if the shared appreciation is not paid by the due date or amortized as set forth under section 1951.914(e).

- Borrowers with program loans will be notified of the default according to FmHA Instruction 1951-S, section 1951.907(d). The failure to pay shared appreciation due will be added to FmHA Instruction 1951-S, Exhibit A, Attachment 3, where space is provided for the reasons for the proposed action.

- Borrowers who no longer have program loans will be notified of the nonmonetary default according to FmHA Instruction 1951-J, section 1951.457(b).

- If the nonmonetary default is not corrected, the Agency will proceed with acceleration and liquidation according to FmHA Instruction 1951-J, section 1951.468, if the borrower no longer has program loans.

- The Agency should attempt to collect any remaining debt after liquidation, including shared appreciation debt, through offset or deficiency judgment. If these avenues of collection are not available, the debt, including the SAA debt, should be considered for debt settlement according to RD Instruction 1956-B, Exhibit B and subparagraph A.