

For: State and County Offices

Maximizing Collection of FLP Debt Through Cross-Servicing

Approved by: Deputy Administrator, Farm Loan Programs



1 Overview

A

Background

The Debt Collection Improvement Act of 1996 amended the Debt Collection Act (DCA) to require Federal agencies to transfer delinquent nontax debt to the Department of the Treasury (Treasury) for debt collection action, known as cross-servicing. The Agency refers debt classified as “Currently Not Collectible” (CNC), or chargeoff, to Treasury for cross-servicing.

The National Internal Review found that States are not in compliance with DCA because debt is being canceled that should have been referred for collection through cross-servicing.

B

Purpose

This notice:

- requires National Office concurrence before canceling certain debts under SED authority
- provides guidance on accepting compromise or adjustment offers.

Continued on the next page

<p>Disposal Date</p> <p>October 1, 2001</p>	<p>Distribution</p> <p>State Offices; State Offices relay to County Offices</p>
--	--

Notice FLP-169

1 Overview (Continued)

C

Contact

If there are questions about this notice:

- County Offices shall contact the State Office
 - State Offices shall contact Bruce Mair, LSPMD at 202-690-4009.
-

2 Settling Debt Without Referral for Cross-Servicing

A

Requirements of DCA

DCA is codified at 31 U.S.C. 3701 et seq. DCA at 31 U.S.C. 3711(g)(9) requires that before an Agency may release a debtor of its delinquent obligation, the Agency shall take all appropriate steps to collect such debt, including (as applicable):

- administrative offset
- tax refund offset
- Federal salary offset
- referral to private collection contractors
- referral to agencies operating a debt collection center
- reporting delinquencies to credit reporting bureaus
- garnishing the wages of delinquent debtors
- litigation or foreclosure.

DCA at 31 U.S.C. 3711(g)(1) requires that the Agency transfer most delinquent debt to the Secretary of the Treasury to take appropriate action to collect or terminate collection actions. Many of the DCA requirements can only be met by referring the debt to Treasury for cross-servicing.

B

National Office Concurrence for Cancellation

Effective immediately, before SED's may approve cancellation of a direct farm loan program debt under RD Instruction 1956-B, Section 1956.70 or release of liability under FmHA Instruction 1965-A, Sections 1965.26(f)(5) and 1965.27(f), and RD Instruction 1962-A, Sections 1962.34(d) and 1962.41(f), SED must receive concurrence from Deputy Administrator, Farm Loan Programs.

Continued on the next page

Notice FLP-169

2 Settling Debt Without Referral for Cross-Servicing (Continued)

B National Office Concurrence for Cancellation (Continued)

Exception: This requirement does not apply to accounts where:

- all liable parties no longer exist or have been discharged through bankruptcy or were otherwise previously released of liability for the debt

settlement was negotiated and approved by the Department of Justice

- Regional OGC issues a legal opinion requiring cancellation of the debt

OCR requires that the debt be canceled.

FAX the following information to LSPMD at 202-720-5804:

- copy of FmHA 1956-1, prepared for canceling the debt

copy of FmHA 1956-10, with all appropriate signatures

brief memorandum explaining why the account should be canceled immediately rather than referred for cross-servicing.

Note: Additional information may be requested as needed.

C Compromise and Adjustment Offers

According to RD Instruction 1956-B, Section 1956.66(a)(1) and (2), borrowers may retain security by paying a lump sum at least equal to the current fair market value of the security, less any prior lien amounts, **plus any additional amount the Agency determines the borrower is able to pay over a period of time not to exceed 5 years.**

Compromise and adjustment offers should be compared against other collection options available, such as foreclosure, pursuit of a deficiency judgment, or cross-servicing. The option that offers the greatest recovery to the Government should be pursued.
