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

**Notice FLP-230**

1965-A, 1956-B, 1962-A

**For:** State and County Offices

# Debt Cancellation Requirements

**Approved by:** Acting 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. After the Agency classifies debt as "Currently Not Collectible" (CNC), it must be referred to Treasury for cross-servicing.

The National Internal Review found that States are not in compliance with DCA because debt was 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.

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| Disposal Date | Distribution |
|---|---|
| October 1, 2002 | State Offices; State Offices relay to County Offices |

## 1 Overview (Continued)

**C**
**Contact**

If there are questions about this notice:

- County Offices shall contact the State Office
- State Offices shall contact Mary Durkin, LSPMD at 202-720-1658.

## 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 from 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 the Agency to 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**

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.

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**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 recommending cancellation of the debt
- Office of Civil Rights (OCR) and OGC require that the debt be canceled according to an approved settlement agreement.

To obtain concurrence of other debt cancellation actions, SED's must FAX the following information to LSPMD at 202-720-5804:

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

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**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.

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