



FmHA AN No. 2788 (1951)
April 14, 1993

SUBJECT: Processing of Noncash Credits for Interest Accrued
During Appeals of 1951-S Servicing Requests

TO: State Directors, District Directors, and County
Supervisors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance on the calculation and processing of a noncash credit for accrued interest when, as a result of the administrative appeal process, the amount of debt writedown or writeoff exceeds the \$300,000 statutory limitation. The intended outcome is to ensure that Farmer Programs loan servicing actions are consistent and processed properly.

COMPARISON WITH PREVIOUS AN:

No AN's have been issued on this subject.

IMPLEMENTATION RESPONSIBILITIES:

Paragraph 1951.909(i)(2)(i) of FmHA Instruction 1951-S provides that a noncash credit may be applied to the FmHA debt if the implementation of the appeal officer's decision results in a writedown or writeoff in excess of \$300,000. A noncash credit will be applied only in those cases in which the \$300,000 statutory limitation has been exceeded as a result of interest which accrued during the appeal process. THE NONCASH CREDIT WILL NOT EXCEED THE AMOUNT NECESSARY TO REDUCE THE WRITEDOWN OR WRITEOFF TO \$300,000. The County Supervisor will notify the Finance Office of the noncash credit by completing Transaction Code (TC) 3G, Noncash Credit - Administrative Adjustment. The noncash credit will be calculated and processed as follows.

Determining Whether a Noncash Credit is Authorized

At the conclusion of the appeal process, it may be necessary for the County Supervisor to revise the DALR\$ calculations. In cases where the appeal officer overturns FmHA's decision, DALR\$ should be rerun after completing the changes necessary to implement the decision. If the FmHA decision is upheld, the DALR\$ may need to

EXPIRATION DATE: October 31, 1993

FILING INSTRUCTIONS:
Preceding FmHA
Instruction 1951-S



be rerun to update the proposed restructure date and unpaid loan balances. Revisions to the original DALR\$ can be completed through the "Edit Options Menu."

When the revised calculations of primary loan servicing or net recovery buyout (NRB) result in a written down or writeoff of less than \$300,000, a noncash credit is not authorized. After completing the revised calculations, if the borrower is still ineligible for primary loan servicing, the County Supervisor should send the revised DALR\$ to the borrower with a letter explaining the implementation of the National Appeals Staff (NAS) decision. In most situations, the revised calculations should not result in a new adverse decision. However, if there is a question of proper implementation of the appeals decision, the County Supervisor should use the procedures for reviewing nonappealable decisions as indicated in section 1900.53(d)(2) and Exhibit C of FmHA Instruction 1900-B. If, as a result of the revised calculations, the borrower is now eligible for primary loan servicing, the County Supervisor should send the borrower Exhibit F of FmHA Instruction 1951-S with the revised version of DALR\$ attached.

If, after implementing the NAS opinion, the amount of written down or writeoff now exceeds \$300,000, it will be necessary to rerun DALR\$ a second time. The purpose of this rerun is to determine whether the amount of interest accruing during the appeal caused the amount of writeoff or writedown to exceed \$300,000. These calculations will use the initial information which resulted in the adverse decision, such as the proposed restructure date, the basic borrower information and the loan data, except to the extent they may have been modified by the appeal decision.

If exclusion of the interest accrued during the appeal results in primary loan servicing or NRB with a writedown or writeoff of \$300,000 or less, a noncash credit is required and should be processed as directed below. If the amount of the writedown or writeoff still exceeds \$300,000, the credit is not authorized because the statutory ceiling is exceeded. In the latter case, servicing must again be denied. If the initial adverse decision did not give the statutory ceiling of \$300,000 as a reason for the denial, then Attachments 5A and 6A must be resent. If the initial decision mentioned the \$300,000 limit, the procedures concerning nonappealable decisions in Section 1900.53(d)(2) and Exhibit C of FmHA Instruction 1900-B should be followed.

Determining the Amount of Noncash Credit

The amount of the noncash credit when the writedown exceeds \$300,000 will be calculated as follows:

1. Obtain a DL status screen whose effective date is the same as the revised proposed restructure date.
2. On the summary page of the revised DALR\$ report on which the statutory limit was exceeded, locate the line titled "The amount of debt write down calculation." Subtract \$300,000 from the amount listed. The difference will be the amount of the noncash credit.
3. On page one of the DALR\$ report on which the statutory limit was exceeded, locate the table titled "SUMMARY OF PRIMARY LOAN SERVICE PROGRAMS." Identify the first loan written down. Deduct the noncash credit from the unpaid interest listed on the DL status screen for this loan. If the amount of the noncash credit exceeds the unpaid interest of the first loan written down, subtract the remaining amount of the noncash credit from the unpaid interest on the second loan that was written down, and so forth.

DALR\$ should then be rerun using the revised interest figures. This should result in a feasible plan with a writedown of \$300,000 or less. All calculations should be documented and retained in the borrower's case file.

The amount of the noncash credit when the writeoff (with NRB) exceeds \$300,000 will be calculated as follows:

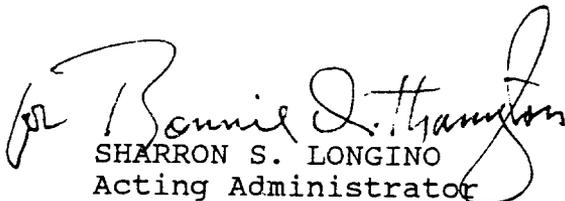
1. Obtain DL status screens whose effective date is the same as the NRB closing date.
2. Subtract the net recovery value (NRV) from the total FmHA debt obtained from the DL status screen. This figure will be the amount of FmHA debt writeoff.
3. If the amount of debt writeoff exceeds \$300,000, subtract \$300,000 from the amount calculated in step 2. This will be the amount of the noncash credit.
4. The noncash credit should be applied against the unpaid interest of the loans, beginning with the least secured loan. The selection of loans should correspond to the "LOW," "MEDM," and "HIGH" security for writedown entered in DALR\$. The noncash credit applied to each loan should not exceed the unpaid interest for that loan.

Processing the Noncash Credit

If a noncash credit is necessary, the County Supervisor should forward the DALR\$ reports and calculations reflecting the amount of the noncash credit to the State Director for review and approval. If the State Director is in concurrence that the noncash credit is authorized and was correctly calculated, written approval should be provided to the County Office. Transaction Code 3G should then be processed by the County Office in accordance with the ADPS manual. COUNTY OFFICES SHOULD NOT PROCESS TRANSACTION CODE 3G PRIOR TO RECEIVING APPROVAL FROM THE STATE DIRECTOR.

If you have any questions, please contact Bill Cobb, Farmer Programs Loan Servicing and Property Management Division, at FTS 202-690-4011.

ANY REVISIONS OR MODIFICATIONS TO THIS AN THAT YOU WISH TO PUBLISH AS A STATE DIRECTIVE MUST BE SUBMITTED AND APPROVED BY THE ASSISTANT ADMINISTRATOR OF FARMER PROGRAMS BEFORE IT IS RELEASED FOR IMPLEMENTATION IN YOUR STATE. THE ONLY EXCEPTION TO THIS REQUIREMENT IS WHEN THE REVISION OR MODIFICATION IS NECESSARY FOR COMPLIANCE WITH THE STATE LAW.


SHARRON S. LONGINO
Acting Administrator

Sent by Electronic Mail on 4/16/93 at 2:49pm by GSS. The State Director should advise other personnel as appropriate.