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

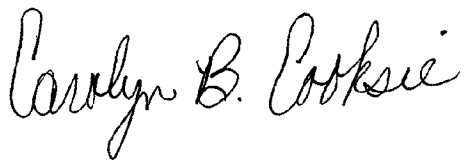
Notice FLP-145

1951-C

For: State and County Offices

Collecting FLP Debt by Administrative Offset for *Pigford v. Glickman* Claimants

Approved by: Deputy Administrator, Farm Loan Programs



1 Overview

A Background

Neither the *Pigford v. Glickman* Consent Decree nor the adjudicator decisions address the issue of offsets. However, if a claimant prevailed on a credit claim, FSA determined it would refund any offsets taken between January 1, 1999, and the date of the adjudicator's decision.

Claimant status does not bar FSA from pursuing offset of Federal payments to delinquent borrowers. Federal law places the responsibility on the Agency to offset according to 31 U.S.C. 3716(c)(6).

Note: Also, see 26 U.S.C. 6402(d) and 31 U.S.C. 3720A which require delinquent borrowers' tax refunds to be offset.

B Purpose

This notice provides clarification and direction to State and County Offices in taking administrative offset from the following:

- claimants who prevailed on a credit claim and are delinquent
- claimants whose claims were denied and are delinquent.

C Contact

If there are any questions about this notice, State Offices shall contact either of the following:

- Veldon Hall, Director, LSPMD, at 202-270-4572
- Polly Koehn, at 202-720-2558.

Disposal Date	Distribution
February 1, 2001	State Offices; State Offices relay to County Offices

2 Action

A Administrative Offset of Federal Payments

In cases where claimants prevailed on a credit claim, offsets taken between January 1, 1999, and the date of the adjudicator's decision have already been refunded. However, if the claimant remains delinquent after the refund, future offsets will be taken after providing notice of the intent to offset by either RD Form Letter 1951-C-1 or 1951-C-2 according to RD Instruction 1951-C, sections 1951.102 and 1951.103.

In cases in which claimants were denied and are delinquent, offsets will continue to be taken according to RD Instruction 1951-C, sections 1951.102 and 1951.103.

All Consent Decree claimants have the opportunity to request the Monitor to review the adjudicator's decision on their claim. During the Monitor's review period, FSA will continue to offset any Federal payments according to regulations. If the claim was denied and is later approved, after reconsideration directed by the Monitor, offsets will be refunded from January 1, 1999, until the date the claim is ultimately approved.

See Exhibit 1 for a guide letter to respond to a claimant's inquiry of offset of their Federal payment.

Guide Letter for Administrative Offset

Dear [Claimant]:

This is in response to your letter concerning offsets taken as a result of your delinquent Farm Service Agency (FSA) farm loans.

Neither the *Pigford v. Glickman* Consent Decree nor the adjudicator decisions address the issue of offsets. However, with respect to cases in which claimants prevail on a credit claim, the Department of Agriculture has determined it will refund offsets taken between January 1, 1999, and the date of the adjudicator's decision. Also, under this policy FSA will not refund offsets which are taken after the date the adjudicator approved your claim. These new offsets involve the present delinquency. In cases in which claimants do not prevail, even if Monitor review has been requested, offsets will continue to be taken in accordance with regulations. If the claim is approved after reconsideration directed by the Monitor, offsets will be refunded from January 1, 1999, until the date the claim is ultimately approved. Again, FSA will not refund offsets taken after the date the adjudicator ultimately approved the claim.

FSA is unable to refund your offset at this time because your situation does not fit within the criteria for receiving a refund. (State the reason. Examples: Your claim was denied. The offset was taken after the date the adjudicator approved your claim. The offset was taken prior to January 1, 1999.)

If your loans continue to be delinquent, payments scheduled to be made to you will be offset in accordance with FSA regulations. We encourage you to continue working with your local Farm Loan Manager to resolve your delinquent loans. If you are unable to resolve your delinquent status, and object to FSA's intent to offset, you may review the Agency's records and appeal the decision. Please see the enclosed notice for your rights. **(Attach completed RD Form Letter 1951-C-1 or 1951-C-2.)**

We hope that you find this information helpful.

Sincerely,

Farm Loan Chief