



United States  
Department of  
Agriculture

Farmers  
Home  
Administration

Washington  
D.C.  
20250

FmHA AN No. 2609 (1956)

August 7, 1992

**SUBJECT:** Use of Private Contractors to Conduct Asset  
Investigations for Farmer Programs Debt Settlements

**TO:** State Directors

**PURPOSE/INTENDED OUTCOME:**

The purpose of this Administrative Notice (AN) is to state our policy on obtaining asset investigations for all Farmer Programs (FP) debt settlements to be approved by the Administrator and to provide an updated checklist to use when processing debt settlement actions. The intended outcome is to insure that all assets owned by the borrower are considered when determining repayment ability, and that all information is contained in the file when submitting debt settlement cases to the National Office for approval.

**COMPARISON WITH PREVIOUS AN:**

No previous AN has been issued on this subject.

**IMPLEMENTATION RESPONSIBILITIES:**

It has been revealed in recent OIG and GAO audit reports that some borrowers do not report all assets and income from which FmHA could enforce collection. Sections 1956.67 and 1956.70 of FmHA Instruction 1956-B provide that all assets or income must be considered when determining if a borrower has repayment ability. Therefore, to insure that the borrower has reported all available assets, State Directors have been given the authority to contract with private institutions/individuals to perform asset investigations.

To implement this authority, asset investigations will be required on all debtors, except those discharged in bankruptcy, when the amount of the writeoff from debt settlement exceeds \$1 million. In addition, under the discretion of the State Director, asset investigations may be considered for debt settlements of less than \$1 million on large and complex operations such as partnerships and corporations.

**EXPIRATION DATE:** June 30, 1993

**FILING INSTRUCTION:**  
Preceding FmHA  
Instruction 1956-B



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Secretary of Agriculture, Washington, D.C. 20250

State allocations and "Scope of Work" for preparation of the asset investigation contract is being provided in a separate issuance. NOTE: This allocation is only available for use during the remainder of the 1992 fiscal year. Task orders must be approved prior to fiscal yearend September 30, 1992.

Attached is an updated checklist used by the National Office to review debt settlements. We recommend this checklist be adapted in each State for use in processing debt settlements for the State Director's approval.

If you have any questions concerning the allocation or contract, contact Joe O'Leska, Director, Large Loan Servicing Group, at FTS (202) 690-1299.

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, 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 STATE LAW.



LA VERNE AUSMAN  
Administrator



Attachment

STATE \_\_\_\_\_

DEBT SETTLEMENT

REVIEWER \_\_\_\_\_

BORROWER: \_\_\_\_\_ ID \_\_\_\_\_

TYPE OF DEBT SETTLEMENT: \_\_\_\_\_ AMOUNT OF DEBT \_\_\_\_\_

Answer the following questions by circling "Y", "N", or "N/A". If the reviewer circles "N", additional information may be needed before the debt settlement can be considered for approval.

- Y N N/A (1) Is Part III and IV (and Part V if appl.) of Form FmHA 1956-1 completed with current income, expense and financial information?
- Y N N/A (2) Does the file contain income verification of all borrowers liable for the debt?
- Y N N/A (3) If the borrower is still farming or has other business income, is there a realistic cash flow in the file?
- Y N N/A (4) Do the family living expenses or other expenses appear excessive and if so, is there justification in the file?
- Y N N/A (5) Where a spouse is not a co-debtor, is the spouse's income considered in meeting family living expenses?
- Y N N/A (6) Have credit reports been obtained on all borrowers and other verification of debt when deemed necessary?
- Y N N/A (7) Has the County Committee signed acceptance for recommendation in Part VII on Form FmHA 1956-1?
- Y N N/A (8) Is Part VIII of Form 1956-1 been completed to include (1) a summary of the borrower's performance history to indicate specifically what occurred to get the borrower to this point, (i.e. disasters, management ability, death, health, debt load, capital purchases, etc.), (2) justification for the recommendation, and (3) signed by the appropriate approval official? (State Director or acting State Director)
- Y N N/A (9) Is there documentation that the Offset Program outlined in FmHA Instruction 1951-C was considered to determine repayment ability?
- Y N N/A (10) Is there documentation that the borrower's future repayment ability was considered, including inheritance possibilities?
- Y N N/A (11) Is a copy of the AGCREDIT/SENT Borrower History Report in or other evidence in the file and does it indicate that the Borrower received all their 1951-S servicing rights?
- Y N N/A (12) Has Exhibit A, Att. 1 of FmHA Instruction 1956-B been completed and concurred with by the State Director?

- Y N N/A (13) If the borrower has disappeared, is there complete documentation on Form FmHA 1956-1, Part VIII indicating the efforts made to locate the debtor, names and dates of contacts, and the information furnished by each person contacted per Section 1956.70(b)(2) of FmHA Instruction 1956-B?
- Y N N/A (14) Does the file contain a financial and production history of the borrowers performance such as on Form FmHA 1960-12 or financial statements and cash flows with planned and actual income and expense figures, and/or income tax records?
- Y N N/A (15) Has an asset investigation been completed to determine if the borrower has other assets which could be used to pay on their indebtedness? (This should include at a minimum a search of the court records in the county(ies) where the operation was located and where the borrower lives, adjoining counties and/or state, etc.) REQUIRED ON ALL DEBT SETTLEMENTS THAT EXCEED \$1 MILLION WRITEOFF. IF ITEM 15 IS NOT APPLICABLE, ITEM 16 MUST BE COMPLETED.
- Y N N/A (16) Have the court records been searched to determine if the borrower(s) has other assets which could be used to pay on their indebtedness? THIS IS MUST BE DONE IF ITEM 15 IS NOT APPLICABLE SUCH AS IN DEBT SETTLEMENTS OF LESS THAN \$1 MILLION WRITE-OFF.
- Y N N/A (17) Has all chattel security identified on Form FmHA 440-4 "Security Agreement" been properly accounted for on Form FmHA 1962-1? (Crops, livestock, machinery, equipment, etc.)
- Y N N/A (18) Has all real estate security described on the mortgage or deed of trust been properly accounted for?
- Y N N/A (19) Has all other assets pledged as security such as assignments of insurance policies, leaseholds, etc. been accounted for?
- Y N N/A (20) Is there documentation in the file or on Form FmHA 1956-1 that every attempt was made to collect the debt in full and to secure a reasonable compromise or adjustment offer?
- Y N N/A (21) If the borrower(s) debt was discharged in bankruptcy, is a copy of the discharge or order confirming the plan attached to Form FmHA 1956-1?
- Y N N/A (22) If the case was referred to the Office of the General Counsel(OGC) and/or the Office of the Inspector General (OIG), have all of the investigative, civil, and criminal actions been closed?