

For: State and County Offices

Collecting FLP Debt Through the Treasury Offset Program (TOP) and Cross-Servicing

Approved by: Acting Deputy Administrator, Farm Loan Programs

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1 Overview

A

Background

According to the Debt Collection Improvement Act of 1996 (DCIA), FSA must refer all eligible delinquent debt to Treasury for TOP and cross-servicing. Referral to Treasury for cross-servicing and TOP must be considered before processing debt settlement offers under RD Instruction 1956-B. If a greater recovery of taxpayer dollars is possible through referral to Treasury, then the debt must be referred to Treasury.

Note: Because Treasury has different requirements for TOP and cross-servicing, 2 quarterly separate referrals from FSA, FLP are now required.

B

Purpose

This notice:

- provides guidance on:
 - referring debt to Treasury for TOP and cross-servicing
 - servicing debts referred for cross-servicing and TOP
 - servicing debt after it has been returned from Treasury
- provides procedure for classifying debt as currently not collectible (CNC).

Continued on the next page

Disposal Date	Distribution
October 1, 2004	State Offices; State Offices relay to County Offices

Notice FLP-266

1 Overview (Continued)

C

Contact If there are any questions about this notice, contact the following.

IF there are questions about...	THEN...
FLP procedures	<ul style="list-style-type: none">• County Offices shall contact the State Office• State Office shall contact either:<ul style="list-style-type: none">• Mary Durkin, LSPMD, at 202-720-1658 for debt settlement, acceleration, and statute of limitations issues• Connie Rime, LSPMD, at 202-690-4012 for offset and cross-servicing issues.
cross-servicing or TOP processes	State Offices shall contact KCFO, Loan Operations Division (LOD), Program Reporting Branch (PRB) at 314-539-2494.

2 TOP

A

Determining Debts Eligible for Referral to TOP - Debtors 90 Days Past Due

Quarterly referral for TOP enables Treasury to offset eligible Federal payments to satisfy any Federal agency past due legally enforceable nontax debt.

A two-phase process is used to screen for delinquent debtors for referral to TOP. Under Phase 1, KCFO will make available the screen of delinquent debtors 90 calendar days or more past due. County Offices will have view capability, but only the State Offices can delete the loans. Under Phase 2, State Offices can delete debtors before certification is made by KCFO to Treasury if the borrower resolves the delinquency. Separate notices will be issued to provide guidance regarding the screening processes.

Once referred, the debt will remain at Treasury for TOP until the debt is paid in full or closed. State Offices must submit FSA-1956-22 to KCFO, LOD, PRB to delete a loan from TOP once it has been certified.

Note: FSA-1956-22 and all other forms referenced in this notice are available on the FSA Intranet at <http://intranet.fsa.usda.gov>.

Continued on the next page

Notice FLP-266

2 TOP (Continued)

B

Removing Borrowers From TOP

Cases may be suspended from TOP but do not delete the loan or loans on the TOP screen. The removal process is completed by KCFO, LOD, PRB **only**. If the borrower dies, files bankruptcy, cures the delinquency by paying current, receiving 1951-S servicing, files a bankruptcy plan confirmed by the court (SAA, borrower description flag) or the 10 year statute of limitations for offset expires (see subparagraph C), the State Office must initiate the removal from TOP by submitting FSA-1956-22 to KCFO, LOD, PRB by FAX at 314-539-6266. KCFO, LOD, PRB will code the ineligible borrowers in the weekly update process and immediately remove borrowers who filed bankruptcy on the Treasury system online. There may be a 2 week delay in the ceasing offset after a delete has been submitted to Treasury. Any subsequent offsets will be refunded if authorized by the State Office.

C

Statute of Limitations

Only debt which is within the 10 year statute of limitation can be referred to TOP and cross-servicing. In cases where it is unclear when the statute of limitations begins to run, consult with the Regional Office of the General Counsel (OGC).

If the 10-year statute of limitations has expired and all security has been liquidated, SED's shall cancel debt of less than \$1 million according to RD Instruction 1956-B without obtaining the debtor's signature. Debts of more than \$1 million shall be referred with supporting documentation to the National Office for cancellation. Principal debts of greater than \$100,000 with prior debt forgiveness shall be referred to the Department of Justice (DOJ) for cancellation as directed in RD Instruction 1956-B.

3 Cross-Servicing

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Determining Debts Eligible for Cross-Servicing and Classifying Debt as CNC

DCIA requires that any nontax debt or claim owed to the U.S. that has been delinquent for a period of 180 days be referred to Treasury for collection. There are several exemptions from referral as follows:

- bankruptcy
- judgments
- foreclosure
- open administrative discrimination complaints.

Before referring debts to Treasury each quarter for cross-servicing, all Agency servicing including administrative appeals, must be completed and the debt classified as CNC. Before being classified as CNC, FSA-1956-20 requirements must be met. County Offices shall prepare FSA-1956-20 to classify the debt as CNC when all security has been liquidated and the debtor:

- does not return a complete debt settlement application within 30 days of receiving RD Instruction 1955-A, Exhibit F

submits a complete application for debt settlement that is not acceptable to the Agency after receiving RD Instruction 1955-A, Exhibit F.

County Offices shall submit FSA-1956-20 to the State Office through the District Director (DD). FmHA 1956-1 will no longer be used by FLP for accounts being classified CNC.

Delinquent debts that cannot be settled according to RD Instructions 1956-B and are classified as CNC must be referred for cross-servicing unless OGC issues a legal opinion stating that the debt cannot be referred for cross-servicing. In such cases, State Offices must complete FSA-1956-22, FAX to KCFO, LOD, PRB and resume servicing according to RD Instruction 1956-B.

Continued on the next page

Notice FLP-266

3 Cross-Servicing (Continued)

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**FSA Collection
Activity**

Treasury regulations require that FSA stop all collection activity on debts referred for cross-servicing, except TOP offsets, Federal salary offsets, and internal administrative offsets.

When a payment is received from a CNC borrower, the County Office shall call the State Office, and the State Office shall call KCFO, LOD, PRB for cross-servicing verification.

If the account has been referred, write the borrower's name, case number, and loan number if specified by the borrower, on the check. Send the payment to Treasury at the following address:

US DEPARTMENT OF THE TREASURY
FMS DEBT MANAGEMENT SERVICE
PO BOX 105576
ATLANTA GA 30348.

Note: The check can be processed at Treasury even though the check is made payable to the Agency.

Borrowers referred for cross-servicing will continue to have FmHA 1951-9 and, if applicable, IRS Form 1098 generated at calendar year-end if the account had activity. County Offices shall forward FmHA 1951-9 to the borrower and a copy to the State Office.

Continued on the next page

Notice FLP-266

3 Cross-Servicing (Continued)

C

Processing CNC Debt For Cross-Servicing

For CNC debts, the State Office shall process transaction code “3K” on the Automated Discrepancy Processing System with a class of write off code “5”. State Offices shall also complete FSA-1956-21 and submit to KCFO, LOD, PRB by FAX at 314-539-6266, by the 15th of each month. KCFO, LOD, PRB shall:

- refer all eligible CNC accounts listed on FSA-1956-21 to Treasury for cross-servicing

provide State Offices a report of all loans submitted with each referral.

The referrals of debt to cross-servicing and TOP are separate processes. However, a debt must have been certified to TOP to be referred for cross-servicing. The information on the TOP screens received from KCFO is used to validate eligibility for both processes.

D

Discrimination Complaints

Accounts involved in an administrative discrimination complaint are eligible for TOP but not eligible for cross-servicing, unless directed otherwise by OGC. Notify KCFO, LOD, PRB immediately, using FSA-1956-22, if a CNC borrower files and the Department’s Office of Civil Rights accepts a discrimination complaint.

Continued on the next page

Notice FLP-266

3 Cross-Servicing (Continued)

E

Borrower Inquiries and Payment Actions

CNC debt may be settled by FSA upon application by the borrower, if the debt has not been referred to Treasury for cross-servicing. If a CNC borrower submits or inquires about a debt settlement application, the State Office shall contact KCFO, LOD, PRB to determine whether the account has been referred for cross-servicing.

IF the account has...	THEN inform the borrower...
been referred for cross-servicing	that the debt is now at Treasury, and that negotiations need to be with Treasury. Borrowers: <ul style="list-style-type: none">• may contact Treasury at 1-888-826-3127• will not be provided appeal rights for settlements rejected by Treasury and returned to FSA.
not been referred for cross-servicing	that a debt settlement offer may be considered. Refer to RD Instruction 1956-B for processing debt settlements.

If a debt settlement offer is received after the State Office has submitted the debt for cross-servicing referral, the State Office should notify KCFO, LOD, PRB immediately by FAX at 314-539-6266 and include the terms of the debt settlement offer and request a delay in referring the debt for cross-servicing until a decision is made. Notify KCFO, LOD, PRB immediately when a decision is made. If the offer is rejected, the debt will be sent to Treasury for cross-servicing in the next referral.

4 Account Resolution

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Process

Treasury recommends repayment agreements, compromises, and debt settlements on a loan-by-loan basis, not by account. FSA will process settlements on a loan-by-loan basis when returned by Treasury.

When necessary, FSA will obtain DOJ's authorization on settling deficiency judgments and accounts that received previous debt forgiveness.

Loan cancellation approval authority is with DAFLP and SED's according to RD Instruction 1956-B, Section 1956.84.

Continued on the next page

Notice FLP-266

4 Account Resolution (Continued)

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Action The following action shall be taken.

Step	Office	Action
1	State Office	<p>Receive Treasury’s Debt Management Services (DMS) action form or concurrence request from KCFO, LOD, PRB about the repayment agreement/adjustment offer, compromise offer, or report returning the debt to FSA as uncollectible.</p> <p>Based upon the information in the case file, determine if the debt is eligible for settlement through the proposed repayment/adjustment offer, compromise offer, or if the debt can be canceled.</p> <p align="center">Repayment/Adjustment Offers and Compromise Offers</p> <p>SED shall:</p> <ul style="list-style-type: none"> • sign the DMS action form • ENTER “Y” or “N” in the “approved” column, as applicable • FAX to KCFO, LOD, PRB. <p>Notes: Include supporting documentation, if needed, to substantiate why greater repayment is warranted.</p> <p align="center">Approved agreements must not exceed 5 years per RD Instruction 1956-B.</p> <p align="center">Debt Returned as Uncollectible</p> <p>Debt that is returned as uncollectible will be canceled under RD Instruction 1956-B, Section 1956.70(c), if there are no known collections that FSA will receive through TOP or FSA’s administrative offset process. Known collections are from payments that FSA is certain it will receive from offsets in the near future such as social security benefits, a federal salary, farm program payments, etc. SED’s shall:</p> <ul style="list-style-type: none"> • prepare a memorandum advising KCFO, LOD, PRB of the decision to approve or reject the cancellation • FAX the signed memorandum to KCFO, LOD, PRB. <p>Note: Debt settlements on accounts that are over \$1 million must be forwarded to the National Office with supporting documentation for approval. SED’s have the authority to approve the write-off of debts returned from cross-servicing with account balances that are under \$1 million, with the exception of those requiring DOJ consent because of previous debt forgiveness.</p>

Continued on the next page

Notice FLP-266

4 Account Resolution (Continued)

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Action
(Continued)**

Step	Office	Action
2	KCFO, LOD, PRB	Repayment/Adjustment and Compromise Offers
		FAX the signed DMS action form to Treasury. Once the full amount of the repayment/adjustment or compromise is applied: cancel the remaining debt balances FAX a memorandum to the State Office that the amount was collected and the remaining balance has been canceled.
		Approved Cancellations
		Process approved cancellations from SED and FAX a memorandum to the State Office once the cancellation has been completed.
3	State Office	Attach KCFO, LOD, PRB memorandums, State Office memorandums, and any applicable forms to the State Office copy of FSA-1956-20 or FSA-1956-10 if CNC was before September 11, 2000. Forward a copy of the KCFO, LOD, PRB memorandum and any applicable forms to the Farm Loan Manager.
4	County Office	File KCFO, LOD, PRB memorandums, State Office memorandums, and any applicable forms in the case file. After all payments have been processed, stamp the promissory note “Satisfied by Completed Adjustment Offer”, “Satisfied by Approved Compromise”, or “Satisfied by Approved Cancellation”, as applicable, and return the satisfied note(s) to the borrower. In cases where the debt is returned as uncollectible but can not be canceled, continue monitoring the account until it is eligible for cancellation, then process the cancellation according to RD Instruction 1956-B.