

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct Loan Servicing – Special
and Inventory Property Management
5-FLP**

Amendment 18

Approved by: Deputy Administrator, Farm Loan Programs

Chris P. Beyershelm

Amendment Transmittal

A Reasons for Amendment

Subparagraph 1 B has been amended to include additional sources of authority.

Subparagraphs 126 A, 463 C, 465 C, 568 E, 582 D, and 604 E have been amended to reference Part 11, Section 3 and Part 24.

Subparagraph 406 A has been amended to clarify guidance about servicing actions after a bankruptcy discharge.

Subparagraph 407 B has been amended to clarify guidance for bankruptcies in community property States.

Subparagraph 407 F has been added to provide guidance when security involved in a bankruptcy cannot be liquidated because the loans are not delinquent.

Subparagraph 421 G has been added to provide guidance about deficiency judgments.

Subparagraph 433 A has been amended to:

- add the correct exhibit references for cross-servicing and AWG
- add reference to FSA-1956-20
- update the FLOO FAX number.

Subparagraph 434 B has been amended to add reference to Federal salary offset and/or AWG.

Subparagraph 442 A, 500 D, and 520 B have been amended to reference Part 24.

Subparagraphs 496 A and 516 A have been amended to provide guidance for cases where FSA can accept the conveyance of security, but cannot approve the debt settlement request submitted with the conveyance offer.

Subparagraphs 497 A and 517 A have been amended to clarify debt settlement procedures.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 499 F has been added to provide guidance for cases where FSA can accept the conveyance of security, but cannot approve the debt settlement request submitted with the conveyance offer.

Subparagraph 905 B has been amended to update the FLOO FAX number.

Part 24 has been added to provide guidance for servicing unsecured account balances.

Exhibit 2 has been amended to update the definitions for “cross-servicing” and “TOP”.

Exhibit 11 has been amended to reference paragraph 407.

Exhibit 15:

- subparagraph 1 B has been amended to update a reference
- subparagraph 1 C has been amended to provide clarification about debts that were 10 or more years delinquent on or before December 28, 2009
- subparagraphs 2 G and 4 A have been amended to update the FLOO FAX number
- subparagraph 2 H has been amended to update the guidance provided for accounts involved in an accepted discrimination complaint
- paragraph 5 has been amended to update the schedule for the TOP selection process.

Exhibit 16:

- subparagraph 1 A has been amended to include reference to AWG and Exhibit 36
- subparagraph 2 A has been amended to include reference to paragraph 952
- subparagraph 2 B has been amended to provide clarification about debts that were 10 or more years delinquent on or before December 28, 2009
- subparagraphs 2 D, 2 F, 2 G, and 3 B have been amended to update the FLOO FAX number
- subparagraph 2 E has been amended to update the FLOO telephone number
- subparagraph 2 F has been amended to update the guidance provided for accounts involved in an accepted discrimination complaint
- subparagraph 3 B has been amended to include reference to AWG.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Exhibit 36 has been added to provide guidance about AWG.

Exhibit 44 has been amended to clarify that offset notification is in a separate letter.

Exhibit 45 has been added to provide notification of referral to cross-servicing after conveyance of security, when debt settlement was denied, and appeal rights have concluded.

Exhibit 80 has been amended to update the FLOO FAX number.

| Page Control Chart | | |
|---------------------------|-------------------------|----------------------|
| TC | Text | Exhibit |
| 5, 6 | 1-1, 1-2 | 1, pages 1-4 |
| 9, 10 | 3-109, 3-110 | page 5 |
| 11 | 11-9 through 11-50 | page 6 (add) |
| | 11-53, 11-54 | 2, pages 1, 2 |
| | 12-1, 12-2 | pages 7, 8 |
| | 13-5, 13-6 | pages 27, 28 |
| | 13-7 | 11, pages 1, 2 |
| | 14-31 through 14-34 | 15, pages 1-20 |
| | 14-37 through 14-74 | page 21 (remove) |
| | 14-77 | 16, pages 1-10 |
| | 16-35 through 16-50 | page 11 |
| | 16-53 | 36, pages 1-24 (add) |
| | 17-5, 17-6 | page 25 (add) |
| | 23-11, 23-12 | 44, pages 1, 2 |
| | 24-1 through 24-8 (add) | 45, page 1 (add) |
| | | 80, page 1 |

Table of Contents (Continued)

Page No.

| | | |
|------------------|---|-------|
| Part 9 | Servicing Shared Appreciation Agreements and NRBRA's (Continued) | |
| Section 2 | Servicing NRBRA's | |
| 361 | Events Triggering Recapture | 9-41 |
| 362 | FSA Bi-Annual Review | 9-42 |
| 363 | Determining Amount of Recapture Due | 9-43 |
| 364 | Notifying Borrower That Recapture Is Due..... | 9-43 |
| 365 | Processing Net Recovery Recapture | 9-44 |
| 366-380 | (Reserved) | |
| Part 10 | Unauthorized Assistance | |
| 381 | Unauthorized Assistance Policy | 10-1 |
| 382 | Initial Consideration..... | 10-1 |
| 383 | Causes of Unauthorized Assistance | 10-2 |
| 384 | Determining That Unauthorized Assistance Was Given | 10-3 |
| 385 | Determining the Value of Unauthorized Assistance..... | 10-4 |
| 386 | Notifying Borrower of Unauthorized Assistance | 10-5 |
| 387 | Recovering Unauthorized Assistance | 10-6 |
| 388-400 | (Reserved) | |
| Part 11 | Bankruptcies, Civil and Criminal Cases, and Judgments | |
| Section 1 | Bankruptcy | |
| 401 | FSA Actions When Borrower Files for Bankruptcy..... | 11-1 |
| 402 | Borrowers' Rights and Responsibilities About Loan Servicing | 11-3 |
| 403 | Filing Proof of Claim | 11-5 |
| 404 | Adjustment of Debts When Borrowers Are in Bankruptcy | 11-6 |
| 405 | FSA Actions When Borrower Defaults on Reorganization Plan or Court Dismisses Bankruptcy While Under Court Jurisdiction | 11-7 |
| 406 | Servicing Chapter 11, 12, and 13 Cases After the Bankruptcy Case Is Closed... | 11-9 |
| 407 | Liquidation During Bankruptcy | 11-10 |
| 408 | Acceptance of Conveyed Property From Trustee in Bankruptcy | 11-13 |
| 409-420 | (Reserved) | |
| Section 2 | Civil and Criminal Cases | |
| 421 | Handling Civil and Criminal Cases | 11-31 |
| 422-430 | (Reserved) | |

Table of Contents (Continued)

Page No.

Part 11 Bankruptcies, Civil and Criminal Cases, and Judgments (Continued)

Section 3 Servicing DOJ Judgment Debts

| | | |
|---------|--|-------|
| 431 | Monitoring Judgment Debts | 11-51 |
| 432 | Servicing Judgment Debts Retained by DOJ..... | 11-52 |
| 433 | Servicing Judgment Debts Returned by DOJ | 11-53 |
| 434 | Debt Settlement of Judgment Debts | 11-54 |
| 435-440 | (Reserved) | |

Part 12 Liquidation Overview

| | | |
|---------|----------------------------------|------|
| 441 | Introduction to Liquidation..... | 12-1 |
| 442 | Conditions for Liquidation..... | 12-2 |
| 443 | Protecting FSA Interests | 12-3 |
| 444 | General Issues | 12-4 |
| 445-460 | (Reserved) | |

Part 13 Voluntary Liquidation

| | | |
|---------|--|------|
| 461 | General Requirements..... | 13-1 |
| 462 | Voluntary Liquidation of Real Property | 13-2 |
| 463 | Closing the Sale of Real Property | 13-4 |
| 464 | Voluntary Liquidation of Chattel..... | 13-5 |
| 465 | Closing the Sale of Chattel | 13-7 |
| 466-480 | (Reserved) | |

Part 14 Voluntary Conveyance of Security

Section 1 General Information

| | | |
|---------|-------------------|------|
| 481 | Introduction..... | 14-1 |
| 482-495 | (Reserved) | |

Section 2 Voluntary Conveyance of Real Property

| | | |
|---------|---|-------|
| 496 | Before Receiving Conveyance Offers of Real Property | 14-31 |
| 497 | Real Property Conveyance Application Requirements..... | 14-32 |
| 498 | Additional Requirements | 14-34 |
| 499 | Processing the Borrower's Conveyance Offer..... | 14-36 |
| 500 | Closing the Real Property Conveyance | 14-38 |
| 501-515 | (Reserved) | |

Section 3 Voluntary Conveyance of Chattel

| | | |
|---------|--|-------|
| 516 | Before Receiving Conveyance Offers of Chattel..... | 14-71 |
| 517 | Chattel Conveyance Application Requirements | 14-72 |
| 518 | Additional Requirements | 14-74 |
| 519 | Processing the Borrower's Conveyance Offer..... | 14-75 |
| 520 | Closing the Chattel Conveyance..... | 14-77 |
| 521-530 | (Reserved) | |

Table of Contents (Continued)

Page No.

Part 22 Selling and Leasing Inventory Real Property With Special Characteristics

Section 1 Inventory Property Containing Important Environmental Resources

| | | |
|---------|--|------|
| 801 | Overview..... | 22-1 |
| 802 | Leasing or Selling Inventory Property With Important Environmental Resources | 22-2 |
| 803 | Wetland Conservation Easements..... | 22-3 |
| 804 | Mandatory Conservation Easements..... | 22-5 |
| 805 | Discretionary Easements..... | 22-6 |
| 806 | Conservation Transfers | 22-7 |
| 807-820 | (Reserved) | |

Section 2 Inventory Property Located in Special Hazard Areas

| | | |
|---------|---|-------|
| 821 | Selling or Leasing Inventory Property Located in Special Hazard Areas | 22-31 |
| 822-835 | (Reserved) | |

Section 3 Inventory Real Property Containing Environmental Risks

| | | |
|---------|--|-------|
| 836 | Overview..... | 22-61 |
| 837 | Environmental Risk Management..... | 22-62 |
| 838 | Properties Containing Hazardous Waste | 22-63 |
| 839 | Properties Containing Underground Storage Tank Systems or Petroleum Products | 22-64 |
| 840 | Properties Containing Medical Waste, Lead-Based Paint, or Asbestos | 22-65 |
| 841 | Real Property That Is Unsafe..... | 22-65 |
| 842-900 | (Reserved) | |

Part 23 Servicing Borrowers with Both FSA and RD Loans

| | | |
|---------|---|-------|
| 901 | Servicing Delinquent and Financially Distressed Accounts..... | 23-1 |
| 902 | Handling Voluntary Conveyances and Foreclosures Against Joint Security for Loans on Separate Security Instruments | 23-6 |
| 903 | Handling Voluntary Conveyances and Foreclosures Against Joint Security for Loans on the Same Security Instrument..... | 23-8 |
| 904 | Property ID Numbers..... | 23-11 |
| 905 | ADPS 3E Transactions | 23-12 |
| 906-949 | (Reserved) | |

Table of Contents (Continued)

Page No.

Part 24 Servicing Unsecured Account Balances

| | | |
|-----|-------------------------------------|------|
| 950 | After Liquidation of Security | 24-1 |
| 951 | After Conveyance of Security | 24-2 |
| 952 | CNC Debt..... | 24-3 |
| 953 | Cross-Servicing..... | 24-4 |
| 954 | AWG..... | 24-4 |
| 955 | Debt Settlement..... | 24-5 |
| 956 | Partial Debt Cancellation | 24-7 |

Exhibits

| | | |
|--------|--|--|
| 1 | Reports, Forms, Abbreviations, and Redelegations of Authority | |
| 2 | Definitions of Terms Used in This Handbook | |
| 3 | (Reserved) | |
| 4 | State Supplements | |
| 5-9 | (Reserved) | |
| 10 | Notification of the Availability of the Disaster Set-Aside Program | |
| 11 | Account Description Flag and Code Reference | |
| 12 | (Reserved) | |
| 13 | Third Party Pledge of Security Notification Letter | |
| 14 | Youth Loan Notification Letter | |
| 15 | Quarterly Screening Process for TOP | |
| 16 | Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt | |
| 17 | Instructions for Using eDALR\$ | |
| 18-24 | (Reserved) | |
| 25 | Shared Appreciation Agreement Reminder | |
| 26 | Calculation of Shared Appreciation Recapture | |
| 27-29 | (Reserved) | |
| 30 | Initial Letter to Borrowers Who Received Unauthorized Assistance | |
| 31 | Letter to Borrowers Who Received Unauthorized Assistance – Final Determination | |
| 32, 33 | (Reserved) | |
| 34 | Notice to Borrower’s Attorney Regarding Loan Servicing Options | |
| 35 | (Reserved) | |
| 36 | Administrative Wage Garnishment (AWG) | |
| 37 | Worksheet for Accepting a Voluntary Conveyance of Farm Loan Programs Security Property Into Inventory | |
| 38 | 10-Day Notice of Non-Program Loan Delinquency | |
| 39 | 30-Day Reminder of Non-Program Loan Delinquency | |
| 40 | Notice of Acceleration of Your Debt (Non-Program) to the Farm Service Agency (FSA) and Demand for Payment of That Debt | |
| 41 | Notice of Acceleration of Your Farm Service Agency (FSA) Account (Non-Program) | |
| 42, 43 | (Reserved) | |

Table of Contents (Continued)

Exhibits (Continued)

- 44 Notice Advising of Potential Referral to Treasury for Cross-Servicing and the Availability of Debt Settlement
- 45 Notice Advising of Potential Referral to Treasury for Cross-Servicing
- 46-48 (Reserved)
- 49 Notice of Acceleration of Farm Loan Programs Accounts Secured by Real Estate and/or Chattels in Cases Not Involving Bankruptcy
- 50 Notice of Intent to Foreclose on Your Property Serving as Security for the United States of America and Acceleration of Your Loan Accounts
- 51 Notice of Acceleration of Your Debt to the Farm Service Agency Based on Confirmed Bankruptcy Plan With Discharge and Demand for Payment of That Debt
- 52 Notice of Acceleration for FLP Accounts Held by American Indian Borrowers and Secured by Real Estate Located Within a Recognized Reservation and Borrower Rights
- 53 Notification of Options Available to the Tribe
- 54 Information on American Indian Borrower Rights Under the Consolidated Farm and Rural Development Act
- 55 Notification to a Tribe of an American Indian Borrower's Request to Have a Loan Assigned to the Tribe (With Example Information)
- 56 Notification to an American Indian Borrower of Acceptance of an Assignment Request
- 57 Notification to an American Indian Borrower of Denial of an Assignment Request
- 58, 59 (Reserved)
- 60 Worksheet for Determining Farm Loan Programs Maximum Bid on Real Estate Property
- 61-64 (Reserved)
- 65 Notification of Personal Property
- 66 Notification of Transmittal to the Internal Revenue Service (IRS)
- 67-69 (Reserved)
- 70 Notice of Sale
- 71 Notification to Tribe of Availability of Farm Property for Purchase
- 72, 73 (Reserved)
- 74 Conservation Easement for Wetlands
- 75 Conservation Easement for Floodplains
- 76, 77 (Reserved)
- 78 Notice of Special Flood, Mudslide, or Earthquake Hazard Area
- 79 Guide for Calculating the Proportionate Share of Market Value/Proceeds From Joint Mortgages
- 80 ADPS 3E Transaction Guide

Part 1 Introduction and Purpose

1 Purpose and Sources of Authority

A Handbook Purpose

This handbook is designed to assist FSA in understanding the following:

- regulations governing:
 - direct loan servicing – special
 - inventory property management
- roles and responsibilities in implementing those regulations and other responsibilities in direct loan servicing – special and inventory property management.

B Sources of Authority

The sources of authority for this handbook include the following:

- 7 CFR Part 3; 7 CFR Part 1951, Subpart C; 7 CFR Part 1956, Subpart B; 31 CFR Part 285; and 31 CFR Parts 901 through 904 for internal administrative offset, Federal salary offset, debt settlement, cross-servicing (including AWG), TOP, and Federal claims collection standards
- 7 CFR Part 766 for servicing borrowers who are financially distressed or delinquent
- 7 CFR Part 767 for managing, leasing, and selling inventory property
- various laws and statutes passed by Congress, including CONACT and DCIA.

C Regulation References

Text in this handbook that is published in the CFR is printed in **bold** text. The CFR citation is printed in brackets in front of the text. The references and text:

- are intended to highlight the requirement in the CFR
- may be used to support adverse FSA decisions.

Note: Cross-references printed in bold are citing a CFR section. The handbook paragraph or subparagraph where the cross-referenced CFR text can be found in is printed in nonbold text in parenthesis (within the bold text).

Example: Subparagraph 103 C provides “[**7 CFR 766.105(b)**] (1) **The Agency will attempt to achieve a 110 percent debt service margin for the servicing options listed in paragraphs (a)(2) through (4)** (subparagraph B) **of this section.**”

Note: The text “**paragraphs (a)(2) through (4) of this section**” refers to 7 CFR 766.105 (a)(2) through (4). The nonbold reference indicates that 7 CFR 766.105(a) is included in subparagraph 103 B.

2 Related References

A Related FSA Handbooks

The following FSA handbooks concern FLP.

| IF the area of concern is about... | THEN see... |
|---|--------------------|
| appeals and mediation | 1-APP. |
| civil rights compliance and administration for FSA programs | 18-AO. |
| common management and operating provisions for program management activities, functions, and automated applications, such as forms that cannot be accepted by FAX | 1-CM. |
| direct loan making | 3-FLP. |
| direct loan regular or routine servicing | 4-FLP. |
| employee development and training | 6-PM. |
| environmental requirements | 1-EQ. |
| general and administrative regulations governing FLP | 1-FLP. |
| guaranteed loan making and servicing | 2-FLP. |
| the Emergency Loan Seed Producers Program, Horse Breeder Loan Program, Indian Tribal Land Acquisition Program, Special Apple Loan Program, and servicing of minor loan programs | 6-FLP. |
| personnel management, such as employee conflict of interest | 3-PM. |
| policies and procedures for the acquisition of supplies, equipment, and services | 27-AS. |
| procedures for collecting, maintaining, or disclosing data or information about an individual | 3-INFO. |
| procedures for making records available to the public, other Federal agencies, and Congress | 2-INFO. |
| processing collections and canceling loan checks and payments | 3-FI. |
| State and county organization and administration policies, procedures, principles, and standards, such as work organization | 16-AO. |
| State and county records management | 25-AS. |

Notes: See FmHA Instruction 1945-A for information on the disaster designation process.

RD Instruction 1940-G must be used along with 1-EQ.

See RD Instructions 1951-C and 1956-B for information on administrative offset and debt settlements, respectively.

B Helpful Links

The Helpful Links web site at

-[https://arcticocean.sc.egov.usda.gov/flp/InformationalLinks?Action=HelpfulLinks&caller=index--](https://arcticocean.sc.egov.usda.gov/flp/InformationalLinks?Action=HelpfulLinks&caller=index--*) provides links to useful web sites.

Section 4 Monitoring the Statute of Limitations (SOL's)

126 Monitoring Actions

A FLC Responsibilities

FLC's are responsible for monitoring delinquent accounts to ensure that deficiency judgment activities occur before the expiration of 6-year SOL's. In general, after 6 years from the date SOL begins to run, FSA may not obtain a deficiency judgment against a delinquent borrower. FSA may still pursue collection through liquidation of the security and other collection activities, such as offsets and referral of the debt to the Department of Treasury for
--cross-servicing and/or AWG.--

FLC's shall ensure that:

- the 6-year SOL's on delinquent accounts are monitored
- all cases in which 6-year SOL's have not yet run receive top servicing priority before the statute bars judicial collection through a deficiency judgment
- in cases where 6-year SOL's may bar collection through a deficiency, but the debtor has repayment ability or other assets, consult with the Regional Attorney to determine if a deficiency judgment can be sought.

Note: Consult with the Regional Attorney to determine whether State law prevents FSA from pursuing offset collection or referring deficiency judgments for TOP.

*--If FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced according to Part 24.

Judgment debt will be serviced according to Part 11, Section 3.--*

126 Monitoring Actions (Continued)

***--B Authorized Agency Official Action**

Each authorized agency official shall maintain a list of all delinquent accounts where--*
6-year SOL's may bar deficiency collection within the next 24 months.

Note: In certain situations, the time period remaining under SOL's may be suspended because of other actions that may have prohibited FSA from enforcing collection of the debt such as the debtor filing bankruptcy.

C Quarterly Reports

Each quarter, authorized agency officials shall send an updated list of cases in subparagraph B to DD's and FLC's.

406 Servicing Chapter 11, 12, and 13 Cases After the Bankruptcy Case Is Closed

A Removing the “SAA” Flag and Writing Off Discharged Debt

Upon receipt of the discharge order from the Bankruptcy Court, the authorized agency official will review the borrower records to determine whether FSA will cancel any discharged debt.

If all liable parties are discharged and the bankruptcy is closed, the authorized agency official will debt settle the remaining discharged debt according to RD Instruction 1956-B, Section 1956.70(b)(3).

The State Office will forward the approved RD 1956-1, with a copy of the discharge, to FLOO for processing the debt cancellation.

FLOO will remove the “SAA” flag and process the necessary transactions to write off any portion of the debt.

*--If some, but not all, of the liable parties were discharged of the debt, the authorized agency official will:

- consult with the regional OGC to determine what, if any, collection action can be taken against nondischarged individuals, entities, etc., and any remaining security
- classify the account “CO”, according to Exhibit 11, subparagraph E, if there is no remaining security
- take all allowable collection actions in a timely manner, including collection of unsecured account balances according to Part 24
- determine, in consultation with the regional OGC, if a partial cancellation of the debt, such as canceling the discharged debt amount that is still owed by the nondischarged individuals, would be appropriate and/or financially beneficial to the Government

Note: If partial cancellation is appropriate, submit a request for an exception to RD Instruction 1956-B, Section 1956.57(k) to the National Office. For:

- debt settlement exception authority, see RD Instruction 1956-B, Section 1956.99
- information on submitting an exception request, see paragraph 4.
- monitor these accounts closely to ensure timely resolution.

Note: In cases where partial cancellation is completed, the cancellation of debt for the nondischarged individuals will be debt forgiveness for FLP program purposes, and IRS Form 1099-C will be issued for the amount of the canceled debt.--*

406 Servicing Chapter 11, 12, and 13 Cases After the Bankruptcy Case Is Closed (Continued)**B Returning to Regular Servicing**

After the bankruptcy case is closed, the authorized agency official will service bankruptcy loans according to 4-FLP, subject to the confirmed reorganization plan.

C Servicing if the Borrower Defaults on the Confirmed Reorganization Plan

If a borrower becomes 90 calendar days past due or is in nonmonetary default after the court issued a discharge order and after the case is closed under Chapter 11, 12, or 13 of the Bankruptcy Code, the authorized agency official will notify the borrower of loan servicing options according to Part 3, unless servicing actions would be inconsistent with the confirmed bankruptcy plan or the Bankruptcy Code or FSA has referred the account to DOJ.

If the account is in nonmonetary default, OGC concurrence will be obtained before acceleration.

407 Liquidation During Bankruptcy**A Automatic Stay Requirements**

FSA must receive relief from the automatic stay from the Court before liquidating the borrower's security. If the Court allows, and all servicing requirements are met, FSA may liquidate the security before the discharge of debt or as otherwise addressed by OGC.

B Chapter 7 Cases After Discharge

In Chapter 7 cases after discharge, FSA will liquidate the account as authorized by OGC if both of the following are true:

- the borrower has not reaffirmed the debt
- an Abandonment Order for the FSA security has been issued by the court or the bankruptcy case is closed.

In cases when 1 or more borrowers have received a discharge, but at least 1 borrower remains liable:

- DLS must be updated with either a 4A or 4D transaction to list the account in the name of any remaining liable debtors
- related entity status of the discharged individuals or entities should be updated in the DLS Customer Profile Related Entity function to reflect they are no longer a co-borrower/co-signer/guarantor
- the Chapter 7 discharge order must be maintained in the casefile.

407 Liquidation During Bankruptcy (Continued)**B Chapter 7 Cases After Discharge (Continued)**

*--Collection of unsecured account balances will continue for all remaining liable borrowers according to Part 24.

In community property States:

- the authorized agency official will consult with the regional OGC, as needed, before pursuing separate collection action against a nondischarged borrower who is the spouse of a discharged borrower
- when collection action cannot be taken against a nondischarged spouse and the nondischarged spouse is the only remaining liable obligor for the unsecured loan balance, only the individual or entity receiving the discharge will be listed on RD 1956-1.

Note: Notate “Chapter 7 Discharge” after the name and attach a copy of the discharge order.--*

C Canceling the Debt When All Liable Parties Are Discharged

If all liable parties are discharged and the FSA security is liquidated, FSA may cancel the debt according to RD Instruction 1956-B.

D Notifying Borrower if Servicing Options Are Remaining

If the authorized agency official did not previously notify the borrower’s attorney or borrower of any servicing options before or during the course of the bankruptcy proceedings, FSA will send the notices according to subparagraph 401 C before liquidating any security property.

E When FSA Previously Notified the Borrower of Servicing Options

If the authorized agency official previously notified the borrower’s attorney or borrower of the remaining servicing options and none remain, FSA will accelerate the account and liquidate according to Part 16 and any instructions from OGC.

Note: The borrower may **not** appeal the acceleration.

407 Liquidation During Bankruptcy (Continued)***--F Discharged Borrower Keeps FLP Loans Current**

Borrowers who have received a bankruptcy discharge may continue to pay FLP loans that are secured by real estate. In these cases, OGC may advise that foreclosing against the security is **not** possible unless the secured loans become delinquent.

The authorized agency official will:

- classify the account “CO”, according to Exhibit 11, subparagraph E, to ensure that no offset is taken as a result of unsecured delinquent loans
- monitor the TOP screens to ensure that all unsecured discharged loans are removed from TOP consideration according to Exhibit 15
- determine whether a partial cancellation of the debt, according to paragraph 956, would be appropriate and in compliance with the bankruptcy discharge order, by canceling the discharged unsecured debt while maintaining the loans secured by real estate that are **not** delinquent
- continue monitoring the account until the secured loans are paid in full or become delinquent.

If the secured loans become delinquent, consult with the regional OGC, as needed, to determine whether any additional notices must be sent before liquidating the security.

Note: If a partial cancellation is processed with an approved exception to RD Instruction 1956-B, Section 1956.57, and there is a balance remaining on the secured loans after liquidation, SED may be the authorized approval official to cancel the remaining debt. See RD Instruction 1956-B, Exhibit B.--*

408 Acceptance of Conveyed Property From Trustee in Bankruptcy**A Conditions for Acceptance of Conveyed Property**

FSA may accept conveyance of property by the Trustee in a bankruptcy case if:

- the automatic stay has been lifted
- conveyance will permit a substantial recovery of FSA debt
- FSA will acquire title free of all liens and encumbrances except for FSA's liens
- conveyance is in FSA's interest.

SED is authorized to accept a conveyance of property to the Government.

B Fees Connected With the Conveyance

FSA may voucher and charge to the borrower's account any necessary and proper fees approved by the Bankruptcy Court in connection with the conveyance. Before paying a fee to a trustee for a Trustee's Deed in excess of \$1,000 for FLP loans, the authorized agency official must obtain approval from the Administrator. SED will process payment of fees as outlined in 4-FLP, Part 6.

C Deeds

Conveyance of the borrower's property to FSA may be by a Trustee's Deed instead of a warranty deed if, upon advice of OGC, FSA determines that such a deed is necessary to obtain clear title.

D Crediting the Borrower's Account

FSA will credit the borrower's account after accepting a conveyance of property. If the market value of the acquired property equals or exceeds the debt, the account is satisfied. If the debt exceeds the market value of the acquired property, FSA will credit the account by the market value of the security.

E Property Acquisition Reporting Requirements

FSA will report property acquisitions according to Part 14.

409-420 (Reserved)

Section 2 Civil and Criminal Cases

421 Handling Civil and Criminal Cases

A Criteria for Pursuing Civil Cases

FSA will pursue a civil court action against a borrower or third party when:

- the borrower fails to make required payments or to cure nonmonetary default
- all administrative authorities to protect FSA's interests have been exhausted.

B Pursuing Criminal Cases

If it appears that an applicant, borrower, or third party committed a criminal violation in any manner, SED will refer the case to the appropriate authorities for investigation and possible prosecution.

If it appears that an applicant, borrower, or third party committed a criminal violation related to the loan, SED will notify OIG for possible criminal investigation according to 9-AO, paragraph 53. SED must also send a copy of this notification to OGC. If OIG decides to investigate, SED will consult with OIG before taking any action against the borrower.

C Collection of Information and Referral to State Office

The authorized agency official will refer civil and criminal cases to the State Office using FSA-2550, FSA-2551, if applicable, a Claims Collection Litigation Report, and/or any relevant information as required by SED.

D Role of State Office

SED will review the required forms and information submitted and refer the case to OGC, if required. SED should consult with OGC and the U.S. Attorney and issue a State supplement if any additional information is required. The State Office will flag the account "CAP" upon *--referral to OGC. If a judgment is:

- obtained against a borrower, the account must be set up with judgment coding using a 3B transaction and FSA-2576, and the "CAP" flag should be removed from the borrower's account
- obtained against a third party, the State Office will complete and send FSA-2562 to FLOO attached to the 5G transmittal letter to be flagged "TPJ" (Exhibit 11), and the "CAP" flag should be removed
- to be reversed, the State Office must send FSA-2562 to FLOO attached to a 5H transmittal letter.

Note: Only FLOO can assign or reverse a "TPJ" flag.--*

421 Handling Civil and Criminal Cases (Continued)**E Notification to Third Party Purchasers When a Borrower Has Not Properly Accounted for Proceeds**

When a borrower has not properly accounted for the proceeds of the sale of security, FSA will first look to the borrower for restitution. If FSA is in liquidation, FSA will usually attempt to liquidate remaining chattel security on which FSA holds a first lien before making demand or taking civil action against third party purchasers. However, FSA will, with SED concurrence, notify a third party purchaser according to 4-FLP, paragraph 181 when it is necessary to protect the interest of the Government.

F Notification When a Borrower Has Not Properly Accounted for Proceeds

When a borrower has not properly accounted for the proceeds of the sale of security, FSA will service the account according to 4-FLP, Part 7.

***--G Deficiency Judgment**

In some cases, it is in the Government's best interest to obtain a deficiency judgment for balances remaining after all security has been liquidated.

The authorized agency official shall:

- make a recommendation about whether a deficiency judgment should be pursued according to subparagraph 533 F
- include information about nonsecurity assets on which a judgment lien may be obtained when referring cases to the State Office according to subparagraph C.

Note: Pursuing a deficiency judgment on every case is **not** advisable and may not be a good use of Government resources.--*

422-430 (Reserved)

433 Servicing Judgment Debts Returned by DOJ

A Servicing Accounts Returned by DOJ

Service accounts returned by DOJ according to the following table.

| IF the judgment has... | THEN... |
|---|---|
| <p>not expired</p> | <ul style="list-style-type: none"> • pursue internal administrative offset according to RD Instruction 1951-C, if collection of farm program payments is possible • refer the account to Treasury for TOP offset *--according to Exhibit 15, cross-servicing according to Exhibit 16, and AWG according to Exhibit 36, as appropriate; State Offices shall: <ul style="list-style-type: none"> • complete FSA-1956-20 and classify the--* account as CNC by processing transaction code “3K” with a class of writeoff code “5”, except for employee defalcations and third party judgments • submit FSA-1956-21 to FLOO, PRG by FAX at *--314-457-4478.--* <p>Notes: In cases where an acceptable debt settlement offer is received from the debtor before referral to cross-servicing, the State Office may process it according to Exhibit 16 and RD Instruction 1956-B and applicable FLP notices.</p> <p>Referral of the debt to cross-servicing is required unless any of the exceptions under 31 CFR 285.12 apply or if the borrower is no *--longer eligible for cross-servicing. The exceptions are included in FSA-1956-20.--*</p> |
| <p>expired (20 years from the date of judgment, unless renewed)</p> <p>Note: If the U.S. Attorney states the judgment expired after 10 years, then consult the Regional Attorney to determine whether the judgment can be revived.</p> | <p>cancel the debt according to Exhibit 16 and RD Instruction 1956-B and applicable FLP notices.</p> |

434 Debt Settlement of Judgment Debts**A RD Instruction 1956-B**

Currently, RD Instruction 1956-B does **not** address canceling, compromising, or adjusting judgment debts. New regulations are being developed to provide guidance on debt settling judgment debts. Before publication of the regulation, judgment debts shall be canceled, compromised, or adjusted similarly to Exhibit 16 and RD Instruction 1956-B, Sections 1956.66, 1956.67, 1956.68, 1956.70, or Exhibit B that authorizes canceling, compromising, and adjusting nonjudgment debts.

B RD 1956-1 Documentation

Insert any of the following that apply in RD 1956-1, Part VIII, the:

- U.S. Attorney's file is closed
- judgment has expired 20 years after the judgment date, and the judgment is not renewed

Note: If the U.S. Attorney states that the judgment expired after 10 years, consult the regional OGC to determine whether the judgment can be revived.

- debt was returned from cross-servicing as uncollectible
- debt settlement amount offered by the debtor is acceptable based on the verified assets, debts, income, and expenses
- debtor is unable to pay any part of the debt and has no reasonable prospect of being able to pay any part of the debt
- *--debt cannot be collected through Federal salary offset and/or AWG.--*

C Releasing Judgment Lien by the Department of Justice

The State Office shall send notice to the U.S. Attorney's Office that it has canceled the debt that is the subject of a judgment lien. The notice should request that this judgment lien be released.

435-440 (Reserved)

Part 12 Liquidation Overview

441 Introduction to Liquidation

A General Information

Parts 13 through 17 address complete liquidation of security. Partial disposition of security is handled according to 4-FLP, Part 7. The liquidation parts are:

- Part 13, Voluntary Liquidation
- Part 14, Voluntary Conveyance of Security
- Part 15, Loan Acceleration
- Part 16, Involuntary Liquidation
- Part 17, Liquidation by a Third Party.

While FSA works with a borrower to complete voluntary liquidation, FSA does not delay involuntary liquidation procedures to accommodate the borrower.

B Voluntary Liquidation

A borrower may voluntarily liquidate FSA loan security by 1 or more of the following:

- selling security as described in Part 13
- transferring security as described in 4-FLP, Part 9
- conveying security as described in Part 14.

A current borrower or a borrower in default may voluntarily liquidate FSA security.

FSA does not set any time limits or establish formal procedures for the current borrower who voluntarily decides to sell farming assets, as long as the borrower continues to meet all FSA loan obligations and liquidates the security according to FSA requirements.

C Involuntary Liquidation

If a borrower in default has received all servicing options, is unable to develop a feasible plan, and does not voluntarily liquidate FSA security according to FSA mandated servicing timeframes, FSA will initiate or continue involuntary liquidation actions according to Part 16.

442 Conditions for Liquidation

A Current Borrowers

With prior Agency approval, a borrower who is not in default may voluntarily liquidate the security to repay FSA loans in full. The borrower may apply for debt settlement according to Exhibit 16 and RD Instruction 1956-B if complete liquidation of all FSA loan collateral will not satisfy the FSA debt.

--If FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced according to Part 24.--

B Program Borrowers in Default

[7 CFR 766.351(b)] (1) If the borrower does not apply, does not accept, or is not eligible for primary loan servicing, conservation contract, market value buyout or homestead protection, and all administrative appeals are concluded, the Agency will accelerate the borrower's account in accordance with §§766.355 and 766.356 (Part 15), as appropriate.

(2) Borrowers may voluntarily liquidate their security in accordance with §§ 766.352, 766.353 and 766.354 (Part 13). In such case, the Agency will:

(i) Not delay involuntary liquidation action.

(ii) Notify the borrower in accordance with subpart C (Part 3) of this part, prior to acting on the request for voluntary liquidation, if the conditions of paragraph (b)(1) of this section have not been met.

If a borrower in default wants to voluntarily liquidate security before FSA accelerates the borrower's loans, the borrower must pursue voluntary liquidation according to the applicable liquidation method as described in Parts 13 and 14 or 4-FLP, Part 9. However, FSA will continue to notify the borrower of primary loan servicing according to Parts 3 and 6 and to follow the process of acceleration and involuntary liquidation without delay. When discussing voluntary liquidation with the borrower, they should be informed that if they are in default and the default cannot be cured, FSA cannot pause and will continue to process the account to acceleration and liquidation if necessary. The authorized agency official must be aware that several actions may need to be taken simultaneously.

463 Closing the Sale of Real Property (Continued)**B Release of Liens**

If the proceeds pay the borrower's FSA debts in full, FSA will release its liens and return the appropriate documents to the borrower according to 4-FLP, paragraph 65.

C Remaining Balance

[7 CFR 766.352(a)(5)] If an unpaid loan balance remains after the sale, the Agency will continue to service the loan in accordance with subpart B of 7 CFR part 1956.

*--If FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced according to Part 24.

Judgment debt will be serviced according to Part 11, Section 3.--*

464 Voluntary Liquidation of Chattel**A Methods of Voluntary Liquidation**

[7 CFR 766.352(b)] If the borrower complies with paragraph (a) (paragraphs 461 through 463) of this section, the borrower may sell chattel security by:

[7 CFR 766.352(b)] (1) public sale if the borrower obtains the agreement of lienholders as necessary to complete the public sale; or

For a public sale, the borrower must assist the authorized agency official in completing FSA-2571 and revising FSA-2040. FSA-2571 can be completed to give FSA custodial possession (not ownership) of the collateral or as an agreement for the borrower to sell the property.

[7 CFR 766.352(b)] (2) private sale if the borrower:

(i) Sells all of the security for not less than the market value;

(ii) Obtains the agreement of lienholders as necessary to complete the sale;

(iii) Has a buyer who is ready and able to purchase the property; and

(iv) Obtains the Agency's agreement for the sale.

For a private sale, the borrower must assist the authorized agency official in completing FSA-2571 and FSA-2040. The authorized agency official must document the reasons a public sale is not in FSA's best interest. If the account is in default, servicing will continue without delay.

464 Voluntary Liquidation of Chattel (Continued)**B Lien Search**

The authorized agency official will obtain a lien search on the security being sold unless accurate and complete lien information is available in the borrower's case file. The purpose of the search is to:

- determine the liens of other parties on the property and their effect on liquidation
- ensure proper distribution of sale proceeds.

--The borrower will pay the cost of all lien searches. See 3-FLP, Part 16 on conducting a-- lien search. SED may issue a State supplement as appropriate.

C Appraisal

FSA will appraise the property according to 1-FLP, Part 6 if the borrower pursues a private sale. FSA will not generally appraise chattel property to be sold at public auction.

D Sales That Do Not Satisfy the Borrower's Debt

If the estimated net sale proceeds of the property will not fully pay a borrower's secured debts, but the sale price is at least equal to the market value of the security, the authorized agency official may approve the sale. If the borrower submits a debt settlement application with the sale request, the authorized agency official will forward the file to SED with the documentation required by RD Instruction 1956-B.

E Approving the Sale

The authorized agency official may attend the sale at their discretion and must contact the auctioneer or clerk of the sale to ensure proper distribution of the sale proceeds.

F Rejecting the Sale Request

If the authorized agency official does not approve the request for sale, the borrower will be notified in writing of the reasons for not approving the sale and offered appeal rights according to 1-APP.

465 Closing the Sale of Chattel

A Processing the Sale Proceeds

The auctioneer or clerk of sale will distribute the sale proceeds according to lien priority as specified on FSA-2571.

After the sale, the authorized agency official will:

- record the transaction and credit the borrower's account
- record the sale of chattel on FSA-2040
- apply the proceeds from the sale to the borrower's FSA loan account according to 4-FLP, Part 5.

B Release of Liens

If the proceeds pay the borrower's FSA debts in full, FSA releases its liens and returns the appropriate documents to the borrower according to 4-FLP, paragraph 65.

C Remaining Balance

If the proceeds do not pay the borrower's FSA debt in full, FSA will continue to service the borrower's account. * * *

*--If FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced according to Part 24.

Judgment debt will be serviced according to Part 11, Section 3.--*

466-480 (Reserved)

Section 2 Voluntary Conveyance of Real Property

496 Before Receiving Conveyance Offers of Real Property

A Borrower Meeting

Before accepting the conveyance of real estate, FSA will schedule a meeting with the borrower to discuss FSA's conveyance requirements, and ensure that FSA has provided a loan servicing notification package to the borrower according to paragraph 66.

The authorized agency official will provide the borrower with FSA-2570, RD 1956-1, a warranty deed form, and a list of the requirements to make a complete conveyance offer.

The authorized agency official will inform the borrower that:

- voluntary conveyance is a method of liquidation

Note: The borrower must liquidate, convey, or do a combination of both for all real property and chattel that secures the borrower's FSA loans.

- any equity in the property to be conveyed may be lost through conveyance as FSA will ensure that all debts and expenses associated with the account are paid before any equity distribution
- FSA may place "right of access" easements to other property, deed restrictions, and/or easements on the property if the property contains wetlands or historic structures or is located on a flood plain according to Part 22

Note: These restrictions may affect the price of the property if the borrower purchases the property under the Homestead Protection Program, and may affect FSA's net recovery value.

- there could be tax consequences

Note: FSA does not give tax advice. The borrower should consult a tax professional or the IRS for any guidance on this issue. FSA does not release proceeds for income taxes. The property is owned by the borrower and the borrower is responsible for any capital gains taxes.

- *--FSA may determine that it is able to accept the conveyance of the real estate security, but is unable to approve RD 1956-1 that was submitted with the conveyance offer.

Note: In these cases, FSA will accept the conveyance and deny the debt settlement application. See subparagraph 499 F for additional guidance.--*

497 Real Property Conveyance Application Requirements

A Application

[7 CFR 766.353(a)] The borrower must supply the Agency with the following:

[7 CFR 766.353(a)] (1) An Agency application form;

The borrower must complete and submit FSA-2570.

[7 CFR 766.353(a)] (2) A current financial statement. If the borrower is an entity, all entity members must provide current financial statements;

[7 CFR 766.353(a)] (3) Information on present and future income and potential earning ability;

[7 CFR 766.353(a)] (4) A warranty deed or other deed acceptable to the Agency;

The borrower must provide a warranty deed. The authorized agency official does not record the deed until FSA accepts the conveyance.

[7 CFR 766.353(a)] (5) A resolution approved by the governing body that authorizes the conveyance in the case of an entity;

An entity must provide a resolution approved by the organization's governing body unless the entity is a joint operation of a husband and wife when both are liable. The resolution must identify the officials authorized to execute the offer and deed on behalf of the borrower. If shareholder approval is required, the resolution must confirm that the entity has obtained shareholder approval.

497 Real Property Conveyance Application Requirements (Continued)

A Application (Continued)

[7 CFR 766.353(a)] (6) Assignment of all leases to the Agency. The borrower must put all oral leases in writing;

The borrower must put oral leases, including all terms and conditions, in writing and assign all leases to FSA. If a borrower is leasing land on which FSA holds a security interest to a third party for income, FSA will receive all lease proceeds after the conveyance. See 4-FLP, Part 5 for handling lease proceeds.

[7 CFR 766.353(a)] (8) Complete debt settlement application in accordance with subpart B of 7 CFR part 1956 before or in conjunction with the voluntary conveyance offer if the value of the property to be conveyed is less than the Agency debt; and

The borrower must complete and submit RD 1956-1 with all required supporting documentation for debt settlement, unless the value of the voluntary conveyance security fully satisfies the FSA debt. * * *

--The debt settlement application will be processed according to paragraph 955. The-- applications for voluntary conveyance and debt settlement will normally be approved or denied together; however, the voluntary conveyance application can be approved while denying the debt settlement application if SED believes it to be in the Government's best interest.

[7 CFR 766.353(a)] (9) Any other documentation required by the Agency to evaluate the request.

498 Additional Requirements**A Other Use Rights**

If water rights, mineral rights, development rights, or other use rights encumbered by FSA are not included in the warranty deed, or other guidance is needed, the authorized agency official refers the case to SED to obtain OGC guidance as required on the appropriate documents needed to transfer these rights to FSA. SED may issue a State supplement as required.

B Obtaining an Appraisal

The authorized agency official will obtain an appraisal of the property to establish its current market value. The appraisal must be based on the “as is” market value according to 1-FLP, Part 6 and must not include potential deed restrictions or easements FSA may place on the property.

C Conducting a Due Diligence Review

The authorized agency official will arrange to conduct a due diligence review to assess environmental risk according to 1-EQ. A qualified agency official will conduct the due diligence review to determine whether FSA requires a more detailed environmental review. The cost of any hazardous waste or other environmental clean-up identified by the due diligence review may be considered by FSA, but will not usually be included in Exhibit 37 as clean-up is usually not required for sale of the property.

D Obtaining a Title Search**[7 CFR 766.353(a)(7)] Title insurance or title record for the security, if available;**

The authorized agency official will conduct a new lien search, according to the standard procedures used in the borrower’s State and the State supplement issued according to subparagraph 462 B, if adequate title information is not available in the borrower’s case file.

The borrower will pay the cost of all title searches or it will be charged to the borrower’s account. The authorized agency official will obtain a title search according to the standard procedures used in the borrower’s State.

499 Processing the Borrower's Conveyance Offer (Continued)**C Prior and Junior Liens (Continued)**

If the borrower does not satisfy all junior liens, the loan approval official may contact junior lienholders to negotiate the most favorable settlement possible and determine whether it is in FSA's best interest to settle the lien.

SED must approve all junior lien settlements.

The authorized agency official will charge any payments on junior liens to the borrower's account.

D Rejecting the Conveyance

If the approval official determines that FSA should not accept the conveyance, the authorized agency official will deny the conveyance, clearly stating the reasons for the rejection, offering appeal rights under 1-APP, and returning the original FSA-2570 and the warranty deed to the borrower. A copy of FSA-2570 and warranty deed will be retained in the case file.

E Accepting the Conveyance

If the approval official determines that FSA should accept the conveyance, FSA-2570 will be executed.

***--F Accepting the Conveyance and Rejecting the Debt Settlement Application**

In cases where FSA accepts the conveyance offer and denies the debt settlement application, the authorized agency official will encourage the borrower to negotiate an acceptable debt settlement offer.

The authorized agency official will advise the borrower that:

- after all debt settlement appeal rights have been concluded, and the conveyance has been completed, the borrower will be notified of any remaining account balance
- if the borrower does not pay the remaining account balance, any administrative offset (including IRS tax refunds, Federal salaries, Federal contractor/vendor payments, Federal benefit payments such as Social Security, and State income tax refunds for States participating in centralized offset through TOP) will continue
- the debt may also be referred to Treasury's cross-servicing program where Treasury may pursue collection by garnishing the borrower's wages. Treasury adds a collection fee for all monies it collects.

Negotiating an acceptable debt settlement with FSA should be strongly encouraged to avoid collection actions on the remaining balance and additional collection fees by Treasury.--*

500 Closing the Real Property Conveyance**A Recording the Deed**

The authorized agency official will forward the deed and release of lien to the closing agent with instructions for closing the conveyance, recording the deed, and releasing the lien provided no new liens have been recorded since the title search.

The closing agent will provide a certification of title to FSA after recording the deed. The title must have no other liens or encumbrances except for those previously approved by FSA.

B Junior or Unauthorized Liens

If the closing agent discovers junior or other unauthorized liens, the closing agent provides the authorized agency official with the lienholder's name, amount of lien, date recorded, and the recording information. The closing agent will return the unrecorded deed to the authorized agency official and await further instructions.

The authorized agency official will notify the borrower of the lien, inform them that they are responsible for resolving the situation, and establish a 30-calendar-day deadline for the resolution or the voluntary conveyance will be denied. The conveyance will not be closed unless the unauthorized liens are removed. In the meantime, FSA will proceed with required servicing actions with no delay.

C Charging the Borrower's Account

[7 CFR 766.353(d)(1)] The Agency will charge the borrower's account for all recoverable costs incurred in connection with a conveyance in accordance with § 765.203 (4-FLP, Part 6) of this chapter.

The authorized agency official will charge the borrower's account for all recoverable costs and expenses in connection with the conveyance according to 1-FLP, Exhibit 26. These costs may include taxes and assessments, other liens, closing agent fees, and any other authorized costs.

500 Closing the Real Property Conveyance (Continued)**D Crediting the Borrower's Account**

[7 CFR 766.353(d)(2)] The Agency will credit the borrower's account for the amount of the market value of the property less any prior liens, or the debt, whichever is less. In the case of an American Indian borrower whose loans are secured by real estate located within the boundaries of a Federally recognized Indian reservation, however, the Agency will credit the borrower's account with the greater of the market value of the security or the borrower's Agency debt.

If the market value is equal to or greater than the borrower's account balance, including prior liens and all other recoverable costs, and always in the case of an American Indian borrower that meets the criteria in this subparagraph, the conveyance satisfies the account. The authorized agency official will stamp the notes "Satisfied by Surrender of Security and Borrower Released from Liability," and return them to the borrower with a copy of FSA-2570 showing FSA's acceptance.

If the conveyance does not satisfy the account, the authorized agency official will credit the borrower's account for the market value of the loan collateral, less prior liens, and provide the borrower a copy of FSA-2570 showing FSA's acceptance of the conveyance.

After a voluntary conveyance of security is closed and no FSA security remains under its security instruments, FSA liens of record are released according to 4-FLP, Part 5.

*--If RD 1956-1 submitted according to subparagraph 497 A was:

- acceptable to FSA, the authorized agency official will process the approved debt settlement for any remaining loan balance
- denied and all appeal rights have been exhausted, the authorized agency official will service the debt according to Part 24.--*

500 Closing the Real Property Conveyance (Continued)

E Final Processing

After FSA acquires the property, the authorized agency official will:

- record the property and assign it an ID number in ADPS
- complete a 3E transaction in ADPS as an advice of property acquired transaction

Note: The date of acquisition is the date the deed to FSA is recorded.

- complete a 5L transaction in ADPS as an acquired property maintenance transaction

Note: The date of acquisition is the date the deed to FSA is recorded.

- prepare an inventory account file according to Part 19. The certificate of title obtained by FSA will be placed in this file.

501-515 (Reserved)

Section 3 Voluntary Conveyance of Chattel

516 Before Receiving Conveyance Offers of Chattel

A Borrower Meeting

Before accepting the conveyance of chattels, the authorized agency official will schedule a meeting with the borrower to discuss FSA's conveyance requirements. The authorized agency official will ensure that FSA has provided a loan servicing notification package to the borrower.

The borrower will be strongly encouraged to execute FSA-2571 as opposed to beginning the voluntary conveyance process as it is simpler and quicker and does not require SED approval or a concurrent debt settlement application. Chattels may sometimes be conveyed as fixtures as described in subparagraph 481 A.

The authorized agency official will also inform the borrower that:

- voluntary conveyance is a part of liquidation

Note: The borrower must liquidate, convey, or do a combination of both for all real property and chattel that secures the borrower's FSA loans.

- any equity in the property to be conveyed may be lost through conveyance
- there could be tax consequences

Note: FSA does not give tax advice. The borrower should consult a tax professional or the IRS for any guidance on this issue. FSA does not release for income taxes. The property is owned by the borrower and the borrower is responsible for any capital gains taxes.

- *--FSA may determine that it is able to accept the conveyance of the chattel security, but is unable to approve RD 1956-1 that was submitted with the conveyance offer.

Note: In these cases, FSA will accept the conveyance and deny the debt settlement application. See subparagraph 499 F for additional guidance.--*

The authorized agency official will provide the borrower with FSA-2570, FSA-2070, RD 1956-1, and a list of the requirements to make a complete conveyance offer.

517 Chattel Conveyance Application Requirements**A Application**

[7 CFR 766.354(a)] The borrower must supply the Agency with the following:

[7 CFR 766.354(a)] (1) An Agency application form;

The borrower must complete FSA-2570.

[7 CFR 766.354(a)] (2) A current financial statement. If the borrower is an entity, all entity members must provide current financial statements;

[7 CFR 766.354(a)] (3) Information on present and future income and potential earning ability;

[7 CFR 766.354(a)] (4) A bill of sale including each item and titles to all vehicles and equipment, as applicable;

The borrower must complete FSA-2070 for all chattel securing FSA debt.

The borrower must provide FSA with titles for all titled vehicle or equipment security if FSA does not have such titles on file.

[7 CFR 766.354(a)] (5) A resolution approved by the governing body that authorizes the conveyance in the case of an entity borrower;

An entity borrower must provide a resolution approved by the organization's governing body. The resolution must identify the officials authorized to execute the offer and deed on behalf of the borrower. If shareholder approval is required, the resolution must confirm that the entity has obtained shareholder approval.

The authorized agency official may request additional information from the borrower if it is required to make a determination on the conveyance offer.

517 Chattel Conveyance Application Requirements (Continued)

A Application (Continued)

[7 CFR 766.354(a)] (6) Complete debt settlement application in accordance with subpart B of 7 CFR part 1956 before or in conjunction with the voluntary conveyance offer if the value of the property to be conveyed is less than the debt.

The borrower must complete and submit RD 1956-1 with all required supporting documentation for debt settlement, unless the value of the voluntary conveyance security will fully satisfy the FSA debt. * * *

--The debt settlement application will be processed according to paragraph 955. The-- applications for voluntary conveyance and debt settlement will normally be approved or denied together; however, the voluntary conveyance application can be approved while denying the debt settlement application if SED believes it to be in the Government's best interest.

518 Additional Requirements**A FSA Actions After Receiving Offer**

[7 CFR 766.354(b)] The Agency will accept conveyance of chattel only if:

[7 CFR 766.354(b)] (1) The borrower has made every possible effort to sell the property voluntarily;

This includes consideration of the execution of FSA-2571.

[7 CFR 766.354(b)] (2) The borrower can convey the chattel free of other liens;

- The authorized agency official will conduct a lien search to verify that FSA is the only lienholder on the chattels.
- The authorized agency official conducts or obtains a chattel inspection and appraisal. The inspection and appraisal are required to account for all chattel security listed in the borrower's offer and to determine the market value of the property. The authorized agency official will conduct the appraisal according to 1-FLP, Part 6 as appropriate.
- The authorized agency official will determine the likely recovery value to FSA and whether the conveyance will satisfy the borrower's account. To calculate the recovery value, the authorized agency official will subtract all estimated expenses, including acquisition, preparation, and auction costs, from the appraised market value of FSA security.

The authorized agency official will document that approval of the voluntary conveyance is in FSA's best interest.

[7 CFR 766.354(b)] (4) The borrower conveys all chattel securing the Agency loan; and

The authorized agency official will confirm that the conveyance offer includes all chattel property securing FSA debts. If the borrower has real property securing an FSA loan that is not part of the conveyance offer, the authorized agency official must document that the borrower is liquidating this security by another method approved by FSA. All sales must be completed before the voluntary conveyance.

[7 CFR 766.354(b)] (5) The borrower has received prior notification of the availability of loan servicing in accordance with subpart C (Part 3) of this part.

The authorized agency official will document that the borrower received the proper primary loan servicing notices according to paragraph 66.

520 Closing the Chattel Conveyance**A Charging the Borrower's Account**

[7 CFR 766.354(c)(1)] The Agency will charge the borrower's account for all recoverable costs incurred in connection with the conveyance in accordance with § 765.203 (4-FLP, Part 6) of this chapter.

B Crediting the Borrower's Account

[7 CFR 766.354(c)(2)] The Agency will credit the borrower's account in the amount of the market value of the chattel.

If the appraised market value of the chattel is equal to or greater than the borrower's debt, the conveyance satisfies the account. The authorized agency official will stamp the notes "Satisfied by Surrender of Security and Borrower Released from Liability" and send them to the borrower.

If the appraised market value of the security is less than the borrower's debt, the authorized agency official will credit the account by the market value of the chattel. * * *

*--If RD 1956-1 submitted according to subparagraph 517 A was:

- acceptable to FSA, the authorized agency official will process the approved debt settlement for any remaining loan balance
- denied and all appeal rights have been exhausted, the authorized agency official will service the debt according to Part 24.--*

C Final Processing

After FSA acquires the property, the authorized agency official will:

- complete a 3E transaction in ADPS as an advice of property acquired transaction

Note: The date of acquisition is the date the authorized agency official takes possession of chattel security after determining all conditions are met.

- complete a 5L transaction in ADPS as an acquired property maintenance transaction

Note: The date of acquisition is the date the authorized agency official takes possession of chattel security after determining all conditions are met.

- prepare an inventory account file according to paragraph 721.

521-530 (Reserved)

568 FSA Actions After Foreclosure (Continued)**E Outstanding Loan Balances Remaining After Foreclosure**

[7 CFR 766.357(b)(5)] If an unpaid balance on the Agency loan remains after the foreclosure sale of the property, the Agency may debt settle the account in accordance with subpart B of 7 CFR Part 1956.

*--If FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced according to Part 24.

Judgment debt will be serviced according to Part 11, Section 3.--*

569 Real Property Located Within a Federally Recognized Indian Reservation**A General Requirements**

The borrower's real property securing FSA debt must be located within the boundaries of a Federally recognized American Indian reservation.

The borrower must be a member of the tribe that has jurisdiction over the reservation.

B Bidding on Real Property

At a foreclosure sale, FSA bids the greater of the property's market value or FSA's debt against the property.

C Crediting the Borrower's Account

[7 CFR 766.357(b)] (3) Notwithstanding paragraph (b)(2) (subparagraph 568 D), for an American Indian borrower whose real property secures an Agency loan and is located within the confines of a Federally-recognized Indian reservation, the Agency will credit the borrower's account in the amount that is the greater of:

- (i) The market value of the security; or**
- (ii) The amount of the Agency debt against the property.**

570-580 (Reserved)

582 FSA Actions After Liquidation**A Documenting Items**

The authorized agency official documents the liquidated items on FSA-2040.

B Charging the Borrower's Account

[7 CFR 766.357(c)(1)] The Agency will charge the borrower's account for all recoverable costs incurred by the Agency as a result of the repossession and sale of the property.

C Crediting the Borrower's Account

[7 CFR 766.357(c)(2)] The Agency will apply the proceeds from the repossession sale to the borrower's account less prior liens and all authorized liquidation costs.

D Outstanding Loan Balances Remaining After Repossession

[7 CFR 766.357(c)(3)] If an unpaid balance on the Agency loan remains after the sale of the repossessed property, the Agency may debt settle the account in accordance with subpart B of 7 CFR Part 1956.

For any outstanding balance remaining after foreclosure for which the borrower is still liable, *--if FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced according to Part 24.

Judgment debt will be serviced according to Part 11, Section 3.--*

In judicial foreclosure States only, unless the borrower voluntarily liquidated with a release of liability or debt settlement, SED completes FSA-2576 and completes a 3B transaction in ADPS to record a judgment account, if applicable.

583-600 (Reserved)

604 Redemption Rights**A Authority to Redeem Property**

When State law provides FSA with redemption rights after a liquidation sale, SED will make the final determination on whether FSA will exercise its redemption rights, based on the best financial interest of the Government.

B Preparing the Case File

The authorized agency official will update the case file to forward to SED when the estimated recovery value of the liquidated property is substantially greater than the amount of the claim, prior liens, and sale expenses. The authorized agency official will prepare the case file to include all necessary information for SED to make a determination. The case file must include:

- a current appraisal of the property
- Exhibit 60 as justification for the redemption
- lien search or title opinion
- documentation explaining why acquiring the property is in FSA's best interest
- all other relevant value and cost factors, including the value of the property after the sale and costs that FSA is likely to encounter in acquiring and reselling the property
- a recommendation from the authorized agency official regarding redemption.

C Timing of Decision

SED must make a decision far enough in advance to allow FSA to exercise its rights and redeem the property.

D Selling Redemption Rights

If SED decides not to redeem the property, FSA will allow its redemption rights to expire. In limited circumstances, SED, after consulting with OGC, may sell redemption rights.

604 Redemption Rights (Continued)

E Final Actions Taken on the Account

The borrower's account will be charged for all recoverable costs according to Part 16.

FSA will apply the proceeds from the repossession sale to the borrower's account less prior liens and all authorized liquidation costs according to Part 16.

For any outstanding balance remaining after foreclosure for which the borrower is still liable, *--if FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced according to Part 24.

Judgment debt will be serviced according to Part 11, Section 3.--*

In judicial foreclosure States only, unless the borrower voluntarily liquidated with a release of liability or debt settlement, SED completes FSA-2576 and completes a 3B transaction in ADPS to record a judgment account, if applicable.

605-700 (Reserved)

904 Property ID Numbers

A Assigning Property ID Numbers

Inventory property ID numbers cannot be duplicated. FSA should use the State and county codes along with 5 additional digits. The last 5 digits must be consecutively numbered within the range of 00001-00499.

Since the property ID numbers include the State and county codes, the same last 5 digits in the number can be used by all counties within the State.

B FIPS Code Clarification

The State and county codes are the non-FIPS numbers used for all * * * FLOO purposes, not the FIPS State and county codes used in former ASCS coding.

905 ADPS 3E Transactions**A Processing ADPS 3E Transaction for Acquisitions**

The ADPS 3E transaction for acquiring property is a combined transaction that affects both a borrower's FSA and RD account. Therefore, anytime property is acquired by FSA or RD from a borrower that has an FSA and RD loan, FLOO must process the ADPS 3E transaction. This is the case even if the property is not cross-collateralized. Under no circumstances can a property be acquired jointly.

B Acquiring Agency Action

When property is acquired by FSA or RD from a borrower who has both an FSA and RD loan, the acquiring agency shall:

- determine agencies' proportionate share using Exhibit 79 only if the 2 agencies share the lien position

Note: The lien position is shared by both FSA and RD when the FSA and RD loans were made at the same time, or the security was taken at the same time, and included on the same mortgage or deed of trust.

- complete Exhibit 80
- *--FAX a copy of Exhibit 79, if applicable, and Exhibit 80 to FLOO at 314-457-4478.--*

Note: If the security is cross-collateralized, a copy of Exhibits 79 and 80 shall also be sent to the nonacquiring agency.

906-949 (Reserved)

--Part 24 Servicing Unsecured Account Balances*950 After Liquidation of Security****A Notices**

After all security for the account has been liquidated, and all proceeds have been applied to the loans, the authorized agency official will send Exhibit 44 and RD 1956-1 to all borrowers liable for the debt.

In cases of voluntary liquidation and/or third party foreclosures, FSA loans might not have been delinquent at the time of sale. As appropriate, the authorized agency official will ensure that all applicable loan servicing and offset notices are sent according to paragraphs 66 through 68.

B Continued Servicing

If borrowers do **not** pay the debt in full or submit a completed RD 1956-1 within 30 calendar days of the date on Exhibit 44, the authorized agency official will determine whether the debt can be classified as CNC according to paragraph 952.

Administrative offset, including internal agency offset of Farm Program payments and centralized offset through TOP, continues until the delinquency is cured. See the following for offset information:

- 7 CFR Part 1951, Subpart C
- 7 CFR Part 3
- RD Instruction 1951-C
- Exhibit 15.

C No Remaining Liable Borrowers

If there is a remaining account balance and there are no liable borrowers for the debt because of bankruptcy discharge, death, etc., the authorized agency official will prepare RD 1956-1 recommending cancellation. For:

- nonjudgment debt, see 7 CFR Part 1956 and RD Instruction 1956-B
- judgment debt, see paragraphs 433 and 434.--*

--951 After Conveyance of Security*A Notices**

According to subparagraphs 497 A and 517 A, the authorized agency official can accept a borrower's conveyance offer and deny a borrower's debt settlement request that was submitted with the conveyance offer. In these cases, after all appeal rights have been concluded and the conveyance has been processed, the authorized agency official will send Exhibit 45 to all liable borrowers for any remaining account balance.

If FSA loans were **not** delinquent at the time of conveyance, the authorized agency official will ensure that all applicable offset notices are sent according to paragraph 68.

B Continued Servicing

If borrowers do **not** pay the debt in full within 30 calendar days of the date on Exhibit 45, the authorized agency official will determine whether the debt can be classified as CNC according to paragraph 952.

Administrative offset, including internal agency offset of Farm Program payments and centralized offset through TOP, continues until the delinquency is cured. See the following for offset information:

- 7 CFR Part 1951, Subpart C
- 7 CFR Part 3
- RD Instruction 1951-C
- Exhibit 15.

C No Remaining Liable Borrowers

If there is a remaining account balance and there are no liable borrowers for the debt because of bankruptcy discharge, death, etc., the authorized agency official will prepare RD 1956-1 recommending cancellation. For:

- nonjudgment debt, see RD Instruction 1956-B
- judgment debt, see paragraphs 433 and 434.--*

--952 CNC Debt*A Required Notification**

Before classifying debt as CNC, borrowers must receive the following:

- all applicable loan servicing notices
- RD form letter 1951-C-1
- 60-day due process letter sent as part of the TOP screening procedure in Exhibit 15
- Exhibit 44 or 45.

Note: Any applicable timeframes about the information in this subparagraph must have expired.

B Debt Eligibility and Classification

The authorized agency official will:

- use FSA-1956-20 to determine CNC eligibility
- submit FSA-1956-20 to the State Office through DD
- ensure that eligible debts are classified CNC using transaction code 3K, class of write off code 5.

Debt that is **not** eligible for CNC may be eligible for debt settlement. For example, after consultation with the regional OGC, the determination may be made that the debt is not eligible for CNC in a community property State where 1 obligor received a Chapter 7 bankruptcy discharge and another co-obligor did not. However, the still liable co-obligor would like to debt settle the loans. See paragraph 955 for debt settlement.

The authorized agency official will monitor debt that is **not** eligible for CNC or debt settlement until it is paid in full, or eligible for CNC or debt settlement.--*

--953 Cross-Servicing*A Authority**

Referring CNC debt to Treasury for cross-servicing is required by DCIA.

B Action

As part of cross-servicing, Treasury sends debts to its contracted PCA's to perform various collection actions, such as calling debtors, sending letters to debtors, skip tracing, and negotiating debt settlement offers. In some cases, Treasury may use its own employees to perform some of these tasks.

The authorized agency official will follow the guidance in Exhibit 16 to refer debt to Treasury for cross-servicing.

Notes: Because of FLP's automated referral processes, FLP debts must be referred to TOP before they are referred to cross-servicing. FLP debt must also remain at TOP to stay at cross-servicing. Therefore, while debts are at cross-servicing, they are also at TOP and subject to offsets, such as administrative offset of Federal benefit payments and Federal salary offset. See Exhibit 15 for TOP information.

Debts referred to cross-servicing may be eligible for AWG. See paragraph 954 and Exhibit 36 for AWG information.

954 AWG**A Authority**

AWG is authorized by DCIA. According to 7 CFR 3.53(a), USDA has determined that AWG will be used to collect delinquent debt.

B Action

Debts are generally eligible for AWG if agencies have AWG procedures in place. DAFLP is using USDA-wide regulations for AWG, which can be found at 7 CFR Part 3, Subpart E. See Exhibit 36 for FLP internal procedures and guidance about AWG.

Note: At this time, Treasury is administering AWG through the cross-servicing program. Therefore, a separate referral to AWG is **not** required.--*

--955 Debt Settlement*A Determining Largest Collection Amount**

In cases where a debt settlement offer is submitted before referring CNC debt to cross-servicing (paragraph 953) and AWG (paragraph 954), and/or when FSA is currently receiving regular recurring offset through TOP (Exhibit 15), such as from a Federal salary, the authorized agency official will:

- determine whether the debt settlement amount offered is more than what would likely be collected through enforced collection, such as cross-servicing, AWG, and Federal salary offset
- make a decision or recommendation to debt settle based on whether enforced collection will result in a larger collection amount. Debt settlement standards and procedures will be followed according to 7 CFR Part 1956 and RD Instruction 1956-B.

In cases where a debt settlement offer is submitted after referring CNC debt to cross-servicing, see Exhibit 16, subparagraph 2 G.

B Nonjudgment Debt

Settlement of nonjudgment debt will be processed according to Exhibit 16, 7 CFR Part 1956, and RD Instruction 1956-B, Exhibit B.

C Judgment Debt

Settlement of judgment debt will be processed according to paragraphs 433 and 434.

D Judgment and Nonjudgment Debt

If the judgment is kept by DOJ according to paragraph 432, coordinate debt settlement of the judgment debt and nonjudgment debt with DOJ as the approval official.

If the judgment has been returned to FSA according to paragraph 433, see RD Instruction 1956-B, Exhibit B to determine the appropriate approval official.

Settlement of accounts with judgment and nonjudgment debt will be processed:

- with all documentation required by paragraphs 433 and 434 and RD Instruction 1956-B listed on, and/or attached to, RD 1956-1
- using 1 approval official.--*

--955 Debt Settlement (Continued)*E CNC Debt Returned From Cross-Servicing**

Debt classified as CNC and returned from cross-servicing after Treasury has taken all appropriate collection actions will be canceled according to Exhibit 16. If the cancellation is the borrower's first instance of CONACT debt forgiveness, the approval official is SED according to RD Instruction 1956-B. For subsequent cancellations, SED should follow the procedures in RD Instruction 1956-B, Exhibit B.

F Debt Recalled From Cross-Servicing

For debt recalled from cross-servicing by the State Office and/or FLOO because it is no longer eligible for CNC classification, such as when debtors file for bankruptcy protection or are deceased, the authorized agency official will:

- ensure that transaction code 3K, class of write off code 5, is reversed
- monitor the debt until it is paid in full, debt settled, or eligible for referral back to cross-servicing
- ensure that debt settlement, if appropriate, is processed according to subparagraphs A through D.

The debt settlement approval official will be determined by 7 CFR Part 1956 and RD Instruction 1956-B, Section 1956.84 and Exhibit B.--*

--956 Partial Debt Cancellation*A Overview**

In some cases, it may be appropriate and/or in the Government's best interest to process partial cancellation of debt. Partial cancellations require a debt settlement application and an exception to RD Instruction 1956-B, Section 1956.57(k).

For:

- debt settlement exception authority, see RD Instruction 1956-B, Section 1956.99 and applicable FLP directives
- information on submitting an exception request, see paragraph 4.

B Chapter 7 Discharged Unsecured Debt

In some Chapter 7 cases, the discharged debtor may continue to keep the loans secured by real estate current, and the regional OGC may advise that FSA cannot liquidate the security unless the loans are delinquent. In these cases, it may be in the Government's best interest to keep the secured loans and cancel the unsecured debt.

Partial cancellation in these situations may assist FSA to:

- comply with the bankruptcy discharge order by ensuring that no erroneous offset collection is taken on the discharged unsecured loans that are still showing as delinquent in FSA's financial system
- reduce the amount of uncollectible debt FSA must continue to monitor and include in reports.--*

--956 Partial Debt Cancellation (Continued)*C CNC Uncollectible Debt Receiving Offset Collections**

In some CNC cases:

- debt is returned from Treasury's cross-servicing PCA's as uncollectible
- FLP continues to receive monthly offset collections, such as from Social Security benefits
- the borrower refuses to apply for debt settlement
- the offset amount is not sufficient to keep pace with interest accrual causing the debt to continue to increase.

In these cases, it may be in the Government's best interest to cancel a portion of the debt, reducing the balance owed to an amount where the monthly collections would at least pay the interest accrual.

Partial cancellation in these situations will:

- allow continued offset collection for the delinquent FSA debt
- prevent delinquent borrowers from receiving the full amount of their Federal benefit payment unless they resolve the delinquency
- stop the balance owed on uncollectible debt from increasing because of interest accrual
- reduce the amount of uncollectible debt FSA must continue to monitor and include in reports.

Before requesting an exception in these situations, the authorized agency official will contact the borrower and advise that:

- offset will continue unless the borrower can make an acceptable debt settlement offer
- if the borrower has limited income, such as only from Social Security payments, debt cancellation may be appropriate if the borrower (or individual authorized to act on behalf of the borrower) will cooperate with FSA in documenting the borrower's income and expenses, and debts and assets.--*

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

This table lists all required reports in this handbook.

| Reports Control Number | Title | Reporting Period | Submission Date | Negative Reports | Reference |
|------------------------|------------------------|------------------|-------------------|------------------|-----------|
| | Statute of Limitations | Quarterly | 5th of each month | No | 126 |

Forms

This table lists the forms referenced in this handbook.

| Number | Title | Display Reference | Reference |
|-------------|---|-------------------|------------------|
| AD-1026 | Highly Erodible Land Conservation (HELIC) and Wetland Conservation (WC) Certification | | 81 |
| FSA-137 | Address Information Request | | 67, 386 |
| FSA-1956-20 | Checklist for “Currently Not Collectible” Debt | | 433, 952, Ex. 16 |
| FSA-1956-21 | List of Currently Not Collectible (CNC) Debts Eligible to Be Referred to Treasury for Cross-Servicing | | 433, Ex. 16 |
| FSA-1956-22 | Update to TOP and Cross-Servicing Information | | Ex. 15, 16 |
| FSA-2001 | Request for Direct Loan Assistance | | 81, 344 |
| FSA-2002 | Three-Year Financial History | | 81 |
| FSA-2003 | Three-Year Production History | | 81 |
| FSA-2025 | Notice of Approval, Terms and Conditions and Borrower Responsibilities | | 346 |
| FSA-2026 | Promissory Note | | Text |
| FSA-2027 | Supplemental Payment Agreement | | 161 |
| FSA-2029 | Mortgage/Deed of Trust | | Text |
| FSA-2037 | Farm Business Plan Worksheet Balance Sheet | | 81 |
| FSA-2038 | Farm Business Plan Worksheet Projected/Actual Income and Expenses | | 81 |
| FSA-2040 | Agreement and Record of the Disposition of FSA Security/Release of Proceeds | | 464, 465, 582 |
| FSA-2060 | Application for Partial Release, Subordination, or Consent | | 462, 463 |
| FSA-2065 | Annual Statement Loan Account | | Ex. 16 |
| FSA-2070 | Bill of Sale | | 516, 517, 519 |
| FSA-2080 | Release From Personal Liability | | 84 |
| FSA-2489 | Assumption Agreement | | Text |
| FSA-2501 | Addendum to the Promissory Note or Assumption Agreement for the Disaster Set-Aside Program | | 44-46, 48 |

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Forms (Continued)

| Number | Title | Display Reference | Reference |
|----------|---|-------------------|-------------------------|
| FSA-2510 | Notice of Availability of Loan Servicing to Borrowers Who Are 90 Days Past Due | | 3, 67, 83, 85, 405, 702 |
| FSA-2511 | Borrower Response to Notice of the Availability of Loan Servicing | | 81, 405, 702 |
| FSA-2512 | Notice of Availability of Loan Servicing to Borrowers Who Are Current, Financially Distressed, or Less Than 90 Days Past Due | | 3, 67, 85, 102 |
| FSA-2513 | Borrower Response to Notice of the Availability of Loan Servicing | | 81 |
| FSA-2514 | Notice of Availability of Loan Servicing to Borrowers Who Are in Non-Monetary Default | | 3, 67, 83, 85, 444, 702 |
| FSA-2515 | Borrower Response to Notice of the Availability of Loan Servicing for Borrowers Who Received Form FSA-2514 | | 81, 444, 702 |
| FSA-2516 | 30 Day Reminder of the Notice of Availability of Loan Servicing | | 83 |
| FSA-2517 | Offer of Primary Loan Servicing for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing | | 116 |
| FSA-2518 | Acceptance of Primary Loan Servicing for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing | | 116 |
| FSA-2519 | Offer of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing | | 116 |
| FSA-2520 | Acceptance of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing | | 116 |
| FSA-2521 | Denial of Primary Loan Servicing and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing | | 116, 229, 322 |
| FSA-2522 | Borrower Response to Denial of Primary Loan Servicing and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing | | 116, 229, 322 |

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

| Number | Title | Display Reference | Reference |
|----------|--|-------------------|---------------|
| FSA-2523 | Denial of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing | | 116, 229, 322 |
| FSA-2524 | Borrower Response to Denial of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing | | 116, 229, 322 |
| FSA-2525 | Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Did Not Apply for Servicing or Did Not Accept Servicing | | 85 |
| FSA-2526 | Borrower Response to and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Did Not Apply for Servicing or Did Not Accept Servicing | | 85 |
| FSA-2529 | Negotiated Appraisal Agreement | | 230 |
| FSA-2535 | Conservation Contract | | Text |
| FSA-2537 | Notification of Consideration for Homestead Protection | | 281 |
| FSA-2538 | Response to Notification of Consideration for Homestead Protection for Borrowers Who Received FSA-2537 | | 281 |
| FSA-2539 | Homestead Protection Program Agreement | | 283, 284 |
| FSA-2540 | Notice of the Availability of Homestead Protection – Post Acquisition | | 281, 568 |
| FSA-2543 | Shared Appreciation Agreement | | Text |
| FSA-2544 | Shared Appreciation Agreement Recapture Appraisal Notice | | 343, 344 |
| FSA-2545 | Borrower Notification of Shared Appreciation | | 344 |
| FSA-2547 | Shared Appreciation Agreement Recapture Reamortization | | 67 |
| FSA-2548 | Shared Appreciation Agreement Recapture Reamortization 2nd Notice | | 67 |
| FSA-2550 | Report of Problem Case | | 421, 533 |
| FSA-2551 | Evidence of Conversion, Fraud, or Waste | | 66, 421 |
| FSA-2560 | Request for Statement of Account | | 536 |

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

| Number | Title | Display Reference | Reference |
|-----------------|---|-------------------|-----------------------------------|
| FSA-2561 | Statement of Account | | 536 |
| FSA-2562 | Borrower Account Description Flag | | 67, 248, 401, 421, 534, 567 |
| FSA-2570 | Offer to Convey Security | | 284, 496, 497, 499, 500, 516, 517 |
| FSA-2571 | Agreement for Voluntary Liquidation of Chattel Security | | 464, 465, 516, 518, 581 |
| FSA-2572 | Agreement of Secured Parties to Sale of Security Property | | 581 |
| FSA-2574 | Confirmation Reorganization Plan Worksheet | | 404, 406 |
| FSA-2576 | Notice of Judgment | | 567, 568, 582, 604 |
| FSA-2580 | Primary and Preservation Loan Servicing Checklist | | 67, 533 |
| FSA-2581 | Inequitable Treatment Review Data | | 533 |
| FSA-2585 | Acquisition or Abandonment of Secured Property | | 708, Ex. 66 |
| FSA-2587 | Advice of Property Acquired | | 568, 743 |
| FSA-2588 | Acquired Property Maintenance | | 568 |
| FSA-2591 | Lease of Real Property | | 281, 284, 568, 743 |
| FSA-2592 | Invitation, Bid and Acceptance Sale of Real Property by the United States | | 776, 778, 782 |
| FSA-2593 | Standard Sales Contract Sale of Real Property by the United States | | 778 |
| FSA-2594 | Advice of Inventory Property Sold | | 778 |
| FSA-2595 | Quitclaim Deed | | 778 |
| FSA-2596 | Bill of Sale "A" (Sale of Government Property) | | 780 |
| FSA-2597 | Farmer Programs Noncash Credit for Purchase of Easement Rights | | 197 |
| IRS Form 1098 | Mortgage Interest Statement | | Ex. 16 |
| IRS Form 1099-C | Cancellation of Debt | | 406 |
| NRCS-CPA-026 | Highly Erodible Land and Wetland Conservation Determination | | 81 |
| RD 1956-1 | Application for Settlement of Indebtedness | | Text, Ex. 16 |

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

| Approved Abbreviation | Term | Reference |
|-----------------------|---|--|
| 51-S | 5-FLP Special Loan Servicing Pending | 67, 401, Ex. 11 |
| ACL | Accelerated | 534, Ex. 11 |
| ALJ | Administrative Law Judge | Ex. 36 |
| ARA | Alternative Repayment Agreement | Ex. 36 |
| AWG | administrative wage garnishment | 1, 126, 433, 434, 954, 955, Ex. 15, 16, 36 |
| BAP | Bankruptcy Action Pending | 401, Ex. 11, 15 |
| CAP | Court Action Pending | 421, Ex. 11, 15 |
| CL | Conservation Loan | 41, 131, 145, Ex. 2, 17 |
| CO | Collection Only | 406, Ex. 11 |
| CNC | currently not collectible | 433, 950-953, 955, 956, Ex. 15, 16, 36 |
| CONACT | Consolidated Farm and Rural Development Act | 1, 193, 537, 955, Ex. 2, 16, 36 |
| DEF | Deferral | 248, Ex. 11 |
| DMS | Debt Management Services | Ex. 16 |
| eDALR\$ | electronic Debt and Loan Restructuring System | Text, Ex. 17 |
| FAP | Foreclosure Action Pending | 567, Ex. 11, 15 |
| FLMAC | Farm Land Market Advisory Committee | Ex. 17 |
| HML | high, medium, low | 901 |
| ISA | installment Set-Aside | 46, 48, 131 |
| ITLAP | Indian Tribal Land Acquisition Program | 2, 537 |
| LR | limited resource | 132, 146 |
| NP | nonprogram loan | Text |
| NRBRA | Net Recovery Buyout Recapture Agreement | 321, 361, 363, 365 |
| NRV | net recovery value | 102, 321 |
| PCA | private collection agency | 953, 956, Ex. 2, 16, 36 |
| PRG | Program Reporting Group | 433, Ex. 15, 16 |
| RH | rural housing | Ex. 79 |
| SA | shared appreciation loan | 66, 67, 102, 145, 146, 191, 346 |
| SAA | shared appreciation agreement | Ex. 2, 4, 25, 26 |
| | Note: When reference is made to a signed agreement as a condition of receiving debt writedown. | |

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM (Continued)

| Approved Abbreviation | Term | Reference |
|-----------------------|--|--|
| SAA | subject to approved adjustment Note: When reference is made to the financial “flag”/designation for an account where FSA has approved a borrower’s debt settlement offer as documented on RD 1956-1. | 172, 249, 343, 404, 406, Ex. 11, 15 |
| SCRRG | State Civil Rights Review Group | 533 |
| SEC | State Environmental Coordinator | 802, 821, 837, 839 |
| SI | Security Instrument | 344, 346 |
| SOL | Statute of Limitations | 126, 127 |
| ST | softwood timber loan | 41 |
| TPJ | third party judgment | 421, Ex. 11, 15 |
| YL | youth loan | 41, 42, 68, 132 |

Re delegations of Authority

None.

Definitions of Terms Used in This Handbook

Abandoned Security Property

Abandoned security property is security property that a borrower is not occupying, is not in possession of, or has relinquished control of and has not made arrangements for its care or sale.

Acceleration

Acceleration is a demand by a lender for immediate repayment of the entire balance of a debt if the promissory note or security instruments are breached. When FSA accelerates an account, the entire loan balance is due in 30 calendar days.

Accrued Deferred Interest

Accrued deferred interest is unpaid interest from past due installments posted to a borrower's loan account.

Active Borrower

An active borrower is a borrower who has an outstanding account in the records of the Finance Office, which may include collection-only or an unsatisfied account balance where a voluntary conveyance was accepted without borrower being released from liability or where liquidation did not satisfy the indebtedness.

Additional Security

Additional security is property which provides security in excess of the amount of security value equal to the loan amount.

Adjustment

Adjustment is a form of settlement that reduces the financial obligation to the Agency, conditioned upon the completion of payment of a specified amount at a future time. An adjustment is not a final settlement until all payments have been made under the agreement.

*--Administrative Wage Garnishment (AWG)

AWG is a garnishment program used to collect delinquent nontax Federal debt from borrowers who have private sector jobs. AWG is:

- authorized by DCIA
- administered by Treasury.--*

Adversary Proceeding

An adversary proceeding is a lawsuit within a bankruptcy case.

Definitions of Terms Used in This Handbook (Continued)**Agency**

Agency is the Farm Service Agency (FSA), including its employees, State and area committee members, and any successor agency.

Agency Official

Agency official is any employee within the agency. This term is used when the action does not require inherent or delegated authority.

Applicant

Applicant is the individual or entity applying for a loan or loan servicing under either the direct or guaranteed loan program.

Approval Official

Approval official is the specific employee who has the authority to approve or deny the described action.

Assistance

Assistance is financial assistance in the form of a direct or guaranteed loan or interest subsidy or servicing action.

Assumption

Assumption is the act of agreeing to be legally responsible for another party's indebtedness.

Auction

An auction is a public sale in which property is sold to the highest bidder in open verbal communication.

Authorized Agency Official

Authorized agency official is an employee who has either inherent or delegated authority to complete the described action.

Automatic Stay

Automatic stay refers to the prohibition of collection activities against the debtor or efforts to obtain possession of the debtor's property or security interest in the debtor's property during the course of bankruptcy.

Definitions of Terms Used in This Handbook (Continued)**CONACT or CONACT Property**

CONACT or CONACT property is property that secures a loan made or guaranteed under the Consolidated Farm and Rural Development Act (7 USC 1921 et seq.). It also includes property that secures other FLP loans.

Confirmed Plan of Reorganization

A confirmed plan of reorganization involves a bankruptcy court approved plan, which outlines the debtor's security interest, repayment schedules and terms of performance.

Conservation Contract

Conservation Contract is a contract under which a borrower agrees to set aside land for conservation, recreation or wildlife purposes in exchange for reduction of a portion of an outstanding Agency debt.

Conservation Contract Review Team

Conservation Contract review team is comprised by the appropriate offices of FSA, the Natural Resources Conservation Service, U.S. Fish and Wildlife Service, State Fish and Wildlife Agencies, Conservation Districts, National Park Service, Forest Service, State Historic Preservation Officer, State Conservation Agencies, State Environmental Protection Agency, State Natural Resource Agencies, adjacent public landowner, and any other entity that may have an interest and qualifies to be a management authority for a proposed conservation contract.

Consolidation

Consolidation is the process of combining the outstanding principal and interest balance of two or more loans of the same type made for operating purposes.

Conveyance

Conveyance is the transfer of ownership in property to a third party.

Credit Sale

Credit sale is a sale of FLP inventory property for which FSA provides financing to the purchaser.

Definitions of Terms Used in This Handbook (Continued)

Criminal Action

Criminal action is the prosecution by the United States to exact punishment in the form of fines or imprisonment for alleged violation of criminal statutes. Such violations may include, but are not limited to unauthorized sale of security; purchase of security with intent to defraud and without payment of the purchase price to the Agency; falsification of assets or liabilities in loan applications; application for a loan for an authorized purpose with intent to use and use of loan funds for an unauthorized purpose; using funds for an unauthorized purpose and then making false statements regarding their use; by scheme, trick, or other device, covering up or concealing misuse of funds or unauthorized disposition of security or other illegal actions; or any other false statements or representations relating to Agency benefits.

Cross-Servicing

Cross-servicing is the centralized collection of nontax Federal debt by the Department of *--Treasury or by Treasury's PCA's according to:

- 7 CFR Part 3, Subpart C
- 31 CFR 285.12
- 31 CFR 901.1(e).--*

Current Market Value Buyout

Current market value buyout is the termination of a borrower's loan obligations to the Agency in exchange for payment of the current appraised value of the borrower's security property and nonessential assets, less any prior liens.

Custodial Property

Custodial property is property and improvements owned by a borrower that serve as security for an Agency loan that the borrower has abandoned, and that the Agency takes into its control to protect the Government's interest.

Debt Forgiveness

Debt forgiveness is a reduction or termination of a debt under the Act in a manner that results in a loss to the Agency, through:

- (1) Writing down or writing off a debt pursuant to 7 U.S.C. 2001;
- (2) Compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981; or
- (3) Paying a loss pursuant to 7 U.S.C. 2005 on a FLP loan guaranteed by the Agency.

Definitions of Terms Used in This Handbook (Continued)

Termination Date

A termination date is the date specified in a disaster declaration, determination, or notification that establishes the final date after which Emergency Loan applications can no longer be accepted. For both physical and production losses, the termination date is 8 months from the date of the disaster declaration, determination, or notification.

Transfer and Assumption

Transfer and assumption is the conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of a loan in return for the assuming party's binding promise to pay the debt outstanding or the market value of the collateral.

Tools of the Trade

Tools of the trade are assets that are exempt from collection efforts because they are essential to the operation of a business.

Treasury Offset Program (TOP)

*--TOP is the centralized offset of payments to collect delinquent, nontax debts owed to Federal agencies and States (including past-due child support), according to:

- 7 CFR Part 3, Subpart D
- 31 CFR Part 285, Subpart A
- 31 CFR 901.3(b).--*

Typical Plan

A typical plan is a projected income and expense statement listing all anticipated cash flows for a typical 12-month production cycle, including all farm and nonfarm income and all expenses (including debt service) to be incurred by the borrower during such period.

Definitions of Terms Used in This Handbook (Continued)**Unauthorized Assistance**

Unauthorized assistance is any loan, loan servicing action, lower interest rate, loan guarantee, or subsidy received by a borrower, or lender, for which the borrower or lender was not eligible, which was not made in accordance with all Agency procedures and requirements, or which the Agency obligated from the wrong appropriation or fund. Unauthorized assistance may result from borrower, lender, or Agency error.

Unauthorized Loan

An unauthorized loan is any loan, a portion of a loan, interest rate, or interest subsidy that the borrower was not eligible to receive, that was not made according to all Agency procedures and requirements or which the Agency obligated from the wrong appropriation or fund.

Unauthorized Loan Servicing Action

An unauthorized loan servicing action is any loan servicing action not made according to all Agency procedures and requirements or that the borrower was not eligible to receive.

Voluntary Conveyance

Voluntary conveyance is a method of voluntary liquidation by which the borrower transfers title of security property to the lender.

Wetlands

Wetlands are those lands or areas of land as determined by the Natural Resources Conservation Service to meet the requirements provided in section 1201 of the Food Security Act of 1985. * * * Wetlands generally may be those areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances, do or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs and similar areas, such as sloughs, potholes, wet meadows, mudflats and natural ponds.

Account Description Flag and Code Reference

A General Information

This exhibit provides guidance on using account description flags and paragraph references for each flag.

B Agency Official Responsibilities

Agency officials shall review the RC 540 Report monthly to determine if a servicing action is needed and if accounts are appropriately flagged or coded. Particular attention should be given to flagged accounts since the payment status cannot always be reported correctly for reasons such as payments being held in suspense or transactions not being processed.

C Establishing and Removing Flags

To establish an account flag, FSA-2562 will be completed and a 5G transaction will be processed in DLS through the Manage Flags function under Customer Management. To remove an account flag, FSA-2562 will be completed and a 5H transaction will be processed in DLS.

D Flag Priority and Reference Table

A maximum of 4 flags can be recorded in the accounting system for each borrower subject to certain limitations. However, only 3 flags will be reported on the RC 540 Report. Flags will be reported based on priority as indicated in this table.

*--

| Display Priority | Flag | Description | Reference |
|-------------------------|-------------|--|---------------------|
| 1 | OAC1 | Office of Adjudication and Compliance Accepted | 1-FLP, Paragraph 41 |
| 2 | CAP | Court Action Pending | Paragraph 421 |
| 3 | TPJ | Third Party Judgment | Paragraph 421 |
| 4 | BAP | Bankruptcy Action Pending | Paragraph 401 |
| 5 | PLS | 5-FLP Special Loan Servicing Pending | Paragraph 67 |
| 6 | DSA | Debt Set-Aside | Historical Code |
| 7 | DEF | Deferral | Paragraph 248 |
| 8 | FAP | Foreclosure Action Pending | Paragraph 567 |
| 9 | SAA | Subject to Approved Adjustment | Paragraph 404 |
| 10 | OAC7 | Office of Adjudication and Compliance Resolved | 1-FLP, Paragraph 41 |
| 11 | ACL | Accelerated | Paragraph 534 |

--*

Note: An account may be classified as “CO” according to subparagraph E. “CO” is not a flag; “CO” is a classification code that has display priority over all flags when displayed on the RC-540 Report.

Account Description Flag and Code Reference (Continued)

E Special Classification Code “CO”

The purpose of special classification code “CO” is to ensure that farm program payments to discharged borrowers are not offset. County Offices may assign or remove “CO” classification *--codes according to paragraphs 406 and 407. To:--*

- establish the “CO” classification code through ADPS, a 5B transaction will be processed
- remove the “CO” classification code through ADPS, a 5A transaction will be processed.

Accounts with the “CO” classification must be monitored for proper coding and servicing.

Quarterly Screening Process for TOP

1 Quarterly Screening Process for TOP

A Background

The Debt Collection Act, as amended by DCIA, requires that delinquent debtors be referred to TOP for administrative offset of Federal and some State Government payments. The Food, Conservation, and Energy Act 2008 (2008 Farm Bill) revised the offset requirement for FLP borrowers who have pending program discrimination complaints, or have filed a *--program discrimination complaint that is accepted by the Office of Adjudication.--*

B Purpose

This exhibit provides guidance on:

- the 2-step process required to certify FSA **direct** FLP delinquent borrower/co-borrower debts to Treasury for offset on an ongoing, quarterly basis
- implementing the elimination of the 10-year time period for offset of IRS refunds for delinquent nonjudgment debt
- determining eligibility for referring borrower/co-borrower debts to Treasury for TOP offset
- *--the suspension of offset when a complaint of discrimination is accepted by the Office of Adjudication, as required by 1-FLP, subparagraph 41 I--*
- refunding co-borrower TOP offsets
- instructions for updating co-borrowers/related entities in the DLS Customer Profile
- instructions for deleting:
 - borrower/co-borrowers on TOP offset update screens
 - bankruptcy cases.

Quarterly Screening Process for TOP (Continued)

1 Quarterly Screening Process for TOP (Continued)

C Nonjudgment Debt

The requirement that offset of IRS refunds can only be processed for debts “referred for offset within 10 years after the agency’s right of action accrues,” was eliminated when Treasury published its final rule on December 28, 2009 (with a correction published January 6, 2010). This change allows offset of nontax debt regardless of how long the debt has been delinquent.

Any FLP nonjudgment debts that were 10 or more years delinquent on or before *--December 28, 2009, were removed from TOP and/or recalled from cross-servicing. If--* further collection action is otherwise legally permissible on these older debts, they may be resubmitted to TOP and/or cross-servicing according to this new rule.

* * * According to Treasury’s regulations at 31 CFR 285.2(d)(6)(ii), these debts are not eligible for offset of IRS refunds unless they receive offset notification after the debt became 10 years delinquent. This requirement applies even if a notice was already sent before the debt became 10 years delinquent. The debtors must also be provided with the opportunity to resolve the debt before additional offset collection action is taken. The TOP notification and due process letter sent as part of the TOP quarterly referral process satisfies these requirements. * * *

*--Therefore, to continue TOP collection on any FLP debt that was 10 or more years delinquent on or before December 28, 2009, that did not receive the 60-day due process letter (paragraph 9) after December 28, 2009, the debt must be both of the following before any additional TOP collections can be taken:

- deleted from TOP and/or recalled from cross-servicing
- resubmitted to TOP through the procedure in this exhibit.

Note: The additional TOP offset notification that applies to debt that became 10 or more years delinquent on or before December 28, 2009, does **not** apply to debts being actively collected through Federal salary offset. Debt being collected through Federal salary offset does **not** need to be deleted from TOP and/or recalled from cross-servicing, regardless of how old the debt is.--*

D Judgment Debt

The 20-year SOL for judgment debt still applies.

Quarterly Screening Process for TOP (Continued)

2 TOP Screens and Process

A Co-Borrower Selection and Changes

Co-borrower information for TOP is selected from the DLS Customer Profile. In DLS, co-borrowers are considered related entities. To link, view, update, and unlink related entities through the loan making process, follow the procedure in the DLS Loan Making User’s Guide, Part 3, Sections I through L. To view, create, and update related entity information through the loan servicing process, follow the procedure in the DLS Loan Servicing User’s Guide, Section 4.2.3.1.

Both guides may be found on the FLP Systems web page located at <https://arcticocean.sc.egov.usda.gov/flp/IndexServlet>.

B TOP Offset Online Screen Information

The Borrowers Eligible for TOP Offset Screen and Borrowers Eligible for TOP Offset Certified Screen will be displayed with borrower and co-borrower information as follows.

| Field/Line | Information |
|--|--|
| ST CTY TIN | Primary borrower’s case number. |
| TIN | TIN for the primary borrower or co-borrower. |
| CO | Co-borrower’s permanent alphabet letter (A-Z) or number (1-9) as a unique identifier. Note: It is critical that all co-borrowers names, addresses, and TIN’s be updated in SCIMS on an ongoing basis. The co-borrower/related entity status must be updated in the DLS Customer Profile. |
| Case Number (Located under “Name” column.) | The borrower’s name will be displayed, if there are no co-borrowers selected or if both borrower and co-borrower are selected. The co-borrower’s name will be displayed, if only the co-borrower is selected. Note: For each co-borrower loan selected, the co-borrower’s name will be displayed between the TIN and the loan number. |
| FLG (Located over “Delete Date” column.) | “F” will be displayed, if the account has a “FAP” flag. |

Quarterly Screening Process for TOP (Continued)

2 TOP Screens and Process (Continued)

C Debtors Displayed on Borrowers Eligible for TOP Offset Screens

The weekly RC 540 and its parts will be used on an ongoing basis to select and update delinquent loans eligible for offset. The TOP Selection process is usually run the last 2 weeks of the quarter. The screens will be made available to State and County Offices according to the schedule in paragraph 5.

The screens will be displayed with all delinquent loans for:

- borrowers/co-borrowers who are **not** at TOP and fall into 1 or more of the following categories:
 - 90 calendar days past due
 - at least \$25 delinquent
 - **not** flagged “BAP”
 - **not** a boll weevil loan
 - **not** flagged “SAA”

Note: Loans listed will include Apple loans, Bureau of Reclamation loans, and debts classified CNC.

- debtors/co-debtors who have:
 - employee defalcations
 - judgments **not** currently certified
 - delinquent equity receivables or loan suspensions
 - delinquent leases
 - TPJ’s, both borrower and third parties, if they are in SCIMS and linked as related entities in the DLS Customer Profile
 - filed bankruptcy, but have not been flagged “BAP”.

Quarterly Screening Process for TOP (Continued)

2 TOP Screens and Process (Continued)

C Debtors Displayed on Borrowers Eligible for TOP Offset Screens (Continued)

To prevent selection for TOP without removing the legitimate co-borrower from DLS, when a borrower/co-borrower is no longer eligible for TOP, such as individual bankruptcy, release from liability, deceased, etc., users **must**:

- delete the loan on TOP screens with the appropriate code
- unlink the co-borrower as a related entity in the DLS Customer Profile.

If a co-borrower later becomes eligible for TOP, such as when a bankruptcy is dismissed, remove or change the “BAP” flag, and/or link the co-borrower as a related entity, as appropriate.

Loans will be selected each quarter, **even if manually deleted in a prior quarter**, if the loan continues to appear delinquent on ADPS and no circumstance would generate a programmatic delete. Specific examples are ineligible judgment loans, SAA loans, loans involved in bankruptcy with no “BAP” or “SAA” flag on the account, and loans related to a settlement agreement or a problem case being worked by FLOO where ADPS transactions have **not** been processed. See paragraphs 6 and 7 for descriptions of programmatic delete codes and the manual delete codes available for State Office use.

To accommodate TOP selection for TPJ loans, the third party’s name, address, and TIN **must** be entered in SCIMS. Ensure that the third party is not already in SCIMS before attempting to add them. The third party **must** also be linked as a related entity in the DLS Customer Profile. Select “co-borrower” as the type of related entity. The TOP selection process will bring in all loans. The loans for the primary borrower and any original co-borrowers should be deleted, if appropriate. This will leave only the third party’s debt in TOP.

Borrowers who have requested loan servicing or debt settlement are eligible for offset until the loans have been brought current through payment or restructure, or a settlement or repayment plan has been approved by FSA.

Salary offset collections for delinquent debtors are being handled by Treasury through the TOP offset process. These payments will be biweekly and have a “T” application code.

Quarterly Screening Process for TOP (Continued)

2 TOP Screens and Process (Continued)

D State Tax Refunds and State Vendor Payments Included in TOP Centralized Offset

DCIA contains a provision that allows the State to enter into reciprocal agreements with Treasury to collect unpaid State debt by offset of Federal nontax payments and the Federal Government to collect delinquent nontax debt by offset of State payments. Currently, **Maryland, New Jersey, New York, and Wisconsin are active at Treasury**. Treasury will add other States as the requirements to participate are completed.

Agencies were given 30 calendar days to provide post offset notification letters to debtors, notifying them of State payment offset. The 60-day TOP Due Process Notification Letter was modified to include State payments. See paragraph 9. A new bypass indicator has been established by Treasury to allow agencies to **not** allow State payment offsets, if a debt is not eligible.

E TOP Certification

At the end of each quarter, the TOP Offset Online Screens will be taken out-of-service and all debts not deleted on the Borrowers Eligible for TOP Offset Screen will be certified to Treasury for offset. The Borrowers Certified for Treasury Offset Report will be mailed to the State and County Offices within the first 2 weeks after certification. Borrowers/co-borrowers displayed on this report will be moved to the Borrowers Eligible for TOP Offset/Certification Screen for weekly update capability. See paragraph 5 for a tentative timeframe for the quarterly referral process. If changes to the timeframe are needed, a message will be:

- displayed on the ADPS Message Screen
- e-mailed to TOP Coordinators in each State Office.

F TOP Weekly Update

All loans on the Borrowers Eligible for TOP Offset Certified Screen will be available for review and manual deletion on an ongoing weekly basis. FLOO, PRG and State Offices have delete capability; County Offices and FLOO Loan Servicing Groups have view capability. State Offices are responsible for processing **all** deletes. The weekly RC 540 and its parts will be used to programmatically update or delete certified borrower/co-borrower loan information at TOP each weekend. The screens will be taken down by 2:30 p.m. c.t. on Fridays and made available on Mondays as soon as the weekly update has been approved.

Quarterly Screening Process for TOP (Continued)

2 TOP Screens and Process (Continued)

G TOP Refunds

*--FAX FSA-1956-22's to FLOO, PRG at 314-457-4478 **only** if a refund is needed, or the--* loan needs to be recalled from cross-servicing.

Note: FSA-1956-22 is only to be used for TOP and cross-servicing refunds and cross-servicing recalls. If FSA-1956-22 is used for an internal administrative offset or regular payment refund request, processing of the refund may be delayed.

Refunds **must** be made to the specific person who was offset. FLOO, PRG will determine whether the refund will be manual or programmatic. The refund will be programmatic if the person receiving the refund is in ADPS and no other name will be on the check. Full refunds will include the TOP fee amount. Partial refunds will not include the TOP fee amount.

The following information **must** be provided on FSA-1956-22, item 16B, if a check must be sent to other than the County Offices:

- name of the person or persons to whom the check should be made payable
- address where the check should be mailed

Note: Manual refunds may be sent directly to the borrower/co-borrower's address; however, this is discouraged because the County Office then has no confirmation the refund was received. **It is critical to specify where the check must be sent.**

- effective date the borrower/co-borrower was no longer eligible for offset (the date of bankruptcy filing, date paid current, repayment agreement date, etc.) and which person was involved.

Note: To ensure timely and accurate processing of refund requests, all FSA-1956-22 refund *--requests **must** be **FAXed to FLOO, PRG** only at **314-457-4478, not to FLOO--*** **Loan Servicing Groups**. PRG monitors and tracks all refunds.

Quarterly Screening Process for TOP (Continued)

2 TOP Screens and Process (Continued)

G TOP Refunds (Continued)

When completing FSA-1956-22 for a borrower/co-borrower that has a monthly offset occurring or the amount of the offset is unknown and the offset needs to be refunded, enter the following:

- in item **16B**, the date specified should be the date the loan was no longer eligible for offset, such as the bankruptcy filing date, date SED signed the settlement agreement, etc.
- in item **13**, the amount of the offset in ADPS Online History, which is the amount of the offset taken by Treasury minus any TOP and/or salary offset fees.

Note: It is **not** necessary to wait to FAX FSA-1956-22 until the offset appears on ADPS. However, FSA-1956-22's will be held by FLOO, PRG until the payment arrives and is applied to the loan. **This usually takes 2 to 3 weeks from the date of offset.**

*--H Discrimination Complaints and TOP

Delinquent accounts involved in an accepted discrimination complaint will be serviced according to 1-FLP, subparagraph 41 I.

Accounts that have no security remaining, which have been accelerated or where all loans are mature, such as those classified CNC, will continue to accrue interest and be subject to administrative offset.

In cases where loans are **not** eligible for TOP, according to 1-FLP, subparagraph 41 I, use delete code "11" to remove them from the TOP Offset Screens.

See 1-FLP, subparagraph 41 I for additional guidance on servicing accounts involved in an accepted discrimination complaint.--*

Quarterly Screening Process for TOP (Continued)

3 County Office Responsibilities

A Screening

On an ongoing basis, County Offices will be provided view-only access to the TOP Offset Online Screens. Since County Offices do **not** have the authority to delete loans on the TOP Offset Online Screens, County Offices **must**:

- review the Borrowers Eligible for TOP Offset Screens and determine whether each debtor shown is eligible to receive a 60-day TOP Due Process Notification Letter, or is being referred to TOP for offset

Note: It is critical that borrowers/co-borrowers on this screen, are reviewed for TOP due process notification eligibility. See timeline in paragraph 5.

- review the Borrowers Eligible for TOP Offset Certified Screens on an ongoing basis to determine whether any loans need to be removed from TOP
- review paragraph 6 for delete codes that will be programmatically generated based on the ADPS status of the debtor's account

Note: No County Office action is needed for debtors who meet the delete code criteria in paragraph 6.

- FAX all FSA-1956-22's and supporting documentation to the State Office, if a loan needs to be deleted, recalled from cross servicing, or an offset payment needs to be refunded based on criteria in paragraph 6 or 7
- verify the accuracy of any flags on the debtor's account and correct, if necessary
- remove ineligible co-borrowers from TOP eligibility by updating/unlinking them in the DLS Customer Profile.

Note: This action will keep borrowers from being selected in subsequent quarters, but will **not** programmatically delete the loan from TOP Offset Online Screens. They **must** still be deleted by the State Office in the current quarter, using the applicable codes.

Quarterly Screening Process for TOP (Continued)

3 County Office Responsibilities (Continued)

B Accessing Borrower/Co-Borrower Accounts

County Offices can view borrower/co-borrower loans on the TOP Offset Online Screens according to paragraph 8.

For debtors whose files are being handled in another office, contact that office for determination of eligibility.

If County Office is unable to access any borrowers/co-borrowers and the authorized agency servicing official is aware that there should be debtors on the screens, contact the State Office.

On an ongoing basis, State Offices will be provided access to both of the TOP Offset Online Screens. The responsibility for deleting loans now rests with the State Office; however, the screening process is the responsibility of **both** the State and County Office.

4 State Office Responsibilities

A Screening

Delete codes **cannot** be changed or removed at any time. Loans deleted in error will be picked up for screening in the next selection process. See paragraph 5 for deadlines for entering delete codes.

Note: Delete codes should be entered during the pre-certification screening process.

State Offices will enter a delete code for each loan that is ineligible, based on criteria in paragraph 7. **Do not use codes that are not included in paragraph 6 or 7.** Delete code information is tracked and used for quarterly Congressional reporting.

Note: No State Office action is needed for debtors who meet the delete code criteria in paragraph 6, unless there is a suspend code on an account (“ZSPC” on the ADPS AI Screen). A suspend code will prevent a TOP borrower/co-borrower from being deleted programmatically, even if there is a fully paid code on the loan.

State Offices that transfer loans to a spouse **must** correct the borrower/co-borrower related entity information in DLS Customer Profile.

Quarterly Screening Process for TOP (Continued)

4 State Office Responsibilities (Continued)

A Screening (Continued)

Judgment loans must be carefully reviewed before determining TOP eligibility. DOJ is responsible for referring debts to TOP when DOJ has jurisdiction. In some cases, DOJ may request that FSA refer debts on DOJ's behalf. Do **not** refer a judgment under DOJ jurisdiction **without** contacting LSPMD at 202-720-1658. If the loan needs to be deleted, use delete code "05."

"CAP" and "FAP" flagged loans are included on the TOP Offset Online Screens. The presence of 1 of these flags on the account is **not** a determining factor for whether a debtor should be deleted. Review the debtor file to determine eligibility as follows:

- "CAP" flagged accounts should be deleted with code "03" **only** if the debt is being handled by OGC
- "FAP" flagged accounts should be deleted with code "01" **only** if offset could jeopardize litigation under State law.

CNC loans **must** be carefully reviewed **before** determining TOP eligibility.

If any nonjudgment loan becomes ineligible, input the proper delete code and notify FLOO, *--PRG immediately by FAXing FSA-1956-22 to 314-457-4478.--*

B Accessing Debtor/Co-Debtor Accounts

State Offices:

- will have online capability to delete loans serviced by their County Offices
- may access the TOP Offset Online Screens as described in paragraph 8.

Quarterly Screening Process for TOP (Continued)

4 State Office Responsibilities (Continued)

C Deleting Debtors/Co-Debtors

After accessing debtors through the Borrowers Selection Menu, options “1”, “2”, “3”, or “4”, delete a loan and any cost item related to the loan according to the following table, if ineligible for offset.

| Step | Action |
|------|--|
| 1 | <p>On the Borrowers Selection Menu, for options:</p> <ul style="list-style-type: none"> • “1” and “2”, input all delete codes needed for all borrower/co-borrower loans displayed on the page before pressing “Enter” <p>Note: Borrowers and co-borrowers are not necessarily eligible for deletion for the same reason or at the same time. Discretion is advised.</p> <ul style="list-style-type: none"> • “3” and “4”, input the applicable delete code from paragraph 7 in the DLT CDE field on the line for the loan number to be deleted. <p>Note: If all of a borrower’s/co-borrower’s loans are to be deleted, input a delete code for each loan.</p> |
| 2 | <p>PRESS “Enter”.</p> <p>Note: Users must press “Enter” for each page, if a delete code has been entered. If users press “PF8” or “PF7” without pressing “Enter” first, the delete code will not be processed.</p> <p>Once users press “Enter”, “Borrower(s) Processed” will be displayed on the bottom-left of the screen. The current date will be displayed in the “Delete Date” column in the center of the screen. To verify the delete codes have processed, ENTER “5” to return to the Subsystem Selection Menu, and PRESS “Enter” again. The delete codes will be displayed in the loan line under the “Delete Code” column, on the left.</p> |
| 3 | <p>Continue this process for all pages displayed for the requested State or County Office or for the requested debtor.</p> |

Quarterly Screening Process for TOP (Continued)

5 Timeframe for Quarterly Referrals to TOP

The following is a timeframe for quarterly referrals to TOP.

* * *

| Process | Date(s) |
|---|---|
| FY 2012 1st Quarter TOP Referral | |
| New Selection <u>1/</u> | September 24, 2011 |
| Critical pre-letter screening | September 27 to October 7, 2011 |
| FLOO mails 60-day due process letters | October 8, 2011 |
| Pre-certification screening | October 8 to December 16, 2011 |
| Certification <u>2/</u> | December 17, 2011 <u>3/</u> |
| FY 2012 2nd Quarter TOP Referral | |
| New Selection <u>1/</u> | December 17, 2011 <u>3/</u> |
| Critical pre-letter screening | December 20 , 2011, to January 6, 2012 |
| FLOO mails 60-day due process letters | January 7, 2012 |
| Pre-certification screening | January 7 to March 16, 2012 |
| Certification <u>2/</u> | March 17, 2012 |
| *--FY 2012 3rd Quarter TOP Referral | |
| New Selection <u>1/</u> | March 24, 2012 |
| Critical pre-letter screening | March 27 to April 6, 2012 |
| FLOO mails 60-day due process letters | April 10, 2012 |
| Pre-certification screening | April 10 to June 15, 2012 |
| Certification <u>2/</u> | June 16, 2012 |
| FY 2012 4th Quarter TOP Referral | |
| New Selection <u>1/</u> | June 23, 2012 |
| Critical pre-letter screening | June 26 to July 6, 2012 |
| FLOO mails 60-day due process letters | July 10, 2012 |
| Pre-certification screening | July 10 to September 14, 2012 |
| Certification <u>2/</u> | September 15, 2012 <u>4/--*</u> |

1/ This includes all debts that appear eligible on ADPS, even if deleted in prior quarterly process.

2/ Loans with no delete code are moved from the “Borrower Eligible (N)” Screens to the “Certified (Y)” Screens.

3/ The FY 2012 1st Quarter Certification is run on the same day as the FY 2012 2nd Quarter Selection.

--4/ The FY 2012 4th Quarter Certification is run on the same day as the FY 2013 1st Quarter Selection.--

Quarterly Screening Process for TOP (Continued)

5 Timeframe for Quarterly Referrals to TOP (Continued)

*--

| Process | Date(s) |
|--|--|
| FY 2013 1st Quarter TOP Referral | |
| New Selection <u>1/</u> | September 15, 2012 <u>3/</u> |
| Critical pre-letter screening | September 18 to September 28, 2012 |
| FLOO mails 60-day due process letters | October 2, 2012 |
| Pre-certification screening | October 2 to December 7, 2012 |
| Certification <u>2/</u> | December 8, 2012 <u>4/</u> |
| FY 2013 2nd Quarter TOP Referral | |
| New Selection <u>1/</u> | December 8, 2012 <u>4/</u> |
| Critical pre-letter screening | December 11, 2012, to January 6, 2013 |
| FLOO mails 60-day due process letters | January 10, 2013 |
| Pre-certification screening | January 10 to March 16, 2013 |
| Certification <u>2/</u> | March 17, 2013 |
| FY 2013 3rd Quarter TOP Referral | |
| New Selection <u>1/</u> | March 24, 2013 |
| Critical pre-letter screening | March 27 to April 6, 2013 |
| FLOO mails 60-day due process letters | April 10, 2013 |
| Pre-certification screening | April 10 to June 15, 2013 |
| Certification <u>2/</u> | June 16, 2013 |

1/ This includes all debts that appear eligible on ADPS, even if deleted in prior quarterly process.

2/ Loans with no delete code are moved from the “Borrower Eligible (N)” Screens to the “Certified (Y)” Screens.

3/ The FY 2012 4th Quarter Certification is run on the same day as the FY 2013 1st Quarter Selection.

4/ The FY 2013 1st Quarter Certification is run on the same day as the FY 2013 2nd Quarter Selection.--*

Quarterly Screening Process for TOP (Continued)

6 TOP Offset Programmatic Delete Codes

The following are delete codes that will be programmatically generated based on ADPS status of the debtor's account.

| Code | Description |
|------|---|
| 02 | Account has a "BAP" or "SAA" flag. |
| 13 | <ul style="list-style-type: none"> • A cost item reversal put a "Z99" paid code on the account. • Transaction code "4A" or "4D" put a "Z97" paid code on the account. • Equity Receivable record suspended or amortized. |
| 17 | Loan is current or paid in full by cash payment. |
| 19 | <ul style="list-style-type: none"> • Loan is satisfied by other than those reasons in codes "13", "17", and "38". • No address or invalid address. • Suspension loan amortized. |
| 38 | Account has been written off with a class of writeoff code other than "5". |

Notes: If the account status in ADPS generates a delete code, both the borrower and co-borrower loans will be programmatically deleted using the same delete code.

A suspend code (ZSPC on AI Status Screen) prevents a programmatic delete.

Quarterly Screening Process for TOP (Continued)

7 TOP Offset Manual Online Screen Delete Code

The following are descriptions of programmatic delete codes and the manual delete codes available for State Office use.

| Code | Description |
|-----------|--|
| 01 | Account has been referred to OGC or DOJ for foreclosure and collection by offset would jeopardize the litigation under State law. Note: Existence of “FAP” flag is not a determining factor. Remove any erroneous flag. |
| 02 | Loan is either of the following: <ul style="list-style-type: none"> • discharged in bankruptcy and debtor no longer liable • under the jurisdiction of a Bankruptcy court and the debt has not been reaffirmed. Note: Existence of “BAP” flag is used as a determining factor in the programmatic screening. Remove any erroneous flag. |
| 03 | Being handled by OGC. |
| 04 | Type of Judgment ineligible for offset. |
| 05 | Being serviced by DOJ. |
| 06 | Forbearance because of disaster designation. |
| 07 | Soldiers and Sailors exemption. |
| 10 | Loan is being corrected. Hold for next selection. |
| 11 | Moratorium 2008 Farm Bill. |
| 13 and 38 | For deceased borrower use either of the following: <ul style="list-style-type: none"> • “13”, if the debt will be moved to a co-borrower • “38”, if the debt will be debt settled, because there are no other liable parties to the debt, there is no security, and no collection is possible from the estate. |
| 16 | Repayment plan has been approved by FSA. |
| 17 | May be used, if either of the following apply: <ul style="list-style-type: none"> • timing of cash applications on ADPS would not generate a delete code in time and the debtor is eligible for deletion • loan is paid in full, but there is a suspend code on the account (“ZSPC” on the ADPS AI Screen is greater than zero). Note: A suspend code prevents a programmatic delete. |

Quarterly Screening Process for TOP (Continued)

8 Accessing TOP Offset Online Screens

County Offices may view and State Offices may modify borrower/co-borrower loans by selecting “TOPOFFST” on the Online Submenu Selection Menu. A borrower/co-borrower could have loans on both the Borrowers Certified for TOP Offset (Y) Screen and Borrowers Eligible for TOP Offset (N) Screen, depending on the status of each loan on ADPS. However, an individual loan for either a borrower or co-borrower may **only** be on 1 of the screens.

From the Borrower Select Menu, use the following applicable option.

| Option | Authorized Users | Step | Action |
|--------|--------------------------|------|--|
| 1 | State Office | 1 | In the “Enter State” field, enter the 2-digit non-FIPS State Code (former FmHA State Code). |
| | | 2 | In the “View Certified Borrowers” field, enter either of the following: <ul style="list-style-type: none"> • “Y”, if the Borrower Eligible for TOP Offset/Certified Screen is needed • “N”, if the Borrowers Eligible for TOP Offset Screen is needed. |
| | | 3 | PRESS “Enter”; all borrower/co-borrower loans on that screen for the State will be displayed. |
| 2 | State and County Offices | 1 | In the “Enter State” field, enter the 2-digit non-FIPS State Code (former FmHA State Code). |
| | | 2 | In the “Enter State and County” field, enter all 5 digits of FSA’s servicing office mail code. |
| | | 3 | In the “View Certified Borrowers” field, enter either of the following: <ul style="list-style-type: none"> • “Y”, if the Borrower Eligible for TOP Offset/Certified Screen is needed • “N”, if the Borrowers Eligible for TOP Offset Screen is needed. |
| | | 4 | PRESS “Enter”; all borrower/co-borrower loans on that screen for the State will be displayed. |

Quarterly Screening Process for TOP (Continued)

8 Accessing TOP Offset Online Screens (Continued)

| Option | Authorized Users | Step | Action |
|--------|--------------------------|------|--|
| 3 | State and County Offices | 1 | In the “Enter Case Number” field, enter the entire 15-digit case number. |
| | | 2 | In the “View Certified Borrowers” field, enter either of the following: <ul style="list-style-type: none"> • “Y”, if the Borrower Eligible for TOP Offset/Certified Screen is needed • “N”, if the Borrowers Eligible for TOP Offset Screen is needed. |
| | | 3 | PRESS “Enter”; all borrower/co-borrower loans on that screen for the State will be displayed. |
| 4 | State and County Offices | 1 | In the “Enter Tax ID” field, enter the 9-digit TIN for the primary borrower. |
| | | 2 | In the “View Certified Borrowers” field, enter either of the following: <ul style="list-style-type: none"> • “Y”, if the Borrower Eligible for TOP Offset/Certified Screen is needed • “N”, if the Borrowers Eligible for TOP Offset Screen is needed. |
| | | 3 | PRESS “Enter”; all borrower/co-borrower loans on that screen for the specified borrower TIN will be displayed. Note: Do not enter a co-borrower TIN because this will display a “Borrower Not Found” message. Entering borrower TIN will display any eligible co-borrowers. |
| 5 | State and County Offices | | PRESS “Enter” to return to the Online Submenu Selection Menu. |
| 6-12 | FLOO | | In the “Enter Option Code” field, enter applicable code to enable/disable the TOP screens, as needed. |

Quarterly Screening Process for TOP (Continued)

***--9 Example of Due Process Letter to Refer Debt to Treasury for TOP, Cross-Servicing, and AWG**

The following is an example of the Due Process Letter to Refer Debt to Treasury.--*



**United States
Department of
Agriculture**

Farm and Foreign
Agricultural
Services

Farm Service
Agency

Financial Services
Center

Farm Loan
Operations Office
P.O. Box 200003
St. Louis, Missouri
63120-0003

APRIL 13, 2010

Dear Debtor/Co-debtor:

Our records indicate that you are more than 90 days past due on a loan(s), or are subject to an outstanding judgment, have a delinquent lease or an equity receivable owed to the United States Department of Agriculture, Farm Service Agency (FSA). Under Federal law, Federal Agencies are required to offset any eligible Government payments due you to resolve the delinquent debt.

Enclosed is a list of the delinquent debt(s) and the amount(s) due as of MM/DD/YYYY. You have 60 days to resolve this delinquent debt before an offset of payments will be made.

The following options are available, if applicable, for settling this debt:

- Fully pay the delinquent debt outstanding at your local servicing office on or before MM/DD/YYYY. The amount could change because of protective advances, servicing actions, interest accrual, previous offsets, or other collections. Contact your local office for the correct amount.
- Make delinquent settlement arrangements with your local servicing office. If immediate payment is not possible or would create a serious financial hardship, you may request consideration of a written repayment/settlement agreement with FSA. Any such settlement proposal must be submitted in writing before and accepted by the Agency no later than MM/DD/YYYY. Your request must state your repayment proposal, including the specific terms. A current and signed financial statement must be provided with any settlement proposal or installment repayment request. The financial statement must list all income and expenses, and contain a balance sheet listing all assets and liabilities. An Agency approved repayment/settlement agreement must be in place to prevent offset.
- Inform your local servicing office of any bankruptcy proceedings. Debtors who have filed for bankruptcy and have an automatic stay in effect are not subject to collection through offset while the stay remains in place. If this provision applies, please submit a copy of the bankruptcy petition to your local servicing office immediately.
- Inform your local servicing office if you, as a borrower or co-borrower, are on active military duty. FSA borrowers called to active duty may be eligible for additional servicing options, including exclusion from referral to Treasury Offset Program (TOP). If this provision applies, please submit a copy of your military activation papers to your local servicing office by MM/DD/YYYY.

If your delinquent debt is a judgment debt, a delinquent lease, or the debt has been accelerated, administrative farm loan servicing authorities are no longer applicable.

If the delinquent debt is not involved in a bankruptcy proceeding, or is not paid in full or settled by MM/DD/YYYY, the United States Treasury Department will be notified to collect by offset from the following Federal/State government payments due you, if applicable:

- Income tax refunds
- State tax refunds
- Federal salary, including military pay
- Federal retirement pay, including military retirement pay
- Contract or vendor payments
- State vendor payments
- Certain Federal benefits payments, such as Social Security (other than Supplemental Security Income), Railroad Retirement (other than tier 2), and Black Lung (part B) benefits
- Other Federal/State payments, including certain loans to you, that are not exempt from offset



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Quarterly Screening Process for TOP (Continued)

--9 Example of Due Process Letter to Refer Debt to Treasury for TOP, Cross-Servicing, and AWG (Continued)--



All delinquent debt is referred to commercial credit bureaus on a quarterly basis.

Any debt remaining after all loan security has been liquidated may also be referred to Treasury for potential referral to private collection agencies and possible administrative wage garnishment. The amount referred for collection will include the delinquent principal, any accrued interest, protective advances and collection costs. The debt may also be referred to the United States Department of Justice for collection.

You have the right to inspect and obtain a copy of the records for the listed delinquent debt. To do so, send a written request to your local servicing office. Please provide your Social Security Number or Employer Identification Number and your complete mailing address with the request.

You have the right to request a review of the validity of the delinquent debt amount. Any request for such review must be made in writing to your local servicing office by MM/DD/YYYY. If you disagree with the delinquent debt amount and wish to dispute the record, please explain the reason for your challenge and include any written documents or evidence to support your position. You will be notified in writing of a determination.

If you are a Federal employee, you will have the opportunity for a hearing prior to FSA's submitting the debt for Federal salary offset. You will receive more information in a separate notice if this option applies to you.

Additional interest is accruing daily on this debt. The amount due will continue to increase until the delinquency is paid or the account is settled. Any debt written off by the Agency will be reported to Internal Revenue Service (IRS) on Form 1099-C, Cancellation of Debt.

If a joint Federal income tax return is filed, and your spouse is not responsible for this debt, please contact your local IRS office before filing your return to learn how to protect your spouse's share of the refund.

For further information, please call your local servicing office or our toll-free number, 800-428-9643.

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Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt

1 Overview

A Background

DCIA requires FSA to refer all eligible delinquent debt, including judgments, equity receivables, and leases, to Treasury for cross-servicing and TOP. In addition, FLP is implementing AWG through USDA-wide procedures. See Exhibit 36 for AWG information. Referral to Treasury for cross-servicing, AWG, 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 for cross-servicing and/or AWG, then the debt must be referred to Treasury.

B Purpose

This exhibit:

- provides clarification about CNC accounts with discrimination complaints accepted by the Office of Adjudication as valid
- provides guidance on the following:
 - classifying debt as CNC
 - referring debt to Treasury for cross-servicing
 - servicing debt referred for cross-servicing
 - servicing debt after it has been returned from Treasury
 - canceling uncollectible debt.

2 Cross-Servicing

A Classifying Debt as CNC

DCIA requires that any nontax debt or claim owed to the United States that has been delinquent for a period of 180 calendar days be referred to Treasury for collection. There are several exemptions that are covered in FSA-1956-20.

All requirements listed in FSA-1956-20 must be met before classifying a debt as CNC. All debts must be classified as CNC to be referred to cross-servicing and must have been referred to TOP. 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 is used to validate eligibility for both processes.

Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt (Continued)

2 Cross-Servicing (Continued)

A Classifying Debt as CNC (Continued)

--County Offices shall classify unsecured debt as CNC according to paragraph 952.--

* * *

B Nonjudgment Debt

Treasury published its final rule on December 28, 2009 (with a correction published January 6, 2010), to eliminate the requirement that offset of IRS refunds may only be processed for debts “referred for offset within 10 years after the agency’s right of action accrues.” This change allows offset of nontax debt regardless of how long the debt has been delinquent.

Any FLP nonjudgment debts that were 10 or more years delinquent on or before *--December 28, 2009, were removed from TOP and/or recalled from cross-servicing. If--* further collection action is otherwise legally permissible on these older debts, they can be resubmitted to TOP and/or cross-servicing according to this new rule.

* * * According to Treasury’s regulations at 31 CFR 285.2(d)(6)(ii), these debts are not eligible for offset of IRS refunds unless they receive offset notification after the debt became 10 years delinquent. This requirement applies even if a notice was already sent before the debt became 10 years delinquent. The debtors must also be provided with the opportunity to resolve the debt before additional offset collection action is taken. The TOP notification and due process letter sent as part of the TOP quarterly referral process satisfies these requirements. * * *

*--Debts must be referred to TOP before they can be referred to cross-servicing.

Therefore, for any FLP debt that was 10 or more years delinquent on or before December 28, 2009, **and** removed from TOP according to Exhibit 15, subparagraph 2 C, the debt must be both of the following before referring the debt back to cross-servicing:

- listed on the TOP certified screens
- meet all other cross-servicing eligibility requirements.--*

Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt (Continued)**2 Cross-Servicing (Continued)****C Judgment Debt**

The 20-year SOL for judgment debt still applies.

D Actions Required for Referring and Servicing CNC Debt

The State Office shall:

- process transaction code “3K” on ADPS with a class of write off code “5” for all debt types except leases, third party judgments, and equity receivables
- refer debts for cross-servicing by completing and submitting FSA-1956-21 to FLOO, *--PRG by FAX at 314-457-4478--*

Note: Borrowers and co-borrowers (including liable spouses) shall be listed on FSA-1956-21 with their TIN’s and must be referred at the same time. If no TIN can be identified, in FSA-1956-21, item 3A, ENTER “TIN unknown”, and provide the debtor’s last known address. Such debt will be referred to cross-servicing manually. Debts without TIN cannot be referred to TOP.

- respond to each dispute on the debt

Note: Multiple disputes on the same debt may be received because Treasury and 2 different PCA’s to collect the debt. If Treasury does not receive FSA’s dispute response within 60 calendar days, the debt will be returned as uncollectible.

- recall debts from cross-servicing when they no longer meet CNC requirements, such as bankruptcy protection or 20-year SOL expiration for judgment debts, by completing and FAXing FSA-1956-22, with supporting documentation, to FLOO, PRG at *--314-457-4478--*

Note: These debts should be deleted immediately on the TOP screens, if applicable.

Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt (Continued)**2 Cross-Servicing (Continued)****D Actions Required for Referring and Servicing CNC Debt (Continued)**

FLOO, PRG shall:

- refer debt listed on FSA-1956-21 to Treasury for cross-servicing on a monthly basis
- provide State Offices a report of all loans submitted with each referral to Treasury
- recall CNC debt from cross-servicing as needed
- notify State Offices when the following occur:
 - debts are disputed
 - compromises are offered
 - initial cross-servicing payments are received
 - debts are returned from cross-servicing
 - debt has been resubmitted per State Office request.

E 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.

Debtors referred to cross-servicing are provided with payment instructions from Treasury and/or PCA's. Debtors must make their payments to Treasury or PCA because there is a significant Treasury/PCA fee debtors must pay.

When a voluntary payment is received from CNC borrowers, the:

- County Office shall call the State Office
- State Office shall check the borrower's current cross-servicing status on FedDebt.

***--Note:** If needed, call FLOO, PRG at 314-679-6800 for assistance.--*

Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt (Continued)**2 Cross-Servicing (Continued)****E FSA Collection Activity (Continued)**

If the account has been referred to cross-servicing, the State Office shall notify the County Office to:

- prepare a memorandum to FLOO, PRG stating the following:
 - payment should have been sent to cross-servicing
 - amount of the check
 - debtor's name
 - TIN
 - relationship to the borrower's or co-borrower's loan
 - case number and loan number
- mail the check and memorandum to the following address:

Farm Service Agency
 Farm Loan Operations Office, FC-533
 P.O. Box 200003
 St. Louis, MO 63120-0003.

Borrowers referred for cross-servicing will continue to have FSA-2065 and, if applicable, IRS Form 1098 generated at calendar year-end if the account had activity. County Offices shall forward FSA-2065 to the borrower and a copy to the State Office.

F Discrimination Complaints at Cross-Servicing

*--CNC accounts involved in an accepted discrimination complaint according to 1-FLP, subparagraph 41 I, are **not** eligible for cross-servicing. However, CNC debts are eligible for administrative offset. For:

- servicing accounts with an accepted discrimination complaint, see 1-FLP, subparagraph 41 I
- administrative offset information, see Exhibit 15 and RD Instruction 1951-C.

If a CNC debtor files a program discrimination complaint and the Office of Adjudication accepts the complaint as valid, immediately FAX FSA-1956-22 and supporting documentation to FLOO, PRG at 314-457-4478 to recall the debt from cross-servicing.--*

Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt (Continued)

2 Cross-Servicing (Continued)

G Debt Settlement Offers

CNC debt may be settled by FSA upon application by the borrower, **if the debt has not been referred to Treasury for cross-servicing, or if all of the borrower’s loans have been returned from cross-servicing.** If a CNC borrower submits or inquires about a debt settlement application, the State Office shall access the FedDebt system to determine whether the account has been referred for cross-servicing.

| IF the account has... | THEN inform the borrower that... |
|---|---|
| been referred for cross-servicing and at least 1 loan still at cross-servicing | the debt is now at Treasury and negotiations need to be with Treasury. Borrowers: <ul style="list-style-type: none"> • may contact Treasury at 1-888-826-3127 • have no appeal rights for settlements rejected by Treasury and returned to FSA. |
| either of the following: <ul style="list-style-type: none"> • not been referred for cross-servicing (and such referral is not required) • all of the borrower’s/co-borrower’s loans have been returned from cross-servicing | a debt settlement offer may be considered. See 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 on FSA-1956-21 but the debt has not yet been referred, the State Office should notify FLOO, PRG immediately by FAX at 314-457-4478. 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 FLOO, PRG 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.

Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt (Continued)**3 Account Resolution After Referral to Cross-Servicing****A Process**

Treasury will notify FSA and request concurrence for some repayment agreements and compromises. This notification is done on a loan-by-loan basis, not by account. In cases where a debtor has more than one FSA loan referred to cross-servicing and FSA is advised of an agreement to compromise or adjust 1 loan or several loans, but not all of the debt, SED may approve the settlement agreements on a loan-by-loan basis.

Cancellation of any loan balances remaining on the compromised or adjusted loans will **not** be processed until all:

- payments have been received as agreed
- loans eligible for referral to the cross-servicing program for that debtor have been returned, with or without payment agreements, to FSA
- co-borrower issues are resolved, including recall and returns.

By the second week of each month, FLOO, PRG may access Treasury's FedDebt system and run the Creditor Agency's Return to Agency Report for the prior month. This report reflects all FSA debts that were returned to FSA in the requested month and the reason the debt was returned.

Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt (Continued)

3 Account Resolution After Referral to Cross-Servicing (Continued)

B Action

Debts shall be resolved according to the following.

| Step | Office | Action |
|------|--------------|--|
| 1 | State Office | <p>State Offices shall:</p> <ul style="list-style-type: none"> • receive Treasury’s DMS action form or concurrence request from FLOO, PRG about a repayment agreement/adjustment offer or compromise offer • receive a list of all debts Treasury has returned from cross-servicing for the month from FLOO, PRG • based upon the information in the case file, determine whether the debt is eligible for settlement through the proposed repayment/adjustment offer, compromise offer, or if the debt may be canceled. <p style="text-align: center;">Repayment/Adjustment Offers and Compromise Offers</p> <p>SED shall:</p> <ul style="list-style-type: none"> • obtain concurrence from the U.S. Attorney or FSA FLP National Office, if necessary • sign the DMS action form • ENTER “Y” or “N” in the “Approved” column, as applicable •*--FAX to FLOO, PRG at 314-457-4478.--* <p>Note: If an offer is not approved, include supporting documentation to substantiate why greater repayment is warranted. Approved agreements must not exceed 5 years according to RD Instruction 1956-B.</p> |

Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt (Continued)

3 Account Resolution After Referral to Cross-Servicing (Continued)

B Action (Continued)

| Step | Office | Action |
|-------------|------------------------|---|
| 1 (Cntd) | State Office (Cntd) | <p style="text-align: center;">Cancellation</p> <p>The account balance may be considered for cancellation when all:</p> <ul style="list-style-type: none"> • of the loans eligible for referral to the cross-servicing program have been referred but returned for the debtor and any co-debtors • payments have been received from any compromise or adjustment offers negotiated by Treasury. <p>The account balance will be canceled if there are no known *--collections that FSA will receive through AWG, TOP (including Federal salary offset), or FSA’s internal administrative offset process. Known collections are from payments that FSA is certain it will receive from AWG or from offsets in the near future, such as Social Security benefits, Federal salary, farm program payments, etc., for an amount sufficient to reduce the overall balance of the debt.</p> <p>In some cases, a partial cancellation according to paragraph 956 may be in the Government’s best interest.--*</p> <p>Canceling a debtor’s account balance will be completed according to RD Instruction 1956-B or RD Instruction 1956-B, Exhibit B, as appropriate. If 1 or more of a debtor’s loans have been canceled using the debt cancellation authority under the Federal Claims Collection Standards, the remaining account balance may be canceled under RD Instruction 1956-B. If a debtor has received debt forgiveness under CONACT authorities, such as a write-down through primary loan servicing, the remaining account balance may be canceled according to RD Instruction 1956-B, Exhibit B.</p> |

Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt (Continued)

3 Account Resolution After Referral to Cross-Servicing (Continued)

B Action (Continued)

| Step | Office | Action |
|-------------|------------------------|--|
| 1 (Cntd) | State Office (Cntd) | <p style="text-align: center;">Cancellation</p> <p>SED's shall:</p> <ul style="list-style-type: none"> • process the loan cancellation as appropriate using RD 1956-1 • prepare a memorandum advising FLOO, PRG of the cancellation • FAX the signed memorandum to FLOO, PRG. <p>Note: The State Office shall obtain any necessary concurrence before canceling the debt.</p> <p>When canceling remaining loan balances owed on debts compromised by Treasury:</p> <ul style="list-style-type: none"> • document the information about the compromise on RD 1956-1 • process transaction code "3K" using class of write off code "1" for the compromised debt • process transaction code "3K" using class of write off code "4" for the balance of the debt returned as uncollectible • the effective date for all 3K transactions shall be the date SED or DAFLP signed RD 1956-1. |

Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt (Continued)

3 Account Resolution After Referral to Cross-Servicing (Continued)

B Action (Continued)

| Step | Office | Action |
|------|---------------|--|
| 2 | FLOO, PRG | <p style="text-align: center;">Repayment/Adjustment Offers and Compromise Offers</p> <p>FAX the signed DMS action form to Treasury. Once the full amount of the repayment/adjustment or compromise is received and applied, FAX a memorandum to the State Office notifying the State that the full amount of the repayment/adjustment or compromise has been collected and applied to the debt.</p> <hr/> <p style="text-align: center;">Approved Cancellations</p> <p>When cancellations cannot be processed by the State Office, FLOO, PRG shall:</p> <ul style="list-style-type: none"> • request RD 1956-1 for authorization of cancellation • notify the appropriate loan servicing team to process cancellations approved by SED • FAX a memorandum to the State Office once the cancellation has been completed. |
| 3 | State Office | <p>Attach FLOO, PRG memorandums, State Office memorandums, and any applicable forms to the State Office copy of FSA-1956-20 *-for CNC debt, or RD 1956-1 for debt charged-off before--* September 11, 2000.</p> <p>Forward a copy of the FLOO, PRG memorandum and any applicable forms to the Farm Loan Manager.</p> |
| 4 | County Office | <p>File FLOO, PRG memorandums, State Office memorandums, and any applicable forms in the case file.</p> <p>After all payments have been processed, stamp the promissory notes “Satisfied by Completed Adjustment Offer”, “Satisfied by Approved Compromise”, or “Satisfied by Approved Cancellation”, as applicable, and return the satisfied notes to the borrower.</p> <p>In cases where the debt is returned as uncollectible, but cannot be canceled, continue monitoring the account until it is eligible for cancellation, then process the cancellation according to RD Instruction 1956-B or Exhibit B, as applicable.</p> |

***--Administrative Wage Garnishment (AWG)**

1 Overview

A Definition of AWG

AWG is a garnishment program used to collect delinquent nontax Federal debt from borrowers who have private sector jobs. AWG is:

- authorized by DCIA
- administered by Treasury.

Debts referred to Treasury for cross-servicing are generally eligible for AWG if agencies have AWG procedures in place.

Note: This exhibit provides the internal AWG procedures for FLP debt.

B Process

Because AWG is administered through Treasury's cross-servicing program, there is no action needed by FLP to determine whether AWG will or will not be used.

If an FLP debt is classified CNC and referred to cross-servicing according to Exhibit 16, Treasury will:

- determine whether it will use AWG to collect the FLP debt
- perform all necessary due process notifications.

The only times FLP will need to become involved in the AWG process are when:

- borrowers request to inspect and/or copy their FLP records

Note: See subparagraph 6 A for guidance.

- Treasury requests FLP's assistance in evaluating a debt settlement offer or ARA

Note: See subparagraph 6 B for guidance.

- borrowers request a hearing.

Note: See subparagraph 7 E for guidance.--*

***--Administrative Wage Garnishment (AWG) (Continued)**

1 Overview (Continued)

B Process (Continued)

The overall process when a borrower requests an AWG hearing is as follows:

- Treasury will notify OCFO that a hearing was requested
- OCFO will:
 - notify LSPMD that a hearing was requested,
 - coordinate the hearing date with ALJ
- ALJ will notify LSPMD and the borrower of the hearing date, etc.
- LSPMD will:
 - notify the applicable State Office servicing the account that a hearing was requested
 - request any documentation or information needed for the hearing
- the State Office will provide the documentation or information to LSPMD
- LSPMD will be the FLP representative at the hearing
- ALJ will make a decision and notify all parties
- OCFO will notify Treasury of the decision
- Treasury will implement the decision.

Note: Treasury will do either of the following:

- **not** collect the debt through AWG
- collect the debt through AWG by notifying the borrower's employer and enforcing the garnishment order.--*

*--Administrative Wage Garnishment (AWG) (Continued)

1 Overview (Continued)

C Authority

FLP is implementing AWG through the authority provided in the following:

- USDA-wide regulations at 7 CFR Part 3
- Governmentwide regulations published by Treasury at 31 CFR Part 285.

The following are the relevant regulatory references.

[7 CFR 3.2] The regulations in this part are issued under the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996 (DCIA) (31 U.S.C. 3701 et seq.)... The regulations under this part also are issued under Treasury regulations implementing DCIA (31 CFR part 285).

[31 CFR 285.11 (d)] *General rule.* Whenever an agency determines that a delinquent debt is owed by an individual, the agency may initiate proceedings administratively to garnish the wages of the delinquent debtor.

[7 CFR 3.53 (a)] USDA has determined to pursue administrative wage garnishment of USDA debtors by referral of nontax legally enforceable debts to Treasury for issuance of garnishment orders by Treasury or its contractors.

[7 CFR 3.50] This subpart (7 CFR Part 3, Subpart E) provides USDA procedures for use of administrative wage garnishment to garnish a debtor's disposable pay to satisfy delinquent nontax debt owed to USDA creditor agencies.

2 General

A Debt Settlement Offers

[7 CFR 3.51 (c)] Nothing in this subpart (7 CFR Part 3, Subpart E) precludes the compromise of a debt or the suspension or termination of collection action in accordance with the provisions of this part or other applicable law.

While FLP debt is referred to Treasury for AWG and/or cross-servicing, borrowers must submit any debt settlement offer to Treasury and/or Treasury's PCA servicing the debt. If needed, Treasury and/or PCA will forward the debt settlement request to FSA for review through FLOO or OCFO.

Accounts eligible for AWG and/or cross-servicing are classified CNC (3K class of write off code 5). If a CNC borrower submits or inquires about a debt settlement application, see Exhibit 16, subparagraph 2 G.--*

***--Administrative Wage Garnishment (AWG) (Continued)**

2 General (Continued)

B Other Collection Actions Authorized

[7 CFR 3.51 (d)] The receipt of payments pursuant to this subpart does not preclude an agency from pursuing other debt collection remedies under this part (7 CFR Part 3). An agency may pursue such debt collection remedies separately or in conjunction with administrative wage garnishment.

DAFLP will continue to use all applicable collection tools, including centralized administrative offset through TOP (Exhibit 15) and noncentralized administrative offset of FSA Farm Program payments (7 CFR 3.43 and RD Instruction 1951-C, Section 1951.104) and NRCS payments (1-CM, Part 25, Section 5.5).

C Federal Salary Offset Clarification

[7 CFR 3.51 (e)] This subpart (7 CFR Part 3, Subpart E) does not apply to the collection of delinquent nontax debt owed to the United States from the wages of Federal employees from their Federal employment. Federal pay is subject to the salary offset procedures of subpart G of this part (Exhibit 15; 7 CFR Part 3; 7 CFR 1951.11; RD Instruction 1951-C, Section 1951.111).

Currently, Federal salary offset is administered through TOP. For TOP information, see Exhibit 15. See RD Instruction 1951-C, Section 1951.111 for:

- salary offset notification, which the authorized agency official must send when notified by FLOO that Treasury has identified a TIN match between a delinquent FLP debt and a Federal salary
- salary offset hearing procedures, application of payments, etc.

At this time, State Offices should continue to coordinate Federal salary offset notification and hearings through FLOO. The procedures in Exhibit 15 and RD Instruction 1951-C will be revised and incorporated into a new handbook for offset, cross-servicing, and debt settlement in the near future.--*

***--Administrative Wage Garnishment (AWG) (Continued)**

3 Required Agency Notification About Collection Actions, Including AWG

A Overview

The notification requirements are listed and described in subparagraphs C through I.

DAFLP satisfies these requirements, including FSA's intent to collect through AWG, in the 60-day due process letter that is sent before referring FLP debt to Treasury for TOP. See Exhibit 15, paragraph 9 for an example of the due process letter that is sent by FLOO.

A paragraph in the 60-day due process letter advises FLP borrowers that after liquidation of loan security, any remaining loan balance may be referred to Treasury for collection through private collection agencies (generally referred to as "cross-servicing") and AWG.

B Duplication of Notice Not Required

[7 CFR 3.51 (f)] Nothing in this subpart (7 CFR Part 3, Subpart E) requires agencies to duplicate notices or administrative proceedings required by contract or other laws or regulations, or other provisions of this part (7 CFR Part 3).

Duplication of notice is **not** required. However, in some cases, there can be a time delay of several years between receiving the notice in subparagraph A for TOP when the account is initially delinquent and referral of debt to cross-servicing after liquidation or conveyance of all security.

Therefore, after liquidation or conveyance of all security, Exhibit 44 or 45 is sent to borrowers to remind them that the unsecured balance owed on their loans will be sent to Treasury for collection through cross-servicing and AWG. Exhibits 44 and 45 also give borrowers an additional opportunity to resolve the debt before it is actually referred for cross-servicing and AWG.

See:

- Parts 11, 12, 13, 16, and 17 for liquidation
- Part 14 for conveyance
- Part 24 for servicing unsecured account balances.--*

***--Administrative Wage Garnishment (AWG) (Continued)**

3 Required Agency Notification About Collection Actions, Including AWG (Continued)

C General Notice Requirements

The general notice requirements are included in the 60-day due process letter (Exhibit 15, paragraph 9).

The following are the relevant regulation references that include general notice requirements.

[7 CFR 3.53 (b)] Pursuant to §3.11, agencies must notify debtors of their intent to pursue garnishment of their disposable pay through referral of the debt to Treasury for issuance of an administrative wage garnishment order and provide debtors with the opportunity for review of the existence of the debt under subpart F (RD Instruction 1951-C, Section 1951.125) within 60 days of the date of the demand letter.

[7 CFR 3.11 (b)] In demand letters, the USDA creditor agency shall inform the debtor:

- (1) The nature and amount of the debt; and the facts giving rise to the debt;**
- (2) How interest, penalties, and administrative costs are added to the debt, the date by which payment must be made to avoid such charges, and that such assessments must be made unless excused in accordance with §3.17;**

Note: Excusing or waiving interest and administrative costs does **not** apply to FLP loans according to 7 CFR 3.17 (g), which states:

Agencies shall waive the collection of interest and administrative charges imposed pursuant to this section (*i.e.*, this does not apply to interest or administrative penalties determined by an applicable agreement or instrument such as a loan contract) on the portion of the debt that is paid within 30 days after the date on which interest began to accrue.

Note: Emphasis was added to the underlined information.

(3) The date by which payment should be made to avoid the enforced collection actions described in paragraph (b)(6) (subparagraph D) of this section;

(4) The willingness of the creditor agency to discuss alternative payment arrangements and how the debtor may enter into a written agreement to repay the debt under terms acceptable to the agency (*see* §3.16); [Part 3, Section 1; paragraph 434; Exhibit 15, subparagraph 2 C; Exhibit 16, subparagraph 2 G; Exhibit 44; Exhibit 45; RD Instruction 1951-C, Sections 1951.103 (d), 1951.104 (a)(2), 1951.111 (f)(2), and 1951.137; and RD Instruction 1956-B]

(5) The name, address, telephone number and email address (optional) of a contact person or office within the creditor agency;--*

***--Administrative Wage Garnishment (AWG) (Continued)**

3 Required Agency Notification About Collection Actions, Including AWG (Continued)

D Required Notice for Specific Collection Actions

The required notice for specific collection actions is included in the 60-day due process letter (Exhibit 15, paragraph 9).

The following are the relevant regulation references that include required notice for specific collection actions.

[7 CFR 3.11 (b)(6)] The intention of the creditor agency to enforce collection if the debtor fails to pay or otherwise resolve the debt, by taking one or more of the following actions:

- (i) *Offset.* Offset the debtor's USDA payments and refer the debtor's debt to TOP for offset against other Federal payments, including income tax refunds, in accordance with subpart D; (Exhibit 15; RD Instruction 1951-C)**
- (ii) *Private collection agency.* [Reserved]**
- (iii) *Credit reporting agency reporting.* Report the debt to a credit reporting agency in accordance with §3.12;**
- (iv) *Administrative wage garnishment.* Refer the debt to Treasury in accordance with subpart E for possible collection by garnishing the debtor's wages through administrative wage garnishment;**
- (v) *Litigation.* Refer the debt to Justice in accordance with §3.21 to initiate litigation to collect the debt; (Part 11, Section 2; Part 16)**
- (vi) *Referral to Treasury.* Referral of the debt to Treasury for collection in accordance with subpart C of this part; (Cross-Servicing: Exhibit 16)**

[7 CFR 3.11 (b)(11)] How a debtor who is a Federal employee subject to Federal salary offset may request a hearing (*see subpart G of this part*); [RD Instruction 1951-C, Section 1951.111 (g)]--*

*--Administrative Wage Garnishment (AWG) (Continued)

3 Required Agency Notification About Collection Actions, Including AWG (Continued)

E Required Notice of Referral to Treasury

The required notice of referral to Treasury is included in the 60-day due process letter (Exhibit 15, paragraph 9).

The following is the regulation reference that includes the required notice for referral to Treasury.

[7 CFR 3.11 (b)(7)] That USDA debts over 180 days delinquent must be referred to Treasury for the collection actions described in paragraph (b)(6) (subparagraph D) of this section;

Notes: Concerning the “over 180 days delinquent” requirement, 7 CFR 3.30 (a) states the following.

Agencies are required by law to transfer delinquent, nontax, legally enforceable debts to Treasury for collection through cross-servicing and through centralized administrative offset. Additionally, USDA has chosen to transfer debts to Treasury for collection through administrative wage garnishment. Agencies need not make duplicate referrals to Treasury for all these purposes; a debt may be referred simultaneously for purposes of collection by cross-servicing, centralized administrative offset, and administrative wage garnishment where applicable. However, in some instances a debt exempt from collection via cross-servicing may be subject to collection by centralized administrative offset so simultaneous referrals are not always the norm. This subpart (7 CFR Part 3, Subpart C) sets forth rules applicable to the transfer of debts to Treasury for collection by cross-servicing. Rules for transfer to Treasury for centralized administrative offset are set forth in subpart D (7 CFR Part 3), and for administrative wage garnishment in subpart E (7 CFR Part 3). [References to 7 CFR Part 3, Subpart C and 7 CFR Part 3 are added.]

Note: Emphasis was added to the underlined information.

FLP debt is eligible for internal administrative offset and referral to TOP before it is eligible for referral to cross-servicing. According to 7 CFR Part 3, Subpart D, debt is generally eligible for TOP when it becomes delinquent and all required offset notices have been sent. According to 7 CFR 3.31, the mandatory referral of debt to cross-servicing is **not** required if it is in litigation or foreclosure. Therefore, FLP debt is generally referred to TOP when it becomes delinquent, but is not referred to cross-servicing until all security has been liquidated. Because of CONTACT loan servicing requirements that must be met before litigation and/or foreclosure, FLP debt is not referred to cross-servicing based on the “over 180 days delinquent” requirement.--*

***--Administrative Wage Garnishment (AWG) (Continued)**

3 Required Agency Notification About Collection Actions, Including AWG (Continued)

E Required Notice of Referral to Treasury (Continued)

In addition, at this time, Treasury is administering AWG through FedDebt. FedDebt is an automated system developed for debts referred to Treasury for cross-servicing. Therefore, at this time, debts must be referred to cross-servicing to be considered for collection through AWG.

For:

- offset information, see Exhibit 15 and RD Instruction 1951-C
- cross-servicing information, see Exhibit 16.

F Required Notice About Records, Reviews, Refunds, and Rights

The required notice about records, reviews, refunds, and rights is included in the 60-day due process letter (Exhibit 15, paragraph 9).

The following are the regulation references for the required notice about records, reviews, refunds, and rights.

[7 CFR 3.11 (b)(8)] How the debtor may inspect and copy records related to the debt;

(9) How the debtor may request a review of the USDA creditor agency's determination that the debtor owes a debt and present evidence that the debt is not delinquent or legally enforceable (*see* subpart F of this part); [Administrative Offset: RD Instruction 1951-C, Sections 1951.103 (e) and 1951.103 (f); Additional TOP and Cross-Servicing Review: RD Instruction 1951-C, Section 1951.125]

(10) [Reserved]

[7 CFR 3.11 (b)(12)] How a debtor may request a waiver of the debt, if applicable;
(Not applicable for FLP debt)

(13) How the debtor's spouse may claim his or her share of a joint income tax refund by filing Form 8379 with the Internal Revenue Service (*see* <http://www.irs.gov>);

(14) How the debtor may exercise other statutory or regulatory rights and remedies available to the debtor;--*

***--Administrative Wage Garnishment (AWG) (Continued)**

3 Required Agency Notification About Collection Actions, Including AWG (Continued)

G Required Notice About Ineligibility for Loans, Suspension/Revocation of Licenses

[7 CFR 3.11 (b)(15)] That certain debtors may be ineligible for government loans, guarantees, and insurance (see §3.14);

(16) If applicable, the creditor agency's intention to suspend or revoke licenses, permits, or privileges (see §3.14); and

H Bankruptcy

[7 CFR 3.11 (b)(17)] That the debtor must advise the creditor agency of the filing of any bankruptcy proceedings of the debtor or of another person liable for the debt being collected.

The applicable required notice is included in the 60-day due process letter (Exhibit 15, paragraph 9).

I Exception to Notice Requirements

[7 CFR 3.11 (c)] A USDA creditor agency may omit from a demand letter one or more of the provisions contained in paragraphs (b)(6) through (b)(17) (subparagraphs C through H) if the USDA creditor agency, in consultation with OGC, determines that any provision is not legally required given the collection remedies to be applied to a particular debt.

After consultation between the National Office DAFLP staff and OGC, any provision in 7 CFR 3.11 (b)(6) through (b)(17) that is **not** applicable may not be listed in the 60-day due process letter (Exhibit 15, paragraph 9).--*

***--Administrative Wage Garnishment (AWG) (Continued)**

4 Referral to Treasury

A Referral Required

[7 CFR 3.53 (c)] Upon expiration of the 60-day period for review, or upon completion of a review under subpart F that upholds the agency's determination of the debt [RD Instruction 1951-C, Sections 1951.103 (e), 1951.103 (f), and 1951.125], USDA will transfer the debt for collection through administrative wage garnishment as well as other means through cross-servicing or centralized administrative offset.

FLP borrowers receive agency review and NAD appeal rights in the 1951-C-1 and/or 1951-C-2 letters when FSA intends to collect by administrative offset. For the agency review, see RD Instruction 1951-C, Section 1951.103 (e). For NAD review, see RD Instruction 1951-C, Section 1951.103 (f), 1-APP, and 7 CFR Part 11.

An additional appeal opportunity to NAD before referring delinquent debt to Treasury for TOP and cross-servicing (which can include AWG) is **not** necessary.

However, borrowers are provided an additional opportunity to review the debt when they receive the 60-day due process letter (Exhibit 15, paragraph 9), which is sent before referring the debt to Treasury. See RD Instruction 1951-C, Section 1951.125.

B Collection Through AWG

FLP debt will be collected through AWG by Treasury and/or Treasury's PCA's after FSA:

- classifies the account CNC
- refers the debt to cross-servicing according to Exhibit 16.

Note: CNC accounts involved in an accepted discrimination complaint according to 1-FLP, subparagraph 41 I, are **not** eligible for AWG or cross-servicing. See Exhibit 16, subparagraph 2 F and 1-FLP, subparagraph 41 I for servicing CNC accounts with an accepted discrimination complaint.--*

***--Administrative Wage Garnishment (AWG) (Continued)**

5 Treasury Actions

A Determination to Use AWG

[7 CFR 3.53 (d)] If Treasury elects to pursue collection through administrative wage garnishment, Treasury, or its contractor, will notify the debtor of its intent to initiate garnishment proceedings and provide the debtor with the opportunity to inspect and copy agency records related to the debt, enter into a repayment agreement, or request a hearing as to the existence or amount of the debt or the terms of the proposed repayment schedule under the proposed garnishment order, in accordance with 31 CFR 285.11.

Treasury compares TIN's reported by FLP for delinquent debt with TIN's reported in the National Directory of New Hires database. The database is maintained by the U.S. Department of Health and Human Services. It includes:

- employment information for wage earners who are newly hired
- quarterly earnings for all individuals currently employed.

When a TIN match is found, Treasury, and/or its PCA, determines whether AWG will be pursued.

B AWG Notification

Treasury or PCA sends a notice that includes the following to FLP borrowers, on behalf of FSA, when Treasury determines that AWG will be pursued.

[31 CFR 285.11 (e)(1)] At least 30 days before the initiation of garnishment proceedings, the agency shall mail, by first class mail, to the debtor's last known address a written notice informing the debtor of:

- (i) The nature and amount of the debt;**
- (ii) The intention of the agency to initiate proceedings to collect the debt through deductions from pay until the debt and all accumulated interest, penalties and administrative costs are paid in full; and**
- (iii) An explanation of the debtor's rights, including those set forth in paragraph (e)(2) of this section, and the time frame within which the debtor may exercise his or her rights.**

(2) The debtor shall be afforded the opportunity:

- (i) To inspect and copy agency records related to the debt;**
- (ii) To enter into a written repayment agreement with the agency under terms agreeable to the agency (subparagraph 6 B); and**
- (iii) For a hearing in accordance with paragraph (f) of this section (paragraph 7) concerning the existence or the amount of the debt or the terms of the proposed repayment schedule under the garnishment order. However, the debtor is not entitled to a hearing concerning the terms of the proposed repayment schedule if these terms have been established by written agreement under paragraph (e)(2)(ii) of this section.--***

***--Administrative Wage Garnishment (AWG) (Continued)**

5 Treasury Actions (Continued)

C Right of Action

[31 CFR 285.11 (o)] The agency may sue any employer for any amount that the employer fails to withhold from wages owed and payable to an employee in accordance with paragraphs (g) (subparagraph 8 A) and (i) (paragraphs 9 and 10) of this section. However, a suit may not be filed before the termination of the collection action involving a particular debtor, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period. For purposes of this section, “termination of the collection action” occurs when the agency has terminated collection action in accordance with the FCCS or other applicable standards. In any event, termination of the collection action will have been deemed to occur if the agency has not received any payments to satisfy the debt from the particular debtor whose wages were subject to garnishment, in whole or in part, for a period of one (1) year.

At this time, Treasury is enforcing compliance with the garnishment orders on DAFLP’s behalf.

6 Borrower Requests

A Request to Inspect and/or Copy Records

Borrowers may request to inspect and/or copy records. FLP State and local offices may receive the request directly from the borrower, or it may be forwarded on the borrower’s behalf from Treasury, OCFO, or LSPMD. All FLP offices must respond in a timely manner to these requests. See 3-INFO, paragraphs 17 and 20 for information about records holding office responsibility and legal basis for withholding information.

B Request for ARA

Borrowers may submit a written repayment agreement as an alternative to collection of the FLP debt through AWG. These requests are processed by Treasury, or PCA assigned by Treasury, to service the debt.

While a debt is referred to AWG and/or cross-servicing, it is being serviced by Treasury, or its PCA’s, so DAFLP cannot accept ARA from a borrower. Borrowers must contact Treasury or PCA directly to make any payment arrangements.--*

***--Administrative Wage Garnishment (AWG) (Continued)**

6 Borrower Requests (Continued)

B Request for ARA (Continued)

Treasury may request assistance from FSA, through OCFO, in determining the acceptability of ARA, or debt settlement offers. In these cases, FLP offices must respond in a timely manner.

The authorized agency official may recommend acceptance of ARA if:

- the amount offered before an AWG hearing is reasonable based on the debtor's ability to repay the debt, **or** is at least equal to the estimated amount that would be collected through enforced AWG
- the amount offered is at least equal to the amount established in the hearing decision and/or garnishment order.

ARA's do **not** replace any signed promissory notes, security agreements, judgments, or other debt instruments.

C Request for Hearing

[7 CFR 3.53 (e)] If the debtor requests a hearing at any time, Treasury will forward the request to the USDA creditor agency to which the debt is owed, and the creditor agency will contact the Office of the CFO (OCFO) for selection of a hearing official. The issuance of proposed garnishment orders by Treasury shall not be subject to appeal to NAD under 7 CFR part 11. Hearings will be conducted in accordance with 31 CFR 285.11(f) (paragraph 7).

At this time, Treasury is forwarding hearing requests about FLP debt directly to OCFO. OCFO is coordinating the hearing process and obtaining the hearing officials for DAFLP.

7 AWG Hearing According to 31 CFR 285.11(f)

A Hearing Request

[31 CFR 285.11 (f)(1)] Agencies shall prescribe regulations for the conduct of administrative wage garnishment hearings consistent with this section or shall adopt this section without change by reference.

USDA adopted the section without change at 7 CFR 3.53 (e). DAFLP is implementing AWG through USDA-wide procedures.--*

***--Administrative Wage Garnishment (AWG) (Continued)**

7 AWG Hearing According to 31 CFR 285.11(f) (Continued)

A Hearing Request (Continued)

[31 CFR 285.11 (f)(2)] The agency shall provide a hearing, which at the agency's option may be oral or written, if the debtor submits a written request for a hearing concerning the existence or amount of the debt or the terms of the repayment schedule (for repayment schedules established other than by written agreement under paragraph (e)(2)(ii) (subparagraph 5 B) of this section).

OCFO is coordinating the hearings with USDA ALJ on behalf of DAFLP.

B Type of Hearing or Review

[31 CFR 285.11 (f)(3)(i)] For purposes of this section, whenever an agency is required to afford a debtor a hearing, the agency shall provide the debtor with a reasonable opportunity for an oral hearing when the agency determines that the issues in dispute cannot be resolved by review of the documentary evidence, for example, when the validity of the claim turns on the issue of credibility or veracity.

(ii) If the agency determines that an oral hearing is appropriate, the time and location of the hearing shall be established by the agency. An oral hearing may, at the debtor's option, be conducted either in-person or by telephone conference. All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor. All telephonic charges incurred during the hearing will be the responsibility of the agency.

(iii) In those cases when an oral hearing is not required by this section, an agency shall nevertheless accord the debtor a "paper hearing," that is, an agency will decide the issues in dispute based upon a review of the written record. The agency will establish a reasonable deadline for the submission of evidence.

The hearings are generally conducted by teleconference, and the hearing official establishes the date and time.

C Timely Requests

[31 CFR 285.11 (f)(4)] Subject to paragraph (f)(13) (subparagraph G) of this section, if the debtor's written request is received by the agency on or before the 15th business day following the mailing of the notice described in paragraph (e)(1) (subparagraph 5 B) of this section, the agency shall not issue a withholding order under paragraph (g) (subparagraph 8 A) of this section until the debtor has been provided the requested hearing and a decision in accordance with paragraphs (f)(10) (subparagraph G) and (f)(11) (subparagraph G) of this section has been rendered.--*

***--Administrative Wage Garnishment (AWG) (Continued)**

7 AWG Hearing According to 31 CFR 285.11(f) (Continued)

C Timely Requests (Continued)

[31 CFR 285.11 (f)(5)] If the debtor's written request is received by the agency after the 15th business day following the mailing of the notice described in paragraph (e)(1) (subparagraph 5 B) of this section, the agency shall provide a hearing to the debtor. However, the agency will not delay issuance of a withholding order unless the agency determines that the delay in filing the request was caused by factors over which the debtor had no control, or the agency receives information that the agency believes justifies a delay or cancellation of the withholding order.

DAFLP must provide a hearing, regardless of when a hearing request is received. When a timely request is received, AWG will **not** begin until after the hearing process has concluded. When a request is **not** received in a timely manner, AWG may begin before a hearing decision unless the delay in requesting a hearing was caused by factors beyond the borrower's control, or information is received that would justify delay or cancellation of AWG.

At this time, Treasury will make the timeliness decisions for FLP because borrowers submit the requests directly to Treasury. Treasury will also determine whether AWG will begin before a hearing in cases where hearing requests are **not** timely.

D Hearing Official

[31 CFR 285.11 (f)(6)] A hearing official may be any qualified individual, as determined by the head of the agency, including an administrative law judge.

At this time, the hearing officials selected by OCFO are USDA ALJ's.

E Hearing Procedure

[31 CFR 285.11 (f)(7)] After the debtor requests a hearing, the hearing official shall notify the debtor of:

- (i) The date and time of a telephonic hearing;**
- (ii) The date, time, and location of an in-person oral hearing; or**
- (iii) The deadline for the submission of evidence for a written hearing.--***

***--Administrative Wage Garnishment (AWG) (Continued)**

7 AWG Hearing According to 31 CFR 285.11(f) (Continued)

E Hearing Procedure (Continued)

The ALJ office will send the hearing information to the borrower, OCFO, and LSPMD.

The pre-hearing Order sent to LSPMD establishes the hearing date and the date that the following must be submitted to ALJ and the borrower:

- narrative about the existence, computation of amount, and documentation of FLP debt
- any information about the borrower's ability to repay all or part of the debt through AWG
- copies of the proposed hearing exhibits
- list of the proposed hearing exhibits
- list of the proposed hearing witnesses.

LSPMD, or its designee, shall:

- request documentation from the applicable State Office, FLOO, and OGC as needed
- review all relevant documentation about the case
- prepare the hearing exhibits, list of hearing exhibits, and list of hearing witnesses
- send copies of hearing documents to ALJ and the borrower
- participate in the teleconference hearing
- respond to any follow-up questions from ALJ in a timely manner.

FLC shall ensure that the following documentation is assembled and e-mailed, in a manner that protects PII, to LSPMD at **RA.dcwashing7.FSA-AWG** or **FSA.AWG@wdc.usda.gov**:

- narrative including the following:
 - the existence, computation of amount, and documentation of FLP debt
 - any information the State or local FSA office may have about the borrower's ability to repay all or part of the debt through AWG
 - a statement confirming that all security that was pledged for the loans was liquidated and the proceeds were applied to the account--*

***--Administrative Wage Garnishment (AWG) (Continued)**

7 AWG Hearing According to 31 CFR 285.11(f) (Continued)

E Hearing Procedure (Continued)

- copies of the promissory notes
- print out of each loan showing principal, interest, and daily interest accrual as of the date printed, with a notation showing which items are administrative expense/recoverable cost items
- any documentation, such as a debt settlement application, financial statements, etc., FSA may possess about the borrower's ability to repay all or part of the debt through the garnishment process
- name, address, e-mail, telephone number, and FAX number of the contact person for the case.

Note: The e-mail subject should read "AWG Hearing - (Borrower's Name and State)".

In cases where LSPMD requests that an FLP employee familiar with the servicing of the case be available to participate in the AWG teleconference, FLC shall designate which FLP employees from the State shall participate.

Any requests for additional information or documentation from Treasury, OCFO, or the hearing official must be responded to immediately to ensure timely processing.

Note: If a borrower's circumstances change so that AWG would not be appropriate at any time before the AWG hearing is held, or during the time period between hearing and receiving the hearing official's decision, the State Office must notify LSPMD, and refer to Exhibits 15 and 16 to determine whether the debt must also be removed from cross-servicing and/or TOP.

Examples: If the borrower files for bankruptcy protection, the debt is no longer eligible for cross-servicing, AWG, or TOP.

If the borrower provides a notice of employment termination that he or she received, the borrower must also submit the letter to Treasury and/or PCA servicing the account. The State Office will access FedDebt, and review any FedDebt documentation and servicing notes, to determine whether the letter was accepted by Treasury as notification that the borrower is no longer employed, and will notify LSPMD accordingly. LSPMD will notify OCFO and ALJ, if a hearing is no longer necessary, etc. In cases of employment termination, AWG would not be appropriate. However, continued referral to cross-servicing and TOP may be appropriate based on the criteria in Exhibits 15 and 16.

If AWG hearings are canceled, LSPMD will notify the State Office accordingly.--*

***--Administrative Wage Garnishment (AWG) (Continued)**

7 AWG Hearing According to 31 CFR 285.11(f) (Continued)

F Burden of Proof and Hearing Record

[31 CFR 285.11 (f)(8)] (i) The agency will have the burden of going forward to prove the existence or amount of the debt.

(ii) Thereafter, if the debtor disputes the existence or amount of the debt, the debtor must present by a preponderance of the evidence that no debt exists or that the amount of the debt is incorrect. In addition, the debtor may present evidence that the terms of the repayment schedule are unlawful, would cause a financial hardship to the debtor, or that collection of the debt may not be pursued due to operation of law.

[31 CFR 285.11 (f)(9)] The hearing official must maintain a summary record of any hearing provided under this section. A hearing is not required to be a formal evidentiary-type hearing, however, witnesses who testify in oral hearings will do so under oath or affirmation.

G AWG Decision

[31 CFR 285.11 (f)(10)] The hearing official shall issue a written opinion stating his or her decision, as soon as practicable, but not later than sixty (60) days after the date on which the request for such hearing was received by the agency. If an agency is unable to provide the debtor with a hearing and render a decision within 60 days after the receipt of the request for such hearing:

(i) The agency may not issue a withholding order until the hearing is held and a decision rendered; or

(ii) If the agency had previously issued a withholding order to the debtor's employer, the agency must suspend the withholding order beginning on the 61st day after the receipt of the hearing request and continuing until a hearing is held and a decision is rendered.

[31 CFR 285.11 (f)(11)] The written decision shall include:

(i) A summary of the facts presented;

(ii) The hearing official's findings, analysis and conclusions; and

(iii) The terms of any repayment schedules, if applicable.

The hearing official sends the AWG decision to the borrower, OCFO, and LSPMD. OCFO forwards a copy of the decision to Treasury according to subparagraph 8 A. LSPMD will notify the applicable State Office.

[31 CFR 285.11 (f)(12)] The hearing official's decision will be the final agency action for the purposes of judicial review under the Administrative Procedure Act (5 U.S.C. 701 et seq.).--*

***--Administrative Wage Garnishment (AWG) (Continued)**

7 AWG Hearing According to 31 CFR 285.11(f) (Continued)

G AWG Decision (Continued)

[31 CFR 285.11 (f)(13)] In the absence of good cause shown, a debtor who fails to appear at a hearing scheduled pursuant to paragraph (f)(4) (subparagraph C) of this section will be deemed as not having timely filed a request for a hearing.

8 Garnishment

A Withholding Order

[7 CFR 3.53 (f)] OCFO shall provide a copy of the hearing official's final decision to Treasury for implementation with respect to the subject garnishment order.

[31 CFR 285.11 (g)(1)] Unless the agency receives information that the agency believes justifies a delay or cancellation of the withholding order, the agency should send, by first class mail, a withholding order to the debtor's employer:

- (i) Within 30 days after the debtor fails to make a timely request for a hearing (i.e., within 15 business days after the mailing of the notice described in paragraph (e)(1) of this section) (subparagraph 5 B), or,**
- (ii) If a timely request for a hearing is made by the debtor, within 30 days after a final decision is made by the agency to proceed with garnishment, or,**
- (iii) As soon as reasonably possible thereafter.**

[31 CFR 285.11 (g)(2)] The withholding order sent to the employer under paragraph (g)(1) of this section shall be in a form prescribed by the Secretary of the Treasury. The withholding order shall contain the signature of, or the image of the signature of, the head of the agency or his/her delegate. The order shall contain only the information necessary for the employer to comply with the withholding order. Such information includes the debtor's name, address, and social security number, as well as instructions for withholding and information as to where payments should be sent.

Treasury sends the withholding order to the employer on behalf of DAFLP.

B Employer Certification

[31 CFR 285.11 (h)] Along with the withholding order, the agency shall send to the employer a certification in a form prescribed by the Secretary of the Treasury. The employer shall complete and return the certification to the agency within the time frame prescribed in the instructions to the form. The certification will address matters such as information about the debtor's employment status and disposable pay available for withholding.

Treasury sends the certification to the employer on DAFLP's behalf. The employer returns the completed form to Treasury.--*

***--Administrative Wage Garnishment (AWG) (Continued)**

9 Garnishment Amount

A Only One Garnishment Order

[31 CFR 285.11 (c)] Definitions...*Disposable pay* means that part of the debtor's compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld. For purposes of this section, "amounts required by law to be withheld" include amounts for deductions such as social security taxes and withholding taxes, but do not include any amount withheld pursuant to a court order.

[31 CFR 285.11 (i)(1)] After receipt of the garnishment order issued under this section (subparagraph 8 B), the employer shall deduct from all disposable pay paid to the applicable debtor during each pay period the amount of garnishment described in paragraph (i)(2) of this section.

[31 CFR 285.11 (i)(2)(i)] Subject to the provisions of paragraphs (i)(3) (subparagraph B) and (i)(4) (subparagraph C) of this section, the amount of garnishment shall be the lesser of:

(A) The amount indicated on the garnishment order up to 15% of the debtor's disposable pay; or

(B) The amount set forth in 15 U.S.C. 1673(a)(2) (Restriction on Garnishment). The amount set forth at 15 U.S.C. 1673(a)(2) is the amount by which a debtor's disposable pay exceeds an amount equivalent to thirty times the minimum wage. See 29 CFR 870.10.

The minimum Federal wage will be used as referenced in 29 CFR 870.10.

The Department of Labor establishes the Federal minimum wage. Additional information about Federal minimum wage amounts can be obtained from the Department of Labor web site at <http://www.dol.gov/whd/minwage/chart.htm>.--*

*--Administrative Wage Garnishment (AWG) (Continued)

9 Garnishment Amount (Continued)

B Multiple Garnishment Orders

[31 CFR 285.11 (i)(3)] When a debtor's pay is subject to withholding orders with priority the following shall apply:

(i) Unless otherwise provided by Federal law, withholding orders issued under this section shall be paid in the amounts set forth under paragraph (i)(2) (subparagraph A) of this section and shall have priority over other withholding orders which are served later in time. Notwithstanding the foregoing, withholding orders for family support shall have priority over withholding orders issued under this section.

(ii) If amounts are being withheld from a debtor's pay pursuant to a withholding order served on an employer before a withholding order issued pursuant to this section, or if a withholding order for family support is served on an employer at any time, the amounts withheld pursuant to the withholding order issued under this section shall be the lesser of:

(A) The amount calculated under paragraph (i)(2) (subparagraph A) of this section, or
(B) An amount equal to 25% of the debtor's disposable pay less the amount(s) withheld under the withholding order(s) with priority.

(iii) If a debtor owes more than one debt to an agency, the agency may issue multiple withholding orders provided that the total amount garnished from the debtor's pay for such orders does not exceed the amount set forth in paragraph (i)(2) (subparagraph A) of this section. For purposes of this paragraph (i)(3)(iii), the term *agency* refers to the agency that is owed the debt.

Both FSA FLP and Farm Programs can obtain garnishment orders. The garnishment order with the earliest date is the one that has priority. The priority, or first, garnishment order will most likely receive a greater portion of the garnished wages.

Example: Garnishment Order A has priority over Garnishment Order B. Garnishment Order A is for the full maximum of 15 percent for a single garnishment order. Garnishment Order B must **not** exceed 10 percent. (25% - 15% = 10%)

C Borrower Consent to Garnish Larger Amount

[31 CFR 285.11 (i)(4)] An amount greater than that set forth in paragraphs (i)(2) (subparagraph A) and (i)(3) (subparagraph B) of this section may be withheld upon the written consent of debtor.

Withholding a larger amount will be negotiated and documented between the FLP debtor, Treasury or PCA, and/or the debtor's employer.--*

***--Administrative Wage Garnishment (AWG) (Continued)**

10 Processing Garnishment Amounts and Collections

A Employer Processing

[31 CFR 285.11 (i)(5)] The employer shall promptly pay to the agency all amounts withheld in accordance with the withholding order issued pursuant to this section.

The employer submits withheld amounts to Treasury. Treasury sends the funds to FSA in automated reports.

[31 CFR 285.11 (i)(6)] An employer shall not be required to vary its normal pay and disbursement cycles in order to comply with the withholding order.

[31 CFR 285.11 (i)(7)] Any assignment or allotment by an employee of his earnings shall be void to the extent it interferes with or prohibits execution of the withholding order issued under this section, except for any assignment or allotment made pursuant to a family support judgment or order.

[31 CFR 285.11 (i)(8)] The employer shall withhold the appropriate amount from the debtor's wages for each pay period until the employer receives notification from the agency to discontinue wage withholding. The garnishment order shall indicate a reasonable period of time within which the employer is required to commence wage withholding.

[31 CFR 285.11 (m)] *Actions prohibited by the employer.* An employer may not discharge, refuse to employ, or take disciplinary action against the debtor due to the issuance of a withholding order under this section.

B FLP Processing

AWG collections will be included with all other collections received from Treasury through cross-servicing and/or TOP. Monies collected are applied to borrowers' loans according to 3-FI and 4-FLP, Part 5.

FSA must reverse the CNC classification code (3K class of write-off code 5) to apply the AWG or cross-servicing collections. After applying collections, FLP must re-establish the CNC classification code, as appropriate.--*

***--Administrative Wage Garnishment (AWG) (Continued)**

11 Changes to Garnishment Amount

A Following Involuntary Separation

[31 CFR 285.11 (j)] The agency may not garnish the wages of a debtor who it knows has been involuntarily separated from employment until the debtor has been reemployed continuously for at least 12 months. The debtor has the burden of informing the agency of the circumstances surrounding an involuntary separation from employment.

In many cases, FSA will **not** know when borrowers are working or unemployed. AWG is processed through Treasury's cross-servicing program. While accounts are referred to AWG and/or cross-servicing, FLP borrowers must communicate directly with Treasury and/or PCA's about their financial circumstances.

When contacted by borrowers after a garnishment order is established, State and local FSA offices shall advise borrowers that they must contact Treasury and/or PCA directly. The contact information is in the letters that the borrower receives from PCA and/or Treasury. The status of the debt at Treasury and/or PCA is available in FedDebt.

Do not recall debts from AWG or cross-servicing, or edit any information in FedDebt based on a borrower's claim that he or she is no longer working. The borrower must contact Treasury and/or PCA to report this information, and it will be verified by PCA and/or Treasury.

B Financial Hardship

[31 CFR 285.11 (k)(1)] A debtor whose wages are subject to a wage withholding order under this section, may, at any time, request a review by the agency of the amount garnished, based on materially changed circumstances such as disability, divorce, or catastrophic illness which result in financial hardship.

(2) A debtor requesting a review under paragraph (k)(1) of this section shall submit the basis for claiming that the current amount of garnishment results in a financial hardship to the debtor, along with supporting documentation. Agencies shall consider any information submitted in accordance with procedures and standards established by the agency.

(3) If a financial hardship is found, the agency shall downwardly adjust, by an amount and for a period of time agreeable to the agency, the amount garnished to reflect the debtor's financial condition. The agency will notify the employer of any adjustments to the amounts to be withheld.--*

***--Administrative Wage Garnishment (AWG) (Continued)**

11 Changes to Garnishment Amount (Continued)

B Financial Hardship (Continued)

At this time, hardship requests for FLP debt are reviewed by Treasury. Treasury will make any hardship determination on DAFLP's behalf and notify the borrower's employer of any needed adjustments to the garnishment amount.

In cases where the garnishment amount has been adjusted because of hardship, Treasury will periodically request updated financial information from the FLP borrower to determine whether the hardship still exists and/or if the garnishment amount must be adjusted again.

Treasury uses a cost-of-living calculator to determine an appropriate garnishment amount. The calculator considers the debtor's individual financial circumstances and the cost-of-living where the debtor lives. The regional cost-of-living amounts are adjusted each year based on information compiled by IRS.

12 Ending Garnishment and Refunds

A Ending Garnishment

[31 CFR 285.11 (l)(1)] Once the agency has fully recovered the amounts owed by the debtor, including interest, penalties, and administrative costs consistent with the FCCS, the agency shall send the debtor's employer notification to discontinue wage withholding.

In cases where the debt is paid in full, Treasury will notify the employer to discontinue garnishment for FLP.

B Refunds

[31 CFR 285.11 (n)(1)] If a hearing official, at a hearing held pursuant to paragraph (f)(3) of this section (paragraph 7), determines that a debt is not legally due and owing to the United States, the agency shall promptly refund any amount collected by means of administrative wage garnishment.

(2) Unless required by Federal law or contract, refunds under this section shall not bear interest.

Refunds to FLP borrowers shall **not** bear interest.

Refunds shall be processed according to Exhibit 15, subparagraph 2 G and 3-FI.--*

***--Notice Advising of Potential Referral to Treasury for Cross-Servicing and the Availability of Debt Settlement**

Note: Exhibit 44 is available in a fillable format at <http://intranet.fsa.usda.gov>. CLICK “FFAS Employee Forms/Publications Site” and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “5-FLP Exhibit 44”.

5-FLP, Exhibit 44

(Use Agency Letterhead format with local return address.)

NOTICE ADVISING OF POTENTIAL REFERRAL TO TREASURY FOR CROSS-SERVICING AND THE AVAILABILITY OF DEBT SETTLEMENT

Dear

Farm Service Agency (FSA) records show that you owe debt totaling \$ _____ with daily interest accrual of \$ _____. In accordance with the Debt Collection Improvement Act (DCIA), 31 U.S.C. Chapter 37, FSA is prepared to refer your debt to the U.S. Department of Treasury (Treasury) for collection through cross-servicing. Referral of debt to Treasury for cross-servicing is not an appealable action. If your debt is referred for cross-servicing, Treasury may:

- take action to collect the debt by garnishing your wages,
- refer the debt to a private collection agency for collection, or
- refer the debt for collection by the U.S. Department of Justice.

Collection fees will be charged to you when collections are made. In addition, FSA will continue to report the debt to a credit bureau.

FSA will refer your debt for cross-servicing unless you pay the debt in full or submit RD 1956-1, “Application for Settlement of Indebtedness,” to this office within 30 days from the date of this letter. A copy of this form is attached. All statements made on RD 1956-1 must be accurate and will be subject to verification. If you submit a debt settlement application and the application is not approved, your account will be referred to Treasury for cross-servicing after all appeal rights on the debt settlement application are exhausted.

If you are unable to pay your FSA debt in full, FSA has several programs which could allow you to settle the remaining debt for less than the total amount due. The following programs are subject to FSA’s discretion and are not a matter of entitlement or right.

- 1) Compromise Offer - A lump-sum payment of less than the total debt owed.
- 2) Adjustment Offer - A series of payments of less than the total debt owed paid over a maximum of five years.
- 3) Cancellation - The final settlement of a debt without any payment. FSA must verify that there is no income or other assets from which the Government can collect. You must be unable to pay any part of the debt now or in the future.

NOTE: FSA will not finance a compromise or adjustment offer.

--*

***--Notice Advising of Potential Referral to Treasury for Cross-Servicing and the Availability of Debt Settlement (Continued)**

5-FLP, Exhibit 44

If FSA refers your account to Treasury, any debt settlement offer must be submitted to Treasury, or its contracted private collection agency. If Treasury refers your account to the Department of Justice for collection, your offer must be made to the Department of Justice.

If your debt is delinquent as of the date of this letter, FSA may be using administrative offset to collect the delinquent debt. Administrative offset is required by DCIA, and will continue until the delinquent debt is paid in full. Some of the payments that can be offset include IRS tax refunds, Federal salaries, Federal contractor/vendor payments, Federal benefit payments such as Social Security, FSA Farm Program payments, and state income tax refunds for states participating in centralized administrative offset through Treasury's Offset Program.

If you were not previously notified of FSA's intent to use administrative offset to collect your debt, offset notification will be sent in a separate letter.

If you have any questions about this letter, please contact this office at (local office phone number).

Sincerely,

(Agency Official)

Attachment

--*

***--Notice Advising of Potential Referral to Treasury for Cross-Servicing**

Note: Exhibit 45 is available in a fillable format at <http://intranet.fsa.usda.gov>. CLICK “FFAS Employee Forms/Publications Site” and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “5-FLP Exhibit 45”.

5-FLP, Exhibit 45

(Use Agency Letterhead format with local return address.)

**NOTICE ADVISING OF POTENTIAL REFERRAL TO
TREASURY FOR CROSS-SERVICING**

Dear

Farm Service Agency (FSA) records show that you owe debt totaling \$ _____ with daily interest accrual of \$ _____. FSA accepted your offer to convey the real estate and/or chattel property pledged as security for your FSA debt, but was unable to approve the debt settlement request submitted with your conveyance offer. All appeal opportunities have been concluded.

Therefore, in accordance with the Debt Collection Improvement Act (DCIA), 31 U.S.C. Chapter 37, FSA is prepared to refer your debt to the U.S. Department of Treasury (Treasury) for collection through cross-servicing. Referral of debt to cross-servicing is not an appealable action. If your debt is referred for cross-servicing, Treasury may:

- take action to collect the debt by garnishing your wages,
- refer the debt to a private collection agency for collection, or
- refer the debt for collection by the U.S. Department of Justice.

Collection fees will be charged to you when collections are made. In addition, FSA will continue to report the debt to a credit bureau.

FSA will refer your debt for cross-servicing unless you pay the debt in full within 30 days from the date of this letter.

If your debt is delinquent as of the date of this letter, FSA may be using administrative offset to collect the delinquent debt. Administrative offset is required by DCIA, and will continue until the delinquent debt is paid in full. Some of the payments that can be offset include IRS tax refunds, Federal salaries, Federal contractor/vendor payments, Federal benefit payments such as Social Security, FSA Farm Program payments, and state income tax refunds for states participating in centralized administrative offset through Treasury’s Offset Program.

If you were not previously notified of FSA’s intent to use administrative offset to collect your debt, offset notification will be sent in a separate letter.

If you have any questions about this letter, please contact this office at (local office phone number).

Sincerely,

(Agency Official)

--*

ADPS 3E Transaction Guide

Complete the following for all acquisitions when the borrower has both an FSA and RD loan. Do **not** process an ADPS 3E transaction. Complete 1 for each property acquired.

*--

To: ATTENTION: _____
FLOO, FAX: 314-457-4478

From: _____
Name of Preparer, Agency, and Telephone Number

Subject: Acquisition – Borrower with FSA and RD Loans

1. Acquiring Agency Name (FSA or RD): _____
2. Case Number: _____
3. Name of Borrower: _____
4. OK Code: (Leave Blank)
5. Date Acquired: _____
6. Most Secured FLP Loan: _____
7. Most Secured RD Loan: _____
8. Property ID of Acquiring Agency: _____
9. Property Description Code: _____
10. Property Suitability Code: _____
11. Taxpayer ID: _____
12. Property Address: (Leave blank if acquired property is chattels.)

Street

City, State, ZIP

13. Acres Acquired: Cropland _____ Pasture _____ Woodland _____ Other _____

14. Market Value – Acquisition: \$ _____

15. Date Last Appraisal: _____

16. Amount Credited – FSA \$ _____ RD \$ _____ Total \$ _____

17. Date Submitted: _____

18. Business Code: _____

19. How Acquired: _____

20. Farm Code: _____

21. Card Code: (Leave Blank)

22. Loans to Acquire:

(Enter Fund Code and Loan Number. Leave blank if all FSA and RD loans are to be acquired.)

FSA _____

RD _____

--*

