

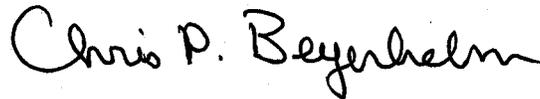
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 23

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Exhibit 15, paragraph 7 has been amended to add TOP Offset Manual Online Screen delete codes “9” and “N/A”.

Exhibit 17, subparagraph 5 A and G have been amended to update eDALR\$ constants for the year.

Exhibit 45 has been amended to add language about check payment, if required.

Page Control Chart		
TC	Text	Exhibit
		15, pages 15, 16 17, pages 37, 38 pages 41, 42 44, pages 1, 2 45, page 1 page 2 (add)

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.
--09	Past the 20 year limitations for Judgment debt.--
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.
--N/A	For unique circumstances.--

***--Instructions for Using eDALR\$ (Continued)**

4 eDALR\$ Formulas (Continued)

J Debt Writedown and Buyout Limitation

eDALR\$ attempts to develop a feasible plan with a 10 percent debt service margin. All program loan servicing, excluding writedown, is considered before reducing the debt service margin. eDALR\$ will consider writedown only if all of the following conditions are met.

- The borrowers have not received the lifetime limitation for writedown or writeoff with buyout.
- At least 1 program loan is delinquent.
- The debt service margin is at zero percent.

If a feasible plan is found with writedown, eDALR\$ determines the amount of writedown necessary for the borrower to have a positive cash flow.

- If the amount of the writedown is less than or equal to \$300,000, a feasible plan has been found.
- If the amount of writedown is greater than \$300,000 and the debt service margin equals 1.00, or a feasible plan cannot be developed, eDALR\$ determines the amount of--* writeoff, with buyout at the current market value.
- If the amount of writeoff, with buyout at the current market value, is less than or equal to \$300,000, the borrower is offered buyout.
- If the amount of writeoff, with buyout at the current market value, is greater than \$300,000, the borrower is not eligible for loan servicing or buyout and the borrower is offered debt settlement.

Instructions for Using eDALR\$ (Continued)

5 Periodic Data

A Administrative Liquidation Costs

The administrative liquidation costs for each loan type are provided in the following table.

Loan Type	Calculation	Cost
OL	$(3063 \div 60 = 51.05) \times \$24.10 =$	\$1,231
FO/SW/CL	$(3063 \div 60 = 51.05) \times \$24.10 =$	\$1,231
EM/EE	$(3063 \div 60 = 51.05) \times \$24.10 =$	\$1,231
RH (Used for RHF loans only.)	$(3063 \div 60 = 51.05) \times \$24.10 =$	\$1,231

Note: Costs were calculated using the most recently available Delphi study for the average number of hours spent on a liquidation activity by FSA employees, and used the *--2012 GS-11/1 hourly pay rate. The Delphi study is a nationwide survey and--* forecasting tool that records averages of times and actions on FSA accounts.

B Legal Liquidation Costs

Legal liquidation costs will be determined for real estate and chattel foreclosures, as well as chattel-only foreclosures. These costs estimate liquidation costs for Government attorney time for foreclosure cases in both judicial and nonjudicial foreclosure States and will vary by State. Legal liquidation cost estimates should be determined based on the costs that have been incurred during past liquidations in that State. U.S. Attorney Office costs should only be included in States where judicial foreclosures are required.

C Determining Chattel Costs

Chattel costs are determined based on the following:

- “Months Held in Inventory” - FSA rarely acquires chattel property because it can be sold much more quickly and easily than real estate. Therefore, the average holding period for chattel property will be zero, unless the Administrator approves chattel acquisitions and determines that chattels do have a holding period.

Note: If significant acquisitions occur and a chattel holding period becomes necessary, States will contact the National Office for guidance and provide detailed information about the acquisition and planned disposal of the chattel property.

- “Sales Commission Rate” - Authorized agency official will conduct a survey of auctioneers to determine the average commission rate for chattel sales in the area.
- “Other Sales Costs” - These are miscellaneous costs typically incurred when selling acquired chattels. County Offices should request State Office guidance in unusual cases.
- “Rate of Change in Value” - This is a yearly percentage decrease or increase in the value of the property. The normal rate of change in value for chattels will be zero as FSA rarely acquires chattel property.

Instructions for Using eDALR\$ (Continued)

5 Periodic Data (Continued)

F State Supplement

SED's will issue a state supplement to:

- address the estimated costs and average holding period to be used in making calculations of net recovery value
- provide the factors to use in adjusting market value.

Note: The State supplement shall be issued after completing the cost analysis, but no
*--later than 60 calendar days after the updates to administrative liquidation costs
have been issued.--*

Instructions for Using eDALR\$ (Continued)

5 Periodic Data (Continued)

G Determining Property Management Costs

Property Management Cost is the administrative cost of managing a property while the property is being held in FSA inventory. The cost will be deducted in cases involving real property. The following worksheet is used to calculate the property management costs. Delphi data standards are used and average actions per month per the national average from the Delphi Study for required actions per property are also put into the formula. Complete the worksheet by using the average holding period of inventory property determined according to subparagraph C. An example has been completed based on national average data with an average holding period of 5.5 months.

Determining Property Management Costs

Step	Action
1	(<u> .215 </u> X <u> 5.5 </u> = <u> 1.1825 </u>) Average Actions Per Property/Month Average Holding Period
2	(<u> 180 </u> ÷ <u> 60 </u> = <u> 3 </u>) Delphi Data for Real Estate Loans
3	(<u> 1.1825 </u> X <u> 3 </u> X <u> 24.10 </u> = <u> 85.49 </u>) Amount from Step 1 Amount from Step 2 *--2012 GS 11/1--* Hourly Pay
4	(<u> 648 </u> ÷ <u> 60 </u> = <u> 10.8 </u>) Delphi Data for Inventory Actions
5	(<u> 10.8 </u> X <u> 24.10 </u> = <u> 260.28 </u>) Amount from Step 4 *--2012 GS 11/1--* Hourly Pay
6	(<u> 85.49 </u> + <u> 260.28 </u> = <u> 346.00 </u>) Amount from Step 3 Amount From Step 5 Administrative Costs for Inventory Property (Rounded to nearest \$)

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”.

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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.

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Notice Advising of Potential Referral to Treasury for Cross-Servicing and the Availability of Debt Settlement (Continued)

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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 account is referred to the Department of Justice for foreclosure and/or other collection activity after foreclosure, such as a deficiency judgment or enforcing a judgment lien, attorney's fees may be added to your debt as well as a Department of Justice fee of 3 percent.

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 to Customers Presenting Checks

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. For inquiries, please contact your local office.

Privacy Act – A Privacy Act Statement required by 5.U.S.C. § 552a(e)(3) stating our authority for soliciting and collecting the information from your check, and explaining the purposes and routine uses which will be made of your check information, is available from our internet site at (<http://www.fms.treas.gov/otcnet/index.html>), or call toll free at (1-866-945-7920) to obtain a copy by mail. Furnishing the check information is voluntary, but a decision not to do so may require you to make payment by some other method.

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Notice Advising of Potential Referral to Treasury for Cross-Servicing

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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.

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Notice Advising of Potential Referral to Treasury for Cross-Servicing (Continued)

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