

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct Loan Servicing – Debt
Collection and Resolution
7-FLP**

Amendment 17

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraphs 2 A and 104 C have been amended to remove references to obsolete loan programs.

Subparagraphs 2 A, 61 C and D, 81 E through G, 247 B, and 441 B have been amended to replace references to 64-FI with the FPAC NRRS Guide.

Subparagraph 62 A has been amended to clarify the steps required before sending FSA-2701 to borrowers with only non-program loans.

Subparagraph 63 F has been amended to clarify review and appeal rights for non-program borrowers.

Subparagraph 104 B has been amended to clarify when borrowers coded for deletion will be removed from the TOP eligible and certified screens.

Subparagraph 202 B has been amended to require authorized agency officials to submit electronic copies of all promissory notes to the State Office simultaneously with FSA-2720.

Subparagraph 202 C has been added to provide new CNC proof of debt requirements.

Subparagraph 223 B has been amended to identify that State Offices are responsible for sending proof of debt documents via email to the Department of Treasury prior to referring the debt to DMB for cross-servicing.

Subparagraph 408 F has been amended to replace “chattel” with “personal property”.

Exhibit 7 has been amended to update the example letter to reflect RD’s new return address.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Exhibit 13 has been amended to reference 1-FLP subparagraphs 42 A through F for adverse decision letters.

| Page Control Chart | | |
|--------------------|--|---------------------------------|
| TC | Text | Exhibit |
| | 1-3, 1-4 3-1 through 3-4 3-7 through 3-32 3-33 4-2.5, 4-2.6 4-3, 4-4 7-1, 7-2 7-2.5, 7-2.6 (add) 7-3 8-2.5, 8-2.6 9-7, 9-8 12-29, 12-30 13-1 | 7, pages 1, 2 13, pages 3, 4 |

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. |
| direct loan servicing – special and inventory property management | 5-FLP. |
| disaster designations | 1-DIS. |
| * * * Indian Tribal Land Acquisition Program, * * * Land Contract Guarantee Program, and servicing of minor loan programs | 6-FLP. |
| employee development and training | 6-PM. |
| environmental requirements | 1-EQ. |
| environmental risk management | 2-EQ. |
| general and administrative regulations governing FLP, and implementing NAD final determinations | 1-FLP. |
| guaranteed loan making and servicing | 2-FLP. |
| personnel management, such as employee conflict of interest | 3-PM. |
| offset procedures and automation | 3-PL, 58-FI, 63-FI, *--FPAC NRRS Guide.--* |
| 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. |
| State and county organization and administration policies, procedures, principles, and standards, such as work organization | 16-AO. |
| records management | 32-AS. |

B Handbook Link

Following are useful links to handbooks:

- <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=empl&topic=hbk>
- <http://inside.fsa.usda.gov/>.

2 Related References (Continued)

C State Supplements

See Exhibit 4 for State supplements required by this handbook. SED's are authorized to issue State supplements to this handbook in addition to State supplements listed in Exhibit 4, according to 1-FLP, subparagraph 2 C.

3 FLP Forms

A Form References

Except as provided in this paragraph, this handbook references forms according to the forms numbering system that became effective December 31, 2007. Forms executed before December 31, 2007, may have a number different from that referenced. See 1-FLP, Exhibit 5 for a comparison of form numbers before and after December 31, 2007.

Note: See Exhibit 1 for titles of forms referenced in this handbook.

B Notary Acknowledgement

See 1-FLP, subparagraph 3 C for guidance on notary acknowledgement for forms.

C Applicant and Borrower Signatures

See 1-FLP, subparagraph 3 D for guidance on applicant and borrower signatures.

D State-Modified National Forms

See 1-FLP, subparagraphs 3 E and H for guidance on State-modified national forms.

E State-Created Forms

See 1-FLP, subparagraphs 3 F and H for guidance on State-created forms.

F Other Sources of Forms

See 1-FLP, subparagraph 3 G for guidance on other sources of forms.

Part 3 Internal Administrative Offset

61 Overview and Authority

A General

Administrative offset is required by DCIA. FSA uses noncentralized internal administrative offset (this Part) within USDA, and centralized offset through TOP (Part 4).

[7 CFR 3.43(a)] ... a creditor agency may make a request directly to a payment authorizing agency to offset a payment due a debtor to collect a delinquent debt... * * *

***--[7 CFR 3.43(d)] Payment authorizing agencies will comply with offset requests by--* creditor agencies to collect debts owed to the United States, unless the offset would not be in the best interests of the United States with respect to the program of the payment authorizing agency or would otherwise be contrary to law. Appropriate use should be made of the cooperative efforts of other agencies in effecting collection by administrative offset.**

Any FSA payments or commodity loans due to a borrower will be offset for the collection of a delinquent debt owed to FSA, with the following exceptions:

- the initial payment for planting expenses under CRP
- loan funds from FLP loans or other Federal loan programs
- CAT indemnity payments.

B Authority

--Collections of delinquent debts through administrative offset will be taken in accordance with 7 CFR part 3, subpart D and this handbook.--

61 Overview and Authority (Continued)

C State Office Responsibility

SED's will ensure that:

- no FSA payments including CRP (except for the initial payment for planting expenses), PFC, LDP, market loan payments, EQIP, LIP, SIP, ECP payments, any other disbursements, and commodity loans are made to a producer who is also 90 calendar days past due on an FLP debt
- authorized FSA employees are correctly sending the offset notices according to paragraph 62 and Exhibit 12, and updating, maintaining, and monitoring delinquent debt and eligibility information:
 - *--in the web-based subsidiary system according to FPAC NRRS Guide and 3-PL--*
 - in FSAFS according to 58-FI, paragraphs 160, 161, 404, and 405 and 63-FI, Part 5.

D DD's Responsibility

DD's will ensure that:

- offset notification lists in subparagraph 81 B are updated monthly
- the lists are provided to all County Offices where the borrower farms
- delinquent FLP debt has been recorded in the web-based subsidiary files, using "FSA *--Debt" as the "Source of Delinquent Debt Determination", according to FPAC NRRS Guide, Section 43.1 E and 3-PL (Rev. 2), paragraph 33
- the "Other Agency Claim" flag is set in Financial Services, Customer Profile and NPS, according to FPAC NRRS Guide, Section 43.1 E--*
- information on FLP delinquent debt is updated timely and accurately in FSAFS according to 63-FI, Part 5
- applicable program payments are offset, and the offset monies are properly credited to delinquent FSA debts.

62 Offset Notification

A When 90 Calendar Days Delinquent

[7 CFR 3.41(c)] The Notice of Intent to Collect by Administrative Offset will be included as part of a demand letter issued under §3.11 (paragraph 21) to advise the debtor of all debt collection possibilities that the agency may employ.

The authorized agency official will send the following by certified mail:

- FSA-2701 and FSA-2707 to each borrower who is 90 calendar days past due

Notes: The offset notice will be sent in the same envelope with the loan servicing notification package. The notices will be placed back to back with a blank sheet of bold colored paper in between.

If the borrower was previously sent PLS notices for non-monetary default or is actively being serviced as 90 calendar days past due, a new PLS notice will not be reissued. If not sending a new PLS notice; FSA-2707, FSA-2037, and FSA-2038 should be included with FSA-2701.

--Borrowers with only non-program loans must be sent delinquency notices according to 5-FLP, subparagraph 444 B before sending FSA-2701.--

- FSA-2702 to each nonborrower entity as required.

If the certified mail is not accepted by the borrower or borrower entity, the authorized agency official will ensure that the:

- envelope is placed in the borrower's case file
- documents from the certified mail package are sent to the last known address by first-class mail.

B Notice Requirements for Offset of Payments to Entities Related to Debtors

If the debtor will receive all, or part, of a payment because of participation in an entity, the authorized agency official will consult the Regional OGC, as needed, to determine whether FSA has a legally enforceable right under State or Federal law, including common law, to pursue payment from the entity.

Collection of delinquent debts through administrative offset may be taken against a debtor's pro rata share of payments due any entity in which the borrower participates according to 7 CFR 3.45 and paragraph 26.

See Exhibit 12 for additional information about the following:

- determining debtor's participation in an entity
- review items for consultation with Regional OGC.

62 Offset Notification (Continued)**B Notice Requirements for Offset of Payments to Entities Related to Debtors (Continued)**

The FBP will document the basis of FSA's right to pursue the entity payment.

Collection of delinquent debts through administrative offset may be taken against a debtor's pro rata share of payments due any entity in which the borrower participates.

Notice will be given to nonborrower entities subject to pro rata offset where practicable to do so. Written concurrence from the State Office must be obtained if it is not practicable to notify nonborrowers. The borrower's file must be documented accordingly.

Notices to nonborrower entities should be sent at the same time as notices to borrowers. The entity notice should contain no specific debtor information other than sufficient information to identify the debtor (usually the name is sufficient) and the amount of the debtor's deficiency.

Appeal rights to NAD will be provided so the entity has an opportunity to challenge the extent of the debtor's interest in the nondebtor entity.

Note: Notice shall be mailed to any person who is authorized by State law to receive service on behalf of the entity. For example, in most States notice provided to the registered agent is sufficient notice for a corporation. Each State should consult their respective Regional OGC to determine what notice is sufficient for the entity involved.

* * *

63 General Requirements and Due Process (Continued)**D Inspect and Copy Records**

[7 CFR 3.42(a)] A debtor who intends to inspect or copy agency or USDA records with respect to the debt must notify the creditor agency in writing within 30 days of the date of the Notice of Intent to Collect by Administrative Offset. In response, the agency must notify the debtor of the location, time, and any other conditions, consistent with part 1, subpart A, of this title, for inspecting and copying, and that the debtor may be liable for reasonable copying expenses. A decision by the agency under this paragraph will not be subject to review under subpart F of this part or by NAD under part 11 of this title (1-APP).

See 2-INFO if a debtor requests a copy of their file or records. FSA will pay copying costs for 1 copy. If a debtor requests to inspect or copy FSA records after the 30-calendar-day timeframe, access will be provided; however, no stay of administrative offset will occur. See 3-INFO:

- paragraph 17 for records holding office responsibility
- paragraph 20 for legal basis for withholding information.

E ARA

See subparagraph 23 B for regulatory authority and requirements, and Exhibit 8 for reviewing an ARA request.

F Review and Appeal

See paragraph 27 for regulatory authority and requirements, and Exhibit 13 and 1-APP for FSA review process and NAD appeal.

*--Borrower rights listed on FSA-2701 apply to both program and non-program borrowers, which includes the right to appeal to NAD. As noted on FSA-2701, NAD appeals are limited to:

- the existence of the debt
- the status of the delinquency
- the amount of the debt or delinquency
- the propriety of administrative offset.--*

64-80 (Reserved)

--81 Offset Procedures, Reports, Automation*A Timing of Offset**

[7 CFR 3.43 (b)] A non-centralized administrative offset may start 31 days after the date of the Notice of Intent to Collect by Administrative Offset, any time after the final determination in an administrative review conducted under subpart F of this part upholds the creditor agency's decision to offset, or any time after the creditor agency notifies the debtor that its repayment proposal submitted under § 3.42(b) (subparagraph 23 B) is not acceptable if the 30-day period for the debtor to request review of the Notice has expired, unless the creditor agency makes a determination under § 3.41(b)(3) (subparagraph 62 C) that immediate action to effectuate the offset is necessary.

B Requesting Offset

[7 CFR 3.43(c)] A payment authorizing agency may conduct a non-centralized administrative offset only after certification by a creditor agency that:

(1) The debtor has been provided notice and opportunity for review as specified--* in §3.41; (paragraph 62) and

(2) The payment authorizing agency has received written certification from the creditor agency that the debtor owes the past due, legally enforceable delinquent debt in the amount stated, and that the creditor agency has fully complied with its regulations concerning administrative offset.

After the expiration of stays or the conclusion of applicable reviews, the authorized agency official will notify the State Office of borrowers who are subject to offset, including individually liable members of entities and nonborrower entities.

As long as the account remains in default subsequent notice is not required to notify the State Office to continue offset.

81 Offset Procedures, Reports, Automation (Continued)**C Continuation of Offset**

[7 CFR 3.41(b)(4)] ... With respect to loans paid on an installment basis, notice and opportunity to review under this part may only be provided once for the life of the loan upon the occurrence of the first delinquent installment. ... Any interest accrued or any installments coming due after the offset is initiated also would not require a new notice and opportunity to review.

Once offset collection is in place, it continues until the account is brought current, paid in full, not eligible for offset (such as during certain bankruptcy proceedings, etc.), or otherwise resolved.

If the account is brought current, any subsequent delinquency requires new notification of FSA's intent to collect the delinquency through offset.

D Offset Collections

Collections received through offset will be processed as regular payments and credited to the delinquent debts. Payments will have an application code "A".

If the debtor owes more than 1 type of FSA debt, the priority of the delinquent FSA debts to be paid from offset collections will be according to 58-FI and 4-FLP.

E Refunds

Refunds of amounts offset, plus interest, will be made within 45 calendar days if FSA determines an amount should not have been offset or that the debtor has prevailed in an administrative appeal.

The 90-calendar-day Treasury bill rate will be used to calculate interest payable to the debtor.

***--Note:** See FPAC NRRS Guide, Section 35 for processing FLP refunds through NRRS.--*

81 Offset Procedures, Reports, Automation (Continued)**F Reports**

For relevant reports, refer to the following:

- 63-FI, paragraph 178 for FWADM Active Other Agency Offset Profiles Report
- *--FPAC NRRS Guide, Section 42 for a list of FWADM reports in NRRS--*
- 1-FLP, Part 3 for DLS, GLS, FOCUS, and Data Mart
- 3-PL (Rev. 2), Part 8 for delinquent debt determinations in web subsidiary:
 - subparagraph 305 N for a list of all delinquent debtors
 - paragraph 303 for a specific borrower.

Note: For guidance on accessing FWADM, see 1-FI, Part 8.

G FSAFS, NRRS and NPS

FSAFS is used to establish, modify, and cancel “Other Agency Debt” indicators to offset FP program payments to collect delinquent FLP debt. See 63-FI, Part 5.

NRRS is used for remittances and receipts, and to refund offset collections received for FLP *--debt when needed. See FPAC NRRS Guide, Section 35.--*

NPS is used to process FP program payments and internal administrative offsets to collect delinquent FLP debt. See 1-FI, subparagraphs 98 B and G.

H Canceling Offset

The authorized agency official will notify the State Office to remove a borrower from internal administrative offset, TOP (Part 4), and cross-servicing (Part 8), as applicable, when a delinquent debt is either of the following:

- has been resolved according to subparagraph 63 B
- is no longer eligible for other reasons such as bankruptcy, or a determination that offset is not feasible according to subparagraph 63 A.

Note: To unlink 1 or more co-borrowers, see subparagraph 104 A.

82-100 (Reserved)

104 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 User's Guide, Part 4. To view, create, and update related entity information through the loan servicing process, follow the procedure in the DLS User's Guide, Section 8.3.5.

The guide may be found on the FLP Software User Guides web page located at
 --<https://usdagcc.sharepoint.com/sites/FSA-DAFLP/SitePages/applicationbased.aspx>.--

B 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. DMB and State Offices have delete capability; County Offices and FLB have view capability. State Offices are responsible for processing all deletes. The monthly 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. CST on Fridays and made available on Tuesdays.

Send FSA-2723 to the State Office to request "TOP delete only".

Send FSA-2722 to RDBCSO through the State Office and check Box 4B for TOP delete when also requesting a recall from cross-servicing, TOP refund, cross-servicing refund, and/or reporting a change/update to information previously submitted on FSA-2721.

The State Office will delete the applicable loans from TOP before sending FSA-2722 to RDBCSO.

*--Borrowers coded for deletion on the TOP Eligible Screen titled "Borrowers Eligible for TOP Offset" will be deleted and no longer appear on this screen after the weekly update.

Borrowers coded for deletion on the TOP Certified Screen titled "Borrowers Eligible for TOP Offset Certified" will remain on the screens with their delete code throughout the 10-week screening period. These borrowers will not be removed from the screen until after the certification process is completed at the end of the quarter. See Exhibit 17 for the TOP quarterly referrals schedule.--*

C Debtors Displayed on Borrowers Eligible for TOP Offset Screens

The monthly 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 timeframe in Exhibit 17.

104 TOP Screens and Process (Continued)

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

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”

Notes: Loans listed will include * * * debts classified CNC.

Borrowers on full-time active duty in the Armed Forces are not eligible for TOP.
See 4-FLP, Part 11 for guidance on servicing borrowers on full-time active duty.

- 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”.

Note: An automatic stay only affects debtors who are named in the bankruptcy filing.

Example: In Chapter 12 cases, 11 U.S.C 1201 provides that co-debtors are protected from collection efforts such as offset. However, this co-debtor stay only applies to “consumer debts.” FSA debt is not consumer debt because it is made for business/farming purposes. Co-debtors who are not named in the bankruptcy filing should not be removed from offset.

To prevent selection for TOP 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.

104 TOP Screens and Process (Continued)**C Debtors Displayed on Borrowers Eligible for TOP Offset Screens (Continued)**

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 RDBCSO where ADPS--* transactions have not been processed. See Exhibits 18 and 19 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.

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.

The 60-day TOP Due Process Notification Letter (Exhibit 7) was modified to include State payments.

Part 7 Servicing Unsecured Account Balances and CNC Classification**201 Servicing Requirements for Unsecured Account Balances****A Issuing FSA-2716 and FSA-2717**

After all security has been liquidated, and all proceeds have been applied to the account, the authorized agency official will send FSA-2716 and FSA-2732 to all liable borrowers.

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 Parts 2, 3, and 4.

For conveyance and according to 5-FLP, 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 FSA-2717 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 Parts 2, 3, and 4.

***--Note:** If the account has not been accelerated or is not fully matured, see 5-FLP Part 15 to determine if 5-FLP Exhibit 48 must be sent.--*

B Continued Servicing

The authorized agency official will determine whether the debt can be classified as CNC if borrowers do **not**:

- pay the debt in full or submit a completed FSA-2732 within 30 calendar days of the date on FSA-2716
- pay the debt in full within 30 calendar days of the date on FSA-2717.

Internal administrative offset, TOP, and Federal salary offset will continue until the delinquency is cured.

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 FSA-2731 recommending cancellation according to Part 12.

202 CNC Classification**A Required Notification Before CNC**

Before classifying debt as CNC, borrowers must have received the following:

- all applicable loan servicing notices
- FSA-2701, FSA-2702, or previous authorized form, as applicable
- 60-day due process letter (Exhibit 7) sent by RDBCSO as part of the TOP screening procedure in Part 4
- FSA-2716 or FSA-2717 or previous authorized form, as applicable
- acceleration notice unless all accounts have been fully matured.

Note: See 5-FLP, Part 15 for acceleration process.

- If State law considers voluntary conveyance offers and the completion of FSA-2732 as the borrower's acknowledgment that the debt is fully due and payable, an Acceleration Notice is not required. SED should work with OGC on State supplement if needed.
- Any applicable timeframes about the information in this part must have expired and all security liquidated, conveyed, released, or otherwise resolved.

B Determining CNC Eligibility and Classification Processing

The authorized agency official will:

- use FSA-2720 to determine CNC eligibility
- submit CNC eligible debt on FSA-2720 to the State Office through DD
- ensure that eligible debts are classified CNC using transaction code 3K, class of write off code 5
- *--submit electronic copies of all original promissory notes to the State Office--*
- ensure that original promissory notes are retained in a fireproof cabinet or fireproof safe

Note: A CNC classification is not a debt settlement. The promissory notes are needed to prove continued liability for the debt.

- ensure that CNC debt is referred to cross-servicing for collection according to Part 8.

Note: See restrictions for CNC associated with discrimination complaints in 1-FLP, subparagraph 41 K.

202 CNC Classification (Continued)***--C CNC Proof of Debt**

FSA must provide proof of debt to Treasury before referring debts for cross-servicing. Subparagraph 202 B requires the authorized agency official to submit electronic copies of all original promissory notes to the State Office, which serve as sufficient proof of debt. According to subparagraph 223 B, State Offices are responsible for sending the proof of debt by email to Treasury at pod.responses@fiscal.treasury.gov before referring the debt to DMB for cross-servicing.

It is recommended that FLC's manage the filing and storage of their State's proof of debt records through a shared mailbox within Microsoft Outlook. FLC's may work with FPAC to establish the shared mailbox within Microsoft according to the following recommendations:

- the mailbox should be titled "[insert state] CNC Proof of Debt"
- access to the shared mailbox should include the FLC and at least 1 other FLP staff member that is responsible for cross-servicing
- the FLC should ensure that, at a minimum, CNC proof of debt folders are established for each calendar year and that auto archive is turned off within each folder.

The following table provides the steps to turn off Microsoft Outlook auto archive for:

- Classic Outlook

| Step | Action |
|------|--|
| 1 | Right-click on the folder which you do not wish to have emails automatically archived. |
| 2 | Click "Properties". |
| 3 | Click "Policy". |
| 4 | Under "Retention Policy", Select "Never Delete". |
| 5 | Under "Online Archive", Select "Never". |
| 6 | Click "OK" to save your changes. |

- New Outlook

| Step | Action |
|------|--|
| 1 | Right-click on the folder which you do not wish to have emails automatically archived. |
| 2 | Click "Assign Policy". |
| 3 | Under "Archive Policy", Select "Personal never move to archive". |
| 4 | Under "Retention Labels", Select "Never Delete". |

--*

202 CNC Classification (Continued)

D Servicing Debts Not Eligible for CNC

The authorized agency official will:

- determine whether the debt can be debt settled according to Part 12
- monitor debt that is **not** eligible for CNC or debt settlement until it:
 - becomes eligible for CNC
 - is paid in full
 - is debt settled or otherwise resolved.

203-220 (Reserved)

223 Cross-Servicing Process

A TOP Screen Certification

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.

B Referring Debt to Cross-Servicing

If the debt is determined to be eligible for CNC according to Part 7, the State Office must:

- *--forward proof of debt documents to pod.responses@fiscal.treasury.gov

Note: This must be completed before FAXing FSA-2721 to DMB for referral to cross-servicing.--*

- process transaction code “3K” in ADPS with a class of write off code “5” for all debt types except leases, TPJ’s, and equity receivables
- refer debts to cross-servicing by completing and FAXing FSA-2721 to DMB to the ECM FAX number in 1-FLP subparagraph 5 D
- submit FSA-2721 to DMB by the 15th of each month to ensure that debts are included in the end of the month referral

Note: Borrowers and co-borrowers (including liable spouses) shall be listed on FSA-2721 with their TIN’s and must be referred at the same time. The debtor’s last known address will be provided on FSA-2721 if TIN cannot be identified. This 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.

The State Office will also receive notification from DMB when the following occur:

- compromises are offered
- initial cross-servicing payments are received
- debts are returned from cross-servicing
- debt has been resubmitted per State Office request.

245 **AWG Hearing According to 31 CFR 285.11(f) (Continued)****D Hearing Procedure (Continued)**

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

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 see Parts 3, 4, and 8 to determine whether the debt must also be removed from cross-servicing TOP and/or internal administrative offset.

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 CSNG/Artiva, and review any CSNG/Artiva 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 Treasury's hearing official, if a hearing is no longer necessary, etc. In cases of employment termination, AWG would not be appropriate. However, internal administrative offset, and continued referral to cross-servicing and TOP may be appropriate based on the criteria in Parts 3, 4, and 8.

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

E 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.

F AWG Decision

The hearing official sends the AWG decision to the borrower, OCFO, and LSPMD. LSPMD will notify the applicable State Office.

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 according to 31 CFR 285.11(f).

246 Garnishment

A Withholding Order

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

B Employer Certification

Treasury sends the certification to the employer on FLP's behalf. The employer returns the completed form to Treasury.

247 Processing Garnishment Amounts and Collections

A Employer Processing

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

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 *--FPAC NRRS Guide and 4-FLP, Part 5.--*

When Treasury reviews an account, they are reviewed by individual loans, not by the total debt owed by the borrower. As such, once an individual loan is paid in full, Treasury ceases AWG collections and returns the account to FSA. Even in instances where the borrower has more than 1 loan covered by AWG, the subsequent loans will be returned because Treasury has ceased collections. Therefore, when a borrower has more than 1 loan that should be paid from AWG, the State Office will contact DMB for assistance in resubmitting any additional loans to Treasury to resume collection through AWG. See 1-FLP, subparagraph 5 D for DMB contact information.

DMB must notify Direct Loan FLB to reverse the CNC classification code (3K class of write-off code 5) to apply AWG or cross-servicing collections. After applying collections, Direct Loan FLB must re-establish the CNC classification code, as appropriate.

408 Approval and Rejection (Continued)

F Requesting Exception Authority for Debt Settlement

[7 CFR 761.408] Administrator authority. On an individual case basis, the Agency may consider granting an exception to any requirement of this part if:

(a) The exception is not inconsistent with the authorizing statute or other applicable law; and

(b) The Agency's financial interest would be adversely affected by acting in accordance with this part and granting an exception would resolve or eliminate the adverse effect upon its financial interest.

SED must submit an exception request by e-mail to DAFLP at **SM.FSA.DCWa2.AdmException** or **adminexception@wdc.usda.gov**. The e-mail subject should read “Administrator’s Exception to (7-FLP, paragraph (include paragraph number)) – (Borrower’s Name and State)”. An attachment must fully describe the status of the account, including the following:

- a brief background on the case
- total outstanding FSA indebtedness, loan types, and amounts
- current status of the account

Note: If the account is delinquent, where is it in PLS?

- *--type of security (personal property or real estate) and value--*
- prior liens
- proposed plan of action that warrants the exception request
- what procedure is to be waived
- the adverse effect to FSA resulting from compliance with the regulation and how it would be eliminated or minimized through the exception
- how the action is in the best financial interest of the Government
- additional information SED thinks is needed to review the case
- a Farm Business Plan credit action pertaining to the requested exception, including but not limited to:
 - appropriate environmental review, if needed
 - credit presentation demonstrating all other feasibility, eligibility, and security requirements are met for the request; documentation should also be included regarding asset search (Exhibit 35).

409 Payments and Servicing - Approved FSA-2732**A Payments**

Debtors must submit compromise and lump sum payments within 45 days calendar of being notified that their debt settlement offer was approved.

Once the borrower complies and makes all payments as agreed under the approved adjustment offer, all remaining loan balances, if any, will be canceled with a 3K, CWC, 2 transaction.

B Failure to Pay

***--[7 CFR 761.407] (a) Failure to pay any compromise amount approved by FSA by the date agreed will result in cancellation of the compromise agreement.**

(b) Failure to pay debt adjustment amounts approved by FSA by the dates agreed will result in cancellation of the adjustment agreement.

(c) A debtor who has entered into an agreement under this subpart (Part 12) may request that FSA extend a repayment date for 90 days. The debtor must provide information that supports the basis for the request at the time the request is made.

(d) If a debtor is delinquent under the terms of an adjustment agreement and FSA determines the debtor is likely to be financially unable to meet the terms of the agreement, the existing agreement may be cancelled and the debtor may be allowed to apply for a different type of settlement more consistent with the debtor's repayment ability.

(e) If an agreement is cancelled, any payments received will be retained as payments on the debt owed.

Failure to pay any compromise or adjustment amount approved by the Agency by the date(s) agreed will result in cancellation of the agreement with appeal rights under 1-APP.

SED's may delegate to FLC, FLS, DD, FLM, and/or SFLO authority to cancel delinquent adjustment agreements--*

Part 13 Borrower Repayment of Direct Loan Losses

441 Borrower Repayment of Direct Loan Losses

A Borrower's Repayment Inquiry

[7 CFR 764.101(d)(2)] When the applicant caused the Agency a loss by receiving debt forgiveness, the applicant may be ineligible for assistance in accordance with eligibility requirements for the specific loan type. If the debt forgiveness is cured by repayment of the Agency's loss, the Agency may still consider the debt forgiveness in determining the applicant's creditworthiness.

When a current or former borrower contacts the Agency inquiring about repaying a previous loss to the Agency, the Authorized Agency Official will provide the individual with the cancelled or settled amount shown in ADPS/DLS. The 3K transaction is available in the online history in ADPS.

Notes: When providing previous loss information, please add the following to any written communication:

“Please note that repayment of any previous loss will not obligate FSA to approve, fund, or close a loan application or servicing request. FSA must separately review the eligibility, feasibility, and security of any future application.”

When providing previous loss information to borrower or former borrower who are in bankruptcy or have been discharged of the debt, please add the following:

“If you are in bankruptcy or have been discharged of the debt, this informational notice is not intended as an act to collect or recover any debt from you or for which your personal obligation has been discharged.

B Processing Repayments

[7 CFR 765.151(b)] The Agency credits the borrower's account as of the date the Agency receives payment.


When FSA receives a payment to repay a loss to the Agency, the Authorized Agency Official ~~must~~ process the payment according to FPAC NRRS Guide. Additionally, a memo should ~~be~~ sent to FLB at the ECM FAX number in 1-FLP, subparagraph 5 B, requesting that any accrual of interest between the settlement date and date of receipt of payment be adjusted to zero.

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.

Note: RDBCSO is responsible for mailing Exhibit 7 to all borrowers nationwide and will also provide copies of mailed letters to their respective FSA State Office.

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|---|--|
|  <p>United States Department of Agriculture</p> | <p>NOVEMBER 14, 2025</p> |
| <p>Rural Development Rural Housing Service Servicing Office PO BOX 771220 St. Louis, MO 63177 Voice: 800.428.9643 Fax: 314.457.4478</p> | <p>Dear Debtor/Co-debtor:</p> <p>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.</p> <p>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.</p> <p>The following options are available, if applicable, for settling this debt:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • 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 <p>USDA is an equal opportunity provider and employer.</p> <p>If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.</p> |

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

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United States Department of Agriculture

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.

USDA is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

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***--Reconsideration Review, Mediation and NAD Appeal (Continued)**

C Reconsideration – General (Continued)

Reconsideration reviews and hearings will be:

- conducted by the reviewing officer designated by SED
- for FSA-2701 offset, limited to the existence of the debt, status of the delinquency, amount of the debt or delinquency, and propriety of the offset
- based on FSA records plus other relevant documentary evidence that may be submitted by the debtor within 10 calendar days after the request for FSA review is received.

Note: An FSA employee will **not** be the reviewing officer for any administrative offset case where the employee was involved in making the decision to offset.

The debtor:

- must submit a written explanation of why the debtor disagrees with offset and seeks review
- may request a documentary review or hearing

The reviewing officer must notify the debtor in writing:

- whether the review will be by documentary review or by hearing
- of the reason why a hearing will not be granted, if the debtor requested one
- of the procedures to be used in reviewing the documentary record
- of the date, location, and procedures to be used if review is by hearing.

D Timeframe for Review or Hearing

Unless otherwise arranged by mutual written agreement between the debtor and FSA, any documentary review or hearing will be conducted not less than 10 calendar days and no more than 45 calendar days after receipt of the request for review.--*

Reconsideration Review, Mediation and NAD Appeal (Continued)

E Reconsideration Hearings

Hearings will be conducted as informally as possible and in a fair and expeditious manner.

The reviewing officer will not use the formal rules of evidence about the admissibility of evidence or the use of evidence once admitted. However, clearly irrelevant material should not be considered whether or not any party objects.

Any party to the hearing may offer exhibits, such as copies of financial records, telephone memoranda, or agreements, provided the opposing party is notified at least 5 workdays before the hearing.

Debtors may represent themselves or may be represented at their own expense by an attorney or other person.

The reviewing officer must document the substance of all significant matters discussed during the hearing; however, no official record or transcript of the hearing needs to be created. If a debtor requests that a transcript be made, it will be at the debtor's expense.

F Reviewing Officer's Decision

After the hearing or documentary review, the reviewing officer will:

- issue a written decision within 30 calendar days after the hearing or the documentary review

Note: The deadline for issuing the decision may be extended by the reviewing officer for good cause, but for no more than 30 calendar days without consent of the debtor. With the consent of the debtor, the deadline may be extended an additional 30 calendar days (for a total of 60 calendar days beyond the original deadline).

- promptly distribute copies of the decision to the FSA local servicing office, the debtor, and the debtor's representative
- if the decision is not in the debtor's favor:
 - give mediation and/or appeal rights to NAD according to 1-APP
 - *--see 1-FLP, subparagraphs 42 A through F for guidance on preparing appeal letters specific to FLP--*
 - for FSA-2701 offset process, notify the debtor that within 15 calendar days of the reviewing officer's decision, the debtor may submit ARA, according to 7 CFR 3.42 (Exhibit 8).