

For: State and County Offices

Servicing Department of Justice (DOJ) Judgment Debts

Approved by: Deputy Administrator, Farm Loan Programs



1 Overview

A Background

The Debt Collection Improvement Act of 1996 requires FSA to refer eligible debt to the Department of Treasury (Treasury) for possible collection through the Treasury Offset Program (TOP) and the cross-servicing program. A proposed rule has been drafted to incorporate these requirements into FSA regulations, and to provide additional guidance concerning the servicing and cancellation of judgments. Until the regulations have been published as a final rule, the policy in this notice will be followed.

This notice applies to those accounts on which FSA has obtained a judgment. It does not apply:

- if FSA has requested a judgment, but court action is still pending
- to foreclosure judgments.

B Purpose

This notice:

- provides guidance to State and County Offices about servicing, monitoring, and canceling judgment debts
- continues the policy established in Notices FLP-258 and FLP-276
- obsoletes Notices FLP-258 and FLP-276.

C Contact

Direct any questions about this notice to Mary Durkin, LSPMD at 202-720-1658.

Disposal Date	Distribution
January 1, 2005	State Offices; State Offices relay to County Offices

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2 Monitoring Judgment Debts

A Monitor Status

State Offices shall monitor the status of all judgments with DOJ, including the U.S. Attorneys' Office, to determine whether:

- any collections have been made on the judgment in the last 12 months (deficiency judgments and judgments on promissory notes only)
- the account has been referred to Treasury for TOP or cross-servicing.

B Request Return

State Offices shall request that DOJ return judgments if no collections have been made by DOJ in the last 12 months.

3 Servicing Judgment Debts Retained by DOJ

A Internal Administrative Offset

Under FSA and Commodity Credit Corporation offset regulations at 7 CFR Sections 792.7 and 1403.7, DOJ is not entitled to priority in requesting offset of FSA Farm Program payments. To achieve the greatest recovery on judgment debt, it is the policy of FLP to use its priority under these regulations whenever possible and appropriate. Therefore, State and County Offices shall:

- determine if the borrower will receive Farm Program payments, and request written DOJ concurrence to pursue collection of these monies as applicable
- pursue internal administrative offset according to RD Instruction 1951-C after obtaining DOJ concurrence
- notify DOJ of all administrative offset collections received and applied to the judgment accounts.

B TOP Referral

DOJ is responsible for referring judgment debts under its control to TOP and it is DOJ's policy to do so. When DOJ returns the case to FSA, it is withdrawn from TOP. In rare instances where DOJ retains the judgment debt, DOJ may request that FSA refer the account to TOP on their behalf since some DOJ offices do not yet have the required system for TOP referral, State and County Offices shall:

- document the DOJ request
- refer the debt as requested
- advise DOJ of all monies received and applied to the judgment debts.

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4 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...	AND...	THEN...
not expired	collection of Farm Program payments or other sources of collection may be possible	<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 cross-servicing if collection from other sources is possible. State Offices shall: <ul style="list-style-type: none"> • classify the account as currently not collectible by processing transaction code 3K with a class of writeoff code of 5 • submit FSA-1956-21 to KCFO, Loan Operations Division, Program Reporting Branch by FAX at 314-539-6266.
not expired	debtor does not receive Farm Program payments or any other known sources of income	cancel the debt according to paragraph 5. Note: Insert documentation from reason 1 of subparagraph 5 B in RD 1956-1, Part VIII.
expired (20 years from the date of judgment, unless renewed. If the U.S. Attorney states the judgment expired after 10 years, then consult your Regional OGC to determine if the judgment can be revived.)		cancel the debt according to paragraph 5. Note: Insert documentation from reason 2 of subparagraph 5 B in RD 1956-1, Part VIII.

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5 Debt Settlement

A RD Instruction 1956-B

Currently, RD Instruction 1956-B does not address the cancellation of judgment debts. New regulations are being developed to provide guidance on canceling judgment debts. Before the publication of the regulation, judgment debts shall be canceled according to Section 1956.70(c) which authorizes canceling nonjudgment debts.

B RD 1956-1 Documentation

Insert the appropriate text from the following table in RD 1956-1, Part VIII.

Reason for Debt Settlement	Documentation To Be Inserted in RD 1956-1, Part VIII
1	Address the following: <ul style="list-style-type: none">• the U.S. Attorney's file is closed, therefore removing it from TOP• debtor does not receive Farm Program payments or other known sources of income; therefore, collection through internal administrative offset is not possible• debtor has no equity in property on which the judgment:<ul style="list-style-type: none">• is a lien• can presently be made a lien.
2	Address the following: <ul style="list-style-type: none">• the U.S. Attorney's file is closed• the judgment has expired (20 years after the judgment date, and the judgment is not renewed. If the U.S. Attorney states that the judgement expired after 10 years, then see subparagraph 4 A)• the debt was returned from cross-servicing as uncollectible.

C Releasing Judgment Lien by DOJ

State Offices shall send notice to their U.S. Attorney's Office that it has canceled the debt that is the subject of a judgment lien (from a deficiency judgment or a judgment on the promissory note). The notice should request that this judgment lien be released.