UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

Notice FLP-367

1951-C, 1955-A, 1956-B, 1962-A

For: State and County Offices

Monitoring the Statute of Limitations (SOL's)

Approved by: Deputy Administrator, Farm Loan Programs

Carolyn B. Cooksie

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1 Overview

A Background

This notice continues the guidance established in Notice FLP-264 and adds the requirement for Farm Loan Chiefs (FLC's) to submit a quarterly report to the National Office about cases where the 6-year SOL will expire within the next 12 months.

The Government is unable to seek:

- monies owed on defaulted FSA loans, beyond the value of any remaining security, once the 10-year SOL runs
- deficiency judgments once the 6-year SOL runs.

State and County Offices must ensure that all necessary and applicable collection actions are taken before SOL's expire to receive the greatest possible recovery of taxpayer dollars.

B Purpose

This notice provides guidance to ensure the monitoring of SOL's.

C Contact

If there are any questions about this notice:

- County Offices shall contact the State Office
- State Offices shall contact Mary Durkin, LSPMD, at 202-720-1658.

Disposal Date	**Distribution**
October 1, 2006	State Offices; State Offices relay to County Offices

2 Action

A FLC Responsibilities

FLC is responsible for monitoring delinquent accounts to ensure that all required collection activities occur before the expiration of the 6-year and 10-year SOL's. In general, after:

- 6 years from the accrual date, FSA may not obtain a deficiency judgment against a delinquent borrower but can still pursue collection through offsets
- 10 years from the accrual date, the statute bars any collection activity (i.e. offsets) beyond liquidating the security.

FLC shall ensure that:

- the State Office establishes a system to monitor the 6-year SOL's on delinquent farm loan accounts
- all cases in which the 6-year SOL's have not yet run receive top servicing priority before the statute bars judicial collection of a deficiency judgment
- in cases where it appears the 6-year SOL's may bar collection of a deficiency but the debtor has repayment ability or other assets, consult with the Regional Office of General Counsel (OGC) to determine if a deficiency judgment can be sought.

Notes: Consult with the Regional OGC about whether State law prevents FSA from pursuing offset collection or referring deficiency judgments to the Department of Treasury (Treasury) for the Treasury Offset Program (TOP). Judgment debt is not classified as currently not collectible (CNC) before TOP referral.

If a deficiency judgment will not be sought, steps should be taken immediately to determine if the account can be classified as CNC and ensure that it is referred to Treasury for cross-servicing, which will be limited to a Treasury referral to private collection agencies to request payment.

B Farm Loan Manager (FLM) Action

Each FLM or Ag Credit Team shall maintain a running list of all delinquent accounts where the 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 certain other actions that may have prohibited the Agency from enforcing collection of the debt such as the debtor filing bankruptcy.

2 Action (Continued)

C Quarterly Reports

Each quarter, FLM or Ag Credit Team will send an updated list of cases in subparagraph B to DD and FLC.

FLC then shall submit a report to the National Office listing each case compiled from the FLM's reports in subparagraph B in which the 6-year SOL will expire within the next 12 months. Cases classified as CNC and referred to Treasury for cross-servicing should not be listed on the report. The report will be submitted in an Excel spreadsheet format using the template in Exhibit 1. The spreadsheet will be e-mailed quarterly to **Mary.Durkin@wdc.usda.gov**. The report is due 5 business days after the end of each quarter.

3 Determining When SOL's Begin to Run

A Acceleration

In general, when loans are accelerated, SOL's begin to run from the date of acceleration.

B Voluntary Liquidation

In some cases the borrower may voluntarily liquidate the security before receiving an acceleration letter after the 1951-S loan servicing process. In these cases, there should be a signed FmHA 455-3 or FmHA 455-4.

- FmHA 455-3, item 2, states that "the FmHA debt is all immediately due and payable upon signing of this form by the Borrower and the FmHA representative". SOL begins to run on the date FmHA 455-3 is signed.

- FmHA 455-4, item 8, states that "nothing contained in this agreement shall be construed to release the Debtor or any other party from liability for any deficiency owing to or insured by the Government after application of the proceeds as provided in this agreement. Any such deficiency shall be immediately due and payable". SOL begins to run on the date FmHA 455-4 is signed.

In cases where borrowers have made payments on the debt after signing FmHA 455-3 or FmHA 455-4, consult the Regional OGC to determine the beginning date of SOL's.

C Delinquent

When a loan has not been accelerated in the 1951-S process or there is no remaining security and the borrower did not sign a voluntary liquidation form, SOL generally begins to run on each installment as it comes due. The statute begins to run when the installment is delinquent or past due, such as the day after the due date.

3 Determining When SOL's Begin to Run (Continued)

D Loan Maturity

In some cases, the beginning date for SOL is the date the final payment was due on the loan.

E Last Acknowledgement

SOL also runs from the date the borrower acknowledges the debt, such as when he/she submits a debt settlement application.

F OGC Guidance

States shall consult with their Regional OGC in cases where the beginning date for SOL cannot be determined.

Cases With Expiring 6-Year SOL

State	Borrower Name	Case No.	Date SOL expires	SOL Event to Start SOL Clock (ie: ACL)	Date ACL	Will a Deficiency Judgment be Sought (Y/N)	$ Value of FSA Security	$ Value of Other Assets	$ Debtor's Off-farm Income

ACL = Acceleration