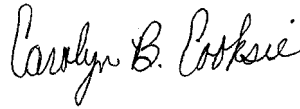


For: State and County Offices

Canceling Debt According to the Federal Claims Collection Standards (FCCS)

Approved by: Deputy Administrator, Farm Loan Programs



1 Overview

A Background

31 CFR Parts 902 and 903 provide guidance about compromising and canceling debt under FCCS. These authorities should be used on a loan-by-loan basis to cancel debts that are not eligible for referral to the Department of Treasury’s (Treasury) cross-servicing program and to cancel debts that have been returned by Treasury after cross-servicing. Using these authorities will allow FSA to cancel the uncollectible portion of the debt and continue collections through cross-servicing, TOP, or administrative offset on the remaining eligible debt.

Notice FLP-266 established in subparagraph 4 B under “Debt Returned as Uncollectible” that debt returned from cross-servicing would be canceled under RD Instruction 1956.70(c). RD Instruction 1956.70(c) will no longer be used to cancel the uncollectible debts described below. **The debt cancellation guidance in this notice shall be followed until further notice.** Therefore, disregard the guidance in Notice FLP-266, subparagraph 4 B under “Debt Returned as Uncollectible”.

B Purpose

This notice provides direction for cancellation of FLP debts, on a loan-by-loan basis, that are:

- not eligible for referral to Treasury’s cross-servicing program
- returned by Treasury from the cross-servicing program as uncollectible

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

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1 Overview (Continued)

B Purpose (Continued)

- returned by Treasury as uncollectible loan balances after Treasury accepts a compromise offer
- attributed to accrued interest after Treasury reports collecting the debt in full.

Note: Treasury does not presently have the computerized ability to continue interest accrual while a debt is at cross-servicing. Therefore, interest that accrued from the date of referral to the date of final payment will be canceled under FCCS.

C Contact

If there are questions about this notice:

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

2 FLP Debts Over \$100 That Are Not Eligible for Referral to Cross-Servicing

A Statute of Limitations (SOL) Expired

Non-judgment and judgment debt shall be canceled under FCCS on a loan-by-loan basis according to paragraph 6 when both of the following apply:

- the 10-year SOL has expired for nonjudgment debts or the 20-year SOL has expired for judgments and they have not been renewed
- there is no remaining security for any of the borrower's loans.

Examples: An individual has 2 loans secured by real estate. SOL expired on both loans and there is no remaining security. The loans shall be canceled.

An individual has 2 loans. SOL expired on 1 loan that was secured only by chattel and there is no remaining chattel security. The Agency is in the process of foreclosing on real estate which is security for the other loan. No loans may be canceled until all security has been liquidated even though SOL has expired on the unsecured loan.

An individual has 2 loans. There is no remaining security. SOL expired on 1 loan. The other loan will be referred to Treasury's cross servicing program. The loan with the expired SOL shall be canceled.

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2 FLP Debts Over \$100 That Are Not Eligible for Referral to Cross-Servicing (Continued)

B SOL Has Not Expired

Debt in which SOL has not expired and the debt is not eligible for referral to cross-servicing may **not** be canceled on a loan-by-loan basis at this time. The most common examples of when a debt cannot be referred for cross-servicing is when there is collateral currently in the process of foreclosure through court proceedings, or notice has been issued that nonjudicial proceedings are pending. See Notice FLP-266, paragraph 3 for additional exceptions to cross-servicing referral. Continue to use the authorities under RD Instructions 1955-A, 1956-B, 1962-A, and FmHA Instructions 1951-J, and 1965-A to approve canceling, compromising, or adjusting FLP debt.

3 FLP Debts Under \$100

A Account Receivables and Small Loan Balances

Account receivables and loan balances of less than \$100 are not eligible for referral to cross-servicing. These debts may be canceled under FCCS according to paragraph 6 when the amounts cannot be collected through offset and **either** of the following apply:

- all loans have been returned from cross-servicing or otherwise resolved
- the loan or loans responsible for establishing the account receivable have been returned from cross-servicing or otherwise resolved.

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4 FLP Debts Returned From Cross-Servicing as Uncollectible

A Non-Judgment and Judgment Debts

If there are **known collections** (payments FSA is certain it will receive from offsets in the near future, such as social security benefits, a federal salary, farm program payments, etc.), State and County Offices shall continue the current policy of:

- collecting the debt and monitoring the account until the loans are eligible for cancellation
- when contacted by KCFO, LOD, PRB about whether to cancel this uncollectible debt respond to them by memorandum of the decision to retain the debt for known collections.

If there are **no known collections**, the debts generally shall be canceled on a loan-by-loan basis as they are returned according to paragraph 6. Cite the following authorities when processing the cancellations:

- 31 CFR 902.2 (a) for compromise offers negotiated by Treasury
- 31 CFR 903.3 (a)(5) when Treasury reports the borrower paid in full and the remaining claimed debt cannot be substantiated
- 31 CFR 903.3 (a)(1) when no collection was made through cross-servicing.

Note: A copy of FCCS is available at <http://www.fms.treas.gov/debt/fccs1122.pdf>.

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5 FCCS Debt Cancellation Approval Authorities

A SED

After return from cross-servicing, SED is the approval official when **either**:

- the remaining principal amount of the debt (per loan) is less than \$100,000
- SOL has expired.

Examples: An individual has 3 loans that are eligible for cancellation. The outstanding principal balances are \$20,000, \$80,000, and \$99,999.99. SED is the approval official because under FCCS Treasury treats each loan as a debt, and under the cross-servicing program Treasury refers each loan individually to a private collection agency (PCA). Most loans of a borrower having multiple FLP loans are referred to different PCA's. Treasury then returns each loan separately to FLP when it is returned by PCA. In this example since Treasury **returned each loan separately** to FLP, SED can cancel each loan as a separate debt with principal balances less than \$100,000 under the authority of FCCS.

An individual has 2 loans. The outstanding principal balances are \$140,000 (loan A) and \$20,000 (loan B). SOL has expired on loan A, but not on loan B. Loan B is eligible for referral to cross-servicing. SED shall cancel loan A, while loan B is referred to cross-servicing.

B United States Attorney

The United States Attorney where the borrower resides is the approval official when both of the following apply:

- the principal balance of the debt is \$100,000 to \$1 million
- SOL has not expired.

C Department of Justice (DOJ)

DOJ is the approval official when **both of the following apply**:

- the principal balance of the debt is over \$1 million
- SOL has not expired.

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5 FCCS Debt Cancellation Approval Authorities (Continued)

D Multiple Approval Authorities

In cases where there are several loans for 1 borrower returned from cross-servicing **at the same time**, the loans will be processed for cancellation collectively. The approval official is determined by the total principal balance.

Examples: An individual has 2 loans that are eligible for cancellation simultaneously. The outstanding principal balances are \$90,000 and \$180,000. The United States Attorney is the approval official because the total principal balance of the loans is \$270,000 which is between \$100,000 and \$1 million.

An individual has 1 loan and 1 judgment that are eligible for cancellation. The outstanding principal balances are \$120,000 and \$1,500,000, respectively. DOJ is the approval official because the total principal balance is over \$1 million.

6 Processing FCCS Cancellations

A SOL Has Expired or the Debt is Less Than \$100

State and County Offices shall process FCCS debt cancellations as follows:

- prepare RD 1956-1 and FSA-1956-10
- cite 31 CFR 903.3 (a) (3) as the cancellation authority on both forms if the debt is less than \$100
- cite 31 CFR 903.3(a)(4) as the cancellation authority on both forms if SOL has expired
- SED is the approval official.

Note: Do not complete a separate RD 1956-1 and FSA-1956-10 for each debt belonging to the same borrower when the debts are being canceled at the same time.

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6 Processing FCCS Cancellations (Continued)

B Debt Returned From Treasury

State and County Offices shall process FCCS debt cancellations as follows.

IF the debt is within...	THEN...
SED's authority	<ul style="list-style-type: none">• continue the current policy of notifying KCFO, LOD, PRB by memorandum of the decision to cancel the debt• cite the appropriate approval authorities from paragraph 4 in the memorandum when canceling debt.
the United States Attorney's authority	<ul style="list-style-type: none">• prepare RD 1956-1, the Claims Collection Litigation Report (CCLR), and a memorandum from SED to the Regional Office of General Counsel (OGC)• send the above documents to OGC for referral to the United States Attorney's Office
DOJ's authority	<ul style="list-style-type: none">• prepare RD 1956-1, CCLR, and a memorandum from SED to DAFLP• send the above documents to DAFLP for referral to DOJ through the National Office OGC.