

RHS, RBS, RUS, FSA, USDA**§ 1951.102**

its successor agency under Public Law 103-354 loan collections. Deposits to these accounts are withdrawn daily by the concentrator bank for transfer to the Treasury. Under these procedures, the local FmHA or its successor agency under Public Law 103-354 office will deposit the daily office collections in a participating local financial institution and report the amount deposited to a data service facility that is under contract to the concentrator bank. The data service facility will inform the concentrator bank of the amount available in each local financial institution and the concentrator bank will use this information to transfer the funds to the concentrator bank and then to the Treasury.

§§ 1951.52–1951.53 [Reserved]**§ 1951.54 Authority.**

The provisions of this subpart are applicable to FmHA or its successor agency under Public Law 103-354 employees who are authorized to receive collections. Employees listed in Exhibit B of this subpart (available in any FmHA or its successor agency under Public Law 103-354 office) are hereby authorized to receive, receipt for, exchange for money orders or bank drafts, and transmit collections or deposit collections in a TLA.

§ 1951.55 Receiving and processing collections.

FmHA or its successor agency under Public Law 103-354 offices receive borrower payments either through the mail or in person in the form of checks, money orders, and cash. Payments are recorded on the appropriate accounting forms which are Form FmHA or its successor agency under Public Law 103-354 451-2, Form FmHA or its successor agency under Public Law 103-354 1944-9, Form FmHA or its successor agency under Public Law 103-354 1951-55, or a payment coupon. Forms FmHA or its successor agency under Public Law 103-354 451-2 and FmHA or its successor agency under Public Law 103-354 1944-9 are used to transmit accounting information to the Finance Office. Form FmHA or its successor agency under Public Law 103-354 1951-55 is used to assemble payment information which the

District Offices use to transmit MFH account information through field office terminals. In addition, the FmHA or its successor agency under Public Law 103-354 office records payments on a management system card, a servicing card, or a payment tracking form, as appropriate.

[56 FR 28038, June 19, 1991]

Subpart C—Offsets of Federal Payments to USDA Agency Borrowers**§ 1951.101 General.**

Federal debt collection statutes provide for the use of administrative, salary, and Internal Revenue Service (IRS) offsets by government agencies, including the Farm Service Agency (FSA), Rural Housing Service (RHS), Rural Utilities Service (RUS) for its water and waste programs, and Rural Business-Cooperative Service (RBS), herein referred to collectively as “United States Department of Agriculture (USDA) Agency”, to collect delinquent debts. Any money that is or may become payable from the United States to an individual or entity indebted to a USDA Agency or other individual or entity indebted to a USDA Agency may be subject to offset for the collection of a debt owed to a USDA Agency. In addition, money may be collected from the debtor’s retirement payments for delinquent amounts owed to the USDA Agency if the debtor is an employee or retiree of a Federal agency, the U.S. Postal Service, the Postal Rate Commission, or a member of the U.S. Armed Forces or the Reserve. Amounts collected will be processed as regular payments and credited to the borrower’s account. USDA Agencies will process requests by other Federal agencies for offset in accordance with § 1951.102 of this subpart. This subpart does not apply to RHS direct single family housing loans. Nothing in this subpart affects the agency’s common law right of set off.

[65 FR 50602, Aug. 21, 2000]

§ 1951.102 Administrative offset.

(a) *General.* Collections of delinquent debts through administrative offset

§§ 1951.103–1951.105

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will be taken in accordance with 7 CFR part 3, subpart B and §1951.106.

(b) *Definitions.* In this subpart:

(1) *Agency* means Farm Service Agency, Rural Housing Service, Rural Utilities Service, and Rural Business-Cooperative Service, or any successor agency.

(2) *Contracting officer* is any person who, by appointment in accordance with applicable regulations, has the authority to enter into and administer contracts and make determinations and findings with respect thereto. The term also includes the authorized representative of the contracting officer, acting within the limits of the representative's authority.

(3) *County Committee* means the local committee elected by farmers in the county, as authorized by the Soil Conservation and Domestic Allotment Act and the Department of Agriculture Reorganization Act of 1994, to administer FSA programs approved for the county as appropriate.

(4) *Creditor agency* means a Federal agency to whom a debtor owes a monetary debt. It need not be the same agency that effects the offset.

(5) *Debt management officer* means an agency employee responsible for collection by administrative offset of debts owed the United States.

(6) *Delinquent* means a payment that has not been paid within 30 calendar days after the due date.

(7) *Entity* means a corporation, joint stock company, association, general partnership, limited partnership, limited liability company, irrevocable trust, revocable trust, estate, charitable organization, or other similar organization participating in the farming operation.

(8) *FP* means Farm Programs.

(9) *FLP* means Farm Loan Programs.

(10) *FSA* means Farm Service Agency.

(11) *National Appeals Division* means the organization within the Department of Agriculture that conducts appeals of adverse decisions for program participants under the purview of 7 CFR part 11.

(12) *Offsetting agency* means an agency that withholds from its payment to a debtor an amount owed by the debtor to a creditor agency, and transfers the

funds to the creditor agency for application to the debt.

(13) *Propriety* means the offset is feasible. It includes offsetting a debtor's payments due any entity in which the debtor participates either directly or indirectly equal to the debtor's interest in the entity. To be feasible the debt must exist and be 60 days delinquent or past due for 90 days or the borrower must be in default of other obligations to the Agency, which can be cured by the payment of money.

(14) *Reviewing officer* means an agency employee responsible for conducting a hearing or documentary review on the existence of debt and the propriety of administrative offset in accordance with 7 CFR 3.29. FSA District Directors or other State Executive Director designees are designated to conduct the hearings or reviews.

[65 FR 50602, Aug. 21, 2000]

§§ 1951.103–1951.105 [Reserved]

§ 1951.106 Offset of payments to entities related to debtors.

(a) *General.* Collections of delinquent debts through administrative offset will be in accordance with 7 CFR part 3, subpart B, and paragraphs (b) and (c) of this section.

(b) *Offsetting entities.* Collections of delinquent debts through administrative offset may be taken against a debtor's pro rata share of payments due any entity in which the debtor participates when:

(1) It is determined that FSA has a legally enforceable right under state law or Federal law, including program regulations at 7 CFR 792.7(1) and 1403.7(q), to pursue the entity payment;

(2) A debtor has created a shell corporation before receiving a loan, or after receiving a loan, established an entity, or has reorganized, transferred ownership of, or otherwise changed in some manner the debtor's operation or the operation of a related entity for the purpose of avoiding payment of the FSA, FLP debt or otherwise circumventing Agency regulations;

(3) Assets used in the entity's operation include assets pledged as security to the Agency which have been transferred to the entity without payment