

(e) *Cancellation* means the complete discharge, without payment, of the indebtedness and the debtor.

[10 FR 807, Jan. 23, 1945, as amended at 11 FR 11984, Oct. 15, 1946. Redesignated at 13 FR 6903, Nov. 24, 1948; 55 FR 38662, Sept. 20, 1990]

### § 3.3 Settlement of indebtedness.

(a) Indebtedness will be compromised, adjusted, or canceled, upon applicability by the debtor except in those cases where it is found that it is legally impossible for the debtor to make application, and upon the making of all the following findings:

(1) That said indebtedness has been due and payable for five years or more;

(2) That the debtor is unable to pay said indebtedness in full and has no reasonable prospect of being able to do so; officers of the Department shall not make such findings on the basis of mere unwillingness to pay on the part of the debtor, or mere financial disadvantage to him, but should find that the settlement is the most advantageous arrangement possible from the standpoint of the Government under the findings prescribed in this part. In no event shall cancellation be made unless, in addition to the foregoing requirements, there is an advantage in removing the indebtedness from the accounts.

(3) That the debtor has acted in good faith in an effort to meet his obligation; and

(4) That the principal amount of said indebtedness is not in excess of \$1,000.

(b) Indebtedness may also be canceled without application when any one of the following circumstances is found:

(1) The amount of said indebtedness, including interest, is less than \$10; such efforts of collection have been made as are warranted under the circumstances, and the cost of collection or of continued maintenance of accounts is deemed greater than the amount of the indebtedness;

(2) The debtor is deceased and there is no reasonable prospect of recovering from his estate;

(3) The debtor's whereabouts has remained unknown for two years and there is no reasonable prospect of obtaining collection; heads of agencies designated in § 3.5 will prescribe proce-

dures which will assure that cancellations on this ground will be made only after a diligent effort has been made to locate the debtor, including such contact with other agencies of the Department or otherwise as the amount of the indebtedness and the circumstances warrant;

(4) The debtor has been discharged of the indebtedness in any proceeding under "An act to establish a uniform system of bankruptcy throughout the United States."

(5) It is impossible or impracticable for legal or other reasons to obtain the debtor's application but all of the findings required by paragraph (a) of this section are made.

[10 FR 807, Jan. 23, 1945, as amended at 12 FR 441, Jan. 22, 1947. Redesignated at 13 FR 6903, Nov. 24, 1948, and amended at 21 FR 3213, May 16, 1956]

### § 3.4 Investigations and findings.

The heads of agencies designated in § 3.5 shall prescribe procedures for the conduct of investigations to determine the facts incident to the settlement of any indebtedness. These procedures should include, among other things, provisions for consultations with local authorities, businessmen, or local representatives of other Government agencies, or for obtaining the recommendations of committees or other groups or persons designated by each agency for assistance in its regular program, or otherwise. The file relating to each debtor shall contain the formal findings required by § 3.3, together with such evidence as has been obtained in support of such findings.

In order to effect uniformity in settlements, agency procedures should also provide that, where it appears from the application of the debtor or from investigation that the debtor is otherwise indebted to the United States, to the extent practicable consultation should be had (other than in cases under § 3.3(b)(1) and (4) with any other creditor agencies, to ascertain pertinent information as to the status of such other obligation or obligations. Such information shall be considered in connection with the settlement and for inclusion in the findings.

### § 3.5

The head of each agency shall provide for review of proposed indebtedness settlements within his agency by officers or employees designated for that purpose under such conditions as he shall determine to be adequate to insure the protection of the interests of the United States.

#### § 3.5 Delegations of authority.

The heads of any administration or other agency having jurisdiction over any of the acts or programs listed in § 3.10 (including those of Federal Crop Insurance Corporation) are hereby authorized, within their respective jurisdictions, to exercise any or all of the functions prescribed by this part. The head of each of such agencies may delegate and authorize the redelegation of any of the functions vested in him by this part: *Provided*, That the determination of any settlement shall not be delegated beyond the head of the highest field office having jurisdiction, except that in the case of the Agricultural Stabilization and Conservation State Offices, such authority may also be delegated to the State Administrative Officers and except that in the case of the Farmers Home Administration, such authority may also be delegated to Assistant State Directors and Chiefs, Production Loan Operations, in State offices of that administration.

[21 FR 3213, May 16, 1956, as amended at 55 FR 18591, May 3, 1990]

#### § 3.6 Forms and records.

The Office of Management and Budget may prescribe or approve forms for applications for settlement of indebtedness under this part; and shall require each agency to establish records to insure the immediate availability of necessary information of operations under this part. Each agency shall furnish to the Office of Management and Budget a report of operations under this part quarterly, or for such other periods as the Director of Finance may designate.

[21 FR 3213, May 16, 1956, as amended at 55 FR 38662, Sept. 20, 1990]

#### § 3.8 Penalties.

The act prescribes the punishment by a fine of not more than \$1,000 or impris-

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onment for not more than one year, or both, upon conviction, for anyone making any material representation, knowing it to be false, for the purpose of influencing in any way the action of the Secretary or of any person acting under his authority in connection with any compromise, adjustment, or cancellation of indebtedness provided for in the act. The act also prohibits the acceptance by any officer, employee, or other person to whom is delegated any power or function under the act, of any fee, commission, gift, or other consideration, directly or indirectly, for or in connection with any transaction or business relating to the compromise, adjustment, or cancellation of indebtedness under the act.

#### § 3.9 Indebtedness referred to the Comptroller General or the Attorney General.

No settlement shall be effected under this part if the indebtedness is pending before the Comptroller General for compromise, or the Attorney General for collection.

[10 FR 807, Jan. 23, 1945. Redesignated at 13 FR 6903, Nov. 24, 1948, and amended at 55 FR 38662, Sept. 20, 1990]

#### § 3.10 Scope of the act.

The authorities prescribed in this part are applicable to indebtedness arising from loans or payments made or credit extended pursuant to the following acts and programs:

1. Act of July 1, 1918 (40 Stat. 635), Loans for seed.
2. Act of March 3, 1921 (41 Stat. 1347), Loans for seed.
3. Act of March 20, 1922 (42 Stat. 467), Loans for seed.
4. Act of April 26, 1924 (43 Stat. 110), Loans for seed and feed.
5. Act of February 25, 1927 (44 Stat. 1245), Loans for seed, feed and fertilizer.
6. Act of February 28, 1927 (44 Stat. 1251), Hurricane damage loans.
7. Act of February 25, 1929 (45 Stat. 1306), as amended May 17, 1929 (46 Stat. 3), Loans for seed, feed and fertilizer and to vegetable and fruit growers.
8. Act of March 3, 1930 (46 Stat. 78-79), as amended April 24, 1930 (46 Stat. 254). Loans for seed, feed, fertilizer, fuel and oil.
9. Act of December 20, 1930 (46 Stat. 1032), as amended February 14, 1931 (46 Stat. 1160). Loans for seed, feed, fertilizer, fuel and oil and crop production, and for assisting in