

## **MPF Government MBS Product**

### **Default Servicing Audit Findings and Reminders**

**October 22, 2020**

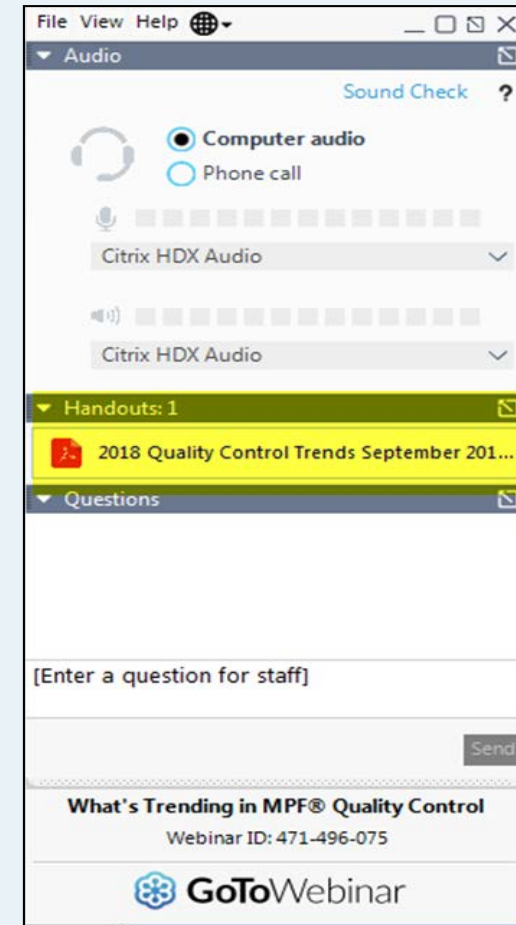


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# Topics

- **Audit Findings**
- **FHA Default Servicing Timelines**
- **VA Default Servicing Timelines**
- **USDA Default Servicing Timelines**



# Audit Findings



# What We Are Seeing

## MPF Government MBS loans are subject to a number of audits

- ☐ GNMA Compliance Field Review
  - ☐ Quarterly Certification Compliance Review
  - ☐ GNMA Annual Eligibility Certification Compliance Reviews
- **Results of the audits are returned to the MPF Risk and Compliance team.**
  - **The purpose of this webinar is to share some of the concerning trends that have been identified in recent audits.**
  - **Some of the most serious findings have been in the area of default servicing and the timeline requirements related to borrower contact.**

# Default Servicing for Government Loans

**Default servicing is subject to regulation by various agencies, laws and justice systems.**

- Prompt and effective contact with all delinquent borrowers is essential to make certain delinquencies are properly addressed.
- There are specific guidelines to ensure that notices and communications are provided in a timely manner.
- Communications are subject to strict timeframes.

# FHA Default Servicing Timeline



# Early Intervention for FHA Loans

**Payments for FHA loans are due on the 1<sup>st</sup> day of each month.**

- If a payment is not made on the first of the month, it is technically considered to be late on the 2<sup>nd</sup> day of the month.
- If a payment is not made, the Servicer must begin attempts to make telephone contact with the borrower by the **17<sup>th</sup> - 20<sup>th</sup>** day of delinquency.
- Contact attempts must continue to be made at a minimum of **two times per week** until:
  1. Contact is established or;
  2. The Servicer has determined through an occupancy inspection that the property is vacant or abandoned.
- Contact attempts should be made at varying times and days of the week.
- All telephone communication efforts must be documented in the servicing file.

# Borrower Notifications- Day 20

**The Servicer must begin mail or electronic communication collection attempts between the 20-25th day of delinquency.**

**Electronic methods may include:**

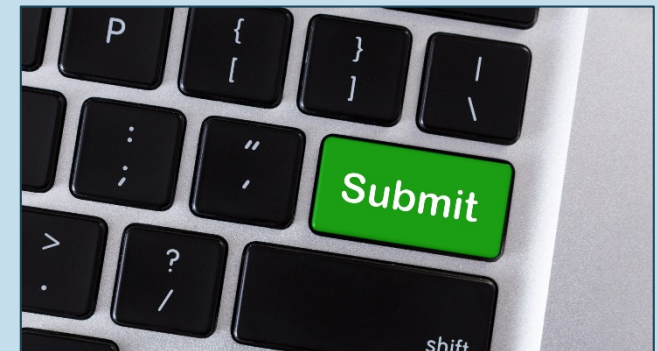
1. Email
2. Secure Web Portals
3. Other reliable communication methods that the Servicer has used in the past.

The Servicer must use the method or methods of communication most likely to receive a response from each borrower and take into account the borrower's expressed preference for using certain methods of communication.

# Reporting Delinquent Loans to HUD

**By the 30th day of delinquency, delinquent loans must be reported to the *Single Family Default Monitoring System (SFDMS)*.**

- If the reason for default is known, the appropriate Default Status Code and Default Reason Code must be provided.
- The Servicer must continue to report the applicable Status Code until the delinquency is resolved.
- Servicers must submit delinquency data documenting loan status as of the end of the month.
- Data must be submitted by the 5<sup>th</sup> business day of the following month.
- Mortgagees may submit additional delinquency data throughout the month.



# Early Payment Defaults and Re-Defaults- FHA

**Whenever a loan is delinquent during the first six months, it is at risk of becoming an early payment default**

- Early payment defaults (EPD) are loans that become 60 days delinquent within the first six months.
- When a loan is at risk of becoming an EPD, Servicers must begin telephone contact by the **10<sup>th</sup>** day after a payment is missed.
- The same applies to loans at risk of a *re-default*.
  - ✓ Re-defaults are defaults that occur within six months after reinstatement or the successful use of a permanent home retention option.
  - ✓ Borrower contact must begin by the **10<sup>th</sup>** day after a payment is missed.
- Calls must continue until either contact is established, it's been determined that the phone number is no longer valid or it's been determined by inspection that the property is vacant or abandoned.



# Borrower Notifications – Day 32-45

Beginning on the 32<sup>nd</sup> day but no later than the 45<sup>th</sup> day of delinquency, the borrower must be sent the following:

- *Notice of Homeownership Counseling Availability*
- *Servicemembers Civil Relief Act (SCRA) Disclosure* (HUD-92070)

*Document the date sent in the servicing file.*



# Borrower Notifications- Day 32-60

**Additionally, beginning on the 32<sup>nd</sup> but no later than the 60<sup>th</sup> day of delinquency, the borrower must be sent the following:**

- ***Delinquency Notice Cover Letter***
  - ✓ Should include specific information per the FHA Servicing Guide, such as Servicer contact information, information about access to language assistance, information related to payments, request for financial information, etc.
- ***Save your Home – Tips to Avoid Foreclosure* pamphlet** (HUD-2008-14 5-FHA).
  - ✓ If providing the pamphlet is in violation of a borrower's bankruptcy stay, it may be omitted. Please note in the servicing file.

*Document the date of all items sent in the servicing file.*





# Making Contact

**When contact with the borrower is made, Servicers should obtain and provide the following information:**

1. Is the borrower occupying the property?
2. What is the primary reason for the delinquency?
3. Inform the borrower about the availability of loss mitigation options.

Verbal financial information should be obtained to determine if the borrower is eligible for a forbearance plan.



# Borrower Contact – Day 36

**By the 36<sup>th</sup> day of delinquency, the Consumer Financial Protection Bureau (CFPB) requires Servicers to make a good faith effort to establish live contact with borrowers to discuss loss mitigation options.**

**Contact is not required if:**

1. Any borrower on the loan is in bankruptcy.
2. The borrower invokes the Fair Debt Collection Protection Act cease communication provision (applies to Servicers covered by the FDCPA).
3. The borrower has already applied for a loss mitigation option prior the 36<sup>th</sup> day of delinquency.
4. The borrower doesn't qualify for any loss mitigation options.

# Occupancy Status

**If the Servicer has been unable to reach the borrower by the 45<sup>th</sup> day of delinquency, an initial occupancy inspection should be performed**

- Initial occupancy inspections are based on visual observations.
- Occupancy status should be determined by the 60<sup>th</sup> day of delinquency.
  - ✓ If the Servicer is unable to determine the status through an initial occupancy inspection, the Servicer should perform occupancy follow-ups.
  - ✓ A follow-up is an attempt to communicate with the borrower via letter, telephone, or other method of communication.
  - ✓ If follow-up methods are unsuccessful, occupancy inspections should continue every 25-35 days from the last inspection.



# General Property Inspection Requirements

**Servicers must include the following on each inspection report:**

- Date of inspection
- Name of inspector or inspection company
- Occupancy status (is the property occupied?)
- Is the house locked/secured?
- Is the grass mowed and shrubs trimmed?
- Is there any apparent damage?
- Is any exterior glass broken?
- Are there any apparent roof leaks?
- Does the home contain personal property or debris?
- Are any of the windows or doors boarded up?
- Is the home winterized?
- Are there any repairs needed to preserve and protect the property? **If so, any actions taken to protect the property must be documented.**



# Vacant or Abandoned Properties

**When a property has been determined to be vacant or abandoned, the following must be completed:**

- Send a letter via *certified mail* (or similar that provides a delivery confirmation) to the borrower at the property address informing them of the determination that the property is vacant or abandoned.
  - ✓ The letter must include the Servicer's contact information.
- Begin vacant property inspections.
- Secure the property within 15 business days following the date the property was determined to be vacant or abandoned.
- Attach 24-hour emergency telephone contact information in a weather-tight window or door within 15 business days of the date the property was determined to be vacant or abandoned.

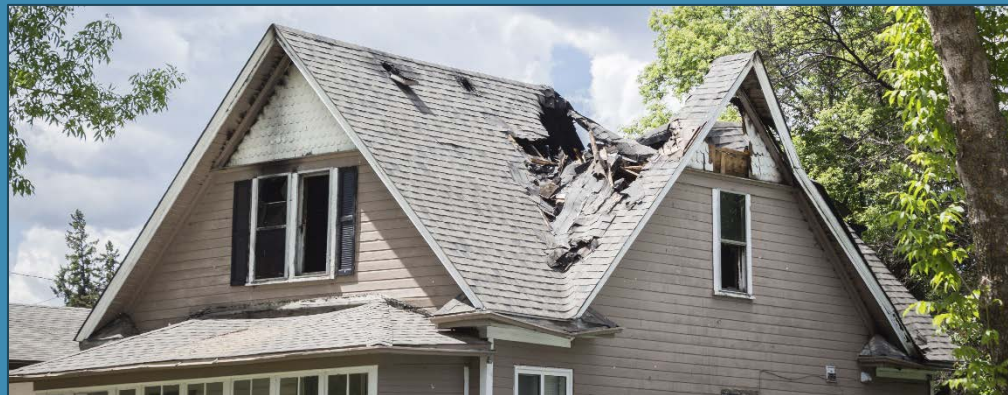
*The above list represents partial information. Additional items required to address urgent hazard and ensure safety issues may be required. Refer to the FHA Single Family Housing Policy Handbook for specific details.*



# Vacant or Abandoned Properties

## Inspection Requirements/Actions

- Servicers must document the overall condition and any damage to the grounds and structures in the inspection report.
- Photograph the overall condition of the interior and exterior of the primary and all secondary structures.
- Monitor the security and maintenance of the property, assess and manage damage that requires repair, replacement or removal.
- Address all emergency repairs.





# Borrower Contact

**The Servicer must have a face-to-face interview with the borrower or make a reasonable effort to arrange a face-to-face interview no later than the 61st day of delinquency, unless exempt.**

**A face-to-face interview is not required if:**

- The borrower does not live in the mortgaged property;
- The Servicer/Mortgagee or branch office of either is not located within 200 miles of the mortgaged property.
- The borrower has clearly indicated that they will not cooperate with a face-to-face interview.
- The borrower's payment is current due to an agreed-upon repayment plan or forbearance plan.

**COVID-19 Update: Waived for twelve months beginning March 13, 2020**

Servicers must establish contact through alternative means or methods – such as phone interviews, email, or video calling services such as Skype, Zoom, WebEx, or FaceTime.

# VA Default Servicing Timeline

## Borrower Contact – Days 17-20

**If a loan payment has not been received within 17 days after it is due, the borrower must be sent a written delinquency notice requesting immediate payment.**

- If a payment is not made on the first of the month, it is technically considered to be late on the 2nd day of the month.
- The notice must be mailed no later than the **20<sup>th</sup>** day of the delinquency and must state the amount of the payment and of any late charges that are due.
- Attempts should be made to contact the borrower by telephone to determine why payment was not made and to emphasize the importance of remitting loan installments as they come due.
- Telephone contact attempts should begin jointly with the delinquency notice but never later than the 30th day of the delinquency.

# Borrower Contact – Day 30

**If telephone contact has not been made by the 30<sup>th</sup> day delinquency, a second letter, preferably personally worded, must be sent to the borrower**

**The letter should:**

- State that the loan is in default.
- Emphasize the seriousness of the delinquency and the importance of taking prompt action to resolve the default.
- Report the total amount due.
- Advise the borrower how to contact the Servicer to make arrangements for curing the default.



# CFPB Contact Requirements

**By the 36<sup>th</sup> day of delinquency, the Consumer Financial Protection Bureau (CFPB) requires Servicers to make a good faith effort to establish live contact with borrowers to discuss loss mitigation options.**

**Contact is not required if:**

1. Any borrower on the loan is in bankruptcy.
2. The borrower invokes the Fair Debt Collection Protection Act cease communication provision (applies to Servicers covered by the FDCPA).
3. The borrower has already applied for a loss mitigation option prior the 36<sup>th</sup> day of delinquency.
4. The borrower doesn't qualify for any loss mitigation options.

# Face-to-Face Interviews

## A reasonable effort to arrange a face-to-face meeting must be made if:

- The Servicer has not established contact with the borrower.
- The Servicer is unable to determine the borrower's financial circumstances or a reason for the default.
- The Servicer has not obtained the borrower's agreement to a repayment plan before the default is reportable to VA.
- **COVID-19:** *In lieu of conducting a face-to-face meeting, efforts should be made to conduct meetings by telephone.*



# Loss Mitigation Letters

**Servicers must send a loss mitigation letter within 45 days of delinquency.**

## **The loss mitigation letter must:**

1. Provide information on how the borrower can contact the servicer.
2. Encourage the borrower to contact the servicer.
3. Explain loss mitigation options available to the borrower.
4. Emphasize that the intent of servicing is to retain home ownership, whenever possible.



Continued...

# Loss Mitigation Letters

## The loss mitigation letter must also include the following VA drafted paragraphs:

The delinquency of your mortgage loan is a serious matter that could result in the loss of your home. If you are the veteran whose entitlement was used to obtain this loan, you can also lose your entitlement to a future VA home loan guaranty. If you are not already working with us to resolve the delinquency, please call us to discuss your workout options. You may be able to make special payment arrangements that will reinstate your loan. You may also qualify for a repayment plan or loan modification.

VA has guaranteed a portion of your loan and wants to ensure that you receive every reasonable opportunity to bring your loan current and retain your home. VA can also answer any questions you have regarding your entitlement. If you have access to the Internet and would like to obtain more information, you may access the VA web site at [www.va.gov](http://www.va.gov). You may also learn where to speak to a VA Loan Administration representative by calling (877) 827-3702.

# Property Inspections

**Property Inspections should be completed before the 60<sup>th</sup> day of delinquency or whenever the Servicer becomes aware that the property's physical condition may be in jeopardy.**

- Unless a repayment agreement is in effect, a property inspection must also be made at the following times:
  - ✓ At least once each month after liquidation proceedings have been started, unless servicing information shows the property remains owner-occupied.
  - ✓ Before initiating action to liquidate a loan (i.e., referring the case to an attorney to begin foreclosure), whichever is earlier.
- **COVID-19 NOTES:** VA is temporarily suspending the requirement to perform a property inspection for loans before the 60th day of delinquency.
- This temporary suspension only applies to borrowers whose loans are currently in forbearance and were current or had not yet reached the 60th day of delinquency when borrowers requested a CARES Act forbearance.
- Inspections are still required for vacant and abandoned properties.

# Property Inspections

## Abandoned Properties

- For any loan more than 30 days delinquent, the abandoned property must be reported to VA and appropriate action (i.e., referral to counsel to initiate foreclosure) initiated within 15 days after the Servicer confirms the property is vacant.



# Servicing File Documentation

## **Records must be maintained and made available to VA for inspection on request**

- The dates and content of letters and notices which were mailed to the borrower(s)
- Dated summaries of each personal servicing contact and the results
- The indicated reason for default
- The date and result of each property inspection.
- This information must be reported on the notice of default and the notice of intention to foreclose forms.

# USDA Default Servicing Timeline



# Borrower Contact by Day 20

**Servicers of USDA Rural Housing loans must attempt to make verbal or written contact with the borrower on or before the day the loan becomes 20 days past due.**

- If a payment is not made on the first of the month, it is technically considered to be late on the 2nd day of the month.
- Send a letter if unable to contact by telephone.
- This contact must solicit enough information to evaluate the borrower's ability to cure the default and to help determine the additional servicing actions to be taken.
- **At a minimum, establish the following:**
  - ✓ The borrower's current mailing address and telephone number
  - ✓ The reason for the default
  - ✓ Is the hardship temporary or long-term?
  - ✓ The borrower's attitude towards the debt
  - ✓ The borrower's present income and employment status
  - ✓ The borrower's current monthly expenses and debt obligations
  - ✓ A realistic and satisfactory arrangement for curing the default

# Borrower Contact – Day 36

**By the 36<sup>th</sup> day of delinquency, the Consumer Financial Protection Bureau (CFPB) requires Servicers to make a good faith effort to establish live contact with borrowers to discuss loss mitigation options.**

**Contact is not required if:**

1. Any borrower on the loan is in bankruptcy.
2. The borrower invokes the Fair Debt Collection Protection Act cease communication provision (applies to Servicers covered by the FDCPA).
3. The borrower has already applied for a loss mitigation option prior the 36<sup>th</sup> day of delinquency.
4. The borrower doesn't qualify for any loss mitigation options.

# Borrower Notifications – Day 45

**Before the 45<sup>th</sup> day of delinquency, the Servicer should supply the borrower with the “*Save your Home: Tips to Avoid Foreclosure*” pamphlet (HUD-2008-5-FHA)**

- If providing the pamphlet is determined to be a violation of a bankruptcy stay, that should be noted in the servicing file.
- USDA guidelines do not indicate that the cover letter should be sent with the pamphlet.



# Borrower Notifications- Day 45

**By the 45<sup>th</sup> day of delinquency, the Servicer must supply the borrower with a written notice about loss mitigation information**

- The written notice must include the information required by the CFPB (CFPB 12 CFR 1024.39 (b)).
- A written notification must be sent even if information was discussed via telephone.
- Servicers are not required to provide the written notification more than once during any 180-day period.
- Written notifications do not have to be sent to borrowers who are debtors in a bankruptcy.

# Borrower Notifications - Day 60

If the borrower has not made arrangements for payment, the servicer must send a *certified letter* to the borrower before an account becomes 60 days past due

The letter should include the following:

- The importance of meeting the debt obligation.
- The negative impact of non-repayment on the borrower's credit history.
- A request for an interview to resolve the past due account and avoid foreclosure.



# Property Inspections- 60 Days

**On or before an account's 60th day of delinquency and before initiating a liquidation action, the servicer must take the following steps:**

- The Servicer should inspect the property at least monthly to verify occupancy and ensure the property is being adequately maintained.
  - ✓ Assess the physical condition of the property and determine occupancy status.
  - ✓ If abandoned, document the servicing file with indicators used to determine the status.
    - Abandoned properties must be referred for acceleration within 15 days of the date the property was confirmed abandoned.
  - ✓ Properties must be inspected at least monthly.
  - ✓ Inspection records maintained in the servicing file.
    - Continue to verify occupancy, condition and maintenance needs.





# Borrower Notifications – 90 Days

**A demand letter should be sent to the borrower within 5 days of the account becoming 90 days delinquent**

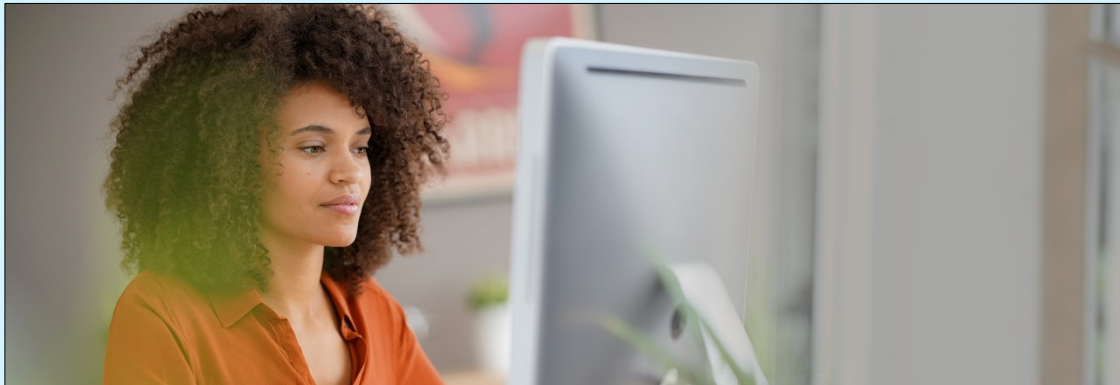
- Reason the notice is being sent (e.g. default or abandonment).
- The action required to cure the default.
- A date established to cure the default.
- Potential date foreclosure will occur if the breach is not cured.

**At 90 days past due, If the borrower fails to respond to foreclosure prevention options the servicer must initiate liquidation (demand notice must expire prior to initiating foreclosure)**

# Recordkeeping Requirements

**Servicers must maintain records of all collection efforts and make them available upon request**

- Reason for the default
- Dates and content of written notifications to borrower
- Dates and documentation of property inspections
- Date liquidation action was initiated (if applicable)



# Summary

# Suggestions to Reduce Audit Findings

- Have a process in place to ensure all borrower contact and notifications are being made within the required timeframes.
- Make sure all communication efforts are noted in the servicing file.
- Ensure all written notifications contain the information required by each applicable agency.

# MPF Contacts and Resources

## MPF Service Center

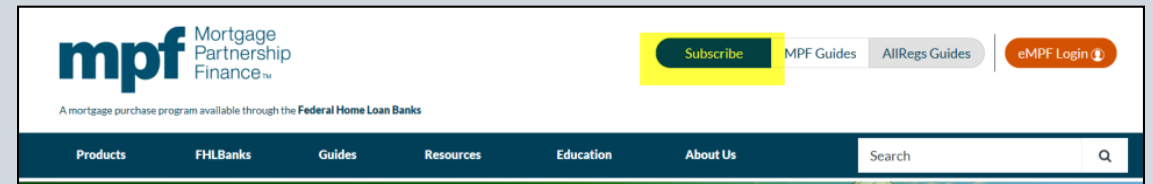
Email - [MPF-Help@FHLBC.com](mailto:MPF-Help@FHLBC.com)

Hours - 8:30 am to 4:30 pm CST

Phone: (877) 463-6673

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