



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING –
FEDERAL HOUSING COMMISSIONER

Date: July 7, 2020

Mortgagee Letter 2020-21

To: All FHA-Approved Mortgagees
All Direct Endorsement Underwriters
All Eligible Submission Sources for Condominium Project Approvals
All FHA Roster Appraisers
All FHA-Approved 203(k) Consultants
All HUD-Approved Housing Counselors
All HUD-Approved Nonprofit Organizations
All Governmental Entity Participants
All Real Estate Brokers
All Closing Agents

Subject Enhancements to FHA’s Claims Without Conveyance of Title (CWCOT) Procedures

Purpose The purpose of this Mortgagee Letter is to provide Mortgagees with enhancements to FHA’s CWCOT procedures, which must be used for all foreclosure sales and any Post-Foreclosure Sales Efforts pursued by the Mortgagee.

Effective Date The provisions of this Mortgagee Letter may be used immediately, but must be used for all foreclosure sales associated with defaulted FHA-insured Mortgages scheduled to occur on or after 90 days from the date of this Mortgagee Letter.

Affected Programs This guidance applies to FHA’s CWCOT procedures.

Affected Topics This guidance will affect Handbook 4000.1, section III.A.2.p Claims Without Conveyance of Title.

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Background CWCOT is a claim option through which FHA pays insurance benefits to a Mortgagee after the sale of the property to a third party at the foreclosure of the FHA-insured mortgage or through a Post-Foreclosure Sale. With CWCOT, there is no conveyance of the property to HUD in exchange for payment of mortgage insurance benefits. CWCOT expedites the disposition of foreclosed properties and reduces the amount of time a property sits vacant. It benefits HUD by reducing administrative, holding, and servicing costs associated with the lengthy conveyance and Real Estate Owned (REO) disposition process, and serves the goals of HUD's Housing Finance Reform Plan.

FHA has identified several improvements to maximize utilization of, and FHA's recoveries on, assets sold through CWCOT. FHA is improving the accuracy of bid prices for CWCOT and updating guidance for eligible CWCOT expenses. FHA is issuing new guidance on appraisal requirements, adapting CWCOT to specific, state-mandated requirements, and refining the current discounts applied to appraised values. FHA will continue to monitor its methodology for establishing the Commissioner's Adjusted Fair Market Value (CAFMV) to provide the optimal pricing for this important program.

HUD is also updating specific eligible costs and fees, in line with updates to CWCOT procedures. Reimbursement for eviction and eligible property preservation costs helps ensure successful CWCOT transactions, which leads to savings in the long term. Refinement of independent third-party provider fees aligns with HUD's recognition of the distinction between third-party foreclosure sales where the auction company does or does not conduct the sale.

Summary of Changes

HUD is enhancing FHA's CWCOT procedures by:

- providing for a second appraisal upon vacancy for a property that had an exterior-only appraisal, where an interior appraisal could not be obtained;
- allowing Mortgagees to submit eviction costs and certain eligible property preservation expenses incurred during Post-Foreclosure sales opportunities;
- updating the policy and allowable fee structure regarding independent third-party providers that conduct foreclosure sales or Post-Foreclosure Sales Efforts under CWCOT procedures; and
- regularly updating discounts in FHA Connection and changing to tier-based pricing factors. After the property's appraised value has been established, employees of a Mortgagee authorized to access the CAFMV link in FHA Connection should visit <https://entp.hud.gov/clas/index.cfm> to determine a property's CAFMV.

**HUD Single
Family Housing
Policy
Handbook
4000.1**

The above-mentioned policy changes will be incorporated into Handbook 4000.1 and appear as follows:

Qualification Criteria for Use of Commissioner’s Adjusted Fair Market Value (III.A.2.p.ii)

(B) Standard

Mortgagees must use the CAFMV for all foreclosure sales and Post-Foreclosure Sales Efforts associated with defaulted FHA-insured Mortgages when eligible for CWCOT. A mortgage is eligible for CWCOT when all of the following criteria are met:

- the FHA-insured mortgage insurance is still active for the FHA case number;
- the Mortgagee has worked with the Borrower to exhaust all applicable Home Retention Options and has determined that the Borrower’s case does not meet the criteria for a Home Disposition Option, or the Mortgagee has been unable to locate the Borrower and the Property is vacant or has been abandoned by the Borrower; and
- the Property has no Surchargeable Damage.

Property Valuation and CAFMV (III.A.2.p.iii)

(A) Required Appraisal

Unless otherwise directed by HUD, Mortgagees must first obtain, and review for accuracy, an “as-is” FHA appraisal, which includes both an interior and exterior evaluation of the Property.

If the Property is occupied and an interior appraisal cannot be obtained, an “exterior-only” appraisal may be used.

(1) Appraisal Validity

The appraisal must be valid on the date of the foreclosure sale. Appraisals are valid for 120 Days.

(2) Extension to Appraisal Validity Period

HUD provides an automatic 30-Day extension from the appraisal expiration date for delays due to bankruptcy, court delays, or delays outside of the Mortgagee’s control. The Mortgagee must request and obtain HUD approval via EVARS for extensions beyond the automatic 30-Day extension.

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(3) Subsequent Appraisals for Post-Foreclosure Sales Efforts

If a Property that had an exterior-only appraisal becomes vacant, the Mortgagee must obtain a new appraisal that includes both an interior and exterior inspection if:

- before foreclosure, any delay due to obtaining a new appraisal will not cause the foreclosure sale to be canceled; or
- after foreclosure, the Mortgagee conducts Post-Foreclosure Sales Efforts.

Mortgagees must use an FHA Roster Appraiser to conduct the new appraisal.

HUD will reimburse the Mortgagee for the cost of one new appraisal following vacancy through the FHA insurance claim.

(4) Required Documentation

Mortgagees must upload the appraisal information and related FHA case number through HUD's system of record (P260) within 30 Days of the date of the appraisal.

(B) Determining the CAFMV

After determining the Property's appraised value using the most recent appraisal, the Mortgagee's authorized employees must access the CAFMV link in FHA Connection ([FHAC](#)) to determine a Property's CAFMV. The CAFMV remains valid and in effect for 120 Days from the date of the appraisal.

In jurisdictions where the Mortgagee is required to bid a specific amount at foreclosure, that amount will be deemed to be the CAFMV for purposes of the initial foreclosure; however, the Mortgagee's authorized employees must access the CAFMV link in [FHAC](#) to determine a Property's CAFMV for use in any Post-Foreclosure Sales Efforts.

To facilitate a CWCOT Post-Foreclosure Sales Effort, the Mortgagee may contribute an additional amount needed to raise a third party's bid to the CAFMV and allow the sale of the Property to such third party. HUD will not reimburse any contribution by the Mortgagee to facilitate the sale through the FHA insurance claim.

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Independent Third-Party Providers (III.A.2.p.iv)

(A) Definition

An Independent Third-Party Provider is a party that conducts the foreclosure sale or Post-Foreclosure Sales Efforts, including marketing efforts in support of such sales under CWCOT procedures, and who is not one of the following:

- an Affiliate or subsidiary of the Mortgagee;
- any Entity over which the Mortgagee has significant influence; or
- any Entity with which the Mortgagee has a conflict of interest in fact or appearance.

(B) Standard

Where permitted by the jurisdiction, the Mortgagee may utilize an independent third-party provider to market the Property prior to any foreclosure or Post-Foreclosure Sale Efforts or to conduct such sales to ensure maximum competition for both the foreclosure sale and Post-Foreclosure Sales.

The Mortgagee may only use an independent third-party provider that agrees, in writing, to share sales and auction reporting information with the Mortgagee and HUD.

For successful third-party sales, HUD will reimburse expenses relating to the Mortgagee's use of an independent third-party provider to market or conduct the foreclosure sale or Post-Foreclosure Sales Efforts, provided the Property was marketed for a minimum of 15 Days before each scheduled sale. HUD will reimburse such independent third-party provider expenses incurred for successful third-party sales up to an amount that does not exceed:

- 3 percent of the Property's sales price where the independent third-party provider markets the Property, but does not conduct the sale; or
- 5 percent of the Property's sales price where the independent third-party provider markets the Property and conducts the sale.

Closing costs of the sale are to be paid by the third-party purchaser or the Mortgagee. Revenue sharing agreements of the reimbursed fee between the Mortgagee and the independent third-party provider are prohibited.

(G) CWCOT Bidding at the Foreclosure Sale (III.A.2.r.ii(G))

The CAFMV is multi-tiered:

- at the foreclosure sale, the CAFMV is the FHA calculation or the state-mandated foreclosure price, if applicable; and
- at Post-Foreclosure Sales opportunities, the CAFMV is the FHA calculation, which may be adjusted if the Property had an exterior-only appraisal and is vacant after the foreclosure sale.

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(1) Mortgagee as Successful Bidder (III.A.2.r.ii(G)(1))

(a) Amount Equal to the CAFMV

If the Mortgagee is the successful bidder for an amount equal to the CAFMV, the Mortgagee may elect to either:

- retain title to the Property and file a claim for insurance benefits under CWCOT; or
- convey the title to the Property to HUD and its claim for insurance benefits as a conveyance claim.

(b) Amount Greater than CAFMV

Where a Mortgagee's bid exceeds the CAFMV, resulting in the Mortgagee acquiring title to the Property at a foreclosure sale, unless the sheriff or other appropriate local authority has mandated the subject bid as the minimum bid that could be set for the Property, the Mortgagee is deemed to have elected to retain title of the Property and the Mortgagee's FHA claim for insurance benefits will be calculated in accordance with [24 CFR § 203.401\(b\)](#). The Mortgagee may not utilize Post-Foreclosure Sales Efforts and may not convey title to the Property to HUD.

(H) CWCOT Post-Foreclosure Sales Efforts (III.A.2.r.ii(H))

If the Property does not sell to a third party at the foreclosure sale, the Mortgagee may pursue Post-Foreclosure Sales Efforts and may utilize independent third-party providers to conduct such sales prior to making a final decision to convey a Property to HUD.

(1) Extensions of Time Frames to Engage in Post-Foreclosure Sales Efforts

HUD will provide the Mortgagee with an automatic extension of the conveyance time frames to attempt Post-Foreclosure Sales Efforts for 60 Days from the later of either the date the foreclosure deed is filed for recording or the date of vacancy, in circumstances where the Mortgagee complied with all foreclosure time frames. Where an acceptable sales contract has been ratified before the expiration of the 60-Day period, HUD will provide the Mortgagee with an additional, automatic 30-Day extension to the deadline for conveyance, from the date of the sales contract, to allow for closing of the sale.

In circumstances where the Mortgagee has taken any necessary possessory action immediately upon completion of foreclosure, HUD will provide the Mortgagee with 30 Days from completion of the possessory action to

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attempt Post-Foreclosure Sales Efforts, provided that the Mortgagee has complied with all foreclosure time frames. Where an acceptable sales contract has been ratified before the expiration of the 30-Day period, HUD will provide the Mortgagee with an additional, automatic 30-Day extension to the deadline for conveyance, from the date of the sales contract, to allow for closing of the sale.

(2) Preservation and Protection During Post-Foreclosure Sales Period

The Mortgagee must preserve and protect the Property in accordance with HUD requirements during the Post-Foreclosure Sales period and throughout any approved extensions to deadlines for conveyance. HUD will reimburse the Mortgagee through the FHA insurance claim for all reasonable preservation, protection, and eviction expenses incurred prior to the expiration of any extension of the deadlines for conveyance, as listed (III.A.2.t.ii.(C)(4) Property Preservation Allowances.

Paperwork Reduction Act

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Numbers 2502-0589, 2502-0429 and 2502-0189. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB Control Number.

Questions

Any questions regarding this Mortgagee Letter may be directed to the FHA Resource Center At 1-800-CALL-FHA. Persons with hearing or speech impairments may reach this number by calling the Federal Relay Service at 1-800-877-8339. For additional information on this Mortgagee Letter, please visit www.hud.gov/answers.

Signature

Len Wolfson
Acting Assistant Secretary for Housing –
Federal Housing Commissioner