Section 184
Servicing Training
DAY 2

April 21, 2020 and April 22, 2020
Heidi J. Frechette
Deputy Assistant Secretary for Native American Programs
Office of Loan Guarantee Team Members

Jake Coury
Roy Schaeffer
Andrika Wagstaff
Mansoor Deen
Brian Cook
Kevin Hickey
Jeffery Glass
Deputy Director, 
Office of Loan Guarantee
Loss Mitigation:

• Loan Modification -
  • Must result in a fully amortizing fixed rate loan.
  • Allows the loan to be reinstated
  • Results in payments the borrower can afford
  • 3-month trial repayment plan required
Loss Mitigation:

• Short Sale (PFS) -
  • For borrowers without the ability to reinstate the loan
  • Lenders may consider short term reduction/suspension of payments during Marketing
  • Sale of property may also require approval by the Tribe, BIA or DHHL
Loss Mitigation:
Short Sale (PFS) -
• Only available within 120 days from default
• Requires executed agreement
• Market value must be established
• Prior HUD approval is necessary net to HUD drops below 85% of unpaid principal balance at the time of foreclosure.
Servicing Non-Performing Loans

Loss Mitigation:

• Foreclosure -
  • No first notice or filing for Foreclosure prior to 120 days from default
  • Servicer must start Foreclosure within 6 months of default, unless extensions apply
  • Lenders must assign all Section 184A loans to HUD
  • Lenders have the option to assign trust land properties.
Loss Mitigation:

• Foreclosure -
  • Section 184 and Section 184A loans are currently subject to a foreclosure and eviction moratorium as described in the DLL-2020-04.
Servicing Non-Performing Loans

Loss Mitigation:
- Loan Assumption -
  - 184 loans assumable by Qualified Eligible borrower
  - Servicers must submit loan processing and underwriting documents
  - Requires HUD approval
  - Maximum fees $500
  - Section 184A and trust land properties require additional approval
Loss Mitigation:

- Deed-in-Lieu of Foreclosure -
  - Use if appropriate to minimize HUD's losses
  - HUD approval required
  - Must be completed within 6 months of default

- Good and Marketable Title -
  - Must be conveyed to the Secretary
  - Subordinate liens may bar acceptance
Servicing Non-Performing Loans

Foreclosure Sale -
- Claims without Conveyance of Title CWCOT-
  - Lender must estimate Foreclosure sale date
  - Prepare HUD-91022; Mortgagee Notice of Foreclosure Sale, Part A, within 45 days of sale
    - Appraisal for Adjusted Fair Market Value (AFMV)
Foreclosure Sale -

- CWCOT- continued
  - Confirm actual sale date
  - Submit HUD-91022 and appraisal at least 30 days before actual sale.
  - HUD to provide AFMV 5 days before sale
  - Foreclosure sale bidding
Servicing Non-Performing Loans

Time Requirement:

*Reasonable Diligence Timeframe (RDT)*

First Legal Actions To Initiate Foreclosure And Reasonable Diligence Timeframes (Effective 1/1/2016)

https://www.hud.gov/sites/documents/16-03ML.PDF
Servicing Non-Performing Loans

Assignment of the Section 184 or 184A loan to HUD:

• Lenders must provide all available Loss Mitigation options to all borrowers
• Loans should be assigned within 180 days, if the borrower is not performing on an approved Loss Mitigation plan or prohibited due to bankruptcy
• HUD anticipates minimal P&P expenses
## Auto-Extensions

### Automatic Extensions to HUD’s Initiation of Foreclosure Timeline

<table>
<thead>
<tr>
<th>Extension</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bankruptcy</td>
<td>Mortgagees are allowed an automatic 90-Day extension from the date of the applicable release of stay or bankruptcy discharge date.</td>
</tr>
<tr>
<td>Presidentially-Declared Major Disaster Areas</td>
<td>Mortgagees are allowed an automatic 90-Day extension from the date the foreclosure moratorium expires.</td>
</tr>
<tr>
<td>Loss Mitigation</td>
<td>Mortgagees are allowed an automatic 90-Day extension from the first legal action initiating foreclosure if they have evaluated and approved a Borrower for loss mitigation before the expiration of that first legal timeframe and need additional time to send and receive back the executed documents or to initiate foreclosure.</td>
</tr>
<tr>
<td>Special Forbearance</td>
<td>Mortgagees are allowed an automatic 90-Day extension from the failure of a Special Forbearance (SFB) – Unemployment or completion of a SFB to review for additional loss mitigation options or to initiate foreclosure.</td>
</tr>
</tbody>
</table>
## Auto-Extensions

### Automatic Extensions to HUD’s Initiation of Foreclosure Timeline

<table>
<thead>
<tr>
<th>Extension</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-Foreclosure Sale (PFS or short sale)</td>
<td>Mortgagees are allowed an automatic 90-Day extension from the expiration of the PFS marketing period to pursue a deed-in-lieu (DIL) of foreclosure or to initiate foreclosure if a qualified offer is not obtained.</td>
</tr>
<tr>
<td>State Law Prohibition</td>
<td>Mortgagees are allowed an automatic 90-Day extension from the expiration of the time during which the foreclosure is prohibited or delayed due to state law prohibitions.</td>
</tr>
<tr>
<td>Trial Payment Plans</td>
<td>Mortgagees are allowed an automatic 90-Day extension from the date the trial payment plan fails.</td>
</tr>
</tbody>
</table>
### Automatic Extensions to HUD’s Initiation of Foreclosure Timeline

<table>
<thead>
<tr>
<th>Extension</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trial Payment Plans</td>
<td>Mortgagees are allowed an automatic 90-Day extension from the date the trial payment plan fails.</td>
</tr>
<tr>
<td>Servicemembers Civil Relief Act (SCRA)</td>
<td>Mortgagees are allowed an automatic 90-Day extension from the date the SCRA foreclosure moratorium expires.</td>
</tr>
<tr>
<td>Loss Mitigation Denial</td>
<td>Mortgagees are allowed an automatic 90-Day extension, from the date the borrower has been denied loss mitigation, to comply with the appeals process required by federal regulation.</td>
</tr>
<tr>
<td>Federal Regulation</td>
<td>Mortgagees are allowed up to a 90-Day extension after the expiration of the time during which foreclosure is prohibited by federal regulation.</td>
</tr>
</tbody>
</table>
Extension Requests

- Extension for delays beyond the lenders control
- Lender must keep an audit trail and chronology to support any delay
- Automatic extensions apply and must be fully documented
Inspections

- Initial property inspection
- Occupancy inspections
- Initial vacant inspection
- Continued vacant inspections
Inspections

All inspections must be performed in accordance with HUD's requirements. This includes:

• Before and after photographs; all photographs must be time stamped and dated

• All copies of paid invoices or receipts or other documentation supporting all property preservation expenses claimed by the lender; and

• A chronology of the lender’s property P&P actions.
Property Preservation

Property Preservation Fee Schedule:

https://www.hud.gov/sites/documents/16-02ML.PDF
Key Requirements:

- Secure windows and doors
- Protect plumbing and other operating systems from freezing
- Debris removal interior and exterior
Expenses over the Allowable costs:

- The lender must request approval for over-allowable costs from HUD
- HUD Form 50002 *Request to Exceed Cost and Protection Limits for Preservation* must be submitted with all supporting documentation:
- The Maximum Property Preservation Allowance is $5,000
### Request to Exceed Cost and Protection Limits for Preservation

**Department of HUD**  

**Mortgagee Name and Address**

Dear 

**SUBJECT:** Request for Variance from Preservation and Protection Schedule  
FHA Case No.:  
Mtgee Loan No.:  
Mortgagor's Name:  
Property Address:  
Date of Vacancy:  
Date of Foreclosure Sale:  
Date Deed Recorded:  
Expected Conveyance Date:  
Zip Code:  

Permission is requested to perform the following services (all applicable estimates and required documentation are attached):

<table>
<thead>
<tr>
<th>Service</th>
<th>Cost</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) TOTAL</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Preservation and Protection Costs Expended to Date (excluding inspections):

<table>
<thead>
<tr>
<th>Service</th>
<th>Cost</th>
<th>(NOTE: Expenses listed in item (2) must be consistent with HUD P&amp;P limits and/or guidance and are subject to further verification.)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) TOTAL</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

Submitted By:  
Signature:  
Title:  
Phone:  
Fax:  

Please fax your response to Fax No.:  

OMB Approval No. 2502-0429  
Exp. 09/30/2020
Property Preservation
HUD Form 50002

Check appropriate box:

- REQUEST TO EXCEED COST LIMIT APPROVED:
  For the subject case, HUD authorizes additional expenditures for:
  - debris removal up to a maximum of $________
  - boarding up to a maximum of $________
  - winterization up to a maximum of $________
  - other: $________

(3) Total Additional Expenditures Approved Not to Exceed: $________

(4) Total Authorization Not to Exceed [item (2) + item (3)]: $________

- REQUEST TO EXCEED COST LIMIT DENIED: (include reason/explanation for denial)

  Date Mortgagee’s Request Received: ________________

  Date Response Provided to Mortgagee: ________________

  Date of Approval/Denial: ________________

  Approved By: ________________

Public reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information is required in order to administer the Mortgage Insurance Program (24 CFR Part 203). This information is required to request permission to exceed cost limits when preservation and protection efforts cannot be performed in a specific jurisdiction for the costs prescribed. If HUD did not collect this information, it would prevent timely preservation and protection efforts, increased losses to HUD’s Insurance Fund and would prolong the conveyance of properties to HUD. While no assurances of confidentiality are pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information request.
Property Preservation Appeals

• The lender may submit an appeal of an initial over-allowable decision to the attention of the Office of Loan Guarantee Deputy Director.

• The decision on the second appeal is final and no further appeals will be accepted.
Conveyance Property Condition

- Delivery of the property to HUD
- Conveyance of Damaged Properties
- Conveyance of Fire Damaged Properties
- Hazard Insurance Recovery
- Evidence of vandalism or theft
- HUD Acceptance of Responsibility
- Damage discovered during HUD's first inspection
- Property Damage and Restoration
More Information

- **Section184 Lenders**

- HUD/Office of Native American Programs
  451 7th Street, SW Room 4108
  Washington, DC 20410

- Toll Free: 1-800-561-5913 ONAP Hotline
Questions?