Office of Single Family Housing, Washington, DC

HUD's Oversight of Servicers' Use of Loss Mitigation

Office of Audit, Region 9
Los Angeles, CA

Audit Report Number: 2017-LA-0004
September 14, 2017

To:	Gisele G. Roget Deputy Assistant Secretary for Single Family Housing, HU
	//SIGNED//
From:	Tanya E. Schulze, Regional Inspector General for Audit, 9DGA
Subject:	HUD Did Not Have Adequate Controls To Ensure That Servicers Properly Engaged in Loss Mitigation

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of HUD's oversight of servicers' use of loss mitigation.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG website. Accordingly, this report will be posted at http://www.hudoig.gov.

If you have any questions or comments about this report, please do not hesitate to call me at 213-534-2471.

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HUD Did Not Have Adequate Controls To Ensure That Servicers Properly Engaged in Loss Mitigation

Highlights

What We Audited and Why

We audited the U.S. Department of Housing and Urban Development's (HUD) oversight of servicers' use of loss mitigation programs. The audit was initiated in response to an Office of Inspector General preaudit analysis of HUD data, which determined that servicers may not always evaluate borrowers with delinquent mortgages for loss mitigation. Our audit objective was to determine whether HUD had adequate controls to ensure that servicers of single-family Federal Housing Administration (FHA)-insured loans engaged in loss mitigation as required.

What We Found

HUD did not have adequate controls to ensure that servicers of single-family FHA-insured loans properly engaged in loss mitigation. More specifically, HUD did not adequately review claim loans that did not have loss mitigation default status codes reported to HUD by servicers. From January 1, 2014, to December 31, 2016, there were 14,763 claim loans that indicated servicers did not engage in loss mitigation, and HUD reviewed only 194 (1.3 percent) of these loans. Also, a review of 90 statistically sampled claims that closed from January 1, 2012, to December 31, 2015, determined that 26 had significant servicing deficiencies. This condition occurred because HUD did not emphasize identifying or targeting these types of loans for review. This lack of oversight may have put borrowers in default at risk of not being able to avoid foreclosure by using HUD's loss mitigation program and resulted in an increased overall risk to the program of a projected $120.9 million for losses in which servicers did not properly engage in loss mitigation.

What We Recommend

We recommend that HUD (1) revise its policies and procedures to emphasize increased controls on reviewing claim loans showing that no loss mitigation evaluation occurred, resulting in a projected $120.9 million in funds to be put to better use; (2) develop and implement policies and procedures to ensure that the Office of Lender Activities and Program Compliance and the Office of Single Family Asset Management communicate the results of servicing reviews to each other; (3) update and revise policies and procedures to reinforce guidance to ensure that servicers accurately report the status of loans to HUD; (4) require indemnification for the 26 loans that had significant servicing deficiencies, resulting in $1.7 million in questioned costs; (5) reinforce existing guidance to servicers to ensure that they engage in loss mitigation as required; and (6) require the servicers with deficiencies to revise their procedures, as necessary, to ensure that they comply with the requirements.

Table of Contents

Background and Objective

The U.S. Department of Housing and Urban Development (HUD) established the loss mitigation program in 1996 to ensure that distressed Federal Housing Administration (FHA)-insured borrowers would have opportunities to retain their homes and to reduce losses to FHA's insurance fund. Loss mitigation is considered critical to FHA because it fulfills the goal of helping borrowers in default retain home ownership while reducing or mitigating the economic impact on the insurance fund.

The loss mitigation program includes home retention and disposition options. The home retention options include (1) informal and formal forbearances, (2) special forbearances, (3) loan modifications, and (4) FHA's Home Affordable Modification Program (FHA HAMP). Forbearance plans are arrangements between a servicer and borrower that may allow for a period of reduced or suspended payments and may provide specific terms for repayment. A loan modification is a permanent change in one or more terms of a borrower's mortgage, such as a change in interest rate or capitalization of delinquent principal and interest. FHA HAMP uses a loan modification and/or partial claim, an advancement of funds on behalf of the borrower to assist in reinstating the mortgage.

The disposition options include a preforeclosure sale and a deed in lieu of foreclosure. A preforeclosure sale allows borrowers to sell their home and use the sales proceeds to satisfy the mortgage debt even though the proceeds may be less than the mortgage balance. A deed in lieu of foreclosure allows the borrower to sign home ownership over to HUD in exchange for a release from all mortgage obligations.

Participating in the loss mitigation program is not optional. Before four full monthly installments due on the mortgage have become unpaid and monthly thereafter, servicers are required to evaluate a borrower's financial situation to determine the appropriate loss mitigation option. HUD has specific requirements for communicating with borrowers early in the delinquency or when default is imminent to increase the likelihood that the default will be cured and the borrower will be able to retain home ownership. The Single Family Default Monitoring System is HUD's system for tracking servicer data on delinquent mortgages until a delinquency is resolved. Servicers must report the servicing activities each month for all loans that are 30 or more days delinquent as of the last day of the month. Servicers report the default status code to reflect the stage of delinquency or servicer action.

The loss mitigation programs are offered through HUD's National Servicing Center, which provides direction and training to lenders and housing counseling agencies. HUD's Office of Single Family Housing's Quality Assurance Division monitors FHA-approved servicers' compliance with HUD servicing and loss mitigation requirements. As of December 31, 2016, there were 466 active FHA-approved servicers with a total portfolio of 7.8 million FHA-insured loans. From fiscal year 2014 to fiscal year 2016, HUD reviewed 71 servicers and 5,118 loans.

Our audit objective was to determine whether HUD had adequate controls to ensure that servicers of single-family FHA-insured loans engaged in required loss mitigation.

Results of Audit

Finding: HUD Did Not Have Adequate Controls To Ensure That Servicers Properly Engaged in Loss Mitigation

HUD did not have adequate controls to ensure that servicers of single-family FHA-insured loans properly engaged in required loss mitigation. More specifically, HUD did not adequately review claim loans[1] that did not have loss mitigation default status codes reported to HUD by servicers. From January 1, 2014, to December 31, 2016, there were 14,763 claim loans that indicated servicers did not engage in loss mitigation. HUD reviewed only 194 (1.3 percent) of these loans. Also, our review of 90 statistically sampled claims that closed from January 1, 2012, to December 31, 2015, determined that 26 had significant servicing deficiencies. This condition occurred because HUD did not emphasize identifying or targeting these types of loans for review. This lack of oversight may have put borrowers in default at risk of not being able to avoid foreclosure by using HUD's loss mitigation program and resulted in an increased overall risk to the program of a projected $120.9 million for losses in which servicers did not properly engage in loss mitigation.

Servicers and Loans Were Not Adequately Selected for Review

HUD did not have adequate controls for monitoring loans in which servicers did not report codes showing that the servicer engaged in loss mitigation and also targeted servicers for review based on information that was unreliable. HUD requires servicers to (1) participate in FHA's loss mitigation program, (2) inform borrowers of this program, and (3) evaluate borrowers for each loss mitigation retention and nonretention option in a timely manner. Further, servicers are required to complete loss mitigation evaluations before four payments due have been unpaid, or HUD may assess treble damages in accordance with 24 CFR (Code of Federal Regulations) 203.605. Servicers report their servicing efforts and the status of delinquent loans to HUD through the Single Family Default Monitoring System (SFDMS) monthly so that HUD can monitor servicers' engagement in loss mitigation. The Federal Register on March 31, 2006, revised the requirement to report the status of FHA-insured single-family loans to HUD from 90 or more days delinquent to 30 or more days delinquent. This revision enables HUD to better monitor its loss mitigation program and strengthen the soundness of the FHA mortgage insurance fund.

<u>Loans With Indicators of No Loss Mitigation Engagement Were Not Adequately Reviewed</u>

HUD's Quality Assurance Division did not adequately select loans for review in which servicers did not report codes showing that the servicer engaged in loss mitigation. After servicers were selected for review, the Quality Assurance Division had a targeting tool to identify a sample of loans to select for review. The targeting tool identified different categories of loans for field staff to select for review. One of the categories was loans for which the servicer may not have

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[1] Loans for which HUD paid a claim to lenders

attempted loss mitigation based on the default status codes reported. Although the Quality Assurance Division had procedures for identifying loans that may not have been reviewed for loss mitigation, it did not emphasize selecting these types of loans for review. From January 1, 2014, to December 31, 2016, HUD paid claims on 434,685 loans. Of these claims, 14,763 loans did not have default status codes reported to HUD for the entire life of the loans showing that the servicer engaged in loss mitigation. The Quality Assurance Division reviewed only 194 (1.3 percent) of these loans.

During the audit, HUD implemented a new system (the Loan Review System) for its monitoring reviews.[2] However, we were not able to review the methodology for targeting loans for review. Despite our efforts to obtain supporting documents, the Quality Assurance Division provided no information on the system or how loans would be selected.

Servicers Were Targeted for Review Based on Unreliable Information

HUD's Quality Assurance Division selects servicers for monitoring reviews based on its portfolio size and its Tier Ranking System score. The Tier Ranking System assesses servicer performance and provides a score based on four scoring elements. The scoring elements are based on data that are self-reported by servicers through HUD's SFDMS. However, HUD's monitoring reviews determined that servicers did not always accurately report the status of loans in SFDMS. The Quality Assurance Division reviewed 2,201 loans as part of its monitoring reviews of servicers for fiscal year 2016 and determined that servicers did not accurately report information, such as the reason for default and default status, to HUD for 483 loans (22 percent). HUD officials also stated that the accuracy of loan reporting to HUD was an ongoing issue, and one official stated that it was an issue on every servicing review conducted.

Also, HUD's Quality Assurance Division did not routinely provide the results of its reviews to the National Servicing Center within the Office of Single Family Asset Management, which is the office that provides training for loss mitigation. The Quality Assurance Division monitors FHA-approved servicers' compliance with HUD's servicing and loss mitigation requirements to mitigate risks to the FHA insurance fund. HUD could more effectively ensure that servicers engage in loss mitigation and accurately report the status of loans if it had better communication within its offices. In addition, although the National Servicing Center had a contractor to conduct its own reviews of servicers, these reviews did not include enforcement actions when deficiencies were identified. This was because they were described as desk reviews and not compliance reviews. The National Servicing Center also did not provide the results of its reviews to the Quality Assurance Division for possible enforcement actions.

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[2] HUD's Loan Review System was implemented on May 15, 2017. The Loan Review System is the electronic platform for FHA Title II single-family quality control processes.

Servicers Did Not Always Properly Engage in Loss Mitigation

Our review of 90 statistically sampled[3] single-family FHA-insured loans that did not have default status codes related to loss mitigation activities by the fourth month of default determined that 26 (29 percent) had significant servicing deficiencies.[4] HUD's losses for the 26 loans that had significant servicing deficiencies was $1.7 million. The servicing deficiencies were related to communication with borrowers and servicers not properly evaluating borrowers for loss mitigation. Extrapolating the 26 loans with significant servicing deficiencies to the audit universe of 10,061 loans resulted in a projection of 2,097 loans that had significant servicing deficiencies with losses to HUD totaling $120.9 million.

<u>Communication With Borrowers Was Not Adequate</u>

For 13 loans, servicers did not properly communicate with borrowers as required.

- For 10 loans, servicers either did not send the foreclosure brochure to borrowers or sent it approximately 2 months after the required timeframe. Mortgagee Letter 2014-01 requires servicers to send the brochure, Save Your Home: Tips to Avoid Foreclosure (HUD-2008-5-FHA), no later than the 60th day of delinquency. The brochure includes information on loss mitigation tools available for delinquent homeowners with FHA-insured loans.

- For three loans, servicers did not notify attorneys of borrowers who filed bankruptcy that loss mitigation was available. Mortgagee Letter 2008-32 requires servicers to send information to the debtor's counsel, stating that loss mitigation may be available, and provide instruction sufficient to facilitate workout discussions.

<u>Borrowers Were Not Properly Evaluated for Loss Mitigation</u>

For 13 loans, servicers did not properly evaluate borrowers for loss mitigation options.

- For four loans, servicers required a purchase agreement to be approved for a preforeclosure sale.

- For one loan, the servicer did not approve the borrower for a preforeclosure sale and cancel the foreclosure sale after an acceptable contract was received.

- For one loan, the servicer did not approve the borrower for a preforeclosure sale when the borrower qualified for the program.

- For one loan, the servicer did not properly approve the borrower for a preforeclosure sale because of certain stipulations that were made.

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3 See the Scope and Methodology section for details on the sampling methodology.

4 See appendixes D and F for details on the significant servicing deficiencies.

- For one loan, the servicer denied a borrower for FHA HAMP when the borrower qualified for the program.

- For one loan, the servicer did not offer a special forbearance when the borrower was unemployed.

- For one loan, the servicer did not review the borrower for disposition options before referring the account for foreclosure.

- For one loan, the servicer did not evaluate borrowers for loss mitigation options when they were either in imminent default or inquired about loss mitigation options.

- For two loans, servicers did not evaluate the borrowers for loss mitigation before assigning the loan to HUD through its Single Family Loan Sales program when the borrowers were still being evaluated for loss mitigation options.

- For one loan, the servicer did not evaluate the borrower for loss mitigation after the requested documents were provided.

For one loan, the servicer did not retain the complete servicing file. HUD Handbook 4330.1, REV-5, paragraph 1-4E, requires servicing files to be retained for a minimum of the life of the mortgage plus 3 years.

Other Servicing Deficiencies Were Noted

In addition to the significant servicing deficiencies identified, 57 loans (63 percent) had other servicing deficiencies[5] that did not comply with HUD regulations.[6] These deficiencies did not result in a material increase in risk to the mortgage insurance fund. The other servicing deficiencies identified included the following:

- For 15 loans, the attempts for telephone contact with the delinquent borrowers were not within the required timeframe. Mortgagee Letter 2013-39 requires servicers to begin telephone contact by the 20th day of delinquency.

- For 29 loans, the letters or electronic communication to collect amounts due were not sent to delinquent borrowers within the required timeframe. Mortgagee Letter 2013-39 requires servicers to send the letters by the 25th day of delinquency.

- For 13 loans, the foreclosure brochure (HUD-2008-5-FHA or HUD-PA-426) was not sent to delinquent borrowers within the required timeframe, the incorrect foreclosure brochure was sent, or the cover letter that must be sent with the foreclosure brochure

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5 See appendix E for details on the other servicing deficiencies.
6 See appendix C for detailed HUD regulations and guidelines.

did not contain all of the required information. Mortgagee Letter 2014-01 requires servicers to send the foreclosure brochure no later than the 60th day of delinquency.

- For three loans, the notification of the availability of housing counseling was not sent to delinquent borrowers within the required timeframe or did not contain all of the required information. Mortgagee Letter 2015-04 requires servicers to send the notification no later than the 45th day from the date payment was due.

- For six loans, the Servicemembers Civil Relief Act[7] notice was not sent to delinquent borrowers within the required timeframe. Mortgagee Letter 2013-39 requires servicers to send the notice no later than the 45th day from the date on which payment was due.

- For 15 loans, there was no attempt for a face-to-face interview with delinquent borrowers or it was not attempted within the required timeframe. Regulations at 24 CFR 203.604(b) require servicers to attempt the interview before three unpaid payments.

- For one loan, the servicer did not review the borrower's loss mitigation application within the required timeframe. It took the servicer 60 days to review the application, while Mortgagee Letter 2013-39 requires servicers' loss mitigation department to be adequately staffed to ensure that each borrower is reviewed for loss mitigation no later than 30 days after the request is submitted.

Conclusion

Because HUD did not have adequate controls for reviewing claim loans for which servicers reported that no loss mitigation evaluation occurred, there was an increased risk to the FHA insurance fund of a projected $120.9 million in losses in which servicers did not properly engage in loss mitigation. A review of 90 statistically sampled claims determined that 26 had significant servicing deficiencies related to the required communication with delinquent borrowers and servicers not properly evaluating borrowers for loss mitigation. These deficiencies resulted in a loss to HUD of $1.7 million. This lack of oversight may have put borrowers in default at risk of not being able to avoid foreclosure by using HUD's loss mitigation program. HUD has strict regulations to ensure that servicers engage in loss mitigation and evaluate borrowers before the fourth default month, including the assessment of treble damages. However, HUD did not emphasize reviewing loans with indications that no loss mitigation evaluation occurred from the delinquency to the claim payment.

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[7] The Servicemembers Civil Relief Act provides legal protections and debt relief for persons in active duty military service.

Recommendations

We recommend that the Deputy Assistant Secretary for Single Family Housing

1A. Revise servicing review and monitoring policies and procedures to emphasize increased controls on reviewing claim loans showing that no loss mitigation evaluation occurred. Revising the policies and procedures would reduce the risk to HUD and result in a projected $120,902,564 in funds to be put to better use (appendix A).

1B. Develop and implement policies and procedures to ensure that the Office of Single Family Asset Management and Office of Lender Activities and Program Compliance communicate the results of their servicing reviews to each other.

1C. Update and revise policies and procedures, including reinforcement of guidance (for example, mortgagee letters, notifications to servicers, or training) to ensure that servicers accurately report the status of delinquent loans to HUD.

1D. Require indemnification for the 26 loans that had significant servicing deficiencies. In these cases, the loss to HUD was $1,673,117 (appendixes A and D).

1E. Reinforce existing guidance (such as mortgagee letters, notifications to servicers, and training) to servicers to ensure that they engage in required loss mitigation.

1F. Require that the servicers with significant and other deficiencies revise and update their policies and procedures, as necessary, to ensure that they comply with HUD requirements and guidance on loss mitigation evaluation.

Scope and Methodology

We performed our audit fieldwork from November 2016 to July 2017 remotely at the Office of Inspector General (OIG), Office of Audit, in Phoenix, AZ, and San Francisco, CA. Our audit period covered FHA-insured single-family claims that closed from January 1, 2012, to December 31, 2015.

To accomplish our objective, we

- reviewed applicable HUD requirements, such as mortgagee letters and HUD handbooks;
- interviewed appropriate HUD personnel from the Office of Single Family Housing;
- reviewed servicer monitoring reports from HUD's Approval, Recertification, and Review Tracking System;[8]
- reviewed source documentation in the servicing loan files related to actions to contact borrowers and loss mitigation engagement; and
- reviewed a stratified, systematic, statistical sample of 90 FHA-insured single-family loans.

We selected a stratified, systematic, statistical sample to determine whether servicers properly carried out loss mitigation on the loans in the audit universe. The sample was designed to estimate the total count of loans in the audit universe and the total dollars lost to HUD when loss mitigation mismanagement occurred.

We used data from Single Family Data Warehouse[9] to identify the audit universe and determine the loss amounts for each loan.[10] The audit universe was FHA-insured single-family loans that (1) closed from January 1, 2012, to December 31, 2015, (2) were in a claim status (claim type 1, 2, or 6),[11] (3) did not have default status codes related to loss mitigation reported to HUD by the fourth missed payment, and (4) had a known loss to HUD. The final audit universe consisted of 10,061 loans that totaled $605.2 million in losses to HUD.

We identified a stratified, systemic sample of 90 records for auditing among the audit universe. A systemic approach was used to help control for potential differences of loss mitigation

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8 The Quality Assurance Division uses the Approval, Recertification, and Review Tracking System to track its monitoring reviews.

9 The Single Family Data Warehouse is a large collection of database tables dedicated to support analysis, verification, and publication of FHA single-family data.

10 We obtained the loss amounts for the claim type 2 loans (accelerated claims disposition) from HUD officials.

11 Claim type 1 is conveyance, claim type 2 is accelerated claims disposition, and claim type 6 is nonconveyance (without conveyance of title).

practices across different States represented in the audit universe. The strata were designed to group sampling units by the size of their valuation. After the strata boundaries were determined, the complete dataset was sorted by strata and then by each State to implement the systemic sample design. The data were sampled using a computer program written in SAS,[12] using the survey select procedure with a random-number seed value of 7. Based on the stratified, systematic sample of 90 records, we can make the following statements:

> Of the 90 loans reviewed, 26 had significant deficiencies, which amounts to a weighted average loss to HUD of $17,730 per loan. Deducting the statistical margin of error to accommodate for the uncertainties inherent in statistical sampling, we can still say – with a one-sided confidence interval of 95 percent – that this amounts to a loss to HUD of at least $12,017 per claim. In the context of the total universe of 10,061 claim records, this amounts to a loss to HUD of at least $120.9 million.
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> Per loan financial loss: $\$17{,}729.68 - 1.664 \times \$3{,}433.85 \approx \$12{,}016.95$
> Total universe financial loss: $10{,}061 \times (\$17{,}729.68 - 1.664 \times \$3{,}433.85) \approx \$120{,}902{,}563.80$
>
> Of the 90 loans reviewed, 26 had significant deficiencies, which amounts to a weighted average of 28.9 percent of the loans. Deducting the statistical margin of error to accommodate for the uncertainties inherent in statistical sampling, we can still say – with a one-sided confidence interval of 95 percent – that this amounts to at least 20.8 percent of the loans in the universe having this same characteristic. In the context of the total universe of 10,061 claim records, at least 2,097 claims had material deficiencies.
>
> Percentage of loans: $28.99\% - 1.664 \times 4.9\% \approx 20.85\%$
> Count projection: $10{,}061 \times (28.99\% - 1.664 \times 4.9\%) \approx 2{,}097.36$

We used the source documents in the servicing files to determine the servicing efforts conducted for each of the loans reviewed. Specifically, we reviewed the servicers' notes documenting their contacts with delinquent borrowers and also letters that were sent. We also reviewed the documents in the servicing files to determine whether they were properly evaluated for loss mitigation. We determined that the default status codes were not always accurately reported to HUD.[13] As a result, we did not rely on this information for conclusions made in the audit report.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate

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[12] SAS provides data management software and services.

[13] The universe determination was not affected by this limitation. In determining the audit universe, the default status codes were used only as an indicator that loss mitigation may not have been attempted by servicers. We used the source documents in each of the servicing files reviewed to determine whether servicers properly engaged in loss mitigation.

evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Controls to ensure that servicers engage in loss mitigation.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiency

Based on our review, we believe that the following item is a significant deficiency:

- HUD did not have adequate controls to ensure that servicers properly engaged in loss mitigation as required (finding).

Appendixes

Appendix A

Schedule of Questioned Costs and Funds To Be Put to Better Use

Recommendation number	Ineligible 1/	Funds to be put to better use 2/
1A		$120,902,564
1D	$1,673,117	
Totals	**1,673,117**	**120,902,564**

1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations. In this instance, the ineligible costs associated with recommendation 1D are HUD's actual losses for 26 loans that had significant servicing deficiencies (finding and appendixes D and F). The losses resulted when the properties or notes that secured these loans were sold and the insurance claims and other expenses incurred by HUD exceeded the sales proceeds.

2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an OIG recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this instance, implementation of recommendation 1A will reduce the risk of loss to HUD by emphasizing increased controls toward reviewing claim loans that indicate no loss mitigation evaluation occurred. The amount noted for recommendation 1A reflects the projected results of losses to HUD ($120,902,564). See the Scope and Methodology section for details on the statistical sample projection.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation	Auditee Comments

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

OFFICE OF HOUSING

AUG 2 3 2017

MEMORANDUM FOR: Tanya E. Schulze, Regional Inspector General for Audit, 9DGA

FROM: Gisele G. Roget, Deputy Assistant Secretary for Single Family Housing, HU

SUBJECT: Discussion and Comments on Draft Audit:
HUD Did Not Have Adequate Controls in Place to Ensure that Servicers Properly Engaged in Loss Mitigation
OIG Audit Report 2017-LA-000X
Issue Date: September XX, 2017

The Office of Inspector General (OIG) performed a review of the U.S. Department of Housing and Urban Development's (HUD) oversight of servicer's use of loss mitigation programs. The objective of the audit was to determine whether HUD has adequate controls to ensure that servicers of Single Family FHA-insured loans engaged in loss mitigation as required. The OIG found that HUD reviewed 1.3 percent of all claims that were filed between January 1, 2014 and December 31, 2016, where servicers indicated they did not take advantage of HUD's loss mitigation options. The OIG also sampled 90 specific claims that were determined to have significant servicing deficiencies.

Comment 1

The Office of Single Family Housing (Single Family) generally agrees with the OIG findings described in the audit, but Single Family does suggest some minor adjustments to best satisfy and implement the recommended changes.

Response to OIG Proposed Findings and Recommendations

1. Revise Monitoring Policies and Procedures

Comment 2

Single Family agrees with the OIG and will review its current loan targeting methodology for monitoring reviews of servicers and ensure that its methodology is diverse enough to include a larger sampling of a loans were loss mitigation is not noted on the claim.

2. Develop New Information Sharing Policies and Procedures

Comment 3

Single Family agrees with the OIG that a consistent sharing of information between the Office of Lender Activities and Program Compliance and the Office of Single Family Asset Management regarding servicer monitoring and training reviews is beneficial. The Headquarters Quality Assurance Division will share all loan and lender level servicing activity with the National Servicing Center (NSC) via a report to be developed in the Loan Review System. Single Family

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will also review its current policies to ensure that servicers are fully informed to meet FHA's expectations.

Current guidelines state that the mortgagee must report the loss mitigation codes accurately to reflect the stages of review. These sections stress the importance to servicers of accurately reporting the status of delinquent loans to HUD monthly. The NSC conducts quarterly training via webinar and holds a class specifically for the Single Family Default Monitoring System (SFDMS) reporting that is conducted. The training reinforces the current SFDMS reporting guidance outlined in the servicing handbook. The webinars also include an interactive session for servicers to ask questions about reporting. Single Family will review these procedures and make enhancements where needed.

3. Indemnifications and Administrative Actions

Comment 4
Comment 5

Single Family agrees to review the OIG's working papers for the 26 loans identified with significant servicing deficiencies, and where necessary, absent documentation from the servicer(s) to support compliance with FHA requirements, Single Family will request the servicer(s) to indemnify HUD against any future loss. In addition, when it is determined that a servicer's policies and procedures may be lacking, Single Family will request an update from the servicer.

Conclusion

Comment 6

Comment 7

As indicated above, Single Family generally agrees with the findings and recommendations outlined in the audit. Single Family however, respectfully requests that the OIG consider modifying some of the provisions in the draft audit to permit Single Family to revise its policy where needed and in the format best suited to fill the gap (e.g. Mortgagee Letters, notices, training etc.). Single Family also requests that the recommendations referencing indemnification and revisions to a servicer's policies and procedures be amended so that remedy action is only required when a deficiency is found.

OIG Evaluation of Auditee Comments

Comment 1 We appreciate the Office of Single Family Housing's willingness to work with us and acknowledge agreement with recommendations 1A through 1F. We look forward to continued cooperation during the audit resolution process.

Comment 2 For clarification, we note that recommendation 1A in the audit report was intended to address increased controls on reviewing claim loans showing that no loss mitigation evaluation occurred through the reporting of the default status codes to HUD's Single Family Default Monitoring System and not indications on claim information submitted by servicers.

Comment 3 For clarification, we note that recommendation 1B also includes the Office of Single Family Asset Management's providing its National Servicing Center servicing reviews to the Quality Assurance Division for review and potential enforcement action as applicable.

Comment 4 For clarification, recommendation 1D is to require indemnification for loans that were determined to have significant servicing deficiencies.

Comment 5 For clarification, we note that recommendation 1F in the audit report relates to requiring servicers with significant and <u>other deficiencies</u> that were identified to revise and update their policies and procedures and not only servicers that had significant servicing deficiencies. The loans are identified in appendixes D and E of the audit report.

Comment 6 We agree with the Office of Single Family Housing's request to modify the recommendations to allow revising policies as needed and in the format best suited to fill the gap (for example, mortgagee letters, notices, training, etc.). Recommendations 1C and 1E have been revised accordingly.

Comment 7 We agree with the Office of Single Family Housing's request to modify recommendation 1F to only require servicers to revise their policies and procedures as appropriate based on their review of the deficiencies identified and the servicers' policies and procedures. Recommendation 1F has been revised accordingly.

Appendix C

Criteria

Mortgagee Letter 2000-05 states the following:

- Though lenders have great latitude in selecting the loss mitigation strategy appropriate for each borrower, it is critical to understand that participation in the loss mitigation program is not optional.
- Lenders may not initiate foreclosure until all loss mitigation options have been considered.

Mortgagee Letter 2008-32 requires servicers, upon receipt of notice of a bankruptcy filing, to send information to the debtor's counsel indicating that loss mitigation may be available and provide instructions sufficient to facilitate workout discussions including documentation requirements, timeframes and servicer contact information.

Mortgagee Letter 2008-43 states the following:

- On the 32nd day, but no later than the 60th day of delinquency, the mortgagee [lender] shall send the delinquent borrower a pamphlet (HUD-PA-426), How to Avoid Foreclosure) about foreclosure avoidance. This pamphlet provides mortgagors [borrowers] with important information about loss mitigation alternatives, which include the pre-foreclosure sale option.
- To participate in the [preforeclosure sale] program, mortgagors [borrowers] must be willing to make a commitment to actively market their property for a period of three months during which time the mortgagee [lender] delays foreclosure action. If the property does not sell, the mortgagors [borrowers] are encouraged to use the Deed in Lieu (DIL) of foreclosure option, providing the title on the property is marketable.
- After determining that a mortgagor [borrower] and property meet the participation requirements herein, the mortgagee [lender] must notify the mortgagor [borrower] using Form HUD-90045 (Approval to Participate). The form shall include the date by which the mortgagor's [borrower's] sale contract must be executed.
- A mortgagor [borrower] must acknowledge their decision to participate in the PFS [preforeclosure sale] program by signing and retuning Form HUD-90045 (Approval to Participate) to the mortgagee [lender] within 7 days of receiving the form.
- The servicers of a real estate broker/agent must be retained to market a property within 7 days of the date the approval to participate is granted. The broker/agent must market the property within the pre-established time frame and list the property for the established sales price.

Mortgagee Letter 2010-04 emphasizes that the use of loss mitigation at the time of initial default of determination that a default is imminent.

Mortgagee Letter 2013-23 states that mortgagees [lenders] may approve a mortgagor [borrower] for a streamline preforeclosure sale or deed in lieu of foreclosure without verifying hardship or obtaining a complete mortgagor [borrower] workout packet if each of the conditions exist, for owner-occupants: (1) mortgagor(s) [borrower(s)] are 90 days or more delinquent on their FHA insured loan as of the date of the mortgagee's [lender's] review, (2) each mortgagor [borrower] has a credit score of 620 or below, and (3) the mortgagor [borrower] has been deemed ineligible for a permanent home retention option or special forbearance.

Mortgagee Letter 2013-32 states the following:

- Before four full monthly installments due on the mortgage are unpaid, the mortgagee [lender] must evaluate a mortgagor's [borrower's] financial situation on a monthly basis to determine the appropriate loss mitigation option when the mortgage is in default or imminent default.
- A special forbearance is a written agreement between a mortgagee [lender] and mortgagor [borrower] to reduce and/or suspend mortgage payments.
- If a mortgagor fails to complete a Trial Payment Plan under a loan modification or FHA Home Affordable Modification Program, pursuant to Title 24 CFR §203.605, mortgagees [lenders] must still re-evaluate the mortgagor's [borrower's] eligibility for other appropriate loss mitigation options. If the mortgagor's [borrower's] circumstances have not changed, the mortgagee [lender] must evaluate the mortgagor [borrower] for FHA loss mitigation home disposition options prior to initiating foreclosure.

Mortgagee Letter 2013-39 states the following:

- Servicers must also ensure that their contact attempts are adequately documented in their servicing files. The Collection Communication timeline reflects FHA's policies regarding servicers' actions to contact a delinquent borrower and gather information about a borrower's circumstances, intentions, and financial condition. It requires the following:
    - Day 20 – By this date, servicers should have commenced telephone contact with borrowers who are delinquent on their mortgages.
    - Day 32 – Beginning on the 32nd day but no later than the 60th day from the date payment was due, send the cover letter, including information on the servicer's loss mitigation or customer assistance hotline, servicer's mailing address, and any assigned personnel; and the "Save Your Home: Tips to Avoid Foreclosure" pamphlet (HUD-2008-5-FHA)
- A servicer's loss mitigation department should be adequately staffed to ensure that each borrower is reviewed for loss mitigation no later than 30 days after his/her request is submitted to the servicer, provided that the request is received more than 37 days from the scheduled foreclosure sale date and that the request included all required documentation.

Mortgagee Letter 2013-40 states the following:

- If the loss mitigation request is received by the servicer 45 or more calendar days prior to the scheduled foreclosure sale date, within 30 days of receiving a complete request, the servicer must review the borrower's loss mitigation request for eligibility for all retention and non-retention loss mitigation options. A servicer must not move forward with a foreclosure sale during its review.
- When a borrower requests loss mitigation assistance after the servicer has initiated foreclosure, the servicer must terminate foreclosure proceedings after (1) verifying that a

borrower's financial situation qualifies him/her for a loss mitigation option, (2) allowing the borrower at least 14 calendar days to either accept or reject the servicer's offer(s) of loss mitigation assistance, if the request for loss mitigation was received more than 37 calendar days prior to the scheduled foreclosure sale date, and (3) receiving an executed loss mitigation option agreement from the borrower, indicating that the borrower understands and agrees to the loss mitigation option terms.

Mortgagee Letter 2014-15 states the following:

- A foreclosure sale that has already been scheduled should not be cancelled to initiate a PFS marketing period for a property of a mortgagor [borrower] meeting the streamlined PFS eligibility requirements. Scheduled foreclosure sales should only be cancelled if the mortgagor [borrower] has received an acceptable purchase contract that meets the requirements of mortgagee letter 2008-43.
- Mortgagees [lenders] may approve a streamlined PFS or DIL for non-owner occupants if mortgagors [borrowers] are 90 days or more delinquent on their FHA insured loan as of the date of the mortgagee's [lender's] review and each mortgagor [borrower] has a credit score of 620 or below.

HUD Handbook 4000.1

- Paragraph III.A.2 (l)(ii)(B)(2)(a)(ii) states that, for a streamline preforeclosure sale, the mortgagee [lender] must ensure that non-occupant borrowers meet the following requirements: (1) borrower(s) are 90 days or more delinquent on their FHA insured mortgage as of the date of the mortgagee's [lender's] review and (2) each borrower has a credit score of 620 or below.
- Paragraph III.A.2 (l)(ii)(J)(3)(b) states that regardless of the property's sale price, a mortgagee [lender] may only approve a preforeclosure sale contract for sale if the tiered net sales proceeds are at or above HUD's minimum allowable thresholds. For the first 30 days of marketing, the mortgage may only approve offers that will result in minimum Net Sale Proceeds of 88 percent of the "as-is" appraised fair market value.
- Paragraph III.A.2 (l)(ii)(H)(5) states the mortgagee [lender] may only cancel a scheduled foreclosure sale if the mortgagee [lender] has received an acceptable contract of sale that meets the preforeclosure sale requirements.

Appendix D

Schedule of Losses for Loans With Significant Servicing Deficiencies[14]

FHA case number	Foreclosure brochure[15]	Borrowers in bankruptcy[16]	Evaluated for loss mitigation[17]	Retaining servicing file[18]	Loss to HUD
023-5660100	-	-	X	-	$ 10,382
043-8748533	-	-	X	-	52,837
048-7521670	X	-	-	-	73,782
052-6827832	-	-	X	-	124,631
105-7357297	-	X	-	-	33,767
137-6851589	X	-	X	-	122,283
137-6911370	-	-	-	X	91,793
221-4883481	-	X	-	-	52,153
244-0173709	X	-	-	-	231,321
244-0403673	-	-	X	-	106,129
292-6283917	-	-	X	-	34,789
341-1277037	-	-	X	-	67,986
351-6339607	X	-	-	-	72,665
387-1202381	X	-	-	-	14,540
387-1531098	-	-	X	-	32,585
412-7144327	X	-	-	-	24,798
431-5562720	X	-	-	-	84,087
446-1111572	X	-	-	-	55,648
461-5725431	-	-	X	-	76,052
481-3575555	X	-	-	-	56,028
492-9351852	-	-	X	-	35,916
512-0754529	X	-	-	-	47,672
513-0442611	-	-	X	-	87,597
541-9617387	-	X	-	-	22,562
566-0845121	-	-	X	-	16,815
571-1133409	-	-	X	-	44,299
Total	**10**	**3**	**13**	**1**	**1,673,117**

14 Significant deficiencies are marked with an "X."

15 The servicer did not send the foreclosure brochure, or it was sent approximately 2 months after the required timeframe.

16 The servicer did not notify attorneys of borrowers who filed bankruptcy that loss mitigation was available.

17 The servicer did not properly evaluate borrowers for loss mitigation options.

18 The servicer did not retain the complete servicing file.

Appendix E

Loans With Other Servicing Deficiencies[19]

FHA case number	Telephone contact[20]	Letters to collect[21]	Foreclosure brochure[22]	Housing counseling[23]	SCRA notice[24]	Face-to-face interview[25]	Reviewed in 30 days[26]
011-7850478	X	-	-	-	-	-	-
023-5597650	-	X	-	-	-	-	-
023-5660100	-	-	-	-	-	X	-
023-6143320	X	-	-	X	-	-	-
031-4332120	-	X	-	-	-	-	-
031-4460594	-	X	-	-	-	-	-
043-8748533	-	X	-	-	-	-	-
048-7521670	X	X	-	-	-	-	-
052-6827832	-	-	-	-	-	-	X
061-4185428	-	X	-	-	-	-	-
061-4270112	X	-	X	-	X	-	-
093-7425400	-	X	-	-	-	-	-
121-3063717	-	X	-	-	-	-	-
132-2733734	-	-	X	-	-	-	-
132-2880622	-	X	X	-	-	-	-
156-1544156	-	-	-	-	-	X	-
156-1939318	-	-	-	-	-	X	-
221-4966426	-	-	X	-	-	-	
244-0173709	X	-	-	-	-	-	-
244-0403673	-	-	-	-	-	X	-
264-1048129	-	X	-	-	-	-	-
277-1706812	-	X	X	-	-	-	-
281-4040083	-	-	X	-	-	-	-
281-4072789	-	X	X	-	-	X	-
291-4731568	-	-	-	-	-	X	-
292-6222063	-	-	-	X	-	-	-
332-5707263	X	-	X	-	-	X	-
341-1277037	-	X	-	-	-	-	-

19 Other servicing deficiencies are marked with an "X."
20 Attempts for telephone contact were not within the required timeframe.
21 Letters or electronic communication to collect amounts due were not sent within the required timeframe.
22 A foreclosure brochure was not sent within the required timeframe, the incorrect brochure was sent, or the cover letter did not contain all of the required information.
23 Notification of the availability of housing counseling was not sent within the required timeframe or did not contain all of the required information.
24 The Servicemembers Civil Relief Act notice was not sent within the required timeframe.
25 There was no attempt for a face-to-face interview, or it was not within the required timeframe.
26 The loss mitigation application was not reviewed within 30 days after it was submitted.

FHA case number	Telephone contact[20]	Letters to collect[21]	Foreclosure brochure[22]	Housing counseling[23]	SCRA notice[24]	Face-to-face interview[25]	Reviewed in 30 days[26]
351-6257009	-	X	-	-	-	X	-
351-6339607	X	X	-	-	-	-	-
352-8045719	X	-	-	-	-	-	-
374-6238654	X	X	-	-	-	-	-
387-1202381	-	X	-	-	-	-	-
387-1531098	X	-	X	-	-	-	-
387-1590306	-	-	-	-	X	-	-
411-5020242	-	-	-	-	-	X	-
411-5439271	X	X	-	-	-	-	-
412-7250507	-	-	-	-	-	X	-
431-5562720	-	X	-	-	-	-	-
446-1111572	-	X	-	-	-	-	-
461-5525163	X	-	-	-	-	-	-
461-5725431	-	X	-	-	-	-	-
461-5731081	-	X	-	-	X	-	-
481-3517841	-	-	X	-	-	-	-
481-3575555	-	-	-	X	X	-	-
492-9313103	-	-	X	-	-	X	-
492-9351852	-	-	-	-	-	X	-
492-9557306	X	X	-	-	-	X	-
495-9653686	-	X	-	-	-	-	-
511-0830294	-	X	-	-	-	-	-
512-0754529	-	-	-	-	X	X	-
512-1168593	-	X	-	-	-	-	-
544-0250253	-	X	-	-	-	-	-
544-0369483	X	-	-	-	-	-	-
544-0878313	-	X	X	-	-	-	-
571-1177770	-	X	-	-	X	-	-
581-4718002	X	-	X	-	-	X	-
Totals	**15**	**29**	**13**	**3**	**6**	**15**	**1**

Appendix F

Summaries for Loans With Significant Servicing Deficiencies

The following summaries provide details for each loan containing significant servicing deficiencies noted in the finding.

1. **Case number:** 023-5660100
   Servicer: US Bank
   Loss to HUD: $10,382

   Servicing deficiency:

   - The servicer did not properly evaluate the borrower for loss mitigation options.

   The servicer did not properly evaluate the borrower for a preforeclosure sale because it improperly required a purchase agreement to be approved for the program. The borrower contacted the servicer on August 13, 2014, approximately ½ month before the loan became delinquent on September 1, 2014, and inquired about a preforeclosure sale. However, the servicer improperly told the borrower that he must have an offer to be reviewed so the borrower stated he would apply after he had an offer.

   Mortgagee Letter 2008-43 states that after determining that a borrower and property meet the participation requirements, the mortgagee [lender] must notify the borrower using form HUD-90045 (Approval to Participate). The form shall include the date by which the sale contract must be executed. The services of a real estate broker/agent must be retained to market a property within 7 days of the date the approval to participate is granted. The broker/agent must market the property within the preestablished timeframe and list the property for the established sales price.

2. **Case number:** 043-8748533
   Servicer: Wells Fargo Bank
   Loss to HUD: $52,837

   Servicing deficiency:

   - The servicer did not properly evaluate the borrower for loss mitigation options.

   The servicer did not evaluate the borrower for a preforeclosure sale because it improperly required additional documents, such as a preliminary HUD-1 and preforeclosure sale addendum with the purchase contract date, to be approved for the program. The borrower requested a preforeclosure sale on June 9, 2015. However, on June 15, 2015, the servicer improperly requested additional documentation. The requested documents included a listing agreement, preliminary HUD-1, preforeclosure sale addendum, and the Mortgage Listing Service data sheet proving that the property had been marketed for at least 15 days. The borrower should have been approved for a preforeclosure sale option without the documents requested since the property did not go into foreclosure until October 30, 2015, and was sold on December 14, 2015.

Mortgagee Letter 2008-43 states that after determining a borrower and property meet the participation requirements, the mortgagee must notify the borrower using form HUD-90045 (Approval to Participate). The form shall include the date by which the sale contract must be executed. The services of a real estate broker/agent must be retained to market a property within 7 days of the date the approval to participate is granted. The broker/agent must market the property within the preestablished timeframe and list the property for the established sales price.

3. **Case number:** 048-7521670
   Servicer: First Mortgage Corporation
   Loss to HUD: $73,782

   Servicing deficiency:

   - The servicer did not send the foreclosure brochure to the borrower.

   The servicer did not send the foreclosure brochure (HUD-2008-5-FHA, Save Your Home: Tips to Avoid Foreclosure) to the borrower.

   Mortgagee Letter 2014-01 requires servicers to send the foreclosure pamphlet to the borrower on the 32nd day but no later than the 60th day of delinquency. The foreclosure pamphlet provides the borrower with important information about loss mitigation tools available for delinquent homeowners.

4. **Case number:** 052-6827832
   Servicer: Cenlar Federal Savings Bank and PennyMac Loan Services LLC
   Loss to HUD: $124,631

   Servicing deficiencies:

   - The servicer did not properly evaluate the borrower for loss mitigation.

   The servicer did not evaluate the borrower for a preforeclosure sale, although the borrower qualified for a streamline preforeclosure sale when the loss mitigation package was submitted on January 28, 2014. The borrower met the eligibility requirements for a streamline preforeclosure sale; however, the servicer requested additional information on March 31, 2014, and the loan was transferred to another servicer on July 2, 2014. The borrower's loss mitigation package stated that the property was vacant and the borrower wanted to sell the property. The borrower had a credit score of 602 according to a credit report, dated February 3, 2014. Therefore, the borrower met the requirements outlined in Mortgagee Letter 2013-23 for a streamline preforeclosure sale.

Also, the servicer did not properly evaluate the borrower for a preforeclosure sale. The borrower was denied a preforeclosure sale on October 3, 2014, because the servicer stated that there was insufficient time for an evaluation before the foreclosure sale. Then, on October 6, 2014, the servicer stated that the borrower was declined because there were no offers on the property. The foreclosure sale was scheduled for October 29, 2014, but was delayed multiple times, and the property did not sell until January 28, 2015. The borrower qualified for a streamline preforeclosure sale and should have been approved without the servicer's canceling the foreclosure sale, giving the borrower time to receive an offer before the foreclosure sale.

Mortgagee Letter 2014-15 states that a foreclosure sale should not be canceled to initiate a preforeclosure sale marketing period. The foreclosure sale should only be canceled if there is an acceptable purchase contract.

5. **Case number:** 105-7357297
   Servicer: PennyMac Loan Services LLC
   Loss to HUD: $33,767

   Servicing deficiency:

   - The servicer did not notify attorneys of a borrower who filed bankruptcy that loss mitigation was available.

   The borrower filed for a Chapter 13 bankruptcy on October 24, 2013, and the servicer became aware of the bankruptcy on October 28, 2013, which was 27 days after the delinquency date of October 1, 2013. The servicer did not notify the attorneys of the availability of loss mitigation options.

   Mortgagee Letter 2008-32 requires a servicer, upon receipt of notice of the bankruptcy filing, to send information to the borrower's counsel indicating that loss mitigation may be available and provide instructions to facilitate workout discussions.

6. **Case number:** 137-6851589
   Servicer: Wells Fargo Bank
   Loss to HUD: $122,283

   Servicing deficiencies:

   - The servicer did not properly evaluate the borrower for loss mitigation options.

   - The servicer did not send the foreclosure brochure to the borrower.

   The servicer did not evaluate the borrower for a preforeclosure sale because it improperly required a purchase agreement to be approved for the program. The borrower was denied a preforeclosure sale on April 8, 2014, because there was no valid sales contract and the account was in foreclosure. On May 29, 2014, the borrower was again denied a preforeclosure sale because the sales contract under review had been withdrawn by the buyer. The foreclosure process began on July 11, 2013, but the foreclosure sale date was not scheduled until April 23, 2015, with a sales date of April 30, 2015. The borrower should have been approved without the servicer's canceling the foreclosure sale, giving the borrower time to receive an offer before the foreclosure sale.

Mortgagee Letter 2008-43 states that after determining the mortgagor [borrower] and property meet the participation requirements for a short sale, the mortgagee [lender] must notify the mortgagor using form HUD-90045 (Approval to Participate), which includes the date the sales contract must be executed. A real estate broker must be retained to market the property within 7 days of the date the approval to participate is granted. The agent must then market the property within the preestablished timeframe and for the established sales price. Also, Mortgagee Letter 2013-40 states that if the loss mitigation request is received by the servicer 45 or more calendar days prior to the scheduled foreclosure sale date, the servicer must review the request and must not move forward with a foreclosure sale during its review.

The servicer did not send the foreclosure brochure (HUD-PA-426, How to Avoid Foreclosure) to the borrower.

Mortgagee Letter 2008-43 requires servicers to send the foreclosure pamphlet to the borrower on the 32nd day but no later than the 60th day of delinquency. The foreclosure pamphlet provides the borrower with important information about loss mitigation alternatives.

7. **Case number:** 137-6911370
Servicer: Cenlar Federal Savings Bank
Loss to HUD: $91,793

Servicing deficiency:

- The servicer did not retain the complete servicing file.

The servicer did not maintain the complete servicing file, and we were not able to determine whether all of the servicing efforts related to loss mitigation were conducted in accordance with HUD's requirements. Specifically,

- We were unable to determine whether the servicer attempted telephone contacts by the 20th day of delinquency as required by Mortgagee Letter 2013-39. The earliest telephone contacts documented in the servicing files provided was on April 7, 2015, which was the 217th day of delinquency.

- We were unable to determine whether the foreclosure brochure was sent to the borrower as required by Mortgagee Letter 2014-01. None of the servicing files provided by the prior servicers contained documentation showing that the foreclosure brochure was sent to the borrower.

- We were unable to determine whether the notice of the Servicemembers Civil Relief Act (SCRA) was sent to the borrower by the 45th day of delinquency as required by Mortgagee Letter 2013-39. The earliest documentation that the SCRA notice was sent to the borrower was on August 10, 2015, which was the 340th day of delinquency.

HUD Handbook 4330.1, REV-5, paragraph 1-4E, requires servicing files to be retained for a minimum of the life of the mortgage plus 3 years. Also, paragraph 1-4F states that upon the transfer of servicing and/or the sale of a mortgage, all servicing records are to be transferred to the new servicer or mortgagee [lender] and HUD will hold the acquiring mortgagee [lender] responsible for obtaining the complete file including origination as well as servicing records from the selling mortgagee [lender] or its servicer.

8. **Case number:** 221-4883481
Servicer: Cenlar Federal Savings Bank
Loss to HUD: $52,153

Servicing deficiency:

- The servicer did not notify attorneys of the borrower who filed bankruptcy that loss mitigation was available.

The borrower filed for a Chapter 7 bankruptcy on October 18, 2012, and the servicer became aware of the bankruptcy on October 22, 2012, which was 21 days after the delinquency date of October 1, 2012. The servicer did not notify the attorneys of the availability of loss mitigation options.

Mortgagee Letter 2008-32 requires the servicer, upon receipt of notice of the bankruptcy filing, to send information to the borrower's counsel indicating that loss mitigation may be available and provide instructions to facilitate workout discussions.

9. **Case number:** 244-0173709
Servicer: Wells Fargo Bank
Loss to HUD: $231,321

Servicing deficiency:

- The servicer did not send the foreclosure brochure to the borrower.

The servicer did not send the foreclosure brochure (HUD-PA-426, How to Avoid Foreclosure) to the borrower.

Mortgagee Letter 2008-43 requires servicers to send the foreclosure pamphlet to the borrower on the 32nd day but no later than the 60th day of delinquency. The foreclosure pamphlet provides the borrower with important information about loss mitigation alternatives.

10. **Case number:** 244-0403673
Servicer: Cenlar Federal Savings Bank
Loss to HUD: $106,129

Servicing deficiency:

- The servicer did not properly evaluate the borrower for loss mitigation options.

The servicer denied the borrower a preforeclosure sale on September 24, 2014, and did not give a reason for the denial. The borrower should have been approved for a streamline preforeclosure sale option because (1) the property was vacant, (2) the loan was more than 90 days delinquent, and (3) the borrower had a credit score below 620. The notes indicated that the property was vacant as of July 30, 2014, and the credit reports on March 21, 2014, and December 17, 2014, which was after the foreclosure sale, showed that the borrower had a credit score below 620. On November 22, 2014, the servicing notes stated that the borrower was being reviewed for a streamline preforeclosure sale and only needed an approvable offer to proceed. However, on October 28, 2014, the borrower had an offer for $70,000, which was acceptable based on the appraisal, dated December 5, 2014, which had an appraised value was $67,000. The loan went into foreclosure on October 28, 2014, and the foreclosure sale was scheduled for December 10, 2014.

Mortgagee Letter 2013-23 states that mortgagees [lenders] may approve a streamlined preforeclosure sale or deed in lieu of foreclosure for nonowner occupants if mortgagors [borrowers] are 90 days or more delinquent and each mortgagor [borrower] has a credit score of 620 or below. Also, Mortgagee Letter 2013-40 requires servicers to send a written notice to borrowers that shows the actual reason they have been denied for any loss mitigation options.

In addition, the servicer did not offer or discuss the special forbearance option over the phone, even though the borrower mentioned unemployment as the reason for default on several different occasions. The borrower told the servicer that the default was due to unemployment on December 10, 2013, which was 40 days after the delinquency date of November 1, 2013. The borrower told the servicer multiple times that the default was due to unemployment from January 10, 2014, through March 19, 2014. The servicer did not discuss or offer the special forbearance option at these times either. We noted that the special forbearance option was mentioned in the foreclosure brochure that was sent to the borrower on December 5, 2013. However, the servicer should have offered this option to the borrower on the phone.

Mortgagee Letter 2010-04 emphasizes the use of loss mitigation at the time of initial default or determination that a default is imminent.

11. **Case number:** 292-6283917
Servicer: M&T Bank
Loss to HUD: $34,789

Servicing deficiency:

- The servicer did not properly evaluate borrowers for loss mitigation options.

The servicer did not approve the borrowers for a streamline preforeclosure sale when they were qualified. The borrowers were denied a preforeclosure sale on October 6, 2016, because there was no offer on the property. The borrowers should have been approved for a streamline preforeclosure sale. The borrowers stated that they did not occupy the property and that they had credit scores of 557 and 528 according to the credit report, dated September 27, 2016. The foreclosure sale was scheduled for October 27, 2016. However, the borrowers should have been approved without the servicer's canceling the foreclosure sale because there was time for the borrowers to receive an offer before the foreclosure sale.

On October 17, 2016, the borrowers received a purchase contract for $185,000, but the servicer still denied them a preforeclosure sale on October 25, 2016, because the sale could not close before the scheduled foreclosure sale date of October 27, 2016. The servicer also stated that there was not enough time to obtain a property value to determine the fair market value. However, the servicing notes on October 4, 2016, state that an FHA appraisal was dated September 27, 2016, with a value of $191,000. Therefore, the lender should have canceled the foreclosure sale because the purchase contract received on October 17, 2016, was for $185,000. The purchase contract was 97 percent of the appraised value ($185,000 / $191,000).

HUD Handbook 4000.1, paragraph III.A.2 (l)(ii)(B)(2)(a)(ii), states that mortgagees [lenders] must ensure that nonoccupant borrowers are 90 days or more delinquent and that each borrower has a credit score of 620 or below for a streamlined preforeclosure sale. Also, HUD Handbook 4000.1, paragraph III.A.2 (l)(ii)(J)(3)(b), states, "The Mortgagee may only approve offers that will result in minimum Net Sale Proceeds of 88 percent of the 'as-is' appraised FMV [fair market value]." HUD Handbook 4000.1, paragraph III.A.2 (l)(ii)(H)(5), also states, "The Mortgagee may only cancel a scheduled foreclosure sale if the Mortgagee has received an acceptable Contract of Sale that meets the PFS requirements."

12. **Case number:** 341-1277037
Servicer: JP Morgan Chase Bank
Loss to HUD: $67,986

Servicing deficiency:

- The servicer did not properly evaluate the borrower for loss mitigation options.

The servicer assigned the loan to HUD through its Single Family Loan Sale (SFLS) program,[27] while it was still evaluating the borrower for loss mitigation options. The borrower was approved for a preforeclosure sale on August 6, 2015, but had planned on moving back into the property in September and inquired about retention options. The borrower submitted the loss mitigation application for home retention options and had provided all of the required documents for the loss mitigation application as of October 14, 2015. The letter to the borrower on October 14, 2015, stated that no documents were needed. A letter to the borrower on October 24, 2015, stated that they had questions about the borrower's pay stubs. The loan was assigned to underwriting on December 1, 2015, and the borrower was approved for an FHA HAMP trial on December 9, 2015. However, the servicer assigned the loan to HUD on the same day the borrower was approved for loss mitigation, December 9, 2015.

The participating service agreement between the servicer and HUD states that loans are eligible for the SFLS program if the servicer has evaluated all loss mitigation options and determined the borrower to be presently ineligible for any loss mitigation or loss mitigation options have been attempted and failed. The SFLS submission report date and update date were September 29, 2015, and October 28, 2015, respectively. These are the dates on which the loan was determined to be eligible for the SFLS program. Therefore, the servicer was still evaluating the borrower for loss mitigation options. The borrower had submitted all of the required documents, and the servicer was following up on additional documents that were requested as part of its review.

13. **Case number:** 351-6339607
Servicer: Wells Fargo
Loss to HUD: $72,665

Servicing deficiency:

- The servicer did not send the foreclosure brochure to the borrower.

The servicer did not send the foreclosure brochure (HUD-2008-5-FHA, Save Your Home: Tips to Avoid Foreclosure) to the borrower.

[27] Under the SFLS program, HUD pays insurance claims to servicers and accepts assignment of eligible defaulted FHA loans. The mortgage insurance is terminated, and FHA then pools and sells the loans at auction.

Mortgagee Letter 2014-01 requires servicers to send the foreclosure pamphlet to the borrower on the 32nd day but no later than the 60th day of delinquency. The foreclosure pamphlet provides borrowers with important information about loss mitigation tools available for delinquent homeowners.

14. **Case number:** 387-1202381
Servicer: Wells Fargo Bank
Loss to HUD: $14,540

Servicing deficiency:

- The servicer did not send the foreclosure brochure to the borrower.

The servicer did not send the foreclosure brochure (HUD-PA-426, How to Avoid Foreclosure) to the borrower.

Mortgagee Letter 2008-43 requires servicers to send the foreclosure pamphlet to the borrower on the 32nd day but no later than the 60th day of delinquency. The foreclosure pamphlet provides borrowers with important information about loss mitigation alternatives.

15. **Case number:** 387-1531098
Servicer: Navy Federal Credit Union
Loss to HUD: $32,585

Servicing deficiency:

- The servicer did not properly evaluate the borrower for loss mitigation options.

The servicer denied the borrower for FHA HAMP because it improperly stated that the investor (FHA) did not participate in the program. FHA HAMP is a home retention option that must be considered when evaluating borrowers for loss mitigation. However, the borrower did qualify for the option. The borrower submitted a complete loss mitigation application on October 28, 2014, and the servicer offered the borrower a preforeclosure sale on October 29, 2014. However, the borrower was not interested in a preforeclosure sale because she wanted to retain the property. The borrower should have been approved for FHA HAMP. This loan was also reviewed by HUD during its monitoring review of the servicer, and HUD determined that the borrower qualified for FHA HAMP.[28]

Mortgagee Letter 2013-32 states that after evaluating a delinquent mortgagor [borrower] for informal and formal forbearance plans, FHA's loss mitigation home retention options must be considered in the following order: (1) special forbearances, (2) loan modifications, and (3) FHA HAMP. To qualify for FHA HAMP, a defaulted mortgagor [borrower] must meet all of the following:

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[28] The servicer was referred to the Mortgagee Review Board.

- Experienced a verifiable loss of income or increase in living expenses;
- One or more mortgagors [borrowers] receives continuous income;
- Has surplus income less than $300 and/or less than 15 percent of net monthly income;
- Has not received a stand-alone loan modification or FHA HAMP in the previous 24 months;
- Meets all eligibility criteria in mortgagee letters 2009-23 and 2010-04, which do not conflict with this mortgagee letter's guidance;
- Has successfully completed a 3-month trial payment plan based on the reduced mortgage payment amount or a 4-month trial payment plan in cases of imminent default; and
- Mortgagor [Borrower] must provide a signed hardship affidavit.

16. **Case number:** 412-7144327
    Servicer: Wells Fargo Bank
    Loss to HUD: $24,798

    Servicing deficiency:

    - The servicer did not send the foreclosure brochure to the borrower.

    The servicer did not send the foreclosure brochure (HUD-PA-426, How to Avoid Foreclosure) to the borrower.

    Mortgagee Letter 2008-43 requires servicers to send the foreclosure pamphlet to the borrower on the 32nd day but no later than the 60th day of delinquency. The foreclosure pamphlet provides the borrower with important information about loss mitigation alternatives.

17. **Case number:** 431-5562720
    Servicer: Wells Fargo Bank
    Loss to HUD: $84,087

    Servicing deficiency:

    - The servicer did not send the foreclosure brochure to the borrower.

    The servicer did not send the foreclosure brochure (HUD-PA-426, How to Avoid Foreclosure) to the borrower.

    Mortgagee Letter 2008-43 requires servicers to send the foreclosure pamphlet to the borrower on the 32nd day but no later than the 60th day of delinquency. The foreclosure pamphlet provides the borrower with important information about loss mitigation alternatives.

18. **Case number:** 461-5725431
Servicer: JP Morgan Chase Bank
Loss to HUD: $76,052

Servicing deficiency:

- The servicer did not properly evaluate the borrowers for loss mitigation options.

The servicer assigned the loan to HUD through its SFLS program without evaluating the borrowers for all loss mitigation options. Even though the borrowers' request for loss mitigation assistance on February 25, 2014, showed that they planned to occupy the property as their main residence on June 1, 2014, the servicer was still required to evaluate the borrowers for loss mitigation nonretention options. The borrowers qualified for a streamline preforeclosure sale because (1) the property was nonowner occupied, (2) the loan was more than 90 days delinquent, and (3) both borrowers had credit scores below 620.

The participating service agreement between the servicer and HUD states that loans are eligible for the SFLS program if the servicer has evaluated all FHA loss mitigation home retention options and nonretention options as of the submission report. The SFLS submission report date and update date were April 11, 2014, and May 21, 2014, respectively.

19. **Case number:** 446-1111572
Servicer: Wells Fargo Bank
Loss to HUD: $55,648

Servicing deficiency:

- The servicer did not send the foreclosure brochure to the borrower.

The servicer did not send the foreclosure brochure (HUD-PA-426, How to Avoid Foreclosure) to the borrower.

Mortgagee Letter 2008-43 requires servicers to send the foreclosure pamphlet to the borrower on the 32nd day but no later than the 60th day of delinquency. The foreclosure pamphlet provides the borrower with important information about loss mitigation alternatives.

20. **Case number:** 481-3575555
Servicer: US Bank
Loss to HUD: $56,028

Servicing deficiency:

- The servicer sent the foreclosure brochure to the borrower approximately 2 months after it was required to be sent.

The servicer sent the foreclosure brochure (HUD-2008-5-FHA, Save Your Home: Tips to Avoid Foreclosure) to the borrower approximately 2 months after it was required to be sent. The servicer did not send the foreclosure brochure until September 11, 2015, 131 days after the delinquency date of May 1, 2015.

Mortgagee Letter 2014-01 requires servicers to send the foreclosure pamphlet to the borrower on the 32nd day but no later than the 60th day of delinquency. The foreclosure pamphlet provides the borrower with important information about loss mitigation tools available for delinquent homeowners.

21. **Case number:** 492-9351852
Servicer: US Bank
Loss to HUD: $35,916

Servicing deficiency:

- The servicer did not properly evaluate the borrowers for loss mitigation options.

The servicer did not evaluate the borrowers for disposition options before the loan went into foreclosure. The servicer denied the borrowers loss mitigation home retention options on May 9, 2014, because they were not unemployed and had insufficient income. It appears that the servicer reviewed the borrowers only for home retention options because they wanted to keep the home. However, the servicer should have reviewed the borrowers for loss mitigation home disposition options before referring the account to foreclosure on May 28, 2014. Based on the documentation provided by the borrowers, they would have qualified for a streamline preforeclosure sale option because they were denied home retention options and they had credit scores of 510 and 492 according to the credit report dated February 18, 2014.

The borrowers eventually requested a preforeclosure sale on August 12, 2014, but the servicer instead told the borrowers to get the property listed because the property was in foreclosure. The borrowers told the servicer of an offer for $60,000, but the servicer stated that a new loss mitigation application was needed to open the file. Although the borrowers submitted the loss mitigation application on October 1, 2014, a foreclosure sale was held on October 7, 2014.

Mortgagee Letter 2013-32 states that before four full monthly installments due on the mortgage are unpaid, the mortgagee [lender] must evaluate a mortgagor's [borrower's] financial situation on a monthly basis to determine the appropriate loss mitigation option. It further states if a mortgagor [borrower] fails to complete a trial payment plan, mortgagees [lenders] must still re-evaluate eligibility for other appropriate loss mitigation options. If the mortgagor's [borrower's] circumstances have not changed, the mortgagee [lender] must evaluate for disposition options prior to initiating foreclosure.

Mortgage Letter 2013-23 states that mortgagees [lenders] may approve a mortgagor [borrower] for a streamline preforeclosure sale without verifying hardship or obtaining a complete workout packet if, for owner-occupants, (1) the mortgagor [borrower] is 90 days or more delinquent, (2) each mortgagor [lender] has a credit score of 620 or below, and (3) the mortgagor [borrower] must have been reviewed for home retention options and deemed ineligible.

22. **Case number:** 512-0754529
Servicer: Gateway Mortgage Group LLC
Loss to HUD: $47,672

Servicing deficiency:

- The servicer did not send the foreclosure brochure to the borrower.

The servicer did not send the foreclosure brochure (HUD-PA-426, How to Avoid Foreclosure) to the borrower.

Mortgagee Letter 2008-43 requires servicers to send the foreclosure pamphlet to the borrower on the 32nd day but no later than the 60th day of delinquency. The foreclosure pamphlet provides the borrower with important information about loss mitigation alternatives.

23. **Case number:** 513-0442611
Servicer: Pacific Union Financial LLC
Loss to HUD: $87,597

Servicing deficiency:

- The servicer did not properly evaluate the borrowers for loss mitigation options.

The servicer did not evaluate the borrowers for loss mitigation when they were in imminent default. The borrowers contacted the servicer on September 15, 2015, approximately 3 to 4 months before the loan became delinquent on January 1, 2016, and inquired about deferment options because one of the borrowers was unemployed. The servicer stated that deferment options were not available and did not tell the borrowers of the special forbearance option, which reduces or suspends mortgage payments and is a loss mitigation option specifically for borrowers who are unemployed. The servicer spoke with the borrowers again on September 16, 2015, and December 24, 2015, but did not tell the borrowers about the special forbearance option.

On January 29, 2016, the servicer was told that both borrowers were unemployed, but the servicer did not tell the borrowers about the special forbearance option. Also, the letters to the borrowers contained information only on a repayment plan, loan modification, short sale, and deed in lieu. The letters did not contain information on forbearance plans.

Mortgagee Letter 2010-04 defines a borrower facing imminent default to be a borrower who is current or less than 30 days past due and is experiencing a significant reduction in income or some other hardship that will prevent him or her from making the next required payment. It also emphasizes the use of loss mitigation at the time of initial default or determination that a default is imminent.

24. **Case number:** 541-9617387
Servicer: US Bank
Loss to HUD: $22,562

Servicing deficiency:

- The servicer did not notify attorneys of the borrower who filed bankruptcy that loss mitigation was available.

The borrower filed for a Chapter 13 bankruptcy on May 28, 2014, which was before the delinquency date of June 1, 2014. The servicer did not tell the attorneys of the availability of loss mitigation options. On May 30, 2014, the servicer sent a letter to the borrower's attorney, stating that it had received notice that a Chapter 13 bankruptcy had been filed. However, the letter did not state that loss mitigation may be available.

Mortgagee Letter 2008-32 requires servicers, upon receipt of notice of the bankruptcy filing, to send information to the borrower's counsel indicating that loss mitigation may be available and provide instructions to facilitate workout discussions.

25. **Case number:** 566-0845121
Servicer: Cenlar Federal Savings Bank
Loss to HUD: $16,815

Servicing deficiency:

- The servicer did not properly evaluate the borrower for loss mitigation options.

The servicer did not properly approve the borrower for a preforeclosure sale because of the stipulations that were made. The borrower submitted a loss mitigation package for a preforeclosure sale on June 5, 2014, along with a sales contract, dated May 8, 2014. However, on June 9, 2014, the servicer told the borrower that the package was incomplete. On July 29, 2014, and July 30, 2014, the borrower was approved for a preforeclosure sale but only for the sales contract, dated May 8, 2014. The servicer also stated that the loan had to close by August 28, 2014. However, the approval to participate stated that the deadline to obtain a contract of sale from a qualified buyer was September 28, 2014.

On September 19, 2014, the servicer was told that the potential buyer had walked away from the short sale and that a foreclosure sale was held on October 17, 2014. The servicer did not properly approve the borrower for the preforeclosure sale program because of the stipulations that the approval was only valid for the sales contract, dated May 8, 2014, and that the loan must close by August 28, 2014. Although the foreclosure sale date was scheduled on June 11, 2014, for October 17, 2014, the borrower should have been approved for a preforeclosure sale without any of the stipulations that were made. In addition, the borrower should have been allowed to market the property without the servicer's canceling the foreclosure sale date.

Mortgagee Letter 2013-23 states a foreclosure sale that has already been scheduled should not be canceled to initiate a preforeclosure sale marketing period for a property of a mortgagor [borrower] meeting the streamlined preforeclosure sale eligibility requirements. Scheduled foreclosure sales should only be cancelled if the mortgagee [lender] has received an acceptable purchase contract.

26. **Case number:** 571-1133409
Servicer: Selene Finance LP
Loss to HUD: $44,299

Servicing deficiency:

- The servicer did not properly evaluate the borrower for loss mitigation options.

On July 16, 2013, the servicer sent a letter to the borrower requesting financial information. The borrower sent the requested documents to the servicer on August 19, 2013. However, the servicer did not acknowledge receipt of the loss mitigation documents provided by the borrower or evaluate the information provided. Instead, the loan was referred for foreclosure on October 4, 2013.