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*Houston, Texas 77030-4200*  
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*Website: [www.vahouston.com](http://www.vahouston.com)*

## **BULLETIN NO. 2003-13**

**October 28, 2003**

**TO: ALL HOLDERS AND SERVICERS**

**SUBJ: HOW TO OBTAIN FORECLOSURE SALE BIDDING INSTRUCTIONS**

### **Purpose**

This bulletin announces changes to the instructions for ordering liquidation appraisals and how to obtain bidding instructions to terminate **Arkansas, Louisiana, Oklahoma, and Texas** loans that are guaranteed by the Department of Veterans Affairs (VA). Also, the letter to the borrower, Attachment A, has been revised.

### **Effective Date**

These procedures are effective immediately.

### **Holder's Responsibility**

Holders are responsible for completing a valid foreclosure sale in accordance with state statutes, laws, or codes. In addition, holders must ensure compliance with all applicable VA regulations in order to protect their right to convey the property to VA after foreclosure and ensure payment of the maximum allowable Claim Under Loan Guaranty. Internet access to Veterans Benefits Administration reference manuals and regulations is available at **[www.vba.va.gov](http://www.vba.va.gov)**.

### **Failure To Comply**

When VA is unable to provide foreclosure bidding instructions due to a holder or servicer's failure to comply with these procedures, a cutoff date will be established under 38 CFR 36.4319(f) which will limit the liability of the Government. Existing cutoff dates will not be adjusted when a servicer's failure to follow these instructions prevents VA from issuing bidding instructions timely. When bidding instructions are not issued timely due to administrative delay by VA, cutoff dates will be adjusted.

### **Notice Of Foreclosure**

Holders or servicers must submit a Notice of Intention to Foreclose, VA Form 26-6851, or Notice of Default and Intention to Foreclose, VA Form 26-6850a, to VA only after the holder has exhausted all reasonable efforts to cure a default. Notices must be filed after the loan is delinquent for three months (38 CFR 36.4316) and the default is determined to be insoluble. Please refer to VA Handbook

H26-94-1, Chapters 2 and 4, "Delinquent Servicing" and "Termination by Foreclosure", respectively, for instructions on the completion and submission of these forms. Copies of the Handbook are available at **[www.homeloans.va.gov/sg.doc](http://www.homeloans.va.gov/sg.doc)**. **In accordance with 38 CFR 36.4317, servicers can not refer a loan to their attorney to initiate foreclosure action until 30 calendar days after VA receives a Notice of Intention to Foreclose form.**

### **Notice To Original Veteran-Borrower And Other Liable Obligors**

A notice of intention to foreclose must also be sent to the original veteran-borrower, if still a liable obligor, and any other liable obligors when the current owner of the property is not the original-veteran borrower. The notice must be sent by registered mail within 30 calendar days after such notice is provided to VA.

Please refer to VA Handbook H26-94-1, Chapter 4, "Termination by Foreclosure", for complete details on compliance with 38 CFR 36.4317. Failure to comply may result in a claim adjustment.

### Three Actions Are Required To Obtain Bidding Instructions

1. Order a liquidation appraisal
2. Send a letter to the borrower
3. Submit Status of Loan Account - Foreclosure or Other Liquidation

#### 1. Order a Liquidation Appraisal

A liquidation appraisal is required if VA is to determine the net value of the property and provide bidding instructions. **Liquidation appraisals must be ordered and assignments faxed to fee appraisers 31 calendar days prior to the date of the foreclosure sale.** Please do not wait and attempt to order all liquidation appraisals on the 31st day before the scheduled sale dates. Establish your internal procedures to insure that appraisals are ordered as soon as foreclosure action is approved on each loan.

To order the liquidation appraisal, use our Internet-based assignment program, The Appraisal System (TAS), at [tas.vba.va.gov/tas/index.html](http://tas.vba.va.gov/tas/index.html). The system provides immediate assignments without delay and is available almost 24 hours a day, seven days a week.

Verbal assignments and technical assistance with TAS are available by calling Houston at: (713) 794-3607 during regular office hours, 7:30 a.m. to 4:00 p.m.

Contact the fee appraiser within one business day of the date the assignment is made by TAS and provide the information listed below.

- A completed VA Form 26-1805-1, VA Request for Determination of Reasonable Value (Real Estate)
- **Name, address, direct telephone number, and fax number of the requester (someone at your company that the fee appraiser can contact directly for assistance)**
- **E-mail address in Block 5 of VA Form 26-1805-1** (If an e-mail address is provided, the fee appraiser is required to send a copy of the report to the requester at the e-mail address.)
- VA loan identification number (12 digits)
- Property address
- Legal description
- Name of owner or occupant
- **Home and work telephone numbers for owner or occupant**
- Date of scheduled foreclosure sale
- Copy of letter to borrower (See below and Attachment A)
- **Keys or entry instructions in the event the dwelling is vacant**

VA fee appraisers are required to gain access to all properties and complete liquidation appraisals in five business days. The timeliness standard is suspended for the time needed to gain access to the property. Servicers must send the letter to the borrowers and provide keys or entry instructions to the fee appraiser when the property is vacant. Servicers are encouraged to follow-up with fee appraisers when appraisals are not received timely.

The appraiser sends an invoice to the holder which must be paid within 30 calendar days of receipt. Failure to promptly pay these invoices may result in a requirement that your company pay in advance for liquidation appraisals. Appraisal fees may be paid in advance if you wish.

#### 2. Send a Letter to the Borrower

As soon as the appraisal assignment is made by TAS, notify the borrower by letter (Attachment A) that foreclosure action is pending and that an appraisal of the property must be made. Send the fee appraiser a copy of the letter to the borrower. If a letter is not sent to the borrower or if a copy is not provided to the fee appraiser and a re-inspection of the property is later required, a fee of \$100.00 will be charged to the holder. This amount is not reimbursable by VA. **Delays in gaining access result in delayed appraisal reports and affect our ability to provide bidding instructions to you in a timely manner.**

3. Submit a Status of Loan Account - Foreclosure or Other Liquidation

Status of Loan Account - Foreclosure or Other Liquidation was modified in order to allow a holder to show a partial waiver of account indebtedness or buydown to obtain a specified amount. You may obtain a copy of the form at our Website, [www.vahouston.com](http://www.vahouston.com), by selecting "FORMS" at the home page and clicking Loan Administration. This form is in Excel 3.0 and can be e-mailed to VA. There are several versions of VA Form 26-567, but the new Status of Loan Account - Foreclosure or Other Liquidation, VA 26-567 (362), January 2003, at our website is the one preferred by all of the Regional Loan Centers.

No less than 30 calendar days prior to the scheduled foreclosure sale date, the Regional Loan Center in Houston must receive a Status of Loan Account - Foreclosure or Other Liquidation using one of the methods listed below. **Include the date the actual appraisal assignment was faxed to the VA fee appraiser on the Status of Loan Account.** Itemize advances and include the dates of the advances on the form. Provide complete and accurate loan account information so that your bid can be calculated correctly. Receipt of the Status of Loan Account less than 30 calendar days prior to the scheduled foreclosure sale date OR failure to complete all items on the form may result in VA being unable to provide foreclosure sale instructions.

- Status of Loan Account may be e-mailed to [LGYFCU@vba.va.gov](mailto:LGYFCU@vba.va.gov). The form must be in Excel 7.0 for Windows 95 format or a lower version of Excel.
- Status of Loan Account may be faxed to **713-794-3785, 713-794-3767, or 713-794-3814.**
- Status of Loan Account may be mailed to the address below:
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**Regional Loan Center  
Loan Administration Section (264)  
6900 Almeda Road  
Houston, TX 77030 - 4200**

**Partial Waiver Of Account Indebtedness/Buydown**

Upon receipt of a no-bid, a holder may decide to waive or satisfy a portion of the loan in order to reduce the indebtedness to an amount which would require VA to provide a specified amount and acquire the property under Title 38 CFR 36.4320. This is often called a no-bid buydown, and may take the form of a reduction of the principal balance, credit to the escrow or unapplied funds account, forgiveness of unpaid accrued interest or a combination of these credits. Liquidation expenses or advances for taxes, insurance, or property preservation costs must have been paid prior to the applicable cutoff date under 38 CFR 36.4321 in order to be eligible for inclusion in the indebtedness for purposes of the net value determination. Holders should take this into consideration when determining the amount of buydown

funds to apply to a loan account. Interest cutoff dates will be advanced to the date of the buydown. A buydown must not affect the validity of the liquidation sale (or liability of the obligors) and must be binding on all parties to the loan agreement and documented by appropriate entries to the payment history. Since October 1, 2001, it is the policy of all VA offices to require written verification of a buydown in the form of a copy of a payment history which reflects the date and amount of the actual buydown. Written verification must be submitted to VA with the Status of Loan Account. Additional expenses incurred as a result of the postponement of a foreclosure sale in order to complete a buydown and provide verification, including but not limited to additional attorney's fees, a new appraisal, and advances for insurance premiums, will not be reimbursed by VA.

**ARM Advice**

VA distributed VA Form 26-1874a, Claim Form Addendum - Adjustable Rate Mortgages, for use by holders and servicers in providing information required to compute the interest paid and accrued on an adjustable rate mortgage (ARM). This information is actually needed by VA when reviewing the account indebtedness in order to decide what bidding instructions to issue. Whenever holders or servicers provide a Status of Loan Account - Foreclosure or Other Liquidation for an ARM loan, they must also provide VA Form 26-1874a. The latest version of VA Form 26-1874a can be downloaded from our website, [www.vahouston.com](http://www.vahouston.com).

**Documents Required**

A copy of every procedural paper filed in connection with liquidation of the security must be provided to VA (38 CFR 36.4319). Do not submit documents individually. Submit originals and/or copies of petitions, complaints, lis pendens and decrees with the claim and/or title package as specified in Regional Loan Center Bulletins on "Claims Under Loan Guaranty And Maximum Amounts Reimbursed for Expenses" and "Title Requirements" for each state. **Every document submitted to this office must be annotated with the twelve digit VA loan identification number.**

**Questions And Comments**

Please e-mail questions and comments concerning this bulletin to [LGYHGALE@vba.va.gov](mailto:LGYHGALE@vba.va.gov).

**Rescission**

This bulletin rescinds Regional Loan Center Bulletin No. 2002-14 dated June 20, 2002, on the same subject.

//s//  
R. BIAGIOLI  
Loan Guaranty Officer

To Owner at **Mailing** Address

Servicer's Loan Number  
VA Loan Identification Number  
Property Address (If different from  
mailing address)

Dear Mr. and Mrs. (Homeowner's name):

There is the possibility of a foreclosure action in the near future. To protect your interest, the Department of Veterans Affairs (VA) requires that an appraisal be made of your property. An independent fee appraiser, (fee appraiser's name), has been assigned to visit your property.

Please allow the appraiser to inspect the interior of your home so that you will receive a proper estimate of the value of your property. Not allowing the fee appraiser to view the interior of your home will not stop the foreclosure from taking place. In fact, any future liability of yours to the U.S. Government might increase since the appraiser will have to make assumptions about the interior condition of the property if access is not permitted. For more information or assistance, contact a VA Loan Service Representative toll free at 1-888-232-2571.

You must contact the fee appraiser named above at (fee appraiser's telephone number) within the next 24 hours (of receipt of this letter) to arrange an appointment or advise the appraiser that you do not intend to permit entry. Your cooperation will be appreciated.

Sincerely,

cc:  
(Fee appraiser's name and address)