CHAPTER 20: LOSS CLAIMS - COLLECTING ON THE GUARANTEE 7 CFR 3555.351

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20.1 OVERVIEW

A key part of the SFHGLP is ensuring that lenders who fulfill their responsibilities under the program and incur losses receive reimbursement quickly and simply. At the same time, the Agency must protect the interests of the Government by ensuring that claims are not paid to lenders that have failed to uphold their responsibilities under the program, or who claim reimbursement for unacceptable expenses.

This chapter outlines the loan guarantee limits. It provides a description of allowable costs, the lender process for submitting a loss claim, outlines the Agency review, describes penalties that could be assessed for failure to meet program requirements and provides guidance on net recovery value. This chapter also provides guidance on funds recovered after loss claim payment.

20.2 LOSS CLAIM COVERAGE

A. Loan Guarantee Limits

The maximum that a lender may collect from the Agency under the SFHGLP is the <u>lesser</u> of:

- Ninety percent of the original principal amount actually advanced to the borrower; or

- One hundred percent of any loss equal to or less than 35 percent of the original principal advanced, plus 85 percent of any remaining loss up to 65 percent of the principal advanced.

For example, if the original principal amount (OPA) guaranteed on a loan was $50,000, the maximum loss payment would be $45,000, or the <u>lesser</u> of:

1. Ninety percent of principal

- OPA is $50,000.

- 90 percent of OPA is $45,000.

2. One hundred percent of 35 percent and 85 percent of 65 percent

- OPA is $50,000.
- 35 percent of OPA is $17,500.
- 65 percent of OPA is $32,500.
- 85 percent of 65 percent of OPA is $27,625.
- Payment amount is 100 percent of 35 percent of OPA ($17,500) plus 85 percent of 65 percent of OPA ($27,625). This equals $45,125.

The Agency's exposure would be limited to $45,000, which is the lesser of the two loss payment amounts.

B. Losses Covered by the Guarantee

Losses that are covered by the loan guarantee include the following:

- Principal and interest owed on the loan;
- Additional interest accrued up to 90 days from the settlement date through the date the loss claim is paid;;
- Principal and interest indebtedness on protective advances provided by the lender to protect the security property; and
- Liquidation and disposition costs as outlined in Chapter 18 and 19 of this Handbook.

C. Reasonable and Customary

To be considered reasonable and customary for the area, liquidation and disposition costs should be similar to costs the lender incurs when liquidating non-guaranteed loans. Refer to Chapters 19 for further guidance on customary costs related to the acquisition and management of REO. Allowable costs might include:

- Appraisal-related costs;
- Securing the property;
- Real estate commissions to sell the REO of no greater than 6% of the sales price unless incentives can be justified or a minimum of $2,000 commission for low value sales. Incentives require Agency concurrence; or

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- Acquisition and management costs associated with property disposition.

Costs associated with lender in-house expenses (e.g. employee salaries, in-house legal fees, travel, REO management fees and other company expenses) are not allowed.

Allowable liquidation and disposition costs differ for properties sold within the nine-month marketing time frame from those that remain in the lender's inventory at payment of the loss claim.

1. Sold Properties

Sold to a Third Party:

If the property is sold to a third-party at the foreclosure sale or by an approved pre-foreclosure sale (short sale), the loss claim will be based on the actual sales price. The Agency will reimburse the lender for actual liquidation expenses plus additional interest for up to 45 days from the foreclosure sale date or the date the proceeds were disbursed by the court, whichever is later. Actual additional interest paid will be based upon the loss claim filing date. A loss claim must be filed accurately and timely by the lender within the 45 days following funds disbursement or the foreclosure sale date. Loss claims made beyond this period may be rejected or reduced. The lender must retain documentation of claimed expenses.

Acquired by the Lender at a Foreclosure Sale or by Deed-in-Lieu:

For REO property sold within the nine month marketing period from lender acquisition, the lender may seek reimbursement for the actual costs associated with acceleration, foreclosure, maintenance costs (including preparation for sale), and sales costs, as applicable. Any limitations to these costs are outlined in Chapters 18 and 19. The lender must document all expenditures included in the loss claim. Claims must be filed within 45 days of the REO sale date. Loss claims made beyond this period will be rejected or reduced by the Agency. Documentation of expenses associated with a loss claim request must be retained in the lender's permanent file.

2. Unsold REO Properties

For property not located on American Indian restricted land, the Agency allows the lender a nine month marketing period from legal acquisition of REO property. The acquisition date is the date the lender acquires title to the property. For property located on an American Indian restricted land, the Agency allows a 12 month marketing period from foreclosure, or the from the expiration of a redemption period, whichever is later.

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If the property remains unsold at the expiration of the marketing period, the Agency will obtain a liquidation value appraisal and issue the lender a notice of value on which the loss claim should be based. A loss will be calculated on based upon an acquisition and management factor. Foreclosure liquidation costs incurred should be documented for inclusion in the loss claim calculation. In order to estimate disposition costs, a standard acquisition and management factor of 14.95 percent of the liquidation appraised value is used. Lenders must ~~order a~~ notify the Agency to order a liquidation value appraisal within 15 days of the end of the marketing period. Loss claims for unsold REO must be filed by the lender within 30 days of obtaining a liquidation value appraisal. The Agency will notify the lender upon obtaining a liquidation value appraisal. Loss claims filed beyond this period of time will be rejected by the Agency.

20.3 FILING A LOSS CLAIM

Lenders submit loss claim requests to the CSC located in St. Louis, Missouri. Servicing contact information can be found at the following website: https://usdalinc.sc.egov.usda.gov/USDALincTrainingResourceLib.do. The resource is titled "Guaranteed Servicing Contact Information."

Requests for loss claim payments can be made by submitting a report with supportive documentation or through an electronic web submission electronically through GLS. With either process, the Agency relies on the accuracy of the information provided by the lender/servicer on the claim. All information entered on the claim form must be supported by documentation in the claim file. It remains the lender/servicer's responsibility for the completeness and accuracy of the claim submission.

A loss claim filed with CSC will require the lender to prepare and submit *Form RD 3555-20, "Rural Housing Report of Loss."* A detailed guide, "Loss Claim and Future Recovery Guide" designed to assist lenders in organizing and preparing information provided to the Agency in support of loss claims, future recoveries and additional recoveries beyond payment of the loss can be found at the following website under the Training and Resource Library link: https://usdalinc.sc.egov.usda.gov/USDALincTrainingResourceLib.do. The guide provides the lender with worksheets to use as a tool to process loss claims and future recovery discussed in Section 3.

A lender approved to submit loss claim requests electronically will not be required to submit Form RD 3555-20. The Agency completes an approval process involving GLS security clearance, training and monitoring of claim files during a conditional approval stage before a lender receives written approval authority to fully utilize the automated claim process. A guide "Loss Claim Administration User Guide" can be found at the

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following website under the “Training and Resource Library” link: https://usdalinc.sc.egov.usda.gov/USDALincTrainingResourceLib.do.

A claim can be submitted when a lender experiences a loss as a result of a pre-approved pre-foreclosure sale (short sale), a third party purchase at a foreclosure sale, acquisition through voluntary liquidation, or as a result of a purchase by the lender at a foreclosure sale.

A. Property That Is Sold

For property that is sold before the end of the allowable marketing period, the loss claim must be submitted within 45 days after the date of REO sale. This 45-day limit applies to properties that are sold through voluntary liquidation (short sale), sold to a third party at the foreclosure sale or sold from the lender’s inventory within the allowable sale period. A guide “Loss Claim Administration User Guide” can be found at the following website under the “Training and Resource Library” link: https://usdalinc.sc.egov.usda.gov/USDALincTrainingResourceLib.do. This guide outlines the manual and automated process of submitting loss claims. Within the guide, a checklist of documentation required to process a loss claim request is included. Lenders may utilize an optional excel worksheet, included in a guide, which when utilized collectively assembles the dates of action and monetary information in the required loss claim package.

The Agency mirrors HUD/FHA’s maximum allowable costs for property preservation and maintenance costs. Information regarding their property and preservation cost reimbursements can be found at: http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/files/10-18ml.pdf. Any subsequent release regarding this subject by HUD/FHA is also applicable.

B. Unsold Real Estate Owned (REO) Property

The lender must notify the Agency if an REO property remains unsold at the end of the allowable marketing period. Notification to the Agency must be made within 30 days of the expiration of the marketing period. The Agency will retain a qualified appraiser to provide a liquidation value appraisal of the unsold REO at the end of the marketing period. The Agency will notify the lender of the value obtained. The value established will be utilized to base a loss claim payment by applying a cost factor, known as an *acquisition management factor*, and established by the Department of Veterans Affairs (VA), which estimates REO expenses. The most current cost factor is 14.95 percent. The loss claim must be submitted to the Agency within 30 days of the day the lender receives the appraised liquidation value notification.

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A guide "Loss Claim Administration User Guide" can be found at the following website under the "Training and Resource Library" link: https://usdalinc.sc.egov.usda.gov/USDALincTrainingResourceLib.do. This guide outlines the manual and automated process of submitting loss claims. Within the guide, a checklist of documentation required to process a loss claim request is included. Lenders may utilize an optional Excel worksheet, included in a guide, which when utilized collectively assembles the dates of action and monetary information in the required loss claim package

C. Definition of Value Types in the Appraisal Process and General Procedures

For a claim calculation on unsold REO, a third party *liquidation value* appraisal obtained by the lender will be the liquidation value as it takes into consideration market pressures on a distressed property.

An authoritative source for the definition of *liquidation value* appraisal is the Appraisal Institute's 4th Edition of The Dictionary of Real Estate Appraisal, available online for purchase at the Appraisal Institute's website at: http://www.appraisalinstitute.org/ecm/publications.

"Liquidation value: the most probable price that a specified interest in real property is likely to bring under all of the following conditions:

- *Consummation of a sale will occur within a severely limited future marketing period specified by the client.*
- *The actual market conditions currently prevailing are those to which the appraised property interest is subject.*
- *The buyer is acting prudently and knowledgeably.*
- *The seller is under extreme compulsion to sell.*
- *The buyer is typically motivated.*
- *The buyer is acting in what he or she considers his or her best interest.*
- *A limited marketing effort and time will be allowed for the completion of a sale.*
- *Payment will be made in cash in U.S. dollars or in terms of financial arrangements comparable thereto.*

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- *The price represents the normal consideration for the property sold, unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."*

This definition clearly differs from that of market value due to the *motivation of the seller* and the *limited marketing period factors*.

An appraisal report will be prepared by a Qualified State Licensed or Certified Appraiser and comply with the USPAP. The Agency will order the liquidation value appraisal. The first step in the appraisal process is to identify the intended user, intended use and the type of value for the appraisal. The following are items that should be identified in an appraisal order process when ordering a liquidation value appraisal:

- When the appraisal assignment is to determine liquidation value, the Agency's Statement of Work (SOW) should clearly identify the value type to be reported. Incorporate the definition above into each State or Customer Service Center (CSC) SOW.

- The severely abbreviated marketing period should be identified in the SOW. The client specified marketing period as identified by SFHGLP is 30 days and must be used by the appraiser whenever the typical marketing period exceeds 30 days. If the typical marketing period is identified by the appraiser as less than 30 days the appraiser should base their estimate of value on the shorter period and identify the time period used. The appraisal should be developed based on the actual physical condition of the property

- The type of written appraisal report should be identified for the vendor. Appraisal reports should be the most recent revision of one of the following:

    - Uniform Residential Appraisal Report (Fannie Mae Form 1004 or Freddie Mac Form 70)
    - Manufactured Home Appraisal Report (Fannie Mae Form 1004C or Freddie Mac Form 70-B)
    - Individual Condominium Unit Appraisal Report (Fannie Mae Form 1073 or Freddie Mac Form 465)

The Agency allows modification of the above forms to capture the liquidation value. As part of the appraisal assignment, the appraiser will be requested to complete the following to support the value and condition of the property:

- Market Conditions Addendum to Appraisal Report (Fannie Mae Form 1004MC or Freddie Mac Form 71). This form will further enhance and document a clear

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and accurate understanding of the market trends and conditions prevalent to neighborhoods. If information is unavailable document the Appraisal Report on the attempts when information is not available to support completion of this form.

- Photographs documenting the interior inspection are part of the appraisal assignment. Interior photographs should include the living room, kitchen, bathroom, furnace, central air unit (if applicable), water heater, electrical panel and photographs of any damage or deferred maintenance.

- The appraisal order should summarize the appraisal assignment information and confirm the appraisal fee, payment method, responsible party for payment, verify means of delivery and confirm any special instructions or assignment conditions, as discussed with the appraiser.

- Prior to ordering a liquidation appraisal, the Agency approval official is responsible for determining the need for to request a liquidation value appraisal, in accordance with Paragraph 20.3 C noted above will request a certification of funds from the Fiscal Control Branch (FCB) in the Office of the Deputy Chief Financial Officer (DCFO) in St. Louis, Missouri. The request should be sent to dcfo-fcb2@stl.usda.gov. FCB will reply by email within 24 hours certifying funds are available for the proposed appraisal order. Include in the request the following information for fund certification.

  - Borrower's identification number obtained from GLS. Do not include or reference a social security number (SSN) or a borrower's name.

  - Lenders name.

  - Name of appraiser and company.

  - Amount of quoted appraisal fee.

This process ensures that funds are available to fund the request. Funding has been ample to cover all liquidation value appraisal requests. However, to ensure funds are available for your request, this step must be followed. Questions on this portion of the process may be directed to FCB at (314) 457-4143. States who order liquidation value appraisals on behalf of the Centralized Servicing Center (CSC) are responsible for fund certification.

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- A confirmation of the residential appraisal order obtained from the vendor, once an order is placed, is encouraged.

The appraisal should be ordered by Agency personnel. The Agency may utilize Attachment 20-A as an appraisal order form. The Department of Veterans Affairs' Appraisal Fee Schedule represents the customary and reasonable fee associated with the payment of a liquidation value appraisal. The fee schedule with timeline may be found at: http://benefits.va.gov/homeloans/appraiser_fee_schedule.asp.

Payment to the vendor will be completed through use of Form *RD 3555-46, Report of Liquidation Expense Transaction 4040*. The program loan cost expense account is not utilized for payment of SFHGLP liquidation value appraisals.

The form can be scanned and emailed with the Personally Identifiable Information (PII) required of the form, as long as the sender securely protects the document when sending though encryption. The sender may also fax or mail to the address/number provided below.

- In Block 1 insert the 14 digit case number. This is the state, county and SSN of the borrower. This procedure differs from requesting fund certification. Personally Identifiable Information (PII) must be protected when working with sensitive information. The format is either ##-###-######### or ##############.

- Continue completion of blocks 2 through 7 as published in the Forms Manual Insert (FMI).

  - The actual cost of the appraisal is to be inserted into Block 8.

  - Complete the total amount of Block 8 in Block 9 of the form.

  - In Block 10, "Remarks," insert the following:

    "Loss Claim Appraisal – Guaranteed Rural Housing Loan Program" followed by the borrower's identification number assigned in GLS. It is helpful to utilize the following format to identify the number in Block 10: Borrower ID: #########

- By e-mail, scan the document to either a .PDF or .TIF document type.

Forward the completed form and invoice requesting payment to:

RD.DCFO.GLB@stl.usda.gov

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The form and invoice **MUST** be securely protected when utilizing the e-mail method.

- Forward the completed form and invoice requesting payment to:

  USDA, Rural Development

  DCFO – FC-350/GLB

  PO Box 200011

  St. Louis, MO 63120-0011

- By priority mail, forward the completed form and invoice requesting payment to:

  USDA, Rural Development

  4300 Goodfellow Blvd.

  Bldg. 104 South End

  2nd Floor, Post H37

  St. Louis MO 63120

  General Branch Telephone #: 314.457.4192

- By fax, forward the completed form and invoice requesting payment to:
  314.457.4279

It is important that the appraisal be obtained and the loss claim payment request be completed in a timely manner to prevent unnecessary payment of additional interest. In addition, this loss settlement calculation can be completed immediately following the foreclosure sale or at any time during the 9-month marketing period. If the lender then sells the property for an amount greater than the appraised amount used in calculating the loss, this recovery would be paid to the Government in accordance with this Chapter.

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D. Loss Administration – Record the Loss Claim in GLS

Authorized Agency staff will capture information provided by a lender submitting a manual claim outlined in Paragraph 20.3 of this Chapter and populate GLS at the Add/Update Loss Claim page. Refer to the *User Documentation Guide: Loss Claim Administration* found at the following link under the *Training and Resource Library* link: https://usdalinc.sc.egov.usda.gov/USDALincTrainingResourceLib.do. Lenders who are approved to electronically submit a loss claim will populate the GLS page when submitting their claim.

20.4 CALCULATING NET RECOVERY VALUE

As a part of the loss claim, the Agency will reimburse the lender for the difference between the loss incurred by the lender and the net recovery value of the property, within the limits of the guarantee. Net recovery value is the amount the lender recovers from the sale of a property after accounting for all costs. Net recovery value is calculated differently for properties that have been sold than for properties that are in the lender's inventory at the time the loss claim is filed. For property that has already been sold, the actual net recovery value is used. For property that remains in the lender's inventory, the estimated net recovery value is used.

A. Sold Properties

When the lender disposed of the property at the time of a loss claim submission, the actual net recovery value is calculated as the difference between:

- The proceeds from the sale and any other amounts recovered, such as recovered escrow funds; and
- Allowable liquidation and disposition costs.

B. Unsold REO Properties

The Agency estimates the net recovery value on unsold REO as the difference between:

- The value of the property based on a liquidation value appraisal; and
- Allowable liquidation costs.

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The lender is not obliged to market the property prior to submitting a loss claim. A lender may file a loss claim using an estimated net recovery value at any time after property liquidation and during the allowable marketing period. However, the filed claim is considered a final claim. If the lender then sells the REO property for an amount greater than the appraised amount used in calculating the loss, this recovery would be paid to the Government in accordance with Section 3 of this Chapter.

20.5 AGENCY REVIEW

The Agency will review the loss claim package from the lender. Loss claim checks or electronic funds transfer (EFT) payments will be made within 60 days of the lender's properly filed loss claim will be issued to the lender by the Agency's finance office. Agency staff will notify the lender of any additional documentation required. The requirement for additional documentation must be noted in the loss claim file.

Once all required information has been supplied, the Agency must take the following actions:

- Determine whether the lender has fulfilled all SFHGLP obligations and if not, whether reduction or denial of the loss claim is warranted;
- Enter the loss claim into the GLS under the *Loss Claim Administration* menu which will calculate the loss payment amount. This step is not applicable to lenders who are approved to utilize the electronic web submission outlined in Paragraph 20.3;
- Have the claim reviewed and approved by the Agency designee with approval authority;
- Notify lender in writing by providing a copy of the GLS *View/Update Loss Claim* screen;
- When an estimated claim is paid, the Agency will advise the lender, servicer, or payee, as appropriate, of the following:
  - The estimated sale price (appraised value) used to calculate the claim,
  - That future recovery may be due if the actual sale price exceeds the estimated sale price,
  - When and how to report future recovery of sale proceeds, and

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- The consequences of failure to report future recoveries, including agency monitoring and the possible termination of lender eligibility.

- Provide appropriate appeal rights for any adjustments, reductions, or denials with specific reasons and clear explanation for the decision in accordance with Appendix 3 of this handbook; and

- Issue payment as appropriate.

Payment of the loss claim simultaneously fulfills and terminates the loan note guarantee. A termination notice will be mailed to the servicing lender at the time of payment.

A. When Claims Are Reduced or Denied

Losses to the lender and Agency are less when lenders originate, service, and liquidate loans according to Agency requirements. The Agency will review each loss claim for adherence to program regulation and make any reductions and/or denial of loss claim as noted below.

When reviewing the loss claim, Agency staff will use information provided by the lender to determine if the loss claim amount should be adjusted or denied. The Agency must show that any reduction in the lender's claim is commensurate with the lender's action, or failure to act. This section provides guidance regarding reduction or denial of a claim, and when applicable, the specific penalties attached to those factors. Additional information regarding penalties may be found in Appendix 9 of this Handbook.

B. Reasons for Reduction or Denial

Loss claims can be reduced or denied for reasons ranging from failure to submit the claim within prescribed timeframes, to instances of program fraud or abuse on the part of the lender. The Agency will reduce the loss claim when appropriate~~, regardless of whether the error that caused the reduction was the fault of the loan holder~~. Lenders can refer to Appendix 9 of this Handbook for reasons a reduction or denial of a claim will occur.

C. Calculation and Approval of Loss Payment

Agency staff will calculate the loss claim amount using *Form RD 3555-20* and supportive documentation submitted by the lender. Agency staff will utilize the *Add/Update Loss Claim* transaction in the *Loss Claim Administration* menu of GLS to document and create a loss payment to the lender. The Agency's reviewer should contact the lender if there are questions about the information submitted by the lender.

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D. Loss Claim Payment Process

The Agency will use the following procedures for loss claim processing and disbursement of any loss claim checks.

1. Notification of Loss Payment Amount

The Agency will notify the lender in writing of the amount to be paid within 60 days of receipt of a properly completed loss claim package. If the claim has been reduced or denied, the Agency will provide a clear explanation of its decision, including an analysis of how the amount of any reduction was determined, and provide notification of appeal rights in accordance with Appendix 3 of this handbook. The Agency will pay the claim, or the reduced claim, promptly.

2. Payment and Post Payment Activities

Payments for approved claims will be distributed within 60 days of receipt of a properly completed loss claim form. Lenders who have voluntarily agreed to electronic funds transfer (EFT) will receive payment electronically for a properly completed and submitted loss claim within 3 working days of claim processing. For all other lenders, a check will be generated for approved claims and distributed within 3 working days of receipt of a properly completed and submitted loss claim. Loss claim checks will be issued to the lender by the Agency's finance office. Payment of the loss claim simultaneously fulfills and terminates the loan note guarantee. A termination notice will be mailed to the servicing lender at the time of payment. Any questions concerning the status of a loss claim payment should be addressed to the Agency office where the loss claim was originally submitted by the lender.

3. Review and Appeal Rights.

If a claim is reduced or denied, the Agency will notify the lender of its review and appeal rights, as described in Appendix 3 of this handbook. If the lender seeks to request a review or appeal a loss claim decision, the Agency will pay the approved portion of the loss claim within the time frames described above. Interest will not accrue on any disputed loss amount during the review or appeals process, regardless of the outcome of the review or appeal.

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4. Supplemental Claims

The Agency may allow the lender to submit 1 supplemental loss claim in addition to the original claim submitted. The supplemental claim must be received by the Agency within six months from payment date of the initial claim The Agency reserves the right to limit the payment of additional interest and expenses. The six month expiration period may be exceeded if unusual circumstances exist such as a domestic incident as defined by the Department of Homeland Security or when a geographic location in which the property is located has been declared a Presidential Disaster.

E. Verification of REO Sale

The Agency will flag claims that were paid based on estimated net recovery value and contact the lender quarterly after loss claim payment to inquire about the REO status if the actual sale information has not been received.

If the REO has been sold, the Agency will request the lender to submit a HUD-1, or similar documentation as verification of the sale amount.

Agency follow-up should continue until the sale information is received. Once confirmation has been received the REO has sold, the Agency will update the GLS by inputting the information collected into the *Add Recovery Calculator* of the *Loss Claim Administration* menu of GLS for lenders who are not approved to submit their claims electronically. For those lenders approved to submit claims electronically, the lender will complete the *Add Recovery Calculator* page in GLS. If the REO sold for a higher price than the liquidation value appraisal in which the loss claim was based, future recovery may be due from the lender as described in Section 3 of this Chapter.

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SECTION 3: FUTURE RECOVERY

20.6 OVERVIEW

The Agency requires that the lender notify the Agency if they recover additional funds after the loss claim has been paid. Future recovery can come in two different forms:

- **Actual Payment**. For example, a check received for a delayed insurance payment, a credit for prepaid real estate taxes would be reported as future recovery.

- **Higher Than Liquidation Value Actual Sales Price.** When the loss claim is calculated for an unsold REO property, it is based on the liquidation value appraisal. If the property is later sold for an amount greater than the liquidation value in which the claim was calculated on. That difference must be reported to the Agency as a future recovery. The Agency will not reimburse the lender after the loss claim is paid if an REO property sells for a price lower than the liquidation value appraisal.

The proceeds of any amounts recovered shall be shared in proportion to the amount of loss borne between the Agency and the lender. This may result in a different distribution of the proceeds depending upon what percentage of the loss was originally paid by the Agency. Although the lender’s actual loss may be different than the amount on which loss settlement was based, the proportion of recovery sharing must be based on the loss percentage upon which the loss payment calculation was based.

A. Agency Covered 100 percent of Original Loss

In the future recovery calculation, if the loss paid on a liquidation value appraisal was less than 35 percent of the original loan amount, the Agency will have reimbursed the lender for its entire loss. Since the lender incurred no loss, all future recovery proceeds must be returned to the Agency to offset its losses adjusted by the following allowances for the lender:

- Allowance for additional real estate commission. The commission allowed is based upon the liquidation value appraisal and the actual sales price and is capped at 6%.

- Cost of any capital improvement expenses the lender incurred that directly resulted in an increase in the sales price of the REO property. Confirmation/documentation is required.

- Seller concessions paid from the sale proceeds above what is reasonable and customary for the area, which directly resulted in an increased sales price. Confirmation/documentation is required.

B. Agency and Lender Shared Original Loss

If the loss was greater than 35 percent of the original loan amount, the Agency will have reimbursed the lender for any loss up to 35 percent of the original loan amount. Losses in excess of that amount will be shared between the lender and the Agency.

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In such a situation, any recovery goes first to reimburse the lender and the Agency for their respective portions of the loss over 35 percent of the original loan amount. The remaining portion of the recovery amount, if any, goes entirely to the Agency to offset its remaining loss.

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ATTACHMENT 20-A

Liquidation Value Appraisal Order Form

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Date: ______________________

Client Information

USDA Rural Development	Contact: ____________	E-Mail Address: ____________	Telephone and Fax No. ____________ ____________

Mailing Address: ______________________________________

Billing Address (if different from mailing): ______________________________________

Owner Information

Former Borrower Information: ____________

Current Owner: ____________

Foreclosure Sale Date: ____________

Property Information

Address of Property to be Appraised: ______________________________________

Property Access Information

Contact: ____________

Contact Type: ☐ Realtor ☐ Lender/Owner

Contact Telephone: ____________

Alternate Contact Telephone: ____________

Lockbox Combination: ____________

Appraisal, Property and Report Type

Appraisal Type:	☒ As-Is Value ☒ Full Appraisal ☒ Liquidation Value ☒ Marketing Time Frame: ______________	Property and Report Type:	☐ Single Family Detached (FNMA 1004 /Freddie Mac 70) ☐ Condo (FNMA 1073 /Freddie Mac 465) ☐ Manufactured Home (FNMA 1004C)

Other Information

Other Information Required:	☒ FNMA 1004MC / Freddie Mac 71) Market Condition Addendum Report ☐ Interior Photographs ☐ Supplemental Real Estate Owned Appraisal Addendum	Appraisal Purpose Statement of Work:	Loss payment consideration to owner.

Pricing/Delivery

Quoted Price:	$____________________	Anticipated Delivery Date:	_______________________

Definition of Liquidation Value: *The most probable price that a specified interest in real property is likely to bring under all of the following conditions:*

- *Consummation of a sale will occur within a severely limited future marketing period specified by the client.*
- *The actual market conditions currently prevailing are those to which the appraised property interest is subject.*
- *The buyer is acting prudently and knowledgeably.*
- *The seller is under extreme compulsion to sell.*
- *The buyer is typically motivated.*
- *The buyer is acting in what he or she considers his or her best interest.*
- *A limited marketing effort and time will be allowed for the completion of a sale.*
- *Payment will be made in cash in U.S. dollars or in terms of financial arrangements comparable thereto.*
- *The price represents the normal consideration for the property sold, unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."*