

**§§ 5001.460–5001.500**

**7 CFR Ch. I (1–1–24 Edition)**

the borrower, the Agency’s case number, date of the loan note guarantee or assignment guarantee agreement, face amount of the promissory note in which an interest was purchased, date of the promissory note, present balance of the guaranteed loan, percentage of guarantee, and, if an assignment guarantee agreement, the original named holder and the percentage of the guaranteed portion of the guaranteed loan assigned to that holder. Any existing parts of the document to be replaced must be attached to the certificate;

(v) A full statement of circumstances of the loss, theft, destruction, defacement, or mutilation of the loan note guarantee or assignment guarantee agreement; and

(vi) For the holder, evidence demonstrating current ownership of the assignment guarantee agreement. If the present holder is not the same as the original holder, the lender must include a copy of the endorsement of each successive holder in the chain of transfer from the initial holder to present holder. If copies of the endorsement cannot be obtained, the lender must submit the best available records of transfer (*e.g.*, order confirmation, canceled checks, etc.).

(b) *Indemnity bond.* An indemnity bond acceptable to the Agency must accompany the request for replacement except when the holder is the United States, a Federal Reserve Bank, a Federal Government corporation, a State or territory, the District of Columbia or a federally recognized tribal entity. The indemnity bond must:

(1) Be issued by a qualified surety company holding a certificate of authority from the Secretary of the Treasury and listed in Treasury Department Circular 570, except when the outstanding principal balance and accrued interest due the present holder, in accordance with §5001.450(c), is less than \$1 million as verified by the lender via a written letter of certification of balance due;

(2) Be issued and payable to the United States of America acting through the Agency;

(3) Be in an amount not less than the unpaid principal and interest; and

(4) Hold the Agency harmless against any claim or demand that might arise

or against any damage, loss, costs, or expenses that might be sustained or incurred by reason of the loss or replacement of the instruments.

[85 FR 42518, July 14, 2020, as amended at 85 FR 62198, Oct. 2, 2020]

**§§ 5001.460–5001.500 [Reserved]**

**Subpart F—Servicing Provisions**

**§ 5001.501 General.**

The lender is responsible for servicing the entire loan and taking all servicing actions that a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The lender must certify that it will service the guaranteed loan in accordance with this part, its loan servicing policies and procedures, and the lender’s agreement. Where a lender’s loan servicing policies and procedures address a corresponding requirement in this part or in the lender’s agreement, the lender must comply the corresponding requirement in this part, unless otherwise approved by the Agency.

(a) A lender’s servicing responsibilities include, but are not limited to,

- (1) Periodic borrower visits;
- (2) Distribution of guaranteed loan funds;
- (3) Collecting payments on guaranteed loans;
- (4) Ensuring compliance with the covenants and provisions in the loan agreement, security instruments, and other supplemental agreements relating to the guaranteed loan;
- (5) Obtaining and analyzing financial statements;
- (6) Ensuring payment of taxes and insurance premiums;
- (7) Maintaining liens and lien priority on collateral;
- (8) Keeping an inventory of all collateral items, and reconciling the inventory of all collateral sold during guaranteed loan servicing, including liquidation;
- (9) Obtaining Agency approvals or concurrence as required; and
- (10) Cooperating fully with all oversight and monitoring efforts of the Agency or its representatives as specified in §5001.502.

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(b) The lender must remain mortgagee and secured party of record, notwithstanding the fact that another party may hold a portion of the loan.

(c) The lender must ensure that the borrower has obtained and will maintain all necessary insurance coverage appropriate to the proposed project.

(d) If the Agency determines that the lender is not in compliance with its servicing responsibilities, the Agency reserves the right to take any action the Agency determines necessary to protect the Agency's interests with respect to the guaranteed loan. If the Agency exercises this right, the lender must cooperate with the Agency to rectify the situation.

**§ 5001.502 Oversight and monitoring.**

The Agency will employ various oversight and monitoring activities in order to ensure compliance with this part. All lenders involved in any manner with any loan note guarantee issued under this part or under a loan note guaranteed previously issued under a guaranteed loan program identified in § 5001.1 of this part must cooperate fully with the Agency in its oversight and monitoring efforts, including, but not necessarily limited to, those identified in paragraphs (a) through (c) of this section.

(a) *Reports and notifications.* Lenders must submit to the Agency reports and notifications as required by this part. To facilitate the Agency's oversight and monitoring including, but not necessarily limited to, those identified in paragraphs (a)(1) through (4), as applicable, of this section.

(1) *Status reports.* No less than semi-annual status reports as of June 30 and December 31 each year (unless more frequent reports are needed as determined by the Agency to protect the financial interests of the government) regarding the condition of the lender's guaranteed loan portfolio (including borrower status and loan classification) and any material change in the general financial condition of any borrower since the last report was submitted. The lender must submit these reports within 30 calendar days after the reporting period, using the appropriate Agency online reporting system.

(2) *Default reports.* Monthly default reports for each guaranteed loan in monetary default using the appropriate Agency online reporting system are due on the 15th working day of each month.

(3) *Notifications.* The lender(s) must notify the Agency by written notification within 15 calendar days of any:

(i) Loan agreement violation by any borrower, including when the borrower is 30 days past due or is otherwise in default of the covenants in the loan agreement;

(ii) Permanent or temporary reduction in the interest rate;

(iii) Downgrade in the lender's loan classification of any guaranteed loan; and

(iv) Protective advances in accordance with § 5001.516.

(4) *Collection activities report.* If a lender is liquidating the assets of a borrower, the lender must also evaluate and provide a report of collection activities regarding the collectability of personal and corporate guarantees.

(b) *Records*—(1) *Lenders.* Upon request by the Agency, the lender must permit representatives of the Agency (or other authorized persons) to inspect and make copies of any of the records of the lender pertaining to each guaranteed loan issued under this part or previously issued under one of the programs identified in § 5001.1 of this part. Such inspection and copying may be made during regular office hours of the lender or at any other time the lender and the Agency agree upon.

(2) *Borrowers.* Except as provided by law, upon request by the Agency, the borrower must permit representatives of the lender (or other authorized persons) to inspect and make copies of any of the records relating to the borrower's project. Such inspection and copying may be made during regular office hours of the borrower or at any other time agreed upon between the borrower and the lender.

(c) *Agency and lender conference.* When requested by the Agency, the lender must consult with the Agency to ascertain how the guaranteed loan is being serviced and that the conditions and covenants of the loan agreement are being enforced.