

Lender Letter LL-2014-09

December 23, 2014

To: All Fannie Mae Single-Family Servicers

Updates to Foreclosure Bidding Instructions and Third Party Sales

This Lender Letter provides advanced notification of upcoming changes to the following Fannie Mae policies and requirements:

- Issuing bidding instructions
- Issuing bidding instructions for all properties eligible for Fannie Mae's MyCity Modification
- Remitting third-party sales proceeds to Fannie Mae

Policy Change Effective Date

The servicer is encouraged to implement these requirements as early as February 1, 2015, but must implement these policy changes no later than March 1, 2015, for all mortgage loans with a foreclosure sale to occur on or after April 15, 2015.

Date of Servicing Guide Update

The policy changes in this Lender Letter will be reflected in the February 2015 update of the *Servicing Guide*.

Issuing Bidding Instructions

Servicing Guide E-3.3-04, Issuing Bidding Instructions

The servicer must issue bidding instructions to the law firm for all mortgage loans referred for foreclosure that result in scheduled foreclosure sales.

The servicer must obtain a reserve price from Fannie Mae in any of the following circumstances:

- when preparing bids for uninsured conventional first lien mortgage loans,
- when applicable laws do not require the use of an appraisal report to set the bid, or
- if the mortgage insurer of a first lien mortgage loan elects not to issue bidding instructions and defers to Fannie Mae.

The following table provides a list of servicer requirements for obtaining and using a reserve price.

✓	The servicer must...
	Request the reserve price through the Valuation Management System in HSSN between 30 to 90 days before the scheduled foreclosure sale date. NOTE: <i>The servicer must use the reason code "Reserve Price Bid Instructions" when submitting a request to obtain a reserve price.</i>

✓	The servicer must...
	Request an updated reserve price when the “expiration date” of the reserve price will occur prior to the scheduled foreclosure sale date. The servicer must always use an unexpired reserve price to establish the bid amount.
	Provide bidding instructions to the law firm in a timely manner so as not to delay, cancel, or stop a scheduled foreclosure sale. In circumstances where the servicer is unable to provide the law firm with the bidding instructions in a timely manner, it must document the mortgage loan servicing file accordingly.

The servicer must contact its Fannie Mae Servicing Representative (see F-4-03, List of Contacts) to obtain bidding instructions when a property (hazard) or flood insurance claim has been filed. The servicer is no longer authorized to provide bidding instructions without direction from Fannie Mae when a property (hazard) or flood insurance claim has been filed.

For an Uninsured Conventional First Lien Mortgage Loan:

The following table reflects requirements for the preparation of bidding instructions for an uninsured conventional first lien mortgage loan.

If the security property is in a state or jurisdiction...	Then the servicer must...
that has a redemption period	instruct the law firm to bid: <ul style="list-style-type: none"> • an amount equal to the lesser of <ul style="list-style-type: none"> ○ 100% of the reserve price obtained from Fannie Mae, or ○ 100% of the total mortgage indebtedness, or • such other amounts as may be required by applicable law (e.g., judgment amount).
that does not have a redemption period and does not levy transfer taxes or other related fees and costs on the winning foreclosure bid, or does levy transfer taxes to which Fannie Mae's real estate transfer tax exemption applies	
that does not have a redemption period, but which levies transfer taxes or other related fees and costs on the winning foreclosure bid and does not recognize Fannie Mae's exemption from paying real estate transfer taxes	instruct the law firm to enter an initial bid of: \$100 (or any other minimum amount the state requires in order for the bid to be considered valid), and continue bidding until it either <ul style="list-style-type: none"> • wins the bidding, or • bids an amount equal to the lesser of <ul style="list-style-type: none"> ○ 100% of the reserve price obtained from Fannie Mae, or ○ 100% of the total mortgage indebtedness, or • such other amounts as may be required by applicable law (e.g., judgment amount). If the bid amount cannot be increased because the person conducting the foreclosure is prohibited from accepting a

If the security property is in a state or jurisdiction...	Then the servicer must...
	range of bids from the servicer, the servicer must instruct the law firm to bid as if the property were in a jurisdiction with a redemption period as indicated above.

For an Insured Conventional First Lien Mortgage Loan:

For a first lien mortgage loan covered by mortgage insurance, the servicer must bid an amount approved by the mortgage insurer. If the mortgage insurer elects not to issue bidding instructions per its guidelines, or defers to Fannie Mae for foreclosure sale bidding instructions, the servicer must follow the policies and requirements for an uninsured conventional first lien mortgage loan.

If the mortgage insurer’s bidding instructions or requirements include preserving deficiency rights, and where permitted by applicable law, the servicer must preserve the mortgage insurer’s right to pursue a deficiency action in accordance with the mortgage insurer’s instructions.

**Issuing Bidding Instructions for All Properties Eligible for MyCity Modification
Servicing Guide E-3.3-04, Issuing Bidding Instructions**

The servicer must follow the policies and requirements described above for the preparation of bidding instructions for all properties eligible for a Fannie Mae MyCity Modification. The *Servicing Guide* policies and requirements related specifically to bidding instructions for all properties eligible for Fannie Mae’s MyCity Modification will be removed.

**Remitting Third-Party Sales Proceeds to Fannie Mae
Servicing Guide E-3.5-02, Handling Third-Party Sales and F-1-31, Remitting and Accounting to Fannie Mae**

The servicer must remit the gross sale proceeds to Fannie Mae and must not deduct from the proceeds any unreimbursed foreclosure expenses, delinquency advances, or other amounts. If state law requires that the sheriff deduct fees from the sale proceeds, the servicer must remit the proceeds less such deductions to Fannie Mae along with an itemization of the deducted fees.

As a reminder, the servicer must remit this amount to Fannie Mae within five business days after the servicer receives the final payment from the third-party bidder. The servicer must continue to submit a *request for expense reimbursement* for any reimbursable expenses related to a third-party sale.

The servicer should contact its Servicing Consultant, Portfolio Manager, or Fannie Mae’s National Servicing Organization’s Servicer Support Center at 1-888-FANNIE5 (1-888-326-6435) with any questions regarding this Lender Letter.

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