



Home Affordable Modification Program Government Monitoring Data Requirements for Freddie Mac-Owned Mortgages

1.	Q:	What information are Servicers required to collect?
	A:	Servicers must request information regarding the race, sex, and ethnicity (Government Monitoring Data) of any Borrower (including any co-Borrower) who seeks a modification under the Home Affordable Modification program (HAMP). <i>(Updated from Treasury FAQ, Section P, Question Q2500)</i>
2.	Q:	Why does the federal government need the Government Monitoring Data?
	A:	In the federal Fair Housing Act, Congress prohibited discrimination in the sale and financing of housing and charged HUD with administering the Fair Housing Act. HUD requests the data in order to ensure that HAMP modifications be conducted in compliance with the Fair Housing Act. Under the Fair Housing Act, neither noteholders nor their Servicers may discriminate against any person seeking a modification under HAMP on the basis of race, national origin, sex, or any other prohibited basis. <i>(Updated from Treasury FAQ, Section P, Question Q2501)</i>
3.	Q:	When are Servicers required to begin collecting and reporting Government Monitoring Data?
	A:	Servicers should refer to the guidance provided in Supplemental Directive 09-06, or other documentation subsequently published by the U.S. Department of the Treasury, with respect to the collection and reporting of Government Monitoring Data. <i>(Updated from Treasury FAQ, Section P, Question Q2502)</i>
4.	Q:	At what point in the HAMP process is the requirement to request Government Monitoring Data triggered, and how should Servicers request Government Monitoring Data from the Borrower?
	A:	<p>Government Monitoring Data must be requested from HAMP-eligible Borrowers who meet the requirements of Guide Section C65.4 (e.g., loans originated on or before January 1, 2009, owner-occupied, etc.). The request must occur when the Servicer receives a modification request from the Borrower, or when the Servicer sends the Borrower Solicitation Package to a HAMP-eligible Borrower. A request for a modification is considered received when the Borrower submits a <i>Uniform Borrower Assistance Form</i>, Form 710, or a customized equivalent as permitted by the Guide. References to Form 710 hereafter in this FAQ will include a Servicer-customized equivalent of Form 710 as permitted by the Guide. After October 1, 2011, a Borrower may request a modification only by submitting Form 710 to the Servicer. Servicers should request the Government Monitoring Data as follows:</p> <p>(a) <u>If the Borrower completes</u> the Hardship Affidavit or RMA (prior to October 1, 2011) in a face-to-face setting, by mail, or over the Internet, the Borrower will be able to read the disclosure contained just beneath the Information for Government Monitoring Purposes section heading, determine whether he or she wishes to furnish the Government Monitoring Data, and complete the remainder of the Information for Government Monitoring Purposes section accordingly. "Complete" means either furnish the requested Government Monitoring Data or check the box that states "I do not wish to furnish this information."</p> <p>(b) <u>If the Borrower completes</u> Form 710 in a face-to-face setting, by mail, or over the Internet, the Borrower must be provided with the Government Monitoring Data Form,</p>

		<p>Form 710A, which will allow the Borrower to read the disclosure contained just beneath the Information for Government Monitoring Purposes section heading, determine whether he or she wishes to furnish the Government Monitoring Data, and complete the remainder of the Information for Government Monitoring Purposes section accordingly. “Complete” means either furnish the requested Government Monitoring Data or check the box that states “I do not wish to furnish this information.”</p> <p>(c) <u>If the Servicer is gathering the information necessary to complete</u> the Government Monitoring Data from the Borrower in a face-to-face interview or over the phone, the Servicer should first read to the Borrower the disclosure contained just beneath the Information for Government Monitoring Purposes section heading. This will inform the Borrower that the federal government requests this monitoring information in order to monitor compliance with federal statutes that prohibit lenders from discriminating against Borrowers based on the Borrower characteristics collected in the Government Monitoring Data. It will also inform the Borrower that if he or she chooses not to provide the Government Monitoring Data, then, where the request for Government Monitoring Data is done in person, the Servicer is required to note the data on the basis of visual observation or surname. After reading the disclosure to the Borrower, the Servicer should ask the Borrower whether he or she desires to furnish the information. If the Borrower elects to furnish the Government Monitoring Data, the Servicer should read the race, ethnicity, and sex categories and options from the Information for Government Monitoring Purposes section, ask the Borrower which boxes he or she would like checked, and then check the boxes as directed by the Borrower. If the Borrower declines to furnish the information, see question #6 below.</p> <p>While Servicers <u>must ask and encourage</u> each Borrower who completes a Hardship Affidavit, RMA, or Form 710 to furnish the Government Monitoring Data, Servicers <u>may not require</u> the Borrower to furnish the Government Monitoring Data. <i>(Updated from Treasury FAQ, Section P, Question Q2503)</i></p>
5.	Q:	What response should a Servicer provide when asked by a Borrower why the Government Monitoring Data is requested?
	A:	<p>Servicers should ensure that their servicing staff and managers understand the importance of requesting that HAMP participants provide the Government Monitoring Data. The federal government requests this monitoring information in order to monitor compliance with federal statutes that prohibit lenders from discriminating against Borrowers on the basis of race, ethnicity and sex. In instances in which Borrowers decline to provide the information, servicing staff should be provided with training and job aids (e.g., desk references, scripts and, where feasible, system prompts) to supply this information as described below in Q2506.</p> <p>In addition, Servicers should ensure that their internal quality control plans include procedures for monitoring compliance with these requirements regarding the request for Government Monitoring Data. <i>(Updated from Treasury FAQ, Section P, Question Q2504)</i></p>
6.	Q:	What if the Borrower declines to provide the Government Monitoring Data?
	A:	<p>If a Borrower declines or fails to furnish all or part of the Government Monitoring Data, either the Servicer or the Borrower should note this fact on the Hardship Affidavit, RMA, or Form 710A.</p> <p>(a) If the Borrower completes the Hardship Affidavit, RMA, or Form 710 in a face-to-face setting and chooses not to furnish the Government Monitoring Data, he or she should check the “I do not wish to furnish this information” box within the Information for Government Monitoring Purposes section of the Hardship Affidavit, RMA or Form 710A. If the Borrower chooses not to check the box, the Servicer should note this fact on the</p>

		<p>form. See question #7 below for further guidance on providing the Government Monitoring Data based on visual observation or surname.</p> <p>(b) If the Borrower completes the Hardship Affidavit, RMA, or Form 710 by mail, telephone, or over the Internet, he or she should check or direct the Servicer to check the “I do not wish to furnish this information” box within the Information for Government Monitoring Purposes section of the Hardship Affidavit, RMA, or Form 710A. If the Borrower chooses not to furnish the data or check the box, the Servicer should indicate in the appropriate spaces within the Information for Government Monitoring Purposes section that the Hardship Affidavit, RMA, or Form 710A was received by mail, telephone, or over the Internet and note the fact that the Borrower chose not to furnish the Government Monitoring Data.</p> <p>(c) If the Borrower furnishes the hardship information to the Servicer as the Servicer completes the Hardship Affidavit, RMA, or Form 710A in either a face-to-face interview or over the phone, and the Borrower elects not to furnish the Government Monitoring Data, the Servicer should check the “I do not wish to furnish this information” box within the Information for Government Monitoring Purposes section of the Hardship Affidavit, RMA or Form 710A. If the Servicer is completing the Hardship Affidavit, RMA, or Form 710A over the phone, note that fact in the appropriate space within the Information for Government Monitoring Purposes section.</p> <p><i>(Updated from Treasury FAQ, Section P, Question Q2505)</i></p>
7.	Q:	If the Borrower declines to provide the Government Monitoring Data, must Servicers provide it?
	A:	<p>If a Borrower declines to provide the Government Monitoring Data, Servicers must attempt to provide it if the Hardship Affidavit, RMA, or Form 710A is completed in a <u>face-to-face meeting</u> with the Borrower (either by the Borrower or by the Servicer based on information gathered from the Borrower during the interview). In that situation, Servicers should note the Borrower’s race, ethnicity and sex, but only to the extent possible on the basis of visual observation or surname.</p> <p>If the Borrower declines to provide the Government Monitoring Data or fails to provide the information on a Hardship Affidavit, RMA or Form 710A taken by <u>mail, telephone, or over the Internet</u>, the data need not be provided. <i>(Updated from Treasury FAQ, Section P, Question Q2506)</i></p>
8.	Q:	If the Borrower declines to provide Government Monitoring Data in connection with a request for modification but a Servicer has race, ethnicity, and sex data in its system that was obtained at the time of loan origination, should the Servicer complete the Hardship Affidavit or RMA using the original race, ethnicity, and sex data?
	A:	<p>If the Servicer has reasonable access to Government Monitoring Data supplied by the Borrower at origination and the Borrower and co-Borrower remain the same, the Servicer is required to provide that information. <i>(Updated from Treasury FAQ, Section P, Question Q2507)</i></p>

9.	Q:	If Servicers have race, ethnicity, and sex data in their systems obtained at the time of loan origination, should the original data be replaced with the Government Monitoring Data from the Hardship Affidavit, RMA, or Form 710A? Should Servicers amend any Home Mortgage Disclosure Act (HMDA) reporting for the year in which the loan origination occurred?
	A:	This is a question that should be directed to the Servicers' counsel or compliance expert. <i>(Updated from Treasury FAQ, Section P, Question Q2508)</i>
10.	Q:	If a Servicer has not asked for Government Monitoring Data in connection with a modification request it has already received, does the Servicer need to contact the Borrower to request the Government Monitoring Data now?
	A:	<p>Yes. The Servicer should contact the Borrower and ask him or her to furnish the Government Monitoring Data prior to completing the modification if the monitoring information is required and the Servicer failed to request it. There are several ways the Servicer can make the request. They include:</p> <ul style="list-style-type: none"> (a) Mailing to the Borrower either (i) a blank Hardship Affidavit or RMA containing the Information for Government Monitoring Purposes section prior to October 1, 2011, or (ii) a blank Government Monitoring Data Form, Form 710A, on or after October 1, 2011, which is an exact copy of the Information for Government Monitoring section of the Hardship Affidavit or RMA. The Servicer should request that the Borrower read and complete the Information for Government Monitoring Information Purposes section and mail the form back to the Servicer. The Servicer should inform the Borrower that while he or she is encouraged to complete the form, he or she is not required to complete it. Prior to October 1, 2011, if the Servicer mails the entire Hardship Affidavit or RMA, the Servicer is encouraged to strike through all sections of the Hardship Affidavit or RMA (including the signature lines) except for the Information for Government Monitoring Purposes section in order to avoid confusion and rework on the part of the Borrower. Either mailing should include a cover letter describing the intended use and importance of the Government Monitoring Data and encouraging the Borrower to provide it. Servicers should also either provide a self-addressed postage-paid envelope for return of the form, or should provide a toll-free number and/or Internet address that the Borrower may use to supply the data. (b) Telephoning the Borrower and requesting the Government Monitoring Data by following the guidance furnished in question #4 above. As indicated in question #4, in requesting the Government Monitoring Data by phone, the Servicer must use the exact text from the Information for Government Monitoring Purposes section of the Hardship Affidavit or RMA to request and record responses from the Borrower and any co-Borrower. The exact text is available on the Government Monitoring Data Form, Form 710A. The Servicer should also develop a script for use by their servicing staff to encourage Borrowers to voluntarily furnish the Government Monitoring Data request. (c) Sending by email or making available to the Borrower through a website access to a digital online form or a PDF copy of either (i) the Hardship Affidavit or RMA containing the Information for Government Monitoring Purposes section, or (ii) the Information for Government Monitoring Purposes section of the Hardship Affidavit or RMA only. The format and text of any electronic or digital version of the Information for Government Monitoring Purposes section must be identical to that found in the Hardship Affidavit or RMA, such as a blank Government Monitoring Data Form, Form 710A. Be sure to request that the Borrower read and complete the Information for Government Monitoring

		<p>Purposes section and, as appropriate, either submit to the Servicer electronically or print and mail the completed form back to the Servicer.</p> <p>The Servicer's email or website should explain the intended use and importance of the Government Monitoring Data and encourage the Borrower to provide it. It should also inform the Borrower that while he or she is encouraged to complete the form, he or she is not required to complete it. If the Servicer makes available the entire Hardship Affidavit or RMA, the Servicer is encouraged to emphasize to the Borrower that only the Information for Government Monitoring Purposes section should be completed. In the event the Servicer makes an electronic version of the Hardship Affidavit, the RMA, or the Information for Government Monitoring Purposes section available to the Borrower, the Servicer must comply with all applicable privacy, data security, disclosure, and other laws and regulations.</p> <p><i>(Updated from Treasury FAQ, Section P, Question Q2509)</i></p>
11.	Q:	Does a Servicer have the legal authority to request Government Monitoring Data from Borrowers?
	A:	<p>The Federal Reserve Board regulations interpreting Equal Credit Opportunity Act (ECOA) permit the collection of information on the race, ethnicity, and sex of Borrowers when the information is "required by a[n] . . . agreement . . . entered into with . . . an enforcement agency...to monitor or enforce compliance with [ECOA], this regulation, or other federal or state statutes or regulations." 12 C.F.R. 202.5(a)(2). HUD has requested the collection of the data pursuant to its obligation to enforce the Fair Housing Act.</p> <p>HUD has directed Freddie Mac to enter into agreements to require its Servicers to request Government Monitoring Data from Borrowers requesting a modification under HAMP.</p> <p>Freddie Mac has incorporated these data collection requirements into Chapter C65 of the <i>Freddie Mac Seller/Servicer Guide</i> (the "Guide"). As a result, the Guide: (a) constitutes an agreement entered into between Freddie Mac, on behalf of HUD, and Servicers participating in HAMP; and (b) is an agreement entered into by participating Servicers with an enforcement agency (i.e., HUD) to permit the enforcement agency to monitor or enforce compliance with federal law, within the meaning of 12 C.F.R. 202.5(a)(2).</p> <p>If a Servicer has any questions regarding its legal obligations, the Servicer should consult its own counsel. <i>(Updated from Treasury FAQ, Section P, Question Q2512)</i></p>
12.	Q:	Does written Government Monitoring Data take precedence over verbal Government Monitoring Data, regardless of the date of the data?
	A:	Yes. <i>(Updated from Treasury FAQ, Section P, Question Q2513)</i>
13.	Q:	If the Servicer collects the Government Monitoring Data over the phone and thereafter the Hardship Affidavit, RMA, or Form 710A was returned without the Government Monitoring Data, does the incomplete Hardship Affidavit, RMA, or Form 710A supersede the verbal data?
	A:	No. The Servicer should report the verbal Government Monitoring Data, not report that "borrower declines to provide," and report that the Government Monitoring Data was obtained via telephone. Conversely, if the Borrower specifically checks the box that states he does wish to furnish Government Monitoring Data, then the Hardship Affidavit, RMA, or Form 710A should supersede the verbal data. <i>(Updated from Treasury FAQ, Section P, Question Q2514)</i>