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Description of document: Ten (10) Department of Housing and Urban Development (HUD), Office of Inspector General (OIG) Categorical Audit Reports and memoranda, 2002-2014

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Office of Inspector General  
Office of Legal Counsel  
U.S. Dept. of HUD  
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U.S. DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT  
OFFICE OF INSPECTOR GENERAL

AUG 11 2016

Re: Your Freedom of Information Act Request  
FOIA Tracking No.: 16-IGF-OIG-00093

This is in response to your e-mail Freedom of Information Act (FOIA) request dated May 24, 2016, to the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG). You have requested several categorical Audit Reports and memorandums. Your request was received in this office on May 31, 2016.

1. You have requested the following audit reports/memorandums:

1. 2014-CF-1806, August 2014
2. 2012-CF-1801, March 2012;
3. 2012-CF-1802, March 2012;
4. 2011-CF-1803, September 2011;
5. 2011-CF-1804, September 2011;
6. 2011-CF-1805, September 2011;
7. 2011-CF-1802, August 2011;
8. 2010-KC-1801, June 2010;
9. 2009-FO-0005, April 2009, and
10. 2002-PH-1002, September 30, 2002

Enclosed are 52 pages of the audit memorandums and reports responsive to your request. Certain information was redacted from these documents pursuant to 5 U.S.C. § 552(b)(6), which protects materials the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The withheld information would consist of names, and third-party individuals.

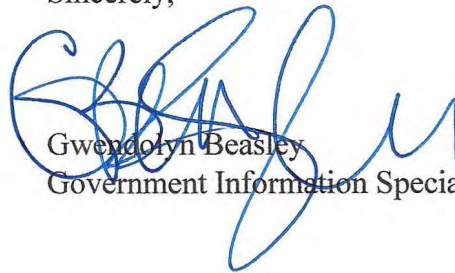
For future reference, access to OIG Audit Reports, or any of our public record documents can be obtained by accessing the HUD-OIG website at: <http://www.hudoig.gov/reports-publications/audit-reports>.

Please be advised that Randy W. McGinnis, Assistant Inspector General for Audit is the official responsible for this response.

If you consider this response to be a denial of your request, you may submit an appeal pursuant to the Office of Inspector General's Freedom of Information Regulation, 24 CFR § 2002.25 (2010). This regulation provides for administrative review by the Inspector General of any denial of information if a written appeal is filed within 30 days from the date of this letter. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Your appeal should be addressed to the FOIA Appeal Specialist, Office of Legal Counsel to the Inspector General, U.S. Department of Housing and Urban Development, 451 7<sup>th</sup> Street, SW, Suite 8260, Washington, DC 20410, and should be accompanied by a copy of your initial request, a copy of this letter and your statement of circumstances, reasons and arguments supporting disclosure of the requested information.

Should you have any questions concerning this FOIA response, please contact me on (202) 708-1613. Please reference the above FOIA number when making inquiries about this matter.

Sincerely,



Gwendolyn Beasley  
Government Information Specialist (FOIA/PA)

Enclosures



U.S. DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT  
OFFICE OF INSPECTOR GENERAL

August 21, 2014

MEMORANDUM NO:  
2014-CF-1806

Memorandum – [REDACTED]

TO: Dane M. Narode  
Associate General Counsel, Office of Program Enforcement, CACC

*for Christa [REDACTED]*

FROM: Kimberly Randall  
Director, Joint Civil Fraud Division, GAW

SUBJECT: Final Civil Action; (b) (6) [REDACTED] FHA-Approved Lender Settled Allegations of  
Causing a False Statement To Be Made to HUD Regarding an FHA-Insured Loan

INTRODUCTION

The Office of Inspector General (OIG) investigated allegations that (b) (6)(b) (6) Easy Street Mortgage Company<sup>1</sup> violated loan origination requirements under the U.S. Department of Housing and Urban Development (HUD), Federal Housing Administration (FHA) mortgage insurance program. Stonegate Mortgage Corporation, which underwrote the loan, alleged to HUD that although the loan application showed (b) (6)(b) (6) Easy Street Mortgage as the loan officer, it was actually an employee who was the loan officer; and that the employee was also the seller of the property.

BACKGROUND

HUD regulation 24 CFR section 203.37 a(b)(2) made a property ineligible for FHA insurance if the contract of sale was executed within 90 days of the prior acquisition by the seller (also known as the property flipping regulation), unless a specific exemption applied to the transaction. In the subject transaction, the seller did not qualify for any of the specific exemptions that apply to the property flipping regulation.

<sup>1</sup> Easy Street Mortgage, d/b/a Neighborhood Mortgage Consultants, ceased being an FHA-approved lender in August 2011.

On January 15, 2010, HUD issued a temporary waiver of the property flipping regulation. The temporary waiver, which applied to the subject transaction, allowed buyers to use FHA-insured financing on any property being resold within 90 days of the seller's acquisition of the property. However, the temporary waiver also required that all transactions be arms-length, with no identity of interest between the buyer and seller or other parties participating in the sales transaction.

This case was initiated through HUD's Quality Assurance division and referred to OIG. Stonegate Mortgage alleged that although the loan application showed (b) (6) Easy Street Mortgage as the loan officer who originated the loan, it was actually originated by an employee of Easy Street Mortgage, who was also the seller.<sup>2</sup> The employee allegedly took the loan application, and conducted the offering and negotiating of the terms of the loan with the borrower. The undisclosed identity of interest between Easy Street Mortgage and the seller (the lender's employee) allegedly violated HUD's identity of interest requirements. Therefore, the loan did not qualify for FHA insurance.

### RESULTS OF INVESTIGATION

We issued a referral to HUD's Office of General Counsel recommending that HUD pursue an action under the Program Fraud Civil Remedies Act (PFCRA), 31 U.S.C. (United States Code) 3801-3812. On May 13, 2014, HUD issued a complaint to (b) (6)(b) (6) Easy Street Mortgage, that alleged he was liable for civil penalties under the PFCRA statute for causing a false statement to be made to HUD. To resolve the matter and to avoid the expense and uncertainty of litigation, HUD accepted a settlement payment of \$750.<sup>3</sup>

### RECOMMENDATION

We recommend that HUD's Office of General Counsel, Office of Program Enforcement,

- 1A. Allow HUD OIG to post \$750 to HUD's Audit Resolution and Corrective Actions Tracking System, as funds put to better use.

HUD's Office of General Counsel, Office Program Enforcement has agreed to the recommendation. No further action is required.

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<sup>2</sup> DBG Holdings & Management, LTD was the seller of the property. The managing member of this company was the employee of Easy Street Mortgage that allegedly originated the loan under false pretenses.

<sup>3</sup> During our investigation of the allegations, HUD obtained a lifetime indemnification of the loan from Stonegate Mortgage and has not incurred claims or losses on the loan.





**U.S. Department of Housing and Urban Development**  
**Office of Inspector General**  
Office of Audit - Civil Fraud Division  
451 7<sup>th</sup> Street, SW  
Washington, DC 20410

**MEMORANDUM NO.**  
**2012-CF-1801**

March 30, 2012

MEMORANDUM FOR: Dane M. Narode, Associate General Counsel for Program Enforcement, CACC

FROM: Kim Randall, Director, Civil Fraud Division, GA

SUBJECT: Settlement Agreement – U.S. Attorney's Office, Central District of CA  
(b) (7)(C)

### INTRODUCTION

The Office of Inspector General (OIG) conducted a civil fraud review of allegations received in a referral from the U.S. Department of Housing and Urban Development (HUD) Quality Assurance Division (QAD). The QAD referral (#22156) provided information received from Mountain West Financial, Inc. on seven loans originated by Great Western Financial Group (b) (7)(C) for which (b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C) HUD insured 5 of the 7 loans. Mountain West Financial reported that false income verifications were included in each of the five insured loans.

### METHODOLOGY AND SCOPE

Based on the QAD referral and cooperation from Great Western Financial Group, we reviewed 35 loans with indications of fraud. Of these 35 loans, the Federal Housing Administration (FHA) had endorsed 29 loans and refused to insure 1 loan; 2 loans were insured by the Veterans Administration; and 3 were conventional loans. In addition, numerous interviews of borrowers, witnesses, and a document forger were conducted by HUD OIG and Federal Bureau of Investigation Special Agents.

**BACKGROUND**

We previously notified your office in January 2011, in memorandum 2011-CF-0015-CA, of a civil action filed in the Central District of California on June 16, 2010, under the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), 12 U.S.C. 1833a; and for temporary and permanent injunctive relief under 18 U.S.C. 1345. The complaint was filed against all of the following:

- (b) (7)(C) , an individual
- (b) (7)(C) the Team Realty Group
- (b) (7)(C) Nations West Investments
- (b) (7)(C) an individual
- (b) (7)(C) an individual
- (b) (7)(C) , an individual
- (b) (7)(C)(b) (7)(C) , an individual
- (b) (7)(C) an individual and
- (b) (7)(C) , an individual

(b) (7)(C) created and altered documents that (b) (7)(C) included in loans originated from (b) (7)(C) Team Realty Group office. (b) (7)(C) branches of three FHA-approved lenders from his Team Realty office: Great Western Financial Group, Inc.; Accu-Rate Lenders, Inc.; and PRMS Enterprises, Inc.

**RESULTS**

On (b) (7)(C)(b) (7)(C)(b) (7)(C) into a settlement agreement with the Department of Justice (b) (7)(C)(b) (7)(C)(b) (7)(C) to altering and falsifying documents at the behest and direction (b) (7)(C)(b) (7)(C)(b) (7)(C) to complete 320 hours of community service in lieu of paying a settlement of \$200,000. If (b) (7)(C) does not fully carry out (b) (7)(C) obligation under the settlement agreement, the Department of Justice will file the \$200,000 judgment with the court. (b) (7)(C) also agreed to have no participation in the real estate industry for the next 10 years.

**RECOMMENDATION**

We recommend that HUD's Office of General Counsel, Office of Program Enforcement

- 1A. Agree to allow HUD OIG to record the \$200,000 settlement in HUD's Audit Resolution and Corrective Actions Tracking System as Funds to be Put to Better Use. This is based on the defendant agreeing to perform 320 hours of community service in lieu of paying the monetary settlement, and the defendant being required to pay the settlement if (b) (7)(C) fails to complete the community service.





**U.S. Department of Housing and Urban Development**  
**Office of Inspector General**  
Office of Audit - Civil Fraud Division  
451 7<sup>th</sup> Street, SW  
Washington, DC 20410

**MEMORANDUM NO.**  
**2012-CF-1802**

March 30, 2012

MEMORANDUM FOR: Dane M. Narode, Associate General Counsel for Program Enforcement, CACC

FROM: Kim Randall, Director, Civil Fraud Division, GA

SUBJECT: Settlement Agreement – U.S. Attorney's Office, Central District of CA  
**(b) (6)(b) (6)**

### INTRODUCTION

The Office of Inspector General (OIG) conducted a civil fraud review of allegations received in a referral from the U.S. Department of Housing and Urban Development (HUD) Quality Assurance Division (QAD). The QAD referral (#22156) provided information received from Mountain West Financial, Inc. on seven loans originated by Great Western Financial Group **(b) (7)(C)** for which **(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C)** HUD insured 5 of the 7 loan. Mountain West Financial reported that false income verifications were included in each of the five insured loans.

### METHODOLOGY AND SCOPE

Based on the QAD referral and cooperation from Great Western Financial Group, we reviewed 35 loans with indications of fraud. Of these 35 loans, the Federal Housing Administration (FHA) had endorsed 29 and refused to insure 1 loan; 2 loans were insured by the Veterans Administration; and 3 were conventional loans. In addition, numerous interviews of borrowers, witnesses, and a document forger were conducted by HUD OIG and Federal Bureau of Investigation Special Agents.



**BACKGROUND**

In January 2011, we notified your office in memorandum 2011-CF-0015-CA of a civil action filed in the Central District of California on June 16, 2010, under the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), 12 U.S.C. 1833a; and for temporary and permanent injunctive relief under 18 U.S.C. 1345. The complaint was filed against all of the following:

- (b) (7)(C) , an individual
- (b) (7)(C) he Team Realty Group
- (b) (7)(C) Nations West Investments
- (b) (7)(C) an individual
- (b) (7)(C) an individual
- (b) (7)(C) , an individual
- (b) (7)(C)(b) (7)(C) , an individual
- (b) (7)(C) , an individual and
- (b) (7)(C) , an individual

(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C) at Team Realty Group.  
(b) (7)(C)(b) (7)(C) of three FHA-approved lenders from his Team Realty office: Great Western Financial Group, Inc.; Accu-Rate Lenders, Inc.; and PRMS Enterprises, Inc.

**RESULTS**

On (b) (7)(C)(b) (7)(C) entered into a settlement agreement with the Department of Justice (Attachment 2), and admitted to placing fraudulent information and documents in the mortgage files of (b) (7)(C) real estate clients. (b) (7)(C) to complete 320 hours of community service in lieu of paying a settlement of \$200,000. If (b) (7)(C) does not fully carry out (b) (7)(C) obligation under the settlement agreement, the Department of Justice will file the \$200,000 judgment with the court. (b) (7)(C) also agreed to have no participation in the real estate industry for one year.

**RECOMMENDATION**

We recommend that HUD’s Office of General Counsel, Office of Program Enforcement

- 1A. Agree to allow HUD OIG to record the \$200,000 settlement in HUD’s Audit Resolution and Corrective Actions Tracking System as Funds to be Put to Better Use. This is based on the defendant agreeing to perform 320 hours of community service in lieu of paying the monetary settlement, and the defendant being required to pay the settlement if (b) (7)(C) fails to complete the community service.



**U.S. Department of Housing and Urban Development**  
**Office of Inspector General**  
Office of Audit - Civil Fraud Division  
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Internet <http://www.hud.gov/offices/oig/>

**MEMORANDUM NO.**  
**2011-CF-1803**

September 29, 2011

MEMORANDUM FOR: Dane M. Narode, Associate General Counsel for Program  
Enforcement, CACC

FROM: Kim Randall, Director, Civil Fraud Division, GA

SUBJECT: Final Civil Action  
Beechwood Incorporated, Moreno Valley, CA

Alleged Violations of the Financial Institutions Reform, Recovery, and  
Enforcement Act of 1989

### **INTRODUCTION**

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), conducted a review to determine whether IndyMac Bank followed Federal Housing Administration (FHA) policies and procedures when it originated FHA-insured loans. Indymac had previously been a high-volume originator of FHA loans but was seized by the Federal Deposit Insurance Corporation (FDIC) in July 2008 and later filed bankruptcy.

We focused on loans secured by California properties and that were in claim or default status as of February 12, 2009. Within this group, we identified a set of questionable loans originated by Indymac that had been generated by Beechwood Incorporated. Beechwood is a company located in Moreno Valley, CA, that conducts various real estate services.

Based on our review of the Beechwood loans, the U.S. Attorney's Office of the Central District of California, Western Division, filed a civil complaint against the company and four individuals associated with the company. The U.S. Attorney's Office filed the complaint under the Financial



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Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. (United States Code) 1833a, alleging that Beechwood and the individuals made false statements in support of a loan application and devised a scheme to defraud a financial institution.

### **SCOPE AND METHODOLOGY**

Using HUD databases, we identified 4,360 FHA-insured loans that Indymac had originated from June 1985 through October 2008. As of February 12, 2009, the databases showed that 86 of the loans for California properties were in claim or default status. We reviewed the 86 loans through either the HUD loan binders or HUD databases and performed the following steps:

- Identified Indymac's loan originations through HUD's Single Family Data Warehouse,
- Analyzed pertinent information from the FHA loan binders,
- Obtained income information from California's Employment Development Department,
- Interviewed pertinent individuals, and
- Reviewed HUD's Single Family Asset Management System for HUD loss information.

### **BACKGROUND**

Indymac was headquartered in Pasadena, CA, and at one time, had 191 active branches. It was an unconditional direct endorsement lender for FHA loans from July 2001 until FDIC seized it on July 11, 2008. Soon after that, our office began to review Indymac's loan origination practices.

As part of its loan origination business, Indymac had entered into an agreement with Beechwood (also d.b.a. Beechwood Realty and Beechwood Services) to become the company's exclusive in-house lender for its real estate business. In 2008 and 2009, Beechwood real estate salespersons, Beechwood Services (escrow and notary services), and Indymac loan officers operated within the same building as a "one stop shop." The arrangement allowed Indymac and Beechwood to provide loan services, real estate agent services, and escrow and notary services to their clients.

### **RESULTS**

Indymac originated several Beechwood-related loans containing questionable rental income information. The questionable loans appeared to contain false rental agreements that were material to the borrowers' income used to qualify them for the FHA-insured loans. We referred our findings to the U.S. Attorney's Office of the Central District of California.

On June 15, 2010, the Civil Division of the U.S. Attorney's Office filed a complaint under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, based on the results of our review and referral. In its complaint, the U.S. Attorney's Office alleged that Beechwood and four individuals conspired to orchestrate a scheme to qualify their otherwise unqualified real estate and loan clients for new home loans. Each client wanted to purchase a new home but owned other property that he or she could neither sell nor afford to keep and, thus, could not qualify for a new FHA loan from Indymac. To qualify their clients for the new FHA loans, the individuals allegedly caused false rental income documents and false rental agreements to be



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placed into their clients' home loan applications to influence Indymac's decision as to whether to approve the borrowers' applications for FHA-insured home loans or fund these loans. The complaint alleged wrongdoing on three FHA-insured loans and demanded civil money penalties against Beechwood and the individuals.

On June 1, 2011, Beechwood entered into a settlement agreement to pay \$100,000 to the U.S. Government to resolve the complaint. The parties agreed that the settlement agreement was not an admission of liability or fault on the part of either party and was entered into for the purpose of compromising disputed claims arising under or related to the complaint and to avoid the expenses and risks of litigation.

### **RECOMMENDATION**

We recommend that HUD's Office of General Counsel, Office of Program Enforcement,

- 1A. Agree to allow HUD OIG to post the \$100,000 settlement to HUD's Audit Resolution and Corrective Actions Tracking System.



**U.S. Department of Housing and Urban Development**  
**Office of Inspector General**  
Office of Audit - Civil Fraud Division  
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**MEMORANDUM NO.**  
**2011-CF-1804**

September 27, 2011

MEMORANDUM FOR: Dane M. Narode, Associate General Counsel for Program Enforcement, CACC

FROM: Kim Randall, Director, Civil Fraud Division, GA

SUBJECT: Settlement Agreement – U.S. Attorney’s Office, Central District of CA  
**(b) (7)(C)**

### INTRODUCTION

The Office of Inspector General (OIG) conducted a civil fraud review of allegations received in a referral from the U.S. Department of Housing and Urban Development (HUD) Quality Assurance Division (QAD). The QAD referral (#22156) provided information received from Mountain West Financial, Inc., on seven loans originated by Great Western Financial Group **(b) (7)(C)** for which **(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C)** **(b) (7)(C)(b) (7)(C)** UD insured 5 of the 7 loans. Mountain West Financial reported that false income verifications were included in each of the five insured loans.

### METHODOLOGY AND SCOPE

Based on the QAD referral and cooperation from Great Western Financial Group, we reviewed 35 loans with indications of fraud. Of these 35 loans, the Federal Housing Administration (FHA) had endorsed 29 loans and refused to insure 1 loan; 2 loans were insured by the Veterans Administration; and 3 were conventional loans. In addition, numerous interviews of borrowers, witnesses, and a document forger were conducted by HUD OIG and Federal Bureau of Investigation Special Agents.



**BACKGROUND**

We previously notified your office in January 2011, in memorandum #2011-CF-0015-CA, of a civil action filed in the Central District of California on June 16, 2010, under the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), 12 U.S.C. 1833a; and for temporary and permanent injunctive relief under 18 U.S.C. 1345. The complaint was filed against all of the following:

- (b) (7)(C) , an individual
- (b) (7)(C) the Team Realty Group
- (b) (7)(C) Nations West Investments
- (b) (7)(C) , an individual
- (b) (7)(C) , an individual
- (b) (7)(C) , an individual
- (b) (7)(C)(b) (7)(C) , an individual
- (b) (7)(C) , an individual and
- (b) (7)(C) , an individual

(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C) Team Realty Group office. (b) (7)(C)(b) (7)(C) of three FHA-approved lenders: Great Western Financial Group, Inc., Accu-Rate Lenders, Inc., and PRMS Enterprises, Inc., from (b) (7)(C) Team Realty office.

**RESULTS**

On (b) (7)(C)(b) (7)(C) into a settlement agreement with the Department of Justice (attached). (b) (7)(C) to falsely certifying to the truthfulness and accuracy of documents and information in mortgage loan applications on FHA-insured loans. (b) (7)(C) agreed to complete 320 hours of community service in lieu of paying a settlement of \$200,000. If (b) (7)(C) does not fully carry out (b) (7)(C) obligation under the settlement agreement, the Department of Justice will file the \$200,000 judgment with the court. (b) (7)(C) also agreed to have no participation in the real estate industry for the next 10 years.

**RECOMMENDATION**

We have made no recommendation for HUD action on this settlement agreement and therefore, no entries will be made in HUD's Audit Resolution and Corrective Actions Tracking System. As such, no management decision is due from HUD. However, we will identify the settlement agreement result as an administrative sanction in OIG's Semiannual Report to Congress for fiscal year ended September 30, 2011.





**U.S. Department of Housing and Urban Development**  
**Office of Inspector General**  
Office of Audit - Civil Fraud Division  
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**MEMORANDUM NO.**  
**2011-CF-1805**

September 27, 2011

MEMORANDUM FOR: Dane M. Narode, Associate General Counsel for Program  
Enforcement, CACC

FROM: Kim Randall, Director, Civil Fraud Division, GA

SUBJECT: Settlement Agreement - U.S. Attorney's Office, Central District of CA  
**(b) (7)(C)(b) (7)(C)**

### INTRODUCTION

The Office of Inspector General (OIG) conducted a civil fraud review of allegations received in a referral from the U.S. Department of Housing and Urban Development (HUD) Quality Assurance Division (QAD). The QAD referral (#22156) provided information received from Mountain West Financial, Inc., on seven loans originated by Great Western Financial Group **(b) (7)(C)** for which **(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C)** **(b) (7)(C)(b) (7)(C)** UD insured 5 of the 7 loans. Mountain West Financial reported that false income verifications were included in each of the five insured loans.

### METHODOLOGY AND SCOPE

Based on the QAD referral and cooperation from Great Western Financial Group, we reviewed 35 loans with indications of fraud. Of the 35 loans, the Federal Housing Administration (FHA) had endorsed 29 loans and refused to insure 1 loan; 2 loans were insured by the Veterans Administration; and 3 were conventional loans. In addition, numerous interviews of borrowers, witnesses, and a document forger were conducted by HUD OIG and Federal Bureau of Investigation Special Agents.

**BACKGROUND**

We previously notified your office in January 2011, in memorandum #2011-CF-0015-CA, of a civil action filed in the Central District of California on June 16, 2010, under the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), 12 U.S.C. 1833a; and for temporary and permanent injunctive relief under 18 U.S.C. 1345. The complaint was filed against all of the following:

- (b) (7)(C) , an individual
- (b) (7)(C) the Team Realty Group
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- (b) (7)(C) an individual
- (b) (7)(C) , an individual
- (b) (7)(C) , an individual
- (b) (7)(C)(b) (7)(C) , an individual
- (b) (7)(C) , an individual and
- (b) (7)(C) , an individual

(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C) Team Realty Group office. (b) (7)(C)(b) (7)(C) three FHA-approved lenders: Great Western Financial Group, Inc., Accu-Rate Lenders, Inc., and PRMS Enterprises, Inc., from his Team Realty office.

**RESULTS**

On (b) (7)(C)(b) (7)(C) into a settlement agreement with the Department of Justice (attached). (b) (7)(C) to acting (b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C) and to making no payments on the associated loan, resulting in default. (b) (7)(C) to (b) (7)(C) in a transaction that resulted in an FHA-insured loan originated by (b) (7)(C) for Great Western Financial Group. This FHA loan is currently in active status. (b) (7)(C) to complete 320 hours of community service in lieu of paying a settlement of \$200,000. If (b) (7)(C) does not fully carry out (b) (7)(C) obligation under the settlement agreement, the Department of Justice will file the \$200,000 judgment with the court. (b) (7)(C) to have no participation in the real estate industry for the next 10 years.

**RECOMMENDATION**

We have made no recommendation for HUD action on this settlement agreement and therefore, no entries will be made in HUD's Audit Resolution and Corrective Actions Tracking System. As such, no management decision is due from HUD. However, we will identify the settlement agreement result as an administrative sanction in OIG's Semiannual Report to Congress for fiscal year ended September 30, 2011.



**U.S. Department of Housing and Urban Development  
Office of Inspector General**

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**MEMORANDUM NO.  
2011-CF-1802**

August 1, 2011

MEMORANDUM FOR: Dane M. Narode, Associate General Counsel for Program  
Enforcement, CACC

FROM: Kim Randall, Director, Civil Fraud Division, GA

SUBJECT: Final Civil Action  
(b) (6)(b) (6)  
U.S. Department of Housing and Urban Development Real Estate-  
Owned Program Violations

**INTRODUCTION**

The Office of Inspector General (OIG) reviewed alleged violations of U.S. Department of Housing and Urban Development (HUD) real estate-owned (REO) owner-occupancy program requirements by (b) (6)(b) (6). Our office received the complaint through the OIG hotline. The complainant alleged that (b) (6)(b) (6) violated HUD's rules and regulations when (b) (6) bought a HUD REO home as an owner-occupant purchaser but did not intend to occupy the property. The objective of our review was to determine whether (b) (6) complied with the owner-occupant requirements of HUD's REO housing program.

**METHODOLOGY AND SCOPE**

We reviewed documentation received from HUD's Atlanta Homeownership Center, as well as the mortgage refinance file, the resale closing file, and utility records for the subject property. We also interviewed the purchaser of the HUD REO property (b) (6)(b) (6).



## BACKGROUND

When a HUD home becomes available for sale, the principal method of sale is a competitive sales procedure. The property is publicly advertised for 10 days for sealed bids, with a possibility for an extended listing period. It is usually listed on the Multiple Listing Service and on Internet listing sites maintained by management companies under contract to HUD. An independent appraisal determines the list price. Any real estate broker who is properly registered with HUD may submit a contract for purchase. HUD policy gives priority to owner-occupant purchasers (such as buyers committing to live in the home as their primary residence) during the initial 10 days of the list period, in accordance with 24 CFR 291.205. If the property remains unsold at the conclusion of the 10-day period, a review of all bids is conducted, including investor bids, for the highest acceptable bid.

The winning owner-occupant bidder certifies on HUD Form 9548, Sales Contract, that the purchased property will be owner occupied as the primary residence. The bidder, a real estate agent, and a HUD official sign the form. The purchaser also certifies on HUD Form 9548-D, Addendum to the Sales Contract, that he or she has not purchased a HUD-owned property within the past 24 months and will occupy the property as his or her primary residence for at least 12 months. The real estate broker certifies on HUD Form 9548-D that he or she has not knowingly submitted the HUD-9548, Sales Contract, for the property on behalf of an investor purchaser. The broker further certifies that he or she has discussed the penalties for false certification with the purchaser(s).

## RESULTS

We believe that (b) (6) failed to comply with the HUD REO program requirement that an individual who purchased a REO home during its initial offering period must be the owner-occupant of the purchased home for 1 full year. (b) (6) (b) (6) purchased the subject property as a priority purchaser and owner-occupant through the REO program. (b) (6) certified that he was submitting the offer to purchase as an owner-occupant and would occupy the property as his primary residence for at least 12 months. However, we determined that (b) (6) did not intend to occupy the property, nor did he ever live in the property. (b) (6) sold the property within 4 months of purchase.

On April 14, 2011, HUD notified (b) (6) of its intention to seek a false statement charge under the Program Fraud Civil Remedies Act. On May 31, 2011, HUD reached a settlement with (b) (6) who paid \$5,000 to HUD to resolve the matter.

## RECOMMENDATION

We recommend that HUD's Office of General Counsel, Office of Program Enforcement,

- 1A. Agree to allow HUD OIG to record the \$5,000 settlement collected from (b) (6) into HUD's Audit Resolution and Corrective Actions Tracking System.

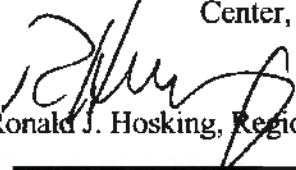


U.S. Department of Housing and Urban Development  
Office of Inspector General  
Region VII Office of Audit, 7AGA  
Gateway Tower II - 5<sup>th</sup> Floor  
400 State Avenue  
Kansas City, KS 66101-2406

MEMORANDUM NO:  
2010-KC-1801

June 4, 2010

MEMORANDUM FOR: Craig T. Clemmensen, Director of the Departmental Enforcement Center, CACB

FROM:  Ronald J. Hosking, Regional Inspector General for Audit, 7AGA

SUBJECT: (b) (6)(b) (6) Performed Substandard Audits of FHA Lenders

### INTRODUCTION

We conducted a review of (b) (6)(b) (6)(b) (6)(b) (6) to determine whether its audits of Federal Housing Administration (FHA)-approved lenders were performed in accordance with U.S. Department of Housing and Urban Development (HUD) requirements and generally accepted government auditing standards.

### METHODOLOGY AND SCOPE

We reviewed 20 audits of 18 lenders. The audits were chosen based on risk indicators such as clients using the services of Access QC, Inc., as well as audits that had Quality Assurance Division findings. To accomplish our objective, we reviewed the audit workpapers and permanent files for each audit chosen. Additionally, we reviewed the HUD Consolidated Audit Guide as well as other applicable laws and regulations. Next, we interviewed key HUD staff, (b) (6) and accounting industry officials to gain an understanding of the firm and the industry in which it operates.

Our audit period generally covered lenders' audits for fiscal years 2006 through 2008. We expanded the period as necessary to address issues identified during our audit file reviews. We conducted the audit work from August 2009 through February 2010 in (b) (6)(b) (6)(b) (6)(b) (6) (b) (6)(b) (6)(b) (6)(b) (6) and at the office of HUD's Office of Inspector General (b) (6) (b) (6)

## BACKGROUND

We reviewed (b) (6) based on a confidential hotline complaint. (b) (6) is a firm, based in Lenexa, KS, that specializes in performing FHA lender audits. It issued audited financial statements for a significant number of FHA lenders: 83 in 2006, 110 in 2007, and 110 in 2008.

(b) (6) received an adverse report on its most recent peer review in 2008. The report noted 12 deficiencies, including a lack of

- Testing of material accounts, fixed assets, and receivables;
- Maintaining independence;
- Confirming significant debt;
- Documenting going concern considerations performed;
- Documenting risk standards;
- Completing reporting and disclosure checklists;
- Referring to authoritative literature during the preparation of audit engagement letters;
- Performing postissuance monitoring; and
- Documenting analytical, fraud risk, and audit procedures performed.

On December 11, 2009, the Kansas Society of Certified Public Accountants Peer Review Committee agreed to accept the 2008 peer review report and letter of comments pending (b) (6) agreement to and compliance with the following requirements by January 31, 2010:

- Having a postissuance review of the firm's next governmental audit, nongovernmental audit, and engagement and reporting all findings from the three reviews to the committee.
- Providing proof that all professional staff completed 8 hours of training in risk assessment standards, audit documentation, and HUD audits.
- Providing the firm's monitoring report and reporting all findings to the committee.

(b) (5)(b) (5)(b) (5)(b) (5)(b) (5)(b) (5)

## RESULTS OF REVIEW

(b) (6) did not follow HUD requirements and generally accepted government auditing standards, resulting in substandard audits of FHA lenders. The following summarizes the results of our review:

### Insufficient Audits of Lenders' HUD Compliance

For each financial audit, (b) (6) signed the Independent Auditor's Report on Compliance With Specific Requirements Applicable to Major HUD Programs, stating that it audited the compliance of the mortgage company using the specific program requirements that are applicable to each of its major HUD-assisted programs and did so in accordance with generally accepted government auditing standards and other auditing requirements. However, (b) (6) could



produce no documentation to support the claimed audit work on 5 of the 20 audits reviewed. Further, it could produce only limited (and insufficient) documentation to support the claimed audit work on 15 of the 20 audits reviewed.

#### **Insufficient Audits of Lenders' Internal Controls**

For each financial audit, (b) (6) signed the Independent Auditor's Report on Internal Control Combined Report Applicable to Internal Control Over Financial Reporting Based on an Audit of Financial Statements and Internal Control Over Compliance for HUD-Assisted Programs, stating that it had conducted the audit in accordance with generally accepted government auditing standards and other auditing requirements. The reports stated that in planning and performing the audit of the financial statements and compliance, (b) (6) considered the company's internal controls over financial reporting and compliance with requirements that would have a direct and material effect on a major HUD-assisted program to determine its auditing procedures for the purpose of expressing an opinion on the financial statements and compliance. However (b) (6) could produce no documentation to support the claimed audit work on 8 of the 20 audits reviewed.

#### **Lack of Independence**

(b) (6) lacked independence due to a personal impairment. (b) (6) (b) (6) (b) (6) (b) (6) a company called (b) (6) (b) (6) which provided its clients with quality control services and online file archiving and retrieval. (b) (6) (b) (6) (b) (6) (b) (6) had four clients in common according (b) (6) (b) (6) (b) (6) (b) (6) (b) (6) as a contractor for several of the lenders audited by (b) (6). (b) (6) was in a position to exert direct and significant influence over the entities' quality control function, which was an area that (b) (6) audited; therefore, independence was impaired.

#### **Lack of Sufficient Audit Documentation**

(b) (6) lacked sufficient documentation of the audit work completed based on Yellow Book requirements. The audit programs lacked workpaper references for work signed and dated by the auditor as complete. The workpaper references that were given did not always support actual completion of the indicated audit steps, and, therefore, not all steps in the audit program were completed. The audit program had "NONE," "N/A," or "NCN" listed as the workpaper reference and was signed and dated by the auditor, but no further information/documentation was provided regarding why the work was not performed. The audit programs required several discussions on various topics including engagement team and fraud risk discussions. The workpapers for these discussions did not sufficiently document what was discussed or what conclusions were reached. In 6 of the 20 audits, the audit programs were missing from the workpapers, making it impossible to determine what steps the auditor had completed.

#### **Lack of Audit Confirmations**

(b) (6) lacked proof that audit confirmations were sent during 18 of the 20 lender audits to verify accounts for cash, accounts receivable, accounts payable, leases, notes, etc. Some workpapers noted that confirmations were not obtained because alternative procedures were performed. The alternative procedures consisted of obtaining 2 to 3 months of bank statements, comparing beginning and ending balances, and looking for erasures and alterations. These documents were faxed/e-mailed copies of the bank statements that passed through the clients' hands.



### **Obtaining the Client's M (Access) Number and Password**

(b) (6) requested that the FHA lenders provide it with the client's M (access) number and password for HUD's FHA Connection database, which is used in the required annual recertification process for FHA lenders. HUD's Office of Lender Approval stated that (b) (6) should not ask for this information and if someone in the audit firm assisted clients with uploading their financial information, the firm should apply for its own access number. (b) (6) obtained the client's M (access) number and password for HUD's FHA Connection database in 13 of the 20 audits reviewed.

### **Providing Clients With Quality Control Plans**

(b) (6) provided FHA lender clients with written quality control plans when the lenders were supposed to already have such plans and a quality control process in place. The list of documentation needed from the client stated, "Check here if we need to supply one." (b) (6) confirmed that it provided quality control plans to some of its clients. For one audit, the client checked the line for (b) (6) to supply a quality control plan. We identified five lenders that had identical quality control plans and three other lenders that had identical quality control plans, indicating that (b) (6) may have supplied these plans to the lenders. Additionally, (b) (6) was inconsistent in identifying quality control issues. (b) (6) stated that in past years, the firm only ensured that its clients had quality control plans and did not obtain quality control reviews or perform additional quality control testing. HUD's Quality Assurance Division cited six of the lenders for deficiencies that (b) (6) should have also identified and reported as audit findings.

### **Irregularities in Adjusted Net Worth**

(b) (6) made adjustments to lenders' net worth at the end of the audit year to meet HUD's adjusted net worth requirements to remain an FHA lender and without having to report the deficient net worth as an audit finding.

(b) (6) reclassified "loans from shareholders" to "contributed capital" after noticing that the lender would be deficient on its net worth requirement. In essence, (b) (6) converted debt to equity to increase the lender's adjusted net worth.

(b) (6) made adjustments to the financial statements for one lender to add an additional division of the lender. (b) (6) indicated that the auditor performing the audit failed to include the division. The division provided additional resource/expenses in the following areas: cash in bank accounts, fixed assets, deposits (vendors/leases), accounts payable, notes payable, and member equity. The only support shown in the workpapers for these updated financial statements was 3 months of bank statements for the division's bank account and several invoices. The client would have been short on its adjusted net worth had the additional division not been added to the financial statements.

(b) (6) did not verify an event occurring after the end of the fiscal year for one lender, and the event materially affected the financial statements. In the audit, (b) (6) cited the lender for having adjusted net worth below the HUD requirement. To cure the deficiency, a stockholder transferred a single-residence rental property to the company's assets and cash. (b) (6) audit file

[REDACTED]

contained no documentation showing that (b) (6) verified the appraised property value or related liability of the property contributed.

**RECOMMENDATIONS**

We recommend that the Director of the Departmental Enforcement Center

1A. Seek debarment of (b) (6)(b) (6) [REDACTED]



Issue Date:  
April 30, 2009

Audit Report Number  
2009-FO-0005

TO: Joseph J. Murin, President, Government National Mortgage Association, T

FROM: Thomas R. McEnanly, Director of Financial Audit Division, GAF

SUBJECT: Mortgage-Backed Securities Program Document Review

## **HIGHLIGHTS**

### **What We Audited and Why**

We audited Government National Mortgage Association's (Ginnie Mae) Mortgage-Backed Securities (MBS) program's contract documents and other program related representations. Additionally, we reviewed certain business practices related to ensuring that mortgages were insured. We conducted this audit because Office of Inspector General (OIG) senior management officials had concerns about potential internal control weaknesses in Ginnie Mae's MBS program based on past loan origination fraud cases reported in the latter part of 2007. Our objectives were to determine whether Ginnie Mae (1) agreements with the issuers sufficiently protected Ginnie Mae against fraud or other misrepresentation in the MBS program and (2) had implemented sound business practices to ensure that only insured mortgages remained in Ginnie Mae pools.

### **What We Found**

While our audit did not disclose instances in which Ginnie Mae agreements with the issuers were insufficient to protect the agency against losses, we had concerns related to certain Ginnie Mae business practices. Our concerns were related to



controls over business practices for ensuring that loans in Ginnie Mae pools were insured within a reasonable period after issuance.

### **What We Recommend**

We recommend that the President of the Ginnie Mae develop and implement policies and procedures for assessing issuer reasonableness in obtaining FHA mortgage insurance, including those procedures for monitoring and following up on unmatched loan exceptions.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

### **Auditee's Response**

We provided the draft report to Ginnie Mae on February 23, 2009, and held an exit conference on March 4, 2009. On March 20, 2009, Ginnie Mae provided its written response which outlined actions taken during the audit to address the deficiencies noted in the report. Ginnie Mae concurred on all audit recommendations except audit recommendation 1E. The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix A of this report.

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## BACKGROUND AND OBJECTIVES

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The Government National Mortgage Association (Ginnie Mae) is a wholly owned corporate instrumentality of the United States within the U.S. Department of Housing and Urban Development (HUD). It was established through a 1968 amendment to Title II of the National Housing Act. Its mission is to support expanded affordable housing by providing an efficient government-guaranteed secondary market vehicle linking the capital markets with federal housing markets. Under section 306(g) of the National Housing Act, Ginnie Mae is authorized to guarantee the timely payment of principal and interest on securities that are based on and backed by pools composed of mortgages which are insured by the Federal Housing Administration (FHA), the U.S. Department of Agriculture (USDA) under the Rural Housing Service Program, or the U.S. Department of Veterans Affairs (VA) or guaranteed by the Secretary of HUD under section 184 of the Housing and Community Development Act of 1992.

Under the Ginnie Mae Mortgage-Backed Securities (MBS) program, only approved issuers are authorized to issue Ginnie Mae securities. Issuers in turn are bound by the terms and conditions of the MBS Guide, which is incorporated by reference into the Ginnie Mae guaranty agreement. Additionally, issuers are required to provide investors with a prospectus, which contains certain disclosures about the quality of the loans that are used as collateral for their investments. The MBS Guide requires that only federally insured mortgage loans be placed in Ginnie Mae pools.

To create a mortgage pool, approved issuers submit their loan pools in electronic format through GinnieNet<sup>1</sup> to the central processing and transfer agent/pool processing agent. Concurrent with the loan submission process, mortgage loan documents for all loans that are used to support the pool as collateral are transferred to a document custodian for safekeeping. A document custodian is typically a banking financial institution approved by Ginnie Mae. At the end of each month, the issuer provides loan level data updates to Ginnie Mae's risk management contractor for analysis and review.

In fiscal year 2007, the Office of Inspector General (OIG) became aware of misrepresentations involving at least two Ginnie Mae issuers. [REDACTED]

[REDACTED] These issuers defaulted in October 2006 and October 2007, respectively. We initiated the audit in connection with these issues. Our objectives were to determine whether Ginnie Mae (1) agreements with the issuers sufficiently protected Ginnie Mae against fraud or other misrepresentation in the MBS program and (2) had implemented sound business practices to ensure that only insured mortgages remained in Ginnie Mae pools after issuance.

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<sup>1</sup> GinnieNet is a proprietary system that is used primarily to transmit MBS pool loan data, final certifications and recertification information, and various monthly MBS forms/reports to Ginnie Mae.



## RESULTS OF AUDIT

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### Finding 1: Ginnie Mae Did Not Ensure That MBS Pools Were Insured within a Reasonable Period after Pool Issuance

Ginnie Mae did not design or implement effective controls over [REDACTED]

This condition occurred because of the [REDACTED]

[REDACTED] Consequently, the control gaps in the MBS program could leave Ginnie Mae vulnerable to fraud.

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#### **Business Practices on Loans in Ginnie Mae Mortgage-Backed Securities Pools**

Ginnie Mae is authorized, in accordance with section 306(g) of the National Housing Act, to guarantee timely payment of principal and interest on Ginnie Mae mortgage-backed securities. These securities are backed by pools of federally insured mortgages.<sup>3</sup> Under the Ginnie Mae MBS program, approved issuers create Ginnie Mae mortgage-backed securities by submitting pools of insured mortgage loans to Ginnie Mae through a pool processing agent. Once processed, the pool securities are delivered to the investors through the Federal Reserve Bank of New York.

For many years, Ginnie Mae has allowed the issuance of Ginnie Mae securities collateralized by single-family mortgage loans that were in the process of being insured but not yet insured. *OIG questioned this practice in February 1975 and again in May 2008.* (b) (5)(b) (5)(b) (5)(b) (5)(b) (5)(b) (5)(b) (5)(b) (5)(b) (5)

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<sup>2</sup> For purposes of this review, we used four months from the pool issuance date as a baseline for determining a reasonable period, which is consistent with the requirements for defective loans under section 14-8(D) of the MBS Guide. The MBS Guide defines defective loans as a mortgage (1) that cannot be insured or guaranteed by an agency of the federal government, (2) that has been refused by the insuring or guaranteeing agency, (3) for which federal agency insurance or guaranty has been withdrawn, or (4) that does not comply with the terms of the related securities. If a single-family mortgage or manufactured home loan is found to be defective within four months after the issue date of the securities, the issuer must cure the defect or replace the mortgage or loan in the pool or loan package with a substitute mortgage or loan. After the four-month period, replacement is not allowed, and the issuer must either cure the defect or repurchase the mortgage or loan out of the pool or loan package in an amount equal to the remaining principal balance of the loan less the principal payments advanced by the issuer on the loan.

<sup>3</sup> The loans in Ginnie Mae pools are insured by FHA, VA, USDA, or HUD.

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As of January 2009, Ginnie Mae had not formally established a policy that defined that “short period of time.” Further, it had retained uninsured loans and/or loans with undetermined mortgage insurance in the Ginnie Mae MBS portfolio for extended periods. For example, a majority of the loans in the portfolio for one defaulted issuer were uninsured for significantly unreasonable periods. Additionally, \$2.1 billion in loans that were more than four months old had undetermined mortgage insurance status, and 64 percent of the loans were more than a year old as of March 2008. The causes of the undetermined mortgage insurance were unresolved as of January 2009. Detailed discussions of these issues are provided in the succeeding paragraphs.

**A Significant Portion of Loans  
 for a Single Issuer Were  
 Uninsured**

The issuer defaulted in October 2006. As of September 30, 2006, 123 of its 305 active single-family FHA loans (or 40 percent) with \$17.8 million in remaining principal balance were uninsured. Of the 123 uninsured loans, 71 (58 percent) had been uninsured for more than four months and in some cases up to 16 months after issuance of the securities.

Below is the aging analysis of the 123 uninsured single-family FHA loans.

**Exhibit 1. Aging of uninsured [REDACTED] loans as of September 30, 2006**

Days	Loan count	Percentage of loan count	Remaining principal balance	Percentage of remaining principal balance
0 - 29	18	14.63%	\$ 3,030,047.25	16.97%
30 - 60	12	9.76%	1,823,479.60	10.21%
61 - 91	17	13.82%	2,328,267.88	13.04%
92 - 121	5	4.07%	804,519.28	4.51%
122 - 152	4	3.25%	679,378.37	3.80%
153 - 182	4	3.25%	430,980.30	2.41%
183 - 365	44	35.77%	6,464,532.77	36.20%
>365	19	15.45%	2,295,190.27	12.85%
<b>Totals</b>	<b>123</b>	<b>100%</b>	<b>\$ 17,856,395.72</b>	<b>100%</b>

Source: Aging analysis prepared by OIG.



[REDACTED] while the remaining 182 of the 305 active single-family FHA loans had been insured, 67 of these loans (37 percent) were insured between 123 to 345 days after issuance of the securities. Ginnie Mae was aware of these issues because its MBS Monitoring Division staff received monthly loan origination match exception reports, which are generated as a result of a loan-matching process.<sup>4</sup> All 123 uninsured loans identified in this finding were reported to Ginnie Mae in the exception reports, initially after four months of its pool issuance date and consistently each month thereafter. However, more than half of the mortgage insurance on these loans remained unresolved for several months. [REDACTED]

[REDACTED]

The serious delays in obtaining mortgage insurance for the loans and the varying degrees of late mortgage insurance exceptions identified in the report should have raised concerns about the loans' insurability. [REDACTED]

[REDACTED]

[REDACTED]

**Thousands of Single-Family  
FHA Loans Had Undetermined  
Mortgage Insurance Status**

As of March 2008, mortgage insurance status for 19,483<sup>6</sup> (of 2.7 million in FHA's active loan portfolio) single-family FHA loans in Ginnie Mae's portfolio

<sup>4</sup> On January 2003, Ginnie Mae implemented new procedures for verifying mortgage insurance with FHA by way of electronic loan data matching. To accomplish this task, specific data elements such as FHA case number, original principal balance, interest rate, etc., from Ginnie Mae's loan level data are matched to FHA's insurance loan level data (i.e., a two-string or five-string match).

<sup>5</sup> Ginnie Mae MBS Guide, section 4-8 (D). See footnote 2

[REDACTED]



with \$2.1 billion in remaining principal balance was undetermined for more than four months after their applicable pool issuance date. [REDACTED]

As indicated earlier, Ginnie Mae's MBS Monitoring Division staffs received monthly loan matching exception reports and were fully aware of the above issues. [REDACTED]

This condition was partly due to [REDACTED]

Below is the summary of the aging for 19,483 loans in the Ginnie Mae single-family FHA loan portfolio as of March 2008, according to the exception reports prepared by Ginnie Mae's contractor. This aging analysis showed a wide range of exceptions related to mortgages with undetermined mortgage insurance status as noted below.

[REDACTED]

<sup>1</sup> Ginnie Mae's risk management contractor performs the loan-matching process for Ginnie Mae.

**Exhibit 2. Loan aging of Ginnie Mae single-family unmatched FHA loan portfolio as of March 2008**

<b>Aging in days</b>	<b>Unmatched loans</b>	<b>Percentage of unmatched loans</b>	<b>Remaining principal balance</b>	<b>Percentage of remaining principal balance</b>
122 - 151	1,315	6.75%	\$ 176,606,871	8.38%
152 - 182	1,596	8.19%	\$ 211,402,631	10.03%
183 - 365	2,663	13.67%	\$ 383,550,270	18.20%
>365	13,909*	71.39%	\$1,335,541,244	63.38%
<b>Totals</b>	<b>19,483</b>	<b>100.00%</b>	<b>\$2,107,101,016</b>	<b>100.00%</b>

Source: Data provided by Ginnie Mae's risk management contractor.

\*Note: Of 13,909 unmatched loans, 4,403 loans totaling \$240,588,872 were issued before January 2003.

Ginnie Mae indicated that it was developing new procedures to strengthen the controls and monitoring of the unmatched loans. [REDACTED]

Additionally, the APM 08-21 (Changes to Ginnie Mae's Loan Matching Process) dated October 2, 2008, was issued in connection with this plan. We commend Ginnie Mae for taking proactive steps in this APM to address some of the issues or concerns noted in this report but more improvements are needed to refine the timeframes (i.e., timeframes before taking appropriate corrective action by Ginnie Mae against an issuer) established in the monitoring plan.

The noninsured loans placed in Ginnie Mae pools represented a technical noncompliance with section 306(g) of the National Housing Act because the underlying mortgages from the securities that constituted the pools had not fully met all statutory requirements. Although, we acknowledge Ginnie Mae's business decision to allow issuance of certain securities when some of the underlying loans had pending mortgage insurance, Ginnie Mae needs to ensure that its business processes support the statute's language or request a statutory revision from Congress to reflect current practices.

**Conclusions**

The above conditions resulted from [REDACTED]

- **Program policy regarding timing for mortgage insurance** - [REDACTED]

- [REDACTED] – Although there has been a process in place since January 2003 for identifying unmatched loans, [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]

These risks are threats to Ginnie Mae's MBS program and without proper corrective actions, the gap in the MBS program policies and procedures will continue to make Ginnie Mae susceptible to program risks, including fraud risks, which could undermine the overall integrity of the program.

### Recommendations

We recommend that the President of the Ginnie Mae

- 1A. Design and implement a program policy [REDACTED] consistent with current FHA direct endorsement and lender insurance program endorsement policies and procedures.
- 1B. Develop and implement formal written policies, procedures, and systems for monitoring and/or following up on unmatched loan exceptions and identify those who will be accountable for ensuring that proper follow-up actions are taken according to an established protocol.
- 1C. Review the 19,483 loans with undetermined mortgage insurance identified in this finding to determine whether these loans are defective. If loans are defective, Ginnie Mae should require the issuer to buy the loans out of the pools to ensure full compliance with MBS program requirements.
- 1D. Pursue appropriate legal actions available to Ginnie Mae against the defaulted issuer to recover any remaining losses for the 123 uninsured loans identified in this finding. [REDACTED] to ensure that Ginnie Mae will be indemnified for any losses incurred or to be incurred from these defective loans.



- 1E. Request a legislative proposal to amend the statute to align with the current practice of allowing uninsured mortgages to remain in a noncompliant status for a short period.

## SCOPE AND METHODOLOGY

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We conducted our review from January through November 2008 at HUD headquarters in Washington, DC. Initially, we selected for review the loan portfolio of two most recent defaulted Ginnie Mae issuers as of January 2008. We then further narrow our review focus on the loan portfolio of only one defaulted issuer based on the results of our survey. To accomplish our audit objectives, we

- Reviewed Ginnie Mae's internal operating procedures and the MBS Guide (HUD Handbook 5500.3, REV-1) to gain a basic understanding of the rules, policies, and procedures that govern the program. We also conducted walkthroughs with Ginnie Mae management officials and contractors to confirm our understanding of their processes, controls, and risk management approaches.
- Reviewed issuer representations in the Ginnie Mae guaranty agreement and other MBS legal documents. Additionally, we reviewed correspondence and loan level data files for one defaulted issuer.
- Interviewed Ginnie Mae management officials and its contractors to follow up on issues and/or observations noted during the course of our review.
- Performed 100 percent data analysis using Audit Command Language for one defaulted issuer by comparing electronic data of monthly pool and loan level data against the loan level data in FHA's Single Family Data Warehouse to identify anomalies or inconsistencies in the data. Our loan level data analysis was limited to FHA loans only.

We performed our review in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# INTERNAL CONTROLS

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Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are achieved:

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. They include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

---

## Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objectives:

Program policies and procedures that management has implemented to reasonably ensure that

- Guaranty programs meet their objectives;
- Valid and reliable data are obtained, maintained, and fairly disclosed in reports;
- Resource use is consistent with laws and regulations; and
- Resources are safeguarded against fraud, waste, and misuse.

We assessed the relevant controls identified above.

A significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

## Significant Weaknesses

Based on our review, we believe that the following item is a significant weakness:

- [REDACTED]



[REDACTED]

## APPENDIX A

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### AUDITEE COMMENTS AND OIG'S EVALUATION

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Ref to OIG Evaluation

Auditee Comments

See next page for auditee comments.

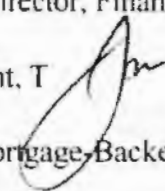


U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-9000

GOVERNMENT NATIONAL  
MORTGAGE ASSOCIATION

March 20, 2009

MEMORANDUM FOR: Thomas R. McEnanly, Director, Financial Audits Division, GAA

FROM: Joseph J. Murin, President, T 

SUBJECT: Draft Audit Report of Mortgage-Backed Securities Program Document Review

Thank you for giving me an opportunity to comment on the draft audit report regarding Ginnie Mae's mortgage-backed securities program documents. As you know, Ginnie Mae has implemented a number of important improvements to our risk management environment during 2008, and I am committed to working collaboratively with the Office of the Inspector General (OIG) as we continue to make further changes. Ginnie Mae's responses to specific recommendations follow.

**Recommendation 1A:** Design and implement a program policy that [REDACTED] consistent with current FHA direct endorsement and lender insurance program endorsement policies and procedures.

**Response:** Ginnie Mae agrees with this recommendation. On June 6, 2008, Ginnie Mae's Risk Committee approved a recommendation from the Office of Mortgage-Backed Securities to make a number of significant improvements to the matching program to leverage Ginnie Mae's limited resources [REDACTED]

[REDACTED] On September 26, 2008, Ginnie Mae's Risk Committee approved a more detailed implementation plan for these improvements. On October 28, 2008, Ginnie Mae issued an All Participants Memorandum (APM) to issuers describing the three major components of these changes, as well as the schedule for their implementation.

The first component, the "Origination Non-Match Notification Process," is a new monthly process that began on October 29, 2008. [REDACTED]

[REDACTED] As shown in the table below, Ginnie Mae has already seen significant improvement in the six months that these notices have been sent:

**Ginnie Mae Average Origination Non-Match Percentage**

September '08	October '08	November '08	December '08	January '09	February '09
21.6%	18.5%	18.5%	15.0%	12.3%	13.6%



The second component, the "Aged MC Process," is a new quarterly process that began on December 30, 2008. [REDACTED]

[REDACTED] Any issuer that receives this E-Notification in two consecutive quarters will be required to correct the problems or buy the loans out within 30 days. The first round of these letters will be issued in April 2009.

The third component, the "Terminated Loan Notification Process," is a new process that began on December 1, 2008. On a monthly basis, every issuer with a loan reported as terminated by the FHA ("MT") receives an E-Notification identifying the loans and instructing them to address the issue. Every quarter, any issuer with an MT loan in a pool for 90 days or more will be required to resolve the issue within 30 days or face possible disciplinary action. The first round of these quarterly letters will be issued in March 2009.

**Recommendation 1B:** Develop and implement formal written policies, procedures, and systems for monitoring and/or following up on unmatched loan exceptions and identify those who will be accountable for ensuring that proper follow-up actions are taken according to an established protocol.

**Response:** Ginnie Mae agrees with this recommendation. See response to Recommendation 1A above. Ginnie Mae has implemented significant improvements to its loan matching program, and has documented the changes through formal cases presented to its Risk Committee and an APM to Ginnie Mae issuers.

In addition, Ginnie Mae's Risk Analysis contractor has drafted updates to its procedures manual [REDACTED]

Separately, and in that same timeframe, Ginnie Mae also expects to update the loan matching section of its desk manual to reflect these changes.

**Recommendation 1C:** Review the 19,483 loans with undetermined mortgage insurance identified in this finding to determine whether these loans are defective. If loans are defective, Ginnie Mae should require the issuer to buy the loans out of the pools to ensure full compliance with MBS program requirements.

Comment 1 **Response:** Over 99 percent of the 19,483 loans referenced above match on FHA case number. [REDACTED]

Comment 1

As shown in the table below, this change decreased the number of unmatched loans from 19,483 to 5,946. Ginnie Mae sampled 252 loans to validate this approach; a manual query was performed on each loan in the FHA A-43i active file to confirm case number, property address and first payment date to verify that they represented the same loans as shown in Ginnie Mae's records.

[REDACTED]

Comment 1

[REDACTED]

[REDACTED]

**Recommendation 1D:** Pursue legal actions available to Ginnie Mae against the default issuer to recover any remaining losses for the 123 uninsured loans identified in this finding, [REDACTED] to ensure that Ginnie Mae will be indemnified for any losses incurred or to be incurred from these defective loans.

**Response:** [REDACTED]

**Recommendation 1E:** Request a legislative proposal to amend the statute to align with the current practice of allowing uninsured mortgages to remain in a noncompliant status for a short period.

Comment 2

**Response:** [REDACTED]

As you can see, we agree with many of the recommendations contained in the report, and we will continue enhancing our risk management practices, including strengthening specific policies and procedures to follow up on high risk issuers and loans. In conclusion, I want to reemphasize our commitment to a healthy, collaborative relationship with the OIG. I would be happy to meet with you to discuss this further.



## OIG's Evaluation of Auditee Comments

**Comment 1** Ginnie Mae stated that over 99 percent of the 19,483 loans with undetermined mortgage insurance identified in the draft report matched the FHA case number and that a significant portion of these loans do not appear to have mortgage insurance problems based on the results of a non-statistical sample of 252 loans. [REDACTED]

Our recommendation for Ginnie Mae to review 19,483 unmatched loans is geared towards resolving the status of those loans that have been in suspense for extended periods to ensure their efforts were primarily focused up on truly high risks loans. [REDACTED]

weaknesses in the internal control system and if not corrected timely can create opportunities for others to perpetrate fraud similar to what happened to one defaulted issuer that we identified in this report.

**Comment 2** Ginnie Mae stated that no legislative change is necessary based [REDACTED]

[REDACTED] For this reason, we continue to believe that Ginnie Mae needs to ensure that its business processes support the statute's language or request a statutory revision from Congress to conform to their current practices. Therefore, our recommendation or position on this matter did not change.



Issue Date September 30, 2002
Audit Case Number 2002-PH-1002

TO: Charles H. Williams, Director, HUD's Office of Multifamily Housing Assistance Restructuring, HY

FROM: Daniel G. Temme, Regional Inspector General for Audit, Mid-Atlantic, 3AGA

SUBJECT: AUDIT MEMORANDUM –Congressional Requested Audit of the Outreach and Training Assistance Grant Awarded to the Virginia Poverty Law Center  
Grant Number FFOT98029VA  
Richmond, Virginia

**INTRODUCTION**

We completed an audit of the Virginia Poverty Law Center's \$75,000 Outreach and Training Assistance Grant (OTAG). The objectives of the review were to determine if the Virginia Poverty Law Center used Section 514 grant funds for only eligible activities as identified in Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA), their agreements, and/or other requirements to further the Mark-to-Market Program. Also, we wanted to determine if the Virginia Poverty Law Center expended Section 514 funds for any lobbying activities. MAHRA specifically identified lobbying as an ineligible activity.

The audit identified that the grantee could not provide adequate support for \$63,050 in disbursements it made for salaries and fringe benefits and \$11,950 in indirect costs. In addition, contrary to the enabling legislation and the Office of Management and Budget's (OMB) Circular A-122, Cost Principles for Non-Profit Organizations, the grantee used grant funds to participate in a conference and a number of teleconferences that included various ineligible lobbying activities. Our report contains two recommendations to address the issues identified in this report.

Section 1303 of the 2002 Defense Appropriation Act (Public Law 107-117) requires the HUD Office of Inspector General to audit all activities funded by Section 514 of the MAHRA. The directive would include the Outreach and Training Assistance Grants (OTAG) and Intermediary Technical Assistance Grants (ITAG) administered by the Office of Multifamily Housing

Assistance Restructuring (OMHAR). Consistent with the Congressional directive, we reviewed the eligibility of costs with particular emphasis on identifying ineligible lobbying activities.

In conducting the audit, we reviewed the grantee's accounting records and interviewed responsible staff. We also reviewed the requirements in MAHRA, the OTAG Notice of Fund Availability, the OTAG grant agreement, HUD's requirements for grant agreements for nonprofit entities, and Office of Management and Budget's guidance on the allowability of cost for nonprofit grantees.

The audit covered the period September 1998 through May 31, 2002. We performed the fieldwork at the Virginia Poverty Law Center located at 201 West Broad Street, Suite 302, Richmond, VA 23220, during June through July 2002. We conducted the audit in accordance with Generally Accepted Government Auditing Standards. We held an exit conference with the Executive Director of the Virginia Poverty Law Center on August 27, 2002 and a follow up meeting on September 5, 2002.

We appreciate the courtesies and assistance extended by the personnel of the Virginia Poverty Law Center during our review.

In accordance with HUD Handbook 2000.06 REV-3, within 60 days please provide us, for each recommendation without a management decision, a status report on: (1) the corrective action taken; (2) the proposed corrective action and the date to be completed; or (3) why action is considered unnecessary. Additional status reports are required at 90 days and 120 days after report issuance for any recommendation without a management decision. Also, please furnish us copies of any correspondence or directives issued because of the audit.

Should you or your staff have any questions please contact Christine Begola at (410) 962-2520.

### SUMMARY

We found the Virginia Poverty Law Center (Law Center) did not maintain personnel activity reports in accordance with OMB Circular A-122 Attachment B, paragraph 7(m) to support \$63,050 in personal salaries and fringe benefits charged to the grant. In addition, the grantee could not support \$11,950 in indirect costs because it did not prepare a cost allocation plan per the guidance in OMB Circular A-122, Attachment A. According to the grantee's cost allocation procedures, all expenses are allocated based on time spent on each activity; however, since the grantee does not maintain detailed time reports to support its allocation rates, we could not determine whether the grantee's allocation plan was reasonable. Also, according to the grantee's reports to OMHAR, grantee staff attended a training conference and a number of teleconferences that included lobbying activities. However, due to the lack of adequate time records, we could not determine the total time and associated costs expended for these ineligible activities or verify the grantee's claim that its employees did not participate in the ineligible activities.



## BACKGROUND

The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) established the Office of Multifamily Housing Assistance Restructuring (OMHAR) within HUD. Utilizing the authority and guidelines under MAHRA, OMHAR's responsibility included the administration of the Mark-to-Market Program, which included the awarding, and oversight of the Section 514 Outreach and Training Assistance and Intermediary Technical Assistance Grants. The objective of the Mark-to-Market Program was to reduce rents to market levels and restructure existing debt to levels supportable by these reduced rents for thousands of privately owned multifamily properties with Federally insured mortgages and rent subsidies. OMHAR worked with property owners, Participating Administrative Entities, tenants, lenders, and others to further the objectives of MAHRA.

Congress recognized, in Section 514 of MAHRA, that tenants of the project, residents of the neighborhood, the local government, and other parties would be affected by the Mark-to-Market Program. Accordingly, Section 514 of MAHRA authorized the Secretary to provide up to \$10 million annually (\$40 million total) for resident participation, for the period 1998 through 2001. The Secretary authorized \$40 million and HUD staff awarded about \$26.6 million to 40 grantees (a total for 83 grants awarded). Section 514 of MAHRA required that the Secretary establish procedures to provide an opportunity for tenants of the project and other affected parties to participate effectively and on a timely basis in the restructuring process established by MAHRA. Section 514 required the procedures to take into account the need to provide tenants of the project and other affected parties timely notice of proposed restructuring actions and appropriate access to relevant information about restructuring activities. Eligible projects are generally defined as HUD insured or held multifamily projects receiving project based rental assistance. Congress specifically prohibited using Section 514 grant funds for lobbying members of Congress.

HUD issued a Notice of Fund Availability in fiscal year 1998 and a second in fiscal year 2000 to provide opportunities for nonprofit organizations to participate in the Section 514 programs. HUD provided two types of grants, the Intermediary Technical Assistance Grant (ITAG) and the Outreach and Training Assistance Grants (OTAG). The Notice of Fund Availability for the ITAG states that the program provides technical assistance grants through Intermediaries to sub-recipients consisting of: (1) resident groups or tenant affiliated community-based nonprofit organizations in properties that are eligible under the Mark-to-Market Program to help tenants participate meaningfully in the Mark-to-Market process, and have input into and set priorities for project repairs; or (2) public entities to carry out Mark-to-Market related activities for Mark-to-Market eligible projects throughout its jurisdiction. The OTAG Notices of Fund Availability state that the purpose of the OTAG program is to provide technical assistance to tenants of eligible Mark-to-Market properties so that the tenants can (1) participate meaningfully in the Mark-to-Market Program, and (2) affect decisions about the future of their housing.

OMHAR also issued a December 3, 1999 memorandum authorizing the use of OTAG and ITAG funds to assist at-risk projects. OMHAR identified these as non-Mark-to-Market projects where the owners were opting out of the HUD assistance or prepaying the mortgages.

Title 24 Code of Federal Regulation (CFR) Part 84 contain the uniform administrative requirements for grants between HUD and nonprofit organizations. The regulations (24 CFR Part 84.27) require that nonprofit grantees utilize the OMB Circular A-122, Cost Principles for Non-Profit Organization, in determining the allowability of costs incurred to the grant. OMB Circular A-122, Attachment B, outlines specific guidelines for allowability of charging salaries and related benefits to the grants and the records needed to support those salaries. For indirect costs charged to the grant, Attachment A of the Circular establishes restrictions for indirect costs, and specific methods and record keeping to support the allocation of costs.

The Circular also establishes unallowed costs associated with Federal and State lobbying activities. Simply stated, the use of Federal funds for any lobby activity is unallowable. OMB Circular A-122, Attachment B, identifies some examples of unallowable activities of lobbying. These include any attempt to influence an elected official or any Government official or employee (Direct Lobbying) or any attempt to influence the introduction, enactment or modification of any pending legislation by propaganda, demonstrations, fundraising drives, letter writing, or urging members of the general public either for or against the legislation (Grassroots Lobbying).

The Law Center applied for an OTAG grant under the 1998 Notice of Fund Availability for \$245,900, but was awarded \$75,000 in fiscal year 1999. As of March 2002, the entire grant was expended. The Law Center received annual financial audits of their activities for the periods ending June 30, 1999, 2000 and 2001. The auditor provided an unqualified opinion for each of the three years.

In addition to the OTAG grant, the Law Center received grants from other Federal and non-Federal sources. For example, the majority of the Law Center's operations are funded through grants from the Legal Services Corporation of Virginia (IOLTA). During the fiscal years 1999 – 2001 IOLTA provided the Law Center \$1,501,174 in funding. During that same time period, the Department of Justice provided funding, totaling \$386,364. The Law Center's total funding from all sources for the fiscal years 1999-2001 was \$2,334,118.

**FINDING: The Grantee Did Not Comply With HUD and OMB Requirements**

The Law Center did not maintain adequate accountability over its OTAG grant funds in accordance with HUD requirements and OMB Circular A-122. Specifically, the Law Center did not maintain adequate time records to adequately support personnel related costs and could not support the cost allocation method it used to charge indirect costs to the grant. In addition, the grantee used OTAG funds to attend a training conference and a number of teleconferences that included ineligible lobbying activities. However, although the grantee claimed its employees did not participate in those ineligible activities, we could not verify their claim because the grantee did not maintain adequate time records. As a result, the Law Center charged \$63,050 in salaries

and benefits and \$11,950 in indirect costs to the grant that were not adequately supported. The grantee stated they did not maintain detailed time records in compliance with the OMB Circular A-122 requirements, HUD had advised them they did not need to keep such records. However, the grantee did not have any written documentation to support this statement.

### Compensation for Personal Services

OMB Circular A-122, Attachment B, Paragraph 7, Compensation for Personal Services, states that reasonable compensation and fringe benefits to employees are grant fundable costs. The Circular also places specific salary record keeping requirements on the grantee. The grantee must maintain reports that account for the total activity for which an employee is compensated for in fulfillment of their obligations to the organization. The reports must reflect an after the fact determination of actual activity for each employee. Budget estimates do not qualify as support for charges to the grant. Grantees must also maintain reports reflecting the distribution of activity of each employee (professionals and nonprofessionals) whose compensation is charged, in whole or in part, directly to awards. OMB also requires that the employee or a responsible supervisor sign the report. In addition, in order to support the allocation of indirect costs, such reports must also be maintained for other employees whose work involves two or more functions or activities if a distribution of their compensation between such functions or activities is needed in the determination of the organization's indirect cost rate.

The Law Center did not maintain proper employment records per OMB guidance to support \$63,050 in salaries and benefits charged to the grant. Instead, all salary charged to the grant was based on estimated staff time spent on grant activities. To support this estimate, the grantee selected a one-month period, in this case October 2000, and asked staff to maintain a record showing the hours spent per week working on various grants. These hours were used to calculate a percentage of time spent on each grant by each employee for that month. These percentages were then projected for the entire year and used to determine an annual cost. However, when we tried to verify the allocation, we were told by the grantee's accountant that the base hours used for the allocation was an estimate of employee time for October 2000 and not the actual hours. Since the grantee used hourly estimates to determine the salary costs to the grant and did not maintain detailed time reports, we could not determine the type of activities the employee performed or the number of hours associated with those activities for this grant.

Although we found evidence that the Law Center performed activities to further the Mark-to-Market Program, we could not determine the amount of time spent on the activities reported due to the lack of adequate time records. When we asked the grantee for the support for the grant allocation, the grantee claimed HUD advised them that they did not have to keep detailed time records, however they could provide nothing in writing to support this claim.

### Allocating Indirect Costs to the Grant

The grantee allocated at least \$11,950 in indirect costs to the grant that were not fully supported. These indirect costs included travel, training, telephone, space cost and consumable supplies. OMB Circular A-122, Attachment A, provides guidance on the basic considerations for grant



fundable costs and allocation of indirect costs. The guidance provides that the grantee shall support a cost allocation taking into account all activities of the organization. Unless different arrangements are agreed to by the agencies concerned, the Federal agency with the largest dollar value of awards with an organization will be designated as the cognizant agency for the negotiation and approval of the indirect cost rates. A non-profit organization that does not have an approved cost allocation plan, shall submit an initial cost allocation plan within three months of receiving the award.

In the Law Center's case, the cognizant agency is the Department of Justice (DOJ). When we requested a copy of the plan the grantee's accountant provided us several conflicting schedules. However, we could not determine, and the grantee could not explain, how any of the funding from the grant was tied to the supporting documentation or the allocation rate used. Thus, it appears the grantee neither prepared nor submitted to DOJ or HUD a cost allocation plan after receiving their grants. Instead, the grantee used unsupported percentages based on estimates of employee's time for the allocation of cost. Furthermore, since the grantee drew down and accounted for OTAG funds from one general fund, that also included funds from non-HUD sources, an accurate allocation plan is essential to ensure funds are spent only for eligible activities. The grantee's allocation method does not provide this assurance.

### **Lobbying**

MAHRA specifically prohibits using Section 514 funds to lobby members of Congress or their staff. OMB Circular A-122, Attachment B, Paragraph 25, Lobbying places additional limitations on the grantee's use of Federal funds for lobbying. However, as we identified in the background section, the grantee also received non-Federal funds. The allowability and use of these funds for lobbying activities would not be restricted by the guidance in OMB Circular A-122.

We reviewed the grantee's monthly activity reports and, travel vouchers to identify meetings with legislative members or their staff. We also reviewed these reports for activities that did not meet the requirements of MAHRA and which are considered Grassroots lobbying.

Although we noted most of the grantee's employees are registered lobbyists with the Commonwealth of Virginia, we did not identify any meetings where the grantee met with legislative members or their staff. However, we did note, the grantee participated in a conference and a number of teleconferences sponsored by the National Alliance of HUD Tenants (NAHT) which included ineligible lobbying activities. For example, part of the Alliance's conference in June 1999 contained one training session entitled "How Congress Affects Us, and How We Can Affect Congress," and included a "How to Lobby Role-play." Another session included learning about the Alliance's 1999 lobbying campaign to win support for the Vento-Ramstad bill (H.R. 425) and Marking up to Market bill (H.R. 1336). The last session of the conference was entitled "Meetings with Congress people from Your State/District". Although the grantee claimed its employees did not attend these lobbying sessions, we could not verify this because the grantee did not maintain detailed employee time records.

The grantee provided nine different teleconference agendas they had participated in. On average the meetings were scheduled to last one hour and thirty minutes. Based upon our review of the agendas we estimate that approximately 30 minutes per meeting was spent discussing some form of lobbying issue and approximately 10 minutes were spent discussing the Mark-to-Market Program. Based upon OMB's guidance, only the portion of the activity related to the purpose of the grant can be charged to the grant. However, since the Law Center does not maintain adequate travel and time records, we could not determine the amount of unallowable lobbying activities and the actual costs that were charged to the grant.

### **AUDITEE COMMENTS**

We provided our draft report to the grantee for their comments on September 6, 2002. The grantee provided their comments on September 19, 2002. We included the grantee's comments in Appendix B of the report.

With the exception of the use of OTAG funds for lobbying activities the Law Center agreed with our findings. The Law Center stated their employees attended conferences and teleconferences sponsored by the NAHT solely to receive training and information in connection with the Mark-to-Market Program. They also stated the employees elected not to take part in any lobbying activities associated with the NAHT conferences, in an effort to avoid any appearance that OTAG funds were used for lobbying activities. The Law Center also believes HUD provided its approval for using OTAG funds for these conferences in a December 3, 1999 letter from OMHAR.

### **OIG EVALUATION OF AUDITEE COMMENTS**

At no time during our review did we state the Law Center employees could not attend the NAHT conferences or teleconferences. However, we did state that since a significant portion of agenda for these conferences and teleconferences relate to lobbying activities, these items could not be funded solely by the HUD grant. This conclusion is in line with the December 3, 1999 letter from OMHAR. Also, since the Law Center does not maintain adequate travel and time records, we were not able to determine the actual costs associated with the lobbying portion of the expenditures associated with the conferences and teleconferences.

### **RECOMMENDATIONS**

We recommended that the Director of OMHAR require the Law Center to:

- 1A. Provide the proper support for all unsupported salary and benefit costs totaling \$63,050, and repay to HUD from non-Federal funds amounts it cannot adequately support.
- 1B. Prepare and submit an acceptable cost allocation plan that fairly allocates indirect costs among funding sources, and based on the plan make appropriate adjustments to the \$11,950 in indirect costs and repay to HUD from non-Federal funds any overcharges.

## MANAGEMENT CONTROLS

In planning and performing our audit, we considered the management controls relevant to the Virginia Poverty Law Center's Section 514 program to determine our audit procedures, not to provide assurance on the controls. Management controls include the plan of organization, methods, and procedures adopted by management to ensure that its goals are met. Management controls include the processes for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

We determined that the following management controls were relevant to our audit objectives:

- Identification of projects and activities eligible for assistance,
- Controls and documents to support costs of assistance provided, and
- Controls and procedures over the reporting of activities and cost.

It is a significant weakness if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet an organization's objectives.

Based on our review, we believe the following items are significant weaknesses:

- Lack of policies and procedures to ensure that salaries and time records met the standards of OMB Circular A-122,
- Lack of an adequate cost allocation plan to charge shared costs, and
- Lack of policies and procedures to ensure that lobbying activities are not directly or indirectly funded by Federal sources.

## FOLLOW-UP ON PRIOR AUDITS

This was the first audit the Office of Inspector General completed on the Virginia Poverty Law Center.



**SCHEDULE OF QUESTIONED COSTS**

Recommendation Number	Type of Questioned Costs	
	Ineligible 1/	Unsupported 2/
1A		\$63,050
1B		\$11,950

1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law, contract or Federal, State or local policies or regulations.

2/ Unsupported costs are costs charged to a HUD-financed or HUD-insured program or activity and eligibility cannot be determined at the time of audit. The costs are not supported by adequate documentation or there is a need for a legal or administrative determination on the eligibility of the costs. Unsupported costs require a future decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of Departmental policies and procedures.

AUDITEE COMMENTS

THE VIRGINIA POVERTY LAW CENTER  
201 WEST BROAD STREET, SUITE 302 • RICHMOND, VA 23220  
(804) 782-9430 • FAX (804) 649-3746

Steven L. Myers  
Executive Director  
steve@vplc.org

September 19, 2002

VIA FEDERAL EXPRESS

Daniel G. Temme  
Regional Inspector General for Audit  
U.S. Department of Housing and Urban Development  
Wanamaker Building, Suite 1005  
100 Penn Square East  
Philadelphia, PA 19107-3380

Re: Audit Memorandum – Virginia Poverty Law Center, Inc., OTAG No. FFOT98029VA

Dear Mr. Temme:

This will acknowledge receipt of your letter dated September 6, 2002, and enclosed draft audit memorandum. Thank you for the opportunity to submit the following comments.

The Virginia Poverty Law Center, Inc. (VPLC), did not use Outreach and Training Assistance Grant (OTAG) funds for any lobbying activities. VPLC employees attended conferences and teleconferences sponsored by the National Alliance of HUD Tenants (NAHT) solely to receive training and information that were essential in order for VPLC to provide technical assistance to tenants in connection with the Mark-to-Market program, as required by the grant. As the draft audit memorandum points out, VPLC also receives non-federal funds that can be used for lobbying. However, in an effort to avoid any appearance that OTAG funds were used for lobbying, VPLC elected not to take part in any lobbying activities whatsoever during or in connection with the NAHT conferences.

At NAHT's request (b) (6) (b) (6) (b) (6) (b) (6) (b) (6) HUD's Office of Multifamily Housing Assistance Restructuring (OMHAR), confirmed in a December 3, 1999 open letter that OMHAR would allow OTAGs to use grant funds to cover the cost of attending conferences and workshops concerning the Mark-to-Market and other HUD programs. (b) (6) (b) (6) fully understood that NAHT intended to use his letter as written guidance from HUD to OTAGs that they could attend and participate in the NAHT conferences referred to in the draft audit memorandum. Accordingly, there can be no question that, as HUD's August 21, 2002 audit memorandum regarding the Texas Tenant's Union Incorporated (another OTAG grantee) found, HUD allowed grant recipients to use grant funds to attend NAHT conferences. And although the August 21, 2002 audit memorandum acknowledges that there were optional lobbying activities at such conferences, it does not criticize Texas Tenant's Union for using

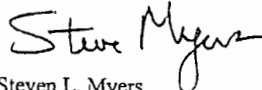
Daniel G. Temme  
September 19, 2002  
Page Two

OTAG funds to attend. Likewise, we believe that VPLC's audit memorandum should acknowledge that based on OMHAR's guidance, it was also permissible for VPLC to use OTAG funds to attend the NAHT conferences.

Pursuant to recommendations 1A and 1B of the draft audit memorandum, VPLC will provide additional support to OMHAR for costs charged to the grant. As your field auditor acknowledged on several occasions, there is no question that VPLC fully performed the OTAG activities it reported to OMHAR, and accordingly, we will be happy to submit appropriate support with respect to the applicable grant funds.

Thank you again for this opportunity to comment on the draft audit memorandum and for the many courtesies extended to VPLC by your staff during the field audit.

Very truly yours,



Steven L. Myers



**DISTRIBUTION OUTSIDE OF HUD**

Sharon Pinkerton, Senior Advisor, Subcommittee on Criminal Justice, Drug Policy & Human Resources, B373 Rayburn House Office Bldg., Washington, DC 20515

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