



U.S. Department of Housing and Urban Development
Office of Inspector General for Audit
Great Plains District, 7AGA
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MEMORANDUM NO: 2003-KC-0801

March 18, 2003

MEMORANDUM FOR: Ronald C. Bailey, Director, Home Ownership Center, 8AHH

Roger E. Niesen

FROM: Roger E. Niesen, Regional Inspector General for Audit, 7AGA

SUBJECT: Inappropriate Home Ownership Center instructions.

INTRODUCTION

We have completed an external audit of a Denver Home Ownership Center contractor performing insurance endorsement review procedures. Our objective was to determine if the contractor followed HUD's regulations, and their contract terms for reviewing "Late Requests for Endorsement." The audit report on Choice Enterprises (2003-KC-1005) reports the results of the external audit. During that audit, we identified an internal deficiency regarding Home Ownership Center instructions that differed from the HUD Handbook. This memorandum reports the details of this internal deficiency.

METHODOLOGY AND SCOPE

To accomplish our external audit, we tested a random sample of 297 loan files processed by the endorsement contractor. The loans were processed during the period July 1, 2001 through June 30, 2002. They came from a total universe of 22,033 loans that were endorsed for Federal Housing Administration insurance more than 80 days after closing. We tested the loan files to determine if the contractor followed specific "Late Request for Endorsement" procedures. We interviewed contractor employees to identify the processing procedures that were in place. We also interviewed Home Ownership Center staff, and we reviewed HUD Handbook 4165.1, to identify HUD's requirements for late endorsement procedures. We performed the audit of the contractor in accordance with generally accepted government auditing standards.

BACKGROUND

The Denver Home Ownership Center awarded a contract to an external contractor to provide endorsement services for the Denver office from July 2000 through July 2002. The scope of the work was to "furnish all necessary labor to perform Mortgage Credit Insurance Endorsement

processing services at the HUD Denver Processing Center at such times and in such quantities as may be required by the government.”

Choice Enterprises was contracted to perform a minimum of 50,000 endorsement reviews each year of the two-year contract with a maximum of 200,000 endorsement reviews each year of the two-year contract. The contract estimated the contractor would perform 175,000 endorsement reviews each year. In August 2002, the contract was re-bid. Choice was not selected and no longer provides endorsement services to the Denver Home Ownership Center.

RESULTS OF REVIEW

During our review of the contractor, we discovered that the Home Ownership Center provided instructions to the contractor that were not in accordance with HUD Handbook 4165.1 Rev 1, Chapter 3. The Government Technical Representative made several changes to the period that determines when a loan is submitted late and is, therefore, subject to more submission requirements. Therefore, for some loans, the contractor was not required to review the payment ledgers or additional documentation that would have been required if HUD Handbook 4165.1 Chapter 3 rules had been followed. As a result, the contractor endorsed loans that did not have the proper documentation required for late endorsement processing.

According to HUD Handbook 4165.1 Chapter 3, late request for endorsement procedures apply if the mortgage is submitted to HUD more than 60 days after closing. The files for those loans must include specific additional documentation. Late endorsement procedures require the following documentation: an explanation of the delay and actions taken to prevent a recurrence; a certification that escrow accounts are current and intact; a payment ledger reflecting all payments, including payment due in month of submission; and a certification that the lender provided no funds to bring the loan current. Further, no payments can be delinquent. If a delinquent payment exists, the loan cannot be endorsed until the payment ledger reflects six consecutive timely payments.

The Home Ownership Center gave the contractor instructions that differed from the HUD Handbook 4165.1, Chapter 3. Their instructions, which were changed four times during the two years of the contract, allowed a longer period between loan closing and submission before the contractor was required to consider a loan late. Near the beginning of the contract (July 2000) the Home Ownership Center instructed Choice Enterprises that files received more than 75 days after closing should be considered late and therefore, late endorsement procedures apply. In October of 2001, the Home Ownership Center changed the requirement from 75 days after closing to 7 days into the month following the month the first payment was due (regardless of the closing date). For example, if the first payment was due July 1, late endorsement procedures would not apply unless the file was received later than August 7th. In January of 2002, the Home Ownership Center further extended the requirement to 10 days into the following month the first payment was due. The Home Ownership Center made these changes because they believed the Handbook provided them with the latitude to make the changes. However, HUD Headquarters Single Family Housing staff told us that no Handbook changes were authorized. As a result, the contractor did not identify some loans that were inappropriately submitted for

endorsement. Although the Home Ownership Center altered the procedures for the contractor doing the reviews, the procedures for the originating mortgagees did not change.

During our external review of the contractor, we determined that, out of our sample of 297 loans, 19 loans, valued at \$1,807,534, were inappropriately endorsed because of the instructions provided by the Home Ownership Center. The files for these loans did not contain the documentation required by the HUD Handbook for loans submitted more than 60 days after closing. The contractor correctly endorsed the 19 loans according to the Home Ownership Center's instructions, but the loans should not have been endorsed according to the HUD Handbook.

We concluded the 19 loans should not have been endorsed because they were deficient in at least one of the following documentation requirements:

1. Files that did not have a letter requesting late endorsement when the file was determined to be late (over 60 days after closing),
2. Files that did not have a letter to certify that escrow accounts were current and intact,
3. Files that did not have a letter to certify that the lender did not provide funds to bring the loan current,
4. Files that did not include a payment ledger,
5. Files in which the payment ledger was not current,
6. Files in which one or more of the payments were delinquent.

The originating lenders were not aware of the changes made by the Home Ownership Center. Therefore, they were still required to provide the required documentation when they requested late endorsement of their loans. By implementing less stringent requirements for endorsing loans that are submitted late, the Home Ownership Center has increased the risk to the Federal Housing Administration insurance fund for the 19 mortgages, valued at \$1,807,534.

AUDITEE COMMENTS

The following are excerpts from the Denver Home Ownership Center's comments on our draft report. The complete text of the comments is included in Appendix D.

Subject Line: We believe a subject line addressing the confusion and ambiguity surrounding the endorsement processing instructions would be more precise; i.e., "Handbook/processing instruction ambiguities."

OIG EVALUATION OF AUDITEE COMMENTS

We believe the subject line accurately reflects the situation found. Our review determined the Home Ownership Center globally altered the Handbook procedures. Since the Handbook requires Headquarters' approval for such a change, we concluded the Center's instructions were not appropriate.

AUDITEE COMMENTS

Introduction – Sentence 4 addresses an “internal deficiency regarding Home Ownership Center instructions...” This statement is based on the premise that the interpretation of Handbook 4165.1 REV-1, Chapter 3, pages 3-1 and 3-2 by the Inspector General is correct. While this office can understand that these instructions are unclear, we differ in several basic tenants of the Inspector General’s conclusion on this interpretation.

Methodology and Scope – We emphasize that the time frame of the review includes the World Trade Center tragedy and the Anthrax scare time period, both of which affected submission and endorsement times. The report indicates that employees were interviewed that worked with the endorsements on a daily basis, but no Home Ownership Center managers were interviewed on some of the larger issues of interpretation and practicality.

OIG EVALUATION OF AUDITEE COMMENTS

The Secretary issued guidance regarding the World Trade Center tragedy (Mortgagee Letter 2001-21) and the Anthrax scare (Mortgagee Letter 2001-24) as they related to both mortgageors and mortgagees. The guidance did not give blanket authorization to all mortgageors and mortgagees, but only to those directly affected. None of the loan files we reviewed indicated the cause of late submission was related to the World Trade Center tragedy or the Anthrax scare. In addition, the Home Ownership Center did not issue any guidance informing the contractor which loans could be affected and how long the procedure was to be followed.

We conducted our review of the contractor based on the guidance the contractor received. As a result, we included the directions given to the contractor by the Government Technical Representative and the Government Technical Monitor. We discussed our audit findings with the Home Ownership Center managers at an exit conference and during subsequent conversations prior to issuing the draft report. As a result of the additional information provided by Home Ownership Center management, we removed five loans from the finding.

AUDITEE COMMENTS

Results of Review – Per the audit memorandum “the Home Ownership Center provided instructions to the contractor that were not in accordance with HUD Handbook 4165.1 Rev 1, Chapter 3.” In paragraph 3-1, the Handbook states, “If the review indicates that the degree of risk to the Department is no greater than existed at the time of closing, the mortgage may be endorsed.” This opening paragraph goes on to state that the only mortgages that cannot be insured are mortgages submitted for endorsement while in *default*. A delinquent mortgage is a mortgage that is not paid one day past the due date. A defaulted mortgage is a mortgage not paid *one month* past the due date. (Federal Regulation Dir No 203.330) These are very different time frames. As a matter of fact, the opening paragraph goes on to state, “If in the Field Office’s judgment, the delay in submission was entirely HUD’s fault, the lender is not required to submit the items in paragraph 3-1B.” This statement gives the Field Office latitude in endorsing loans that have little risk attached to them, in the event the Department caused the late submission. In Federal Regulation Dir No 203.255 13-C-7 (7) it is stated that, “. . . if submitted for insurance more than 60 days after closing whether the mortgage shows an acceptable history . . .” The

acceptable history is the flexibility that the local Field Office has to make on a case-by-case basis as stated in the opening paragraph (3-1).

OIG EVALUATION OF AUDITEE COMMENTS

The complete text of paragraph 3-1 follows: “3-1. LATE REQUEST FOR ENDORSEMENT (formerly known as retroactive endorsement). Upon receipt of a case involving a late request for endorsement, HUD will evaluate the circumstances and make a determination to accept or reject the request. If the review indicates that the degree of risk to the Department is no greater than existed at the time of closing, the mortgage may be endorsed. A mortgage that is in default when submitted for endorsement will not be insured, except in those instances where HUD was demonstrably responsible for a delayed request for endorsement. If in the Field Office's judgment, the delay in submission was entirely HUD's fault, the lender is not required to submit the items in paragraph 3-1B.”

The Home Ownership Center indicates that they determined that the files we examined posed no greater risk to HUD even though they were submitted after 60 days. We believe that they cannot make this determination without following the procedures the Handbook requires for late submissions. Handbook 4165.1 requires additional documentation including an acceptable payment history be included with endorsement requests submitted more than 60 days after closing. We do not find anywhere in the introductory paragraph the statement “. . . that the only mortgages that cannot be insured are mortgages submitted for endorsement while in *default*.” In fact, with the exception of the introductory paragraph, which states that, “A mortgage that is in default when submitted for endorsement will not be insured, except in those instances where HUD was demonstrably responsible for a delayed request for endorsement,” the directive addresses delinquent payments, not defaulted mortgages. The loan files we reviewed did not show any indication that HUD was demonstrably responsible for the delayed requests for endorsement. Further, there was no documentation in the files to indicate that procedures varied on a case-by-base basis. The instructions given to the contractor by the Home Ownership Center were for processing all files and did not contain alternative procedures for special circumstances, such as for files affected by the World Trade Center tragedy.

AUDITEE COMMENTS

The Handbook was issued, prior to Direct Endorsement lenders and the Homeownership Centers. Also, Federal Housing Administration Connection gives instruction to the lender on-line that is contrary to the Handbook. (See attached Federal Housing Administration Connection Flag – WARNING: SUBMISSION OF CURRENT PAYMENT HISTORY REQUIRED -- This does not mention certifying escrow accounts, letter requesting late endorsement, etc.)

OIG EVALUATION OF AUDITEE COMMENTS

Per the contract, Choice agreed to conduct their reviews according to HUD's handbook requirements. If the Home Ownership Center believes the guidance is confusing or that other better guidance is available, they should request Headquarters' approval to alter the procedures.

AUDITEE COMMENTS

The instructions given to the contractor by the Government Technical Representative are not documented in any way except for being written by the contractor on several pieces of paper. These were not official amendments to the contract but unofficial instructions, meant to adjust for unusual circumstances. One example is the instructions given in October 2001 extending the date by a week. This was due to the World Trade Center event and the Anthrax scare, both of which delayed the mail.

OIG EVALUATION OF AUDITEE COMMENTS

Variances from HUD's handbook procedures are permitted on a case-by-case basis. Global variances are only permitted with HUD Headquarters' approval. Our audit did not find any documentation to support that Headquarters approved a global variation to procedures. In fact, contact with Headquarters staff indicated no approvals had been given to vary from the handbook procedures. We also did not find support to show variances were on a case-by-case basis. None of the loan files we reviewed indicated the cause of late submission was related to the World Trade Center tragedy or the Anthrax scare. Further, we could not find where the contract with Choice Enterprises allowed the Home Ownership Center to provide unofficial instructions to adjust for unusual circumstances.

AUDITEE COMMENTS

The introductory Handbook paragraph was not taken into account at all during the audit. The Handbook clearly allows the field office to take risk into account and to proceed with the endorsement if it is determined that there is no greater risk to endorse than to refuse and send a Notice Of Rejection to the lender. As a matter of fact, if many of these cases were rejected for the payment ledger not being current, they would have been caught in a cycle of waiting for the next month to submit with first half-month ledger and being rejected for not having the second half again in the file.

OIG EVALUATION OF AUDITEE COMMENTS

We used Handbook 4165.1 as the criteria for this review. As previously stated, the Handbook does not allow the Home Ownership Center to vary from the Handbook procedures except on a case-by-case basis or with Headquarters' approval for a global change. We were not provided with any documentation to support case by case changes or a global change related to risk. The Handbook introduction dictates the pre-endorsement review will determine the degree of risk to the department. The review procedures say that the checklist will be used. For loans submitted greater than 60 days after closing the checklist dictates the use of the Handbook. Handbook 4165.1 requires additional documentation including an acceptable payment history. If the Home Ownership Center believes the Handbook requirements create an undue burden on lenders, then the Home Ownership Center should follow established procedures to get the Handbook changed, or obtain Headquarters permission to alter the Center's procedures.

AUDITEE COMMENTS

Handbook 4165.1 Rev-1, Chapter 3A2 says, "Late request for endorsement procedures apply if the mortgage is submitted to HUD for endorsement more than 60 days after closing." We interpret the word "submitted" to mean the date mailed by the lender. This could be 59 days into the 60-day cycle or could be one day before the 15th of the month. HUD could receive the document anywhere up to a week after the submission. It appears the Office of Inspector General interpreted the word "submitted" to mean "received by HUD". Therefore, the 60-day period would have a grace period of up to 7 days to be endorsed.

OIG EVALUATION OF AUDITEE COMMENTS

Although we believe the Handbook requires loans to be in HUD's possession by the 60th day, to be conservative, the universe for our review consisted of loans that were endorsed more than 80 days after the loan closing. During our review, we determined that the Home Ownership Center altered the Handbook procedures on how the contractor should determine whether a loan is subject to the "late endorsement" requirements. Near the beginning of the contract (July 2000), the Home Ownership Center advised Choice Enterprises that only files received more than 75 days after closing should be considered late and therefore, subject to late endorsement procedures. In October of 2001, the Home Ownership Center changed the requirement from 75 days after closing to 7 days into the month following the month the first payment was due (regardless of the closing date). For example, if the first payment was due July 1, late endorsement procedures would not apply unless the file was received later than August 7 (anywhere between 68 to 89 days depending on the closing date). In January of 2002, the Home Ownership Center further extended the requirement to 10 days into the following month the first payment was due. The latest guidance allowed loans to be received over 90 days after closing before late endorsement procedures applied. For example, a loan closing on January 8 with the first payment due March 1 would not be considered late until April 11, which is 93 days after the closing date. In each case, the Home Ownership Center allowed the contractor to bypass the Handbook required late endorsement procedures on loan files that significantly exceeded a reasonable period of time for timely receipt. HUD received the 19 loans in this finding between 81 and 137 days after closing.

AUDITEE COMMENTS

Review Comment -- "The Home Ownership Center made these changes because they believed the 60-day requirement was too restrictive on the lenders." We are unsure where this comment came from since no one in management is aware of saying this. The report quotes a Specialist at Headquarters who does not have daily oversight of the ongoing endorsement procedures as stating, "60 days is adequate." The implementation of this type of processing is left up to the field office, thus the latitude given in the first paragraph of Chapter 3 of the Handbook 4165.1.

OIG EVALUATION OF AUDITEE COMMENTS

We changed the report to reflect that the Home Ownership Center believes they have latitude to implement processing requirements that are different from the Handbook. We removed the statement that the Home Ownership Center believed that the 60-day requirement was inadequate.

AUDITEE COMMENTS

We disagree that 19 loans were inappropriately endorsed because of the instructions provided by the Home Ownership Center. The Home Ownership Center has not increased the risk to the Federal Housing Administration insurance fund. We checked this group of loans and found that only one has gone into foreclosure, another was in default once but has been cured. All others are performing loans. This substantiates our determination that “the degree of risk to the Department is no greater . . .”

OIG EVALUATION OF AUDITEE COMMENTS

We have reviewed the Home Ownership Center’s analysis of the 19 loans (see “OIG Evaluation of Auditee Comments on 19 Loans Listed in the Report” at Appendix C), and do not find where the information presented changes our conclusions. Per the Handbook requirements, the stability of the loan is determined on the basis of additional documentation required for loans submitted for late endorsement. Without having satisfied these additional requirements, the fact that a loan is currently performing does not provide assurance that it does not represent an increased risk to the Federal Housing Administration insurance fund.

AUDITEE COMMENTS

The Home Ownership Center offered the following alternative recommendations:

1A. The Home Ownership Center Director should indemnify the loans that were delinquent at endorsement.

1B. Modify Handbook 4165.1 to create late submission rules that are clear, standard and material to the current environment of Direct Endorsement Lenders, Home Ownership Center contractor endorsement processing and Federal Housing Administration Connection usage.

OIG EVALUATION OF AUDITEE COMMENTS

We do not concur with the alternative recommendations proposed. The 19 loans that we recommend for indemnification were insured despite the fact that the lenders did not comply with the requirements of HUD Handbook 4165.1. As a result of the Home Ownership Center’s analysis of the 19 loans, we removed one error for a loan (number 18 in Appendix C); however the loan still had other errors. All 19 loans were endorsed with Federal Housing Administration insurance while lacking one or more of the requirements of the Handbook. Our objective was to determine if the contractor followed HUD’s regulations, and their contract terms for reviewing late requests for endorsement.

AUDITEE COMMENTS

The Questioned Costs and Funds Put to Better Use – the amount on this should be \$44,000. When the Federal Housing Administration requests indemnification, we ask for the loss on the loan. This is an average of \$22,000 per loan. The report indicates that seventeen of the nineteen loans were not delinquent at the time of endorsement; therefore, the Department was not put in at

a significant risk on these loans. There is no basis for indemnification if the Department was not put at risk for loan endorsement. At this time, though one loan is in foreclosure proceedings and the review shows two were endorsed while delinquent, 18 of 19 loans have been performing for one to two years.

OIG EVALUATION OF AUDITEE COMMENTS

We disagree with the Home Ownership Center's evaluation of the 19 loans and believe the loans presented additional risk to the Federal Housing Administration fund at the time they were endorsed. All loans were submitted for late endorsement at least 80 days after closing which significantly exceeds HUD's 60-day requirement. The original amounts of these loans, indicates the amount of risk to the Department. Per OIG policy, the total amount recommended for indemnification is included as Funds Put to Better Use.

RECOMMENDATIONS

We recommend that the Director, Denver Home Ownership Center:

1A. Seeks indemnification of the 19 improperly endorsed loans (see Appendix A) from the respective mortgagees.

1B. Instructs contractors to follow HUD Handbook 4165.1, including late submission requirements, unless a waiver of the rules is formally obtained from Headquarters Single Family Housing.

In accordance with HUD Handbook 2000.06 REV-3, within 60 days please give 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.

Appendix A

FHA CASE FILES FROM RESULTS OF REVIEW

		No Letter Requesting Late Endorsement	Did not Certify Escrow Accounts were Current & Intact	Did not Certify No Funds were Provided to Bring the Loan Current	No Payment Ledger was Included	The Payment Ledger was not Current	Payments were Delinquent	
FHA #								Mortgage Amount
1.	4936972370					x		\$ 95,471.00
2.	2213322309					x		\$ 120,944.00
3.	4937013959					x		\$ 64,797.00
4.	4955961893					x		\$ 113,197.00
5.	4213736017					x		\$ 68,458.00
6.	4917394749	x	x	x				\$ 138,900.00
7.	2213306387	x		x				\$ 116,065.00
8.	4917403840		x	x				\$ 100,424.00
9.	4926196488					x		\$ 129,990.00
10.	4917377661		x	x	x	x		\$ 100,637.00
11.	4213790082					x		\$ 126,996.00
12.	4926116814					x		\$ 77,043.00
13.	2924032020					x		\$ 39,283.00
14.	3612564335					x		\$ 66,584.00
15.	4926243153						x	\$ 144,877.00
16.	4926041354						x	\$ 105,813.00
17.	4942730473		x	x		x		\$ 87,543.00
18.	0312828525		x	x				\$ 48,800.00
19.	2213306069					x		\$ 61,712.00
Total		2	5	6	1	13	2	\$ 1,807,534.00

Appendix B

SCHEDULE OF QUESTIONED COSTS AND FUNDS PUT TO BETTER USE

<u>Recommendation Number</u>	<u>Type of Questioned Cost</u>	<u>Funds Put to Better Use</u>
1A	<u>Ineligible</u> <u>1/</u> <u>Unsupported</u> <u>2/</u>	<u>3/</u> \$ 1,807,534

- 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.
- 3/ Funds Put to Better Use are costs that will not be expended in the future if our recommendations are implemented. For this review, the funds put to better use consist of loans and guarantees not made because of indemnification.

Appendix C

OIG Evaluation of Auditee Comments on 19 Loans Listed in the Report

Regarding the loans below that the Home Ownership Center attribute to the World Trade Center tragedy/Anthrax scare, as previously mentioned, the Secretary issued guidance regarding the World Trade Center tragedy (Mortgagee Letter 2001-21) and the Anthrax scare (Mortgagee Letter 2001-24) as they related to both mortgagors and mortgagees. The guidance did not give blanket authorization to all mortgagors and mortgagees, but only to those directly affected. None of the loan files we reviewed indicated their cause of late submission was related to either of the events noted in the auditee comments. All loans listed below were received at least 80 days after closing and significantly exceeded the Handbook requirement of 60 days.

FHA Case Files From Results of Review

		Home Ownership Center Analysis	OIG Evaluation of Auditee Comments
1	493-6972370	This is a Federal Housing Administration streamline refinance without an appraisal, and a Countrywide-to-Countrywide loan. Binder date stamped Jan 14 th and rejected Jan 25 th for supposedly missing a PUD rider. Binder evidenced Dec and Jan payments with the late submission letter dated Feb 14 th and binder date stamped again Feb 20 th and endorsed Feb 26 th .	Date of letter has no bearing on date of submission. February payment is still required because the file was submitted after the 15 th of the month.
2	221-3322309	Binder date stamped Dec 20 th and endorsed Dec 26 th . Binder evidenced the first month's mortgage payment for November had been made. The binder was date stamped in the month of December prior to the December payment being considered delinquent. This binder was processed during mail delays because of Anthrax.	The report does not state there is a delinquency of payment. The handbook states that if the binder is submitted after the 15 th of the month, there must be a record of payment for that month. The file does not reflect that the Anthrax scare affected delivery.
3	493-7013959	Binder date stamped Feb 25 th and endorsed Feb 28 th . Binder evidenced the first month's mortgage payment for January had been made. The binder was date stamped in the month of February prior to the February payment being considered delinquent.	The report does not state there is a delinquency of payment. The handbook states that if the binder is submitted after the 15 th of the month, there must be a record of payment for that month.

4	495-5961893	Binder date stamped Dec 17 th and endorsed Dec 20 th . Binder evidenced the first month's mortgage payment for November had been made on October 31 st . The binder was date stamped in the month of December prior to the December payment being considered delinquent. This binder was processed during mail delays because of Anthrax.	The report does not state there is a delinquency of payment. The handbook states that if the binder is submitted after the 15 th of the month, there must be a record of payment for that month. The file does not reflect that the Anthrax scare affected delivery.
5	421-3736017	Binder date stamped Oct 1 st and endorsed Oct 5 th . Lender mailed binder in September before the September payment was delinquent. First payment was due in August and binder evidenced payment was received August 3 rd . Qualifying ratios for borrowers were 6% over 21%.	The report does not state there is a delinquency of payment. The handbook states that the lender must submit a payment ledger for the entire period from the first payment due date to the date of submission for endorsement. Each payment must be made in the calendar month due.
6	491-7394749	The lender included two letters of late submission requesting late endorsement dated 1/25/02 and 2/13/02. The lender certified that the payments were current as evidenced by the attached payment history letter. The payment history shows the escrow account intact. The insurance application screen from the Federal Housing Administration Connection (FHAC) was printed and included by the lender. The FHAC print screen only stated, "Warning: Submission of current payment history required." This warning did not state the lender needed to include a late submission letter with proscribed verbiage by the Federal Housing Administration.	The lenders are responsible for knowing the regulations. The handbook states that a late submission must include a letter requesting endorsement with the following parts: an explanation for the delay in submitting for endorsement, actions taken to prevent future delayed submissions, certification that escrow accounts are current and intact, and a certification that the lender did not provide funds to bring the loan current.
7	221-3306387	60 days from the date of closing was Sept 16 th , 2001. This was right after the World Trade Center tragedy. The Federal Housing Administration date stamped the case binder Oct 1 st , and the lender included a payment history showing the first payment	The lenders are responsible for knowing the regulations. The handbook states that a late submission must include a letter requesting endorsement with the following parts: an explanation for the delay in submitting for

		was made on August 27 th for the Sept 1 st due date. There were no other payments to have been made by the borrower at the time the lender mailed the case binder, and the certification that the lender didn't provide funds to bring the loan current was irrelevant when the borrower made the September payment prior to the first due date. Again, the Federal Housing Administration Connection warning required a current payment history and did not require a late submission letter.	endorsement, actions taken to prevent future delayed submissions, certification that escrow accounts are current and intact, and a certification that the lender did not provide funds to bring the loan current. The file does not reflect that the World Trade Center tragedy affected delivery.
8	491-7403840	First payment due date was Jan 1 st , and the borrower made the payment on Jan 9 th . Binder date stamped Feb 4 th and endorsed on Feb 6 th . The binder was sent in late January before the next payment was due in February. The payment history indicates an appropriate escrow balance from the pre-pays at closing plus the escrow remitted with January's payment. The lender didn't certify to the obvious in their late submission letter. Denver Home Ownership Center was not going to reject the case binder for such a minor deficiency.	The handbook states that a late submission must include a letter requesting endorsement with the following parts: an explanation for the delay in submitting for endorsement, actions taken to prevent future delayed submissions, certification that escrow accounts are current and intact, and a certification that the lender did not provide funds to bring the loan current.
9	492-6196488	Payment history shows the servicer did not establish the servicing account until Dec 12 th . The payment history was printed 12/31 and the binder was date stamped Jan 24 th , and endorsed on Jan 30 th . This binder was processed during mail delays because of Anthrax in 2001.	The handbook states that if the binder is submitted after the 15 th of the month, there must be a record of payment for that month. The file does not reflect that the Anthrax scare affected delivery.
10	491-7377661	Case binder date stamped prior to 60 days. Closing date was 11/7 and binder date stamped Jan 2 nd , returned to lender for "No data entered into the Federal Housing Administration Connection (FHAC) on Jan 9 th ."	The handbook requires "a payment ledger that reflects the payments received."

		Binder resubmitted on Jan 22 nd and endorsed on Feb 1 st . Payment history in binder states "Due Date 02/01/02". The first payment had been made on Jan 2 nd . This is an Federal Housing Administration streamline refinance of a two-year-old loan.	
11	421-3790082	Loan closed Jan 4 th and first payment was due March 1 st . Binder was date stamped on Feb 26 th and Notice Of Rejection message asked for several items plus "R21 if needed" on March 1st. Binder date stamped again on 5/17 with a payment history dated May 1 st reflecting that the borrower had made two payments on March 4 th and April 8 th . Other Notice Of Rejection conditions had been met and loan was endorsed May 21 st .	The handbook states that if the binder is submitted after the 15 th of the month, there must be a record of payment for that month.
12	492-6116814	Binder received on Friday, Oct 29 th and endorsed on Mon, Nov 1 st . Payment history in case binder was dated Oct 24 th and reflects the September payment. This binder was processed shortly after the World Trade Center crisis. Washington Mutual certified that the account was current. <i>Loan is currently in foreclosure proceedings.</i>	The handbook states that if the binder is submitted after the 15 th of the month, there must be a record of payment for that month. The file does not reflect that the World Trade Center tragedy affected delivery.
13	292-4032020	First mortgage payment was due Aug 1 st , and the payment ledger was dated Oct 5 th and reflects that the borrower had made two payments on Aug 7 th and on Sept 11 th . The binder was date stamped on Oct 17 th and endorsed on Oct 23 rd . The Denver Home Ownership Center was not going to reject the binder for not reflecting the Oct payment when it was not yet delinquent and when the binder reflected two payments having been made. Again, the Denver Home Ownership Center was	The report does not state there is a delinquency of payment. The handbook states that if the binder is submitted after the 15 th of the month, there must be a record of payment for that month. The file does not reflect that the World Trade Center tragedy/Anthrax scare affected delivery.

		not going to add to mail volume because of a minor detail during the World Trade Center crisis and Anthrax mail problems.	
14	361-2564335	First mortgage payment was due Nov 1 st and the payment ledger reflected the borrower made two payments on Nov 15 th and Dec 12 th . The binder was date stamped Jan 23 rd before January's payment was considered delinquent. Washington Mutual certified that the account was current.	The report does not state there is a delinquency of payment. The handbook states that if the binder is submitted after the 15 th of the month, there must be a record of payment for that month.
15	492-6243153	This is a streamline refinance. The first mortgage payment was due Feb 1 st , and was made by the borrower on Feb 7 th . The binder was date stamped Feb 26 th and rejected and date stamped as a resubmission on April 2 nd . The payment ledger indicates that a payment was reversed. It was difficult to see this minus sign on the payment history and without scrutinizing the ledger a person could have easily missed this reversal. It is hard to tell if the March payment was made. The credit report indicated that the mortgage loan had been current for the previous 12 months.	This file should have been reviewed by the Home Ownership Center staff if the contractor was unable to read the payment history. The handbook requires a current payment history, not a credit report to determine if the required payments were made.
16	492-6041354	This binder was received July 18 th and the servicer provided a report "Central Loan Administration & Reporting" dated July 13 th . The original loan amount was \$105,813 with a first payment due June 1 st . The report stated the last payment was received on July 11 th and the principal balance was \$105,639. This principal balance is a correctly amortized amount for two payments, which were made. The loan was current and is an incorrect finding by the OIG.	There are no instructions for endorsers to calculate amortization to determine whether payments have been made. Additionally, the loan file did not contain documentation to show this calculation had been accomplished, or was a case-by-case exception.

17	494-2730473	<p>This binder was date stamped January 31st, and endorsed on Feb 5th. The first mortgage payment was received Dec 5th for the Dec 1st payment. The payment ledger printed on Jan 17th indicates that the next due date is 2/1/02, and the principal balance is \$87,384. This is a correct balance for an amortization of two payments. The lender's late submission letter did not address the escrows or bringing the loan current. The escrow balance was reflective of having put two months escrow into the account, and the lender probably viewed that certification as unnecessary. Neither were any late fees assessed on the payment history ledger.</p>	<p>There are no instructions for endorsers to calculate amortization to determine whether payments have been made. Additionally, the loan file did not contain documentation to show this calculation had been accomplished, or was a case-by-case exception. The handbook states that a late submission must include a letter requesting endorsement with the following parts: an explanation for the delay in submitting for endorsement, actions taken to prevent future delayed submissions, certification that escrow accounts are current and intact, and a certification that the lender did not provide funds to bring the loan current.</p>
18	031-2828525	<p>This case binder was date stamped on Aug 20th and endorsed Aug 25th. The first payment due date was July 1st. The payment history ledger was dated Aug 15th and indicated two payments were received on June 25th and July 5th. There was no assessment of late fees. The payment was received for August, and the OIG finding is incorrect. The lender's late submission letter did not address the escrow accounts or certifying to not bringing the loan current.</p>	<p>The handbook states that a late submission must include a letter requesting endorsement with the following parts: an explanation for the delay in submitting for endorsement, actions taken to prevent future delayed submissions, certification that escrow accounts are current and intact, and a certification that the lender did not provide funds to bring the loan current. We removed the reference to the payment ledger not being current. The report now reflects only that there were missing certifications.</p>
19	221-3306069	<p>This was a cash out refinance with the first payment due Oct 1st, and the borrower made the payment on Oct 8th. The lender completed the insurance application screen in the Federal Housing Administration Connection on Nov 15th and the binder was date stamped on Nov 21st.</p>	<p>The handbook states that if the binder is submitted after the 15th of the month, there must be a record of payment for that month. The file does not reflect that the World Trade Center tragedy/Anthrax scare affected delivery.</p>

		The lender thought they had submitted the loan during the first half of Nov, and again this binder was processed during the World Trade Center and Anthrax crisis.	
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Appendix D

Auditee Comments**U. S. Department of Housing and Urban Development**

Homeownership Center

Region VIII, Denver
633 17th Street
Denver, Colorado 80202-3690Phone: 1-800-543-9378
Fax: 303-672-5040
Web: www.hud.gov

March 3, 2003

MEMORANDUM FOR: Roger E. Niesen, Regional Inspector for Audit, 7AGA

FROM: Ronald G. Bailey, Director, Denver Home Ownership Center, 8AHH

SUBJECT: Comments to Draft Memorandum of January 29, 2003

Per your call of February 28, 2003, this is to formalize the comments we sent to your office on February 10, 2003, and is in response to your draft memorandum regarding an audit performed by your office regarding alleged deficiencies in the Home Ownership Center's oversight of its endorsement contractor, Choice Enterprises, Inc. Please note this contractor was in place at the time of the audit but has since been replaced by a new contract award.

The Subject Line stated "Inappropriate Home Ownership Center instruction." We believe a subject line addressing the confusion and ambiguity surrounding the endorsement processing instructions would be more precise; i.e., "Handbook/processing instruction ambiguities."

Introduction – Sentence 4 addresses an "internal deficiency regarding Home Ownership Center instructions..." This statement is based on the premise that the interpretation of HB 4165.1 REV-1, Chap 3, page 3-1, 3-2 by the IG is correct. While this office can understand that these instructions are unclear, we differ in several basic tenants of the IG's conclusion on this interpretation. We detail some of these differences in the following paragraphs.

Methodology and Scope – We emphasize that the time frame of the review includes the WTC tragedy and the Anthrax scare time period, both of which affected submission and endorsement times. The report indicates that employees were interviewed that work with the endorsements on a daily basis, but no HOC managers were interviewed on some of the larger issues of interpretation and practicality.

Background – no comment

Results of Review – Per first paragraph "we discovered the Home Ownership Center provided instructions to the contractor that were not in accordance with HUD Handbook 4165.1 Rev 1, Chapter 3." -- Our comments per the HB instruction: In the first paragraph (3-I.), the HB states, "If the review indicates that the degree of risk to the Department is no greater than existed at the time of closing, the mortgage may be endorsed." This opening paragraph goes on to state that the only mortgages that cannot be insured are mortgages submitted for endorsement while in *default*. A delinquent mortgage is a mortgage that is not paid one day past the due date. A defaulted mortgage is a mortgage not paid *one month* past the due date. (Fed Reg Dir No 203.330) These are very

different time frames. As a matter of fact, the opening paragraph goes on to state, "If in the Field Office's judgement, the delay in submission was entirely HUD's fault, the lender is not required to submit the items in paragraph 3-1B." This statement gives the Field Office latitude in endorsing loans that have little risk attached to them, in the event the late submission was caused by the Department. In Fed Reg Dir No 203.255 13-C-7 (7) it is stated that, ". . . if submitted for insurance more than 60 days after closing whether the mortgage shows an acceptable history . . ." The acceptable history is the flexibility that the local Field Office has to make on a case-by-case basis as stated in the opening paragraph (3-I.).

Also, please note that when the HB was issued, it was prior to Direct Endorsement lenders and the Homeownership Centers. Also, FHA Connection gives instruction to the lender on-line that is contrary to the HB when they are in the process of entering their FHA mortgage loan data. (See attached FHA Connection Flag – WARNING: SUBMISSION OF CURRENT PAYMENT HISTORY REQUIRED -- This does not mention certifying escrow accounts, letter requesting late endorsement, etc.)

The instructions given to the contractor by the GTR are not documented in any way except for being written by the contractor on several pieces of paper (see attached). These were not official amendments to the contract but unofficial instructions, meant to adjust for unusual specific circumstances. One example is the instructions given in October 2001 extending the date by a week. This was due to the WTC event and the Anthrax scare, both of which delayed the mail.

The introductory HB paragraph was not taken into account at all during the audit. The Handbook clearly allows the field office to take risk into account and to proceed with the endorsement if it is determined that there is no greater risk to endorse than to refuse and send a Notice Of Rejection (NOR) to the lender. As a matter of fact, if many of these cases were NOR'd for the payment ledger not being current (this appears to be the main issue in the review), they would have been caught in a cycle of waiting for the next month to submit with first half-month ledger and being NOR'd for not having the second half again in the file.

Please note interpretation for HB 4165.1 Rev-1, Chap.3A2. This line states, "Late request for endorsement procedures apply if: 2. the mortgage is submitted to HUD for endorsement more than 60 days after closing." We interpret the word "submitted" to mean the date mailed by the lender. This could be 59 days into the 60 day cycle or could be one day before the 15th of the month. HUD could receive anywhere up to a week after this submission. It appears the OIG interpreted the word "submitted" to mean "received by HUD" because for their purposes, they were using the date stamp on the case binder. Therefore, the 60 day period would have a grace period of up to 7 days to be endorsed.

Review Comment -- "The Home Ownership Center made these changes because they believed the 60-day requirement was too restrictive on the lenders." We are unsure where this comment came from since no current manager is aware of stating this. The report goes on to quote a Specialist at Headquarters who does not have daily oversight of the ongoing endorsing procedures as stating, "60 days is adequate." The implementation of this type of processing is left up to the field office, thus the latitude given in the first paragraph of this chapter.

We disagree that 19 loans were inappropriately (incorrectly?) endorsed because of the instructions provided by the HOC. (see attached analysis) The Home Ownership Center has not increased the risk to the FHA insurance fund. We have checked this group of loans and find that only one has gone into foreclosure, another was in default once but has been cured, but all others are performing loans. This substantiates our determination that “the degree of risk to the Department is no greater . . .”

Recommendations – We disagree that performing loans should be indemnified. Headquarters has advised us to indemnify loans *only* that were delinquent/in default while endorsed. The report indicates that the majority of these loans to be deficient by a document in the file, not delinquent.

For first recommendation:

Alternate Recommendation: The Home Ownership Center Director should indemnify all late endorsed loans that are in foreclosure proceedings (FHA Loan #492-6116814)

For second recommendation:

Alternate recommendation: Modify HB 4165.1 to create late submission rules that are clear, standard and material to the current environment of DE Lenders, HOC contractor endorsement processing and FHA Connection usage.

The Questioned Costs and Funds Put to Better Use – the amount on this should be \$44,000. When the FHA requests indemnification, we ask for the loss on the loan. This is an average of \$22,000 per loan. The report indicates that seventeen of the nineteen loans were not delinquent at the time of endorsement; therefore, the Department was not put in at a significant risk on these loans. There is no basis for indemnification if the Department was not put at risk for loan endorsement. At this time, though one loan is in foreclosure proceedings and the review shows another was endorsed while delinquent, 18 of 19 loans have been performing for one to two years.

Please note these comments are provided as input to the draft memorandum. If you have any questions regarding these comments, please contact Jane Hall, Director, Processing and Underwriting Division, at 303/672-5200 x1510.

Attachment

Explanations for OIG Findings on 19 Loans Reviewed

FHA Case Files From Results of Review

1	493-6972370	This is an FHA streamline refinance without an appraisal, and a Countrywide-to-Countrywide loan. Binder date stamped Jan 14 th and rejected Jan 25 th for supposedly missing a PUD rider. Binder evidenced Dec and Jan payments with the late submission letter dated Feb 14 th and binder date stamped again Feb 20 th and endorsed Feb 26 th .
2	221-3322309	Binder date stamped Dec 20 th and endorsed Dec 26 th . Binder evidenced the first month's mortgage payment for November had been made. The binder was date stamped in the month of December prior to the December payment being considered delinquent. This binder was processed during mail delays because of Anthrax.
3	493-7013959	Binder date stamped Feb 25 th and endorsed Feb 28 th . Binder evidenced the first month's mortgage payment for January had been made. The binder was date stamped in the month of February prior to the February payment being considered delinquent.
4	495-5961893	Binder date stamped Dec 17 th and endorsed Dec 20 th . Binder evidenced the first month's mortgage payment for November had been made on October 31 st . The binder was date stamped in the month of December prior to the December payment being considered delinquent. This binder was processed during mail delays because of Anthrax.
5	421-3736017	Binder date stamped Oct 1 st and endorsed Oct 5 th . Lender mailed binder in September before the September payment was delinquent. First payment was due in August and binder evidenced payment was received August 3 rd . Qualifying ratios for borrowers were 6% over 21%.
6	491-7394749	The lender included two letters of late submission requesting late endorsement dated 1/25/02 and 2/13/02. The lender certified that the payments were current as evidenced by the attached payment history letter. The payment history shows the escrow account intact. The insurance application screen from the FHA Connection (FHAC) was printed and included by the lender. The FHAC print screen only stated, "Warning: Submission of current payment history required." This warning did not state the lender needed to include a late submission letter with proscribed verbiage by FHA.

Explanations for OIG Findings on 19 Loans Reviewed

7	221-3306387	60 days from the date of closing was Sept 16 th , 2001. This was right after the WTC tragedy. FHA date stamped the case binder Oct 1 st , and the lender included a payment history showing the first payment was made on August 27 th for the Sept 1 st due date. There were no other payments to have been made by the borrower at the time the lender mailed the case binder, and the certification that the lender didn't provide funds to bring the loan current was irrelevant when the borrower made the September payment prior to the first due date. Again, the FHAC warning required a current payment history and did not require a late submission letter.
8	491-7403840	First payment due date was Jan 1 st , and borrower made the payment on Jan 9 th . Binder date stamped Feb 4 th and endorsed on Feb 6 th . The binder was sent in late January before the next payment was due in February. The payment history indicates an appropriate escrow balance from the pre-pays at closing plus the escrow remitted with January's payment. The lender didn't certify to the obvious in their late submission letter. Denver HOC was not going to reject the case binder for such a minor deficiency.
9	492-6196488	Payment history shows the servicer did not establish the servicing account until Dec 12 th . The payment history was printed 12/31 and the binder was date stamped Jan 24 th , and endorsed on Jan 30 th . This binder was processed during mail delays because of Anthrax in 2001.
10	491-7377661	Case binder date stamped prior to 60 days. Closing date was 11/7 and binder date stamped Jan 2 nd , returned to lender for "No data entered into the FHA Connection (FHAC) on Jan 9 th . Binder resubmitted on Jan 22 nd and endorsed on Feb 1 st . Payment history in binder states "Due Date 02/01/02". The first payment had been made on Jan 2 nd . This is an FHA streamline refinance of a two-year-old loan.
11	421-3790082	Loan closed Jan 4 th and first payment was due March 1 st . Binder was date stamped on Feb 26 th and NOR message asked for several items plus "R21 if needed" on March 1st. Binder date stamped again on 5/17 with a payment history dated May 1 st reflecting that the borrower had made two payments on March 4 th and April 8 th . Other NOR conditions had been met and loan was endorsed May 21 st .
12	492-6116814	Binder received on Friday, Oct 29 th and endorsed on Mon, Nov 1 st . Payment history in case binder was dated Oct 24 th and reflects the September payment. This binder was processed shortly after the WTC crisis. Washington Mutual certified that the account was current. <i>Loan is currently in foreclosure proceedings.</i>

Explanations for OIG Findings on 19 Loans Reviewed

13	292-4032020	First mortgage payment was due Aug 1 st , and the payment ledger was dated Oct 5 th and reflects that the borrower had made two payments on Aug 7 th and on Sept 11 th . The binder was date stamped on Oct 17 th and endorsed on Oct 23 rd . The Denver HOC was not going to reject the binder for not reflecting Oct payment when it was not yet delinquent and when the binder reflected two payments having been made. Again, the Denver HOC was not going to add to mail volume because of a minor detail during the WTC crisis and Anthrax mail problems.
14	361-2564335	First mortgage payment was due Nov 1 st and the payment ledger reflected the borrower made two payments on Nov 15 th and Dec 12 th . The binder was date stamped Jan 23 rd before January's payment was considered delinquent. Washington Mutual certified that the account was current.
15	492-6243153	This is a streamline refinance. The first mortgage payment was due Feb 1 st , and was made by the borrower on Feb 7 th . The binder was date stamped Feb 26 th and rejected and date stamped as a resubmission on April 2 nd . The payment ledger indicates that a payment was reversed. It was difficult to see this minus sign on the payment history and without scrutinizing the ledger a person could have easily missed this reversal. It is hard to tell if the March payment was made. The credit report indicated that the mortgage loan had been current for the previous 12 months.
16	492-6041354	This binder was received July 18 th and the servicer provided a report "Central Loan Administration & Reporting" dated July 13 th . The original loan amount was \$105,813 with a first payment due June 1 st . The report stated the last payment was received on July 11 th and the principal balance was \$105,639. This principal balance is a correctly amortized amount for two payments, which were made. The loan was current and is an incorrect finding by the OIG.
17	494-2730473	This binder was date stamped January 31 st , and endorsed on Feb 5 th . The first mortgage payment was received Dec 5 th for the Dec 1 st payment. The payment ledger printed on Jan 17 th indicates that the next due date is 2/1/02, and the principal balance is \$87,384. This is a correct balance for an amortization of two payments. The lender's late submission letter did not address the escrows or bringing the loan current. The escrow balance was reflective of having put two months escrow into the account, and the lender probably viewed that certification as unnecessary. Neither were any late fees assessed on the payment history ledger.

Explanations for OIG Findings on 19 Loans Reviewed

18	031-2828525	This case binder was date stamped on Aug 20 th and endorsed Aug 25 th . The first payment due date was July 1 st . The payment history ledger was dated Aug 15 th and indicated two payments were received on June 25 th and July 5 th . There was no assessment of late fees. The payment was received for August, and the OIG finding is incorrect. The lender's late submission letter did not address the escrow accounts or certifying to not bringing the loan current.
19	221-3306069	This was a cash out refinance with the first payment due Oct 1 st , and the borrower made the payment on Oct 8 th . The lender completed the insurance application screen in the FHA Connection on Nov 15 th and the binder was date stamped on Nov 21 st . The lender thought they had submitted the loan during the first half of Nov, and again this binder was processed during the WTC and Anthrax crisis.

Appendix E

Distribution Outside Of HUD

The Honorable Joseph Lieberman, Chairman, Committee on Government Affairs
(senator_lieberman@lieberman.senate.gov)

Sharon Pinkerton, Senior Advisor, Subcommittee on Criminal Justice, Drug Policy & Human Resources (Sharon.Pinkerton@mail.house.gov)

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Henry A. Waxman, Ranking Member, Committee on Government Reform, 2204 Rayburn Building, House of Representatives, Washington, DC 20515