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Region 4 Office of the Inspector General
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October 7, 2003

MEMORANDUM NO.
2004-AT-0801

MEMORANDUM FOR: John C. Weicher
Assistant Secretary for Housing, H

FROM: Nancy H. Cooper 
Regional Inspector General for Audit, 4AGA

SUBJECT: Officer Next Door and Teacher Next Door Programs

INTRODUCTION

Recent audit follow-up work related to the Nationwide Audit of the Officer Next Door and Teacher Next Door Programs, Audit Report No. 2001-AT-0001, issued June 29, 2001, identified a management control weakness that warrants corrective action. This memorandum report provides information on the control weakness and recommendations for corrective action.

METHODOLOGY AND SCOPE

Our recent work with the United States Attorney's Office, assisting with preparation of possible civil or criminal cases involving violations of the Officer Next Door and Teacher Next Door (OND/TND) Program requirements, identified management control weaknesses in homebuyer certification statements. Attorneys with the U.S. Attorney's Office noted weaknesses in the certification language that undermined the enforceability of program requirements. We worked with the attorneys to develop certification language that is enforceable and strengthens the integrity of the programs.

BACKGROUND

The programs' purpose is to strengthen America's communities and build a safer nation by offering homeownership opportunities to law enforcement officers and teachers in revitalization areas. Officers and teachers may purchase a Department of Housing and Urban Development (HUD) owned single-family home in a revitalization area or in a HUD approved exception area at a 50 percent discount off the list price. The officer or teacher must then live in the home as their sole residence for 3 years, and own no other residential real property during the 3 years.

Each participant must certify, initially and annually for the duration of the 3-year occupancy term, that they own and live in the HUD house and that they do not own other residential real property. Officers and teachers must execute a second mortgage on behalf of HUD that equals the difference between the list price and the discounted sales price of the home. HUD later cancels its second mortgage after participants fulfill the 3-year occupancy term.

RESULTS OF REVIEW

Certification statements required of homebuyers were not adequate to support Assistant U.S. Attorneys' (AUSAs) efforts to prosecute civil and criminal cases. The language within the certifications is prospective of future actions and does not adequately address completed portions of the 3-year occupancy term. Consequently, legal actions are unnecessarily difficult and prosecutors may not be willing to proceed with civil and criminal actions when occupancy violations have occurred.

AUSAs noted the need for improvements to the language of the certification statements signed by participants. Specifically, they suggested changes in the certification statement to become a positive endorsement of the participant's actions throughout their specific occupancy term rather than a statement of intended actions or of compliance on a specific date.

The annual re-certification statement language was inadequate because the participants certified that they "own and am residing in the subject property as my sole residence and that I do not own any other residential real property." AUSAs viewed this language as a snapshot in time that would allow defense attorneys to argue that the certification was limited in its scope to the date the participant signed it.

AUSAs also suggested homebuyers sign a positive endorsement at the end of the 3-year occupancy term as a condition of releasing the second mortgage held by HUD, and thus claiming their entitlement to HUD's discount. If a participant declined to sign, the amount of the second mortgage would be due and payable to HUD. If the participant signed falsely, the criminal element of intent is more easily established and investigation could develop a clear, convincing case for a criminal false statement and/or a false claim.

We also observed that language within the initial certification (form HUD 9548-A) needs improvement. Participants routinely sign the initial certification at the time a sales contract is prepared, which is prior to closing on their OND/TND homes. The initial certification states that the participant will, for at least 3 years from the date of HUD's closing, own and use the property purchased from HUD as their sole residence and will not own any other residential real property. The prospective nature of this initial certification is inherent and serves to document that the participant has been made aware of these program requirements. However, the initial certification needs improvement to address the actual start of the 3-year occupancy term, which usually begins on a date 30 to 90 days after the closing date, and to certify that the participant does not currently own any other residential real property.

During the course of our work, we advised HUD's National Servicing Center about the AUSAs' suggestions to (1) improve the language of certifications and (2) require a final certification as a condition of releasing the second mortgage. The National Servicing Center made improvements in the standard re-certification statements at that time, and forwarded the second suggestion to the Director of HUD's Asset Management and Property Disposition Division in Headquarters.

We appreciate the cooperation extended to us by HUD staff as we performed our follow-up audit work. The staffs at the NSC and Homeownership Centers provided noteworthy assistance.

HUD Comments

"The Department concurs with the recommendations you have provided and believes this will also benefit program participants by providing the clearest possible communication to them explaining their legal obligation as participants in this program."

The Department's complete response is presented in Attachment 2. By email, HUD proposed to complete implementation of the recommendations by June 30, 2004.

The Office of General Counsel also recommended a change in the initial certification concerning ownership of other residential property, which we have incorporated in the suggested language shown in Attachment 1.

OIG Evaluation of HUD Comments

OIG concurs with the Department's management decisions.

RECOMMENDATIONS

We recommend that HUD:

- 1A. Improve language on initial certifications (HUD 9548-A) to address the variability of starting dates for the 3-year occupancy term, and to add language specifying that the participant does not own any other residential real property. See Attachment 1 for the suggested language.
- 1B. Improve language on annual re-certification statements so that it becomes a positive endorsement of what the participant has done throughout their occupancy. See Attachment 1 for the suggested language.
- 1C. Require homebuyers to sign the third annual certification statement at the end of the 3-year occupancy term to confirm their compliance with the occupancy and home ownership requirements, and as a condition of releasing the second mortgage held by HUD.

Proposed Certification Language for OND/ TND Participants

Initial Certification

This is to certify that I, (name, print or type) _____, will, for at least 3 years from the agreed upon occupancy start, continuously own and use the property I am purchasing from HUD as my sole residence. I further certify that I do not presently own any other residential real property and that I will not own any other residential real property for the 3-year period described above. If I am a teacher, I also certify that the HUD home I intend to purchase is located within the school district or jurisdiction served by my employer. My signature further acknowledges that, in consideration of these conditions, I will receive a monetary benefit in the form of a 50 percent discount off HUD's appraised value of the home.

Signature: _____ Date (mm/dd/yy): _____

WARNING: Falsifying information on this certification is a felony. HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012 3559, 3571; 31 U.S.C. 3729, 3802)

Annual Re-certifications and the Final Certification

I certify that I own, and since the agreed upon occupancy start date, have continuously resided in the above subject property as my sole residence and that I do not own any other residential real property in accordance with the Department of Housing and Urban Development's Officer Next Door/ Teacher Next Door Sales Program. My signature further acknowledges that, in consideration of these conditions, I have received a monetary benefit in the form of a 50 percent discount off HUD's appraised value of the home.

Signature: _____ Date (mm/dd/yy): _____

WARNING: Falsifying information on this certification is a felony. HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012 3559, 3571; 31 U.S.C. 3729, 3802)



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

September 22, 2003

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

MEMORANDUM FOR: Nancy H. Cooper, District Inspector General for Audit-
Southeast/Caribbean, 4AGA

FROM: John C. Weichey, Assistant Secretary for Housing-Federal Housing Commissioner, H
[Handwritten signature and date 2/22/03]

SUBJECT: Officer Next Door/Teacher Next Door Sales Programs Audit Finding - Program
Certifications Management Decision

Thank you for the opportunity to review and comment on your Audit Finding and Proposed Certification Language for the Officer Next Door/Teacher Next Door (OND/TND) program participants. You have recommended changes to Form HUD-9548A and the annual Recertification Form, both of which reflect the participant's obligations due in exchange for a discount from the list price provided by the Department.

You have proposed changes in the text of the certifications, to provide better support for the Department's position in enforcement actions. The Department concurs with the recommendations you have provided and believes this will also benefit program participants by providing the clearest possible communication to them explaining their legal obligation as participants in this program.

The Office of Housing will add the following phrase to your proposed change to Form HUD-9548A:

If I am a teacher, I also certify that the HUD home I intend to purchase is located within the school district or jurisdiction served by my employer, or in the instance that the employer is a private school, then that the employer serves students from the public school district where the home is located.

This text has been discussed with Terry Cover of your staff.

The Office of Single Family Asset Management will take immediate steps to effect changes to the forms. The forms to be modified are Form HUD-9548A and the annual certification statement sent to each participant to verify his or her compliance with program rules.

If you have any questions, please contact Joseph McCloskey, Director of the Office of Single Family Asset Management, at (202) 708-1672.