

NOVA Financial & Investment Corporation, Tucson, AZ

Federal Housing Administration Single-Family Mortgage Insurance

Office of Audit, Region 9 Los Angeles, CA Audit Report Number: 2015-LA-1005

July 9, 2015



To: Kathleen A. Zadareky

Deputy Assistant Secretary for Single Family Housing, HU

Dane M. Narode

Associate General Counsel for Program Enforcement, CACC

//SIGNED//

From: Tanya E. Schulze, Regional Inspector General for Audit, 9DGA

Subject: NOVA Financial & Investment Corporation's FHA-Insured Loans With

Downpayment Assistance Gifts Did Not Always Meet HUD Requirements

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our audit of NOVA Financial & Investment Corporation's use of downpayment assistance programs in conjunction with Federal Housing Administration (FHA)-insured loans.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at http://www.hudoig.gov.

If you have any questions or comments about this report, please do not hesitate to call me at 213-534-2471.



Audit Report Number: 2015-LA-1005

Date: July 9, 2015

NOVA Financial & Investment Corporation's FHA-Insured Loans With Downpayment Assistance Gifts Did Not Always Meet HUD Requirements

Highlights

What We Audited and Why

We audited NOVA Financial & Investment Corporation based on a referral from the U.S. Department of Housing and Urban Development's (HUD) Quality Assurance Division detailing a separate lender that originated Federal Housing Administration (FHA)-insured loans that contained ineligible downpayment assistance gifts. The HUD Office of Inspector General's (OIG) analysis identified NOVA as a lender with the highest origination volume in the geographic region that participated in similar downpayment assistance gift programs. Our objective was to determine whether NOVA originated loans with downpayment assistance in accordance with HUD FHA rules and regulations.

What We Found

NOVA's FHA-insured loans with downpayment assistance gift funds did not always comply with HUD FHA rules and regulations, putting the FHA mortgage insurance fund at unnecessary risk, including potential losses of \$48.5 million for 709 loans. NOVA also inappropriately charged borrowers \$376,102 in misrepresented discount fees and \$7,110 in fees that were not customary or reasonable. This condition occurred because NOVA did not do its due diligence, relied on development authorities' program guidelines, and assumed downpayment assistance eligibility based on the reputation of the participating master loan servicer. The premium rate attached to the ineligible loans put borrowers at a distinct disadvantage due to higher monthly mortgage payments imposed on them.

What We Recommend

We recommend that HUD determine legal sufficiency to pursue civil and administrative remedies against NOVA for incorrectly certifying that mortgages were eligible for FHA mortgage insurance. We also recommend HUD require NOVA to (1) stop originating FHA loans with ineligible gifts; (2) indemnify HUD for 709 FHA loans that were originated with ineligible downpayment assistance gifts, resulting in funds to be put to better use of \$48.5 million; (3) reimburse borrowers for \$376,102 in misrepresented discount fees and \$7,110 in fees that were not customary or reasonable; (4) reduce the interest rate for borrowers who received downpayment assistance; (5) reimburse borrowers for overpaid interest as a result of the premium interest rate; and (6) update all internal control checklists to include specific HUD rules and regulations governing downpayment assistance, premium interest rates, and allowable fees.

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Background and Objective

The Federal Housing Administration (FHA) was created by Congress in 1934 and provides mortgage insurance on loans made by FHA-approved lenders throughout the United States and its territories. FHA is the largest insurer of mortgages in the world, having insured more than 34 million properties since its inception. FHA's Mutual Mortgage Insurance Fund provides lenders with protection against losses as a result of homeowners defaulting on their mortgage loans. Lenders bear less risk because FHA will pay a claim to the lender in the event of a homeowner's default. Loans must meet certain requirements established by FHA to qualify for insurance. FHA generally operates from self-generated income and only recently received part of its funding from taxpayers.

Under most FHA programs, the borrower is required to make a minimum downpayment of at least 3.5 percent of the lesser of the appraised value of the property or the sales price. Additionally, the borrower must have sufficient funds to cover borrower-paid closing costs and fees at the time of settlement. State housing finance agencies and development authorities are significant sources of home-ownership assistance programs, such as assistance with closing costs or rehabilitation. A majority of these programs include providing funding to borrowers for the FHA minimum cash investment. Although the U.S. Department of Housing and Urban Development (HUD) does not approve downpayment assistance programs, such programs and the lenders using the programs must ensure that funds provided comply with HUD FHA rules and regulations. Funds used to cover the required minimum cash investment, as well as closing costs and fees, must come from acceptable sources and be verified and properly documented.

NOVA Financial & Investment Corporation is a nonsupervised lender that was approved to originate FHA-insured loans on October 8, 1996, and received direct endorsement authority on November 9, 2009. NOVA's headquarters office is located at 6245 East Broadway Boulevard, Tucson, AZ. NOVA maintains 20 branches nationally and is licensed in Arizona, Alabama, Alaska, California, Colorado, Florida, Illinois, Oregon, Utah, New Mexico, Nevada, Washington, Texas, and Virginia. NOVA originated 3,590 FHA loans during the period August 1, 2011, to July 31, 2014.

Our objective was to determine whether NOVA originated loans with downpayment assistance in accordance with HUD FHA rules and regulations.

Results of Audit

Finding 1: NOVA's FHA-Insured Loans With Gift Funds Did Not Always Meet HUD Requirements

NOVA's FHA-insured loans that included downpayment assistance gift funds did not always comply with HUD FHA rules and regulations. In addition, NOVA improperly charged fees that were misrepresented, non-customary, or unreasonable. We identified 709 FHA-insured loans that contained an ineligible gift. This condition occurred because NOVA did not do its due diligence, relied on the development authorities' program guidelines, and assumed downpayment assistance eligibility based on the reputation of the participating master loan servicer. As a result, NOVA put the FHA mortgage insurance fund at unnecessary risk, including potential losses of \$48.5 million for 709 loans reviewed. FHA borrowers were also charged \$376,102 in misrepresented discount fees and \$7,110 in fees that were not customary or reasonable. Additionally, the ineligible loans put borrowers at a distinct disadvantage due to higher monthly mortgage payments.

NOVA Allowed Premium Pricing Associated With Downpayment Assistance

NOVA inappropriately originated FHA loans that included ineligible downpayment assistance gifts provided by programs administered through two State of Arizona development authorities: Home in Five Advantage Mortgage Origination Program and Pima Tucson Homebuyer's Solution. Using the Single Family Data Warehouse¹, we identified 405 FHA-insured loans² endorsed from May 1, 2011, to August 31, 2014, that included ineligible gifts (see appendix D). NOVA reported an additional 304 FHA loans within our audit period that also used downpayment assistance for the loans' minimum required investments³ and were likely ineligible.

Ineligible loans identified	Number of ineligible loans	Un	Unpaid principal balance		stimated loss HUD (risk)
Reviewed by OIG	405	\$	57,215,592	\$	28,607,796
Reported by NOVA	304		39,765,976		19,882,988
Totals	709	\$	96,981,568	\$	48,490,7844

NOVA inappropriately allowed premium pricing to be used as a source for borrowers' downpayments and allowed gifts that did not meet the level required by HUD FHA rules and

¹ Single Family Data Warehouse is a large collection of database tables dedicated to support analysis, verification, and publication of FHA single-family housing data.

² Of the 420 loans reviewed, 3 were paid in full and 12 contained the required 3.5 percent minimum cash investment outside the ineligible gift, resulting in 405 loans.

³ Of the 304 additional loans, 125 were originated under the Pima Tucson and Home in Five programs. The remaining 179 loans were originated using similar programs administered by other development authorities.

⁴ The estimated loss or potential risk was calculated using HUD's 50 percent loss rate (see appendix A).

regulations. As a requirement for program participation, borrowers were given mortgage interest rates (premium rate) that were above the prevailing market rate of interest for mortgages without downpayment assistance, equating to premium pricing. The premium interest rate was computed by adding the development authorities' program costs and targeted revenue margin to the rate at

which participating investment banks were willing to purchase Government National Mortgage Association (GNMA) mortgage-backed securities.

FHA borrowers were given higher than market interest rates in exchange for downpayment assistance.

The downpayment assistance gifts did not comply with HUD FHA's rules and

regulations on premium pricing and the description of acceptable gifts (see appendix C). The gifts were not true gifts as defined by HUD. They were indirectly repaid by the borrowers through the premium rate in combination with the development authorities' funding mechanism.

- The FHA loans' premium prices were used to fund the programs by recapturing the downpayment assistance and the programs' operating costs and to fund future downpayment assistance through the sale of the increased market value bundled loans. According to HUD Handbook 4155.1, paragraph 5.A.2.i, the funds derived from a premium-priced mortgage may never be used to pay any portion of the borrower's downpayment.
- To be considered a gift, HUD Handbook 4155.1, paragraph 5.B.4.a, states that there must be no expected or implied repayment of the funds to the donor by the borrower. NOVA did not comply with the "no repayment" requirement for the downpayment assistance gifts. The borrower indirectly repaid the ineligible gift through the premium-priced mortgage, making the gift ineligible.

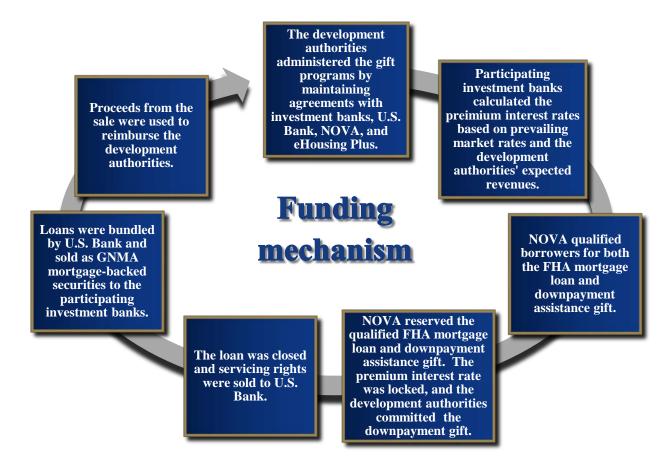
NOVA Used Programs That Depended on a Circular Funding Mechanism

NOVA used programs administered by the development authorities that were structured with the intention of generating revenues to perpetually fund the downpayment assistance programs. NOVA simultaneously approved borrowers for both the FHA mortgage loans and downpayment assistance gifts. To do this, the development authorities worked with U.S. Bank and participating investment banks that assisted them in raising capital. Once the FHA loan was approved, a NOVA loan officer reserved the funds for both the FHA mortgage and downpayment assistance gift in the eHousing Plus⁵ loan reservation program. The premium rate, once determined, became a fixed rate and was nonnegotiable by either NOVA or the borrower. The premium rate was locked at the same time the funds were reserved. Once the rate was locked, it became an enforceable commitment between U.S. Bank⁶, as the master loan servicer, and NOVA as it was the price at which U.S. Bank agreed to purchase the servicing rights. The closed mortgage loans were pooled by U.S. Bank, which purchased the servicing rights of each loan that contained downpayment assistance provided by the development authorities. The

⁵ eHousing is the downpayment program administrator, ensuring that interest is posted, funds are available, and all loan files submitted comply with the downpayment assistance program guidelines.

⁶ Master servicer means U.S. Bank in its role as master servicer under the servicing agreement.

investment banks contractually purchased the pooled premium-priced GNMA mortgaged-backed securities.



NOVA Did Not Ensure Downpayment Assistance Was Eligible

As the originating lender, NOVA was responsible for ensuring that FHA-insured loans complied with all HUD FHA rules and regulations. In this instance, NOVA was responsible for ensuring that the downpayment assistance gifts provided by development authorities met HUD FHA requirements. NOVA did not properly conduct its due diligence by ensuring the downpayment

assistance gifts provided by the development authorities complied with the appropriate HUD FHA rules and regulations.

Additionally, NOVA assumed downpayment assistance eligibility based on the participation of key program participants (for

NOVA did not ensure downpayment assistance complied with HUD FHA rules and regulations.

example, the master servicer). NOVA signed lender agreements with the development authorities to participate in the downpayment assistance programs. Therefore, NOVA originated FHA loans on behalf of the development authorities. The agreements contained language indicating NOVA's knowledge that the downpayment assistance was to be reimbursed and would include a higher than market interest rate to provide for such reimbursement (see excerpts below).

Home in Five Advantage Mortgage

Neither the premium interest rate nor the repayment of the Home in Five gifts was disclosed in the signed lender agreements. However, based on interviews with NOVA, the development authorities, and participating investment banks and a review of 232 FHA loans originated with a gift from Home in Five, we determined that a premium interest rate was a requirement of program participation and the premium rate was used to reimburse the development authorities. In the Home in Five program, the lender provided the downpayment assistance gift on behalf of the development authorities at closing.

Section 3. Down Payment Assistance. The Lender, on behalf of the Authorities, shall provide down payment assistance in an amount equal to 5.00% of the principal amount of the mortgage loan to eligible borrowers in accordance with the terms of the Administrator's Guidelines. Such down payment assistance shall be applied to a down payment on the mortgage loan and/or to closing costs. The Lender shall be reimbursed for down payment assistance forwarded to eligible borrowers upon the purchase of the mortgage loans by U.S. Bank National Association, as master servicer, pursuant to the terms of the Program. Down payment assistance is a grant and is not repayable by the borrower.

Although the lender agreement does not specifically spell out development authority reimbursement, the GNMA purchase agreement between the development authorities and the participating investment bank states that the development authorities would be reimbursed for the downpayment assistance grant.

Exhibit A hereto. The Authorities then will be reimbursed for the DPA Grant and SRP by the sale of the GNMA Certificate to the Custodian, and then to the Purchaser at the Certificate Purchase Price. Such

Pima Tucson Homebuyer's Solution

The lender agreement excerpts below show that the Pima Tucson program required borrowers to obtain a premium interest rate in exchange for downpayment assistance. The agreement further illustrated how the premium interest rate was implemented to provide the funds for downpayment assistance.

costs. The Authorities shall be reimbursed for down payment assistance forwarded to Eligible Borrowers upon the purchase of the Mortgage Loan by the Master Servicer pursuant to the terms of the 2012 Program. Down payment assistance is a grant and is not directly repayable by the borrower of the Mortgage Loan; rather the interest rate on the Mortgage Loan has been increased to provide the funds for such down payment assistance.

Higher Mortgage Loan Interest Rate. The calculation of the interest rate on this mortgage loan is based upon the addition of the 4% down payment and/or closing cost assistance which has been requested by the undersigned, and therefore, the interest rate on this mortgage loan is at a higher interest rate than could otherwise be obtained (or may be available) to the homebuyer if no down payment or closing cost assistance were included. The undersigned acknowledges the undersigned is paying a higher mortgage loan interest rate because of the 4% down payment and/or closing cost assistance and agrees to pay the higher mortgage loan interest rate. The undersigned has made a determination that this is in the best financial interest of the undersigned at this time.

FHA Borrowers Receiving a Downpayment Assistance Gift Paid More

Although both programs were administered in a similar manner, they differed in how the premium rate was disclosed to the borrower. Loans associated with the Pima Tucson program contained a certification signed by the borrower, stating that the downpayment assistance carried a premium rate as a requirement for program participation. Loans associated with the Home in Five program did not contain a similar signed certification. Neither NOVA nor the applicable development authorities were able to say with certainty how or whether the premium rate was disclosed to the borrower.

Imposing a higher interest rate on borrowers that otherwise would not have been eligible for an FHA mortgage loan results in a higher mortgage payment compared to qualified FHA borrowers that do not receive downpayment assistance. The premium interest rate, required to receive downpayment assistance, will always result in a higher mortgage payment for the borrower. Based on interviews with a sample of FHA borrowers⁷ who received a gift associated with a premium interest rate, it appeared that they were not always fully aware of the premium rate or its impact on their mortgage. Specifically, 11 of the 16 borrowers stated that they were not fully aware of how receiving the downpayment assistance gift impacted their loan terms.

Fees Were Not Reasonable or Customary

NOVA charged and collected \$376,102 in discount fees that were not used for their intended purpose (see appendix E). HUD defines discount points as fees paid to reduce the interest rate on a loan. The misrepresented discount fees were a portion of NOVA's compensation for originating loans under the downpayment assistance programs and not intended to reduce the interest rate of the loans (see appendix C).

Section 4. Lender Compensation. The Lender's gross compensation for mortgage loans originated under the program shall not exceed 2.00% of the principal amount of the mortgage loans (constituting a 1.00% origination fee and 1.00% discount fee). There will be no servicing release fee paid. VA loans will be purchased at a 0.50% discount and, therefore, a maximum gross compensation of 1.50% on VA loans.

⁷ We interviewed 16 borrowers. See the Scope and Methodology section for details on the selection methodology.

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In addition, NOVA charged and collected \$7,110 in fees that were not customary or reasonable to close FHA mortgage loans (see appendix E). These fees were charged in association with the downpayment assistance programs and were not reasonable or customary to close the FHA mortgage loan. Fees identified as not customary or unreasonable were listed as bond program fees, bond transfer fees, and tax and service fees on the settlement statements. For example, we identified \$225 listed as a bond transfer fee or "to be announced" application fee, a \$300 funding fee, and a \$150 transfer fee. In addition, we identified a U.S. Bank tax service fee of \$85, which is prohibited according to HUD requirements.

Conclusion

NOVA's FHA-insured loans that included a premium interest rate associated with downpayment assistance gift funds did not always comply with HUD FHA rules and regulations. As a result, NOVA put the FHA mortgage insurance fund at unnecessary risk, including potential losses of \$48.5 million for 709 loans. This condition occurred because NOVA did not do its due diligence, relied on the development authorities' program guidelines, and assumed downpayment assistance eligibility based on the reputation of the participating master loan servicer. The premium rate imposed on FHA borrowers put them at a distinct disadvantage due to higher monthly mortgage payments. In addition, NOVA charged FHA borrowers \$376,102 in misrepresented discount fees and \$7,110 in fees that were not customary or reasonable.

Recommendations

We recommend that HUD's Associate General Counsel for Program Enforcement

1A. Determine legal sufficiency and if legally sufficient, pursue civil and administrative remedies (31 U.S.C. (United States Code) 3801-3812, 3729, or both), civil money penalties (24 CFR (Code of Federal Regulations) 30.35), or both against NOVA, its principals, or both for incorrectly certifying to the integrity of the data, the eligibility for FHA mortgage insurance, or that due diligence was exercised during the origination of 709 loans with potential losses of \$48.5 million.

We recommend that HUD's Deputy Assistant Secretary for Single Family Housing require NOVA to

- 1B. Immediately stop originating FHA loans with ineligible gifts as part of downpayment assistance programs that result in a premium interest rate for the borrower.
- 1C. Indemnify HUD for 405 FHA loans that were originated with the ineligible gift as part of the downpayment assistance programs, resulting in funds to be put to better use of \$28,607,796⁸.

⁸ See appendix A for explanation funds to be put to better use.

- Indemnify HUD for the additional 304 loans originated under the Home in Five, Pima Tucson, and similar downpayment programs that may contain ineligible downpayment assistance, resulting in funds to be put to better use of \$19,882,988. HUD must review the 304 loans to determine whether they were insurable without the ineligible downpayment assistance.
- 1E. Reimburse FHA borrowers \$376,102 for the unallowable, misrepresented discount fees and \$7,110 for fees that were not customary or reasonable.
- 1F. Collaborate with loan servicers to reduce the interest rates for FHA borrowers who received downpayment assistance, were charged a premium interest rate, and have not refinanced or terminated their original FHA loan.
- 1G. Reimburse FHA borrowers for overpaid interest as a result of the premium interest rate for those who received downpayment assistance, were charged a premium interest rate, and have refinanced or terminated their original FHA loan.
- 1H. Update all internal control checklists to include specific HUD FHA rules and regulations governing downpayment assistance, premium interest rates, and allowable fees.

Scope and Methodology

We performed our audit fieldwork from October through January 2015 at the NOVA corporate office in Tucson, AZ, and a NOVA office in Phoenix, AZ. Our audit period covered loans originated from May 1, 2011, to August 31, 2014.

To accomplish our objective, we

- Reviewed HUD regulations and reference materials related to single-family requirements;
- Interviewed appropriate NOVA management and staff personnel;
- Interviewed parties involved with the downpayment assistance programs, including Maricopa-Phoenix and Pima-Tucson Industrial Development Authorities, the Community Investment Corporation, Raymond James Independent Financial Advisors, and George K. Baum & Company;
- Reviewed documentation for the Pima Tucson and Home in Five downpayment programs;
- Reviewed loans that contained an ineligible downpayment assistance gift;
- Interviewed 16 FHA borrowers; and
- Reviewed the NOVA quality control plan and 5 files for quality control.

For our review of NOVA's FHA loan originations related to downpayment assistance gift programs, we reviewed 420 loans that were originated with a downpayment assistance gift. Using the Single Family Data Warehouse, we identified loans originated by NOVA that likely contained a downpayment assistance gift, based on the lender identification code and the percentage of the downpayment assistance gift dictated by each downpayment assistance program.⁹

- For the Pima Tucson program, we identified 188 of 8,824 loans that likely contained ineligible downpayment assistance gifts.
- For the Home in Five program, we identified 232 of 6,694 loans that likely contained ineligible downpayment assistance gifts.

⁹ The downpayment assistance was based on a percentage of the FHA loan amount.

NOVA also provided a listing of all loans in our audit period that were originated with downpayment assistance and were premium priced. We reconciled the data from the Single Family Data Warehouse and NOVA's listing and identified 304 additional FHA loans that also contained downpayment assistance similar to the 420 identified.

For our borrower interview sample, we selected the 15 most recently endorsed Pima Tucson loans and the 15 most recently endorsed Home in Five loans. We also included two loans that had their own funds to close in addition to the downpayment assistance received. We interviewed 16 borrowers due to time constraints, borrower availability, and results of the borrower interviews.

To perform our quality control file review, we requested a listing from NOVA of all quality control reviews performed during 2009-2014. NOVA provided 2,208 loans that were reviewed for quality control. We performed limited testing and reviewed 5 loan files of the 2,208 to determine whether the quality control plan and a sample of the plan and the lender's review of FHA files met HUD's requirements.

We conducted the audit 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

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

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls 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 objective:

- Controls intended to ensure that FHA loans originated with the downpayment assistance gifts met HUD FHA's requirements.
- Controls intended to ensure that fees paid by FHA borrowers were properly disclosed, represented accurately, reasonable, and customary.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiencies

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

- NOVA did not have adequate controls to ensure that FHA loans originated with downpayment assistance gifts met HUD FHA's requirements (finding).
- NOVA did not have adequate controls to ensure that fees paid by FHA borrowers were disclosed, accurately represented, and reasonable in accordance with HUD FHA's requirements (finding).

Appendixes

Appendix A

Schedule of Questioned Costs and Funds To Be Put to Better Use

Recommendation number	Ineligible 1/	Unreasonable or unnecessary 2/	Funds to be put to better use 3/
1C			\$28,607,796
1D			\$19,882,988
1E	\$376,102	\$7,110	
Totals	\$376,102	\$7,110	\$48,490,784

- 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. In this instance, the ineligible costs are the discount fees charged to FHA borrowers that were misrepresented on the HUD-1, Settlement Statement (see appendix E).
- 2/ Unreasonable or unnecessary costs are those costs not generally recognized as ordinary, prudent, relevant, or necessary within established practices. Unreasonable costs exceed the costs that would be incurred by a prudent person in conducting a competitive business. In this instance, the unreasonable costs were those fees that were charged to FHA borrowers that were not customary or reasonable, such as bond program fees, bond transfer fees, and tax service fees (see appendix E).
- Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this instance, implementation of recommendations 1B and 1C to indemnify loans not approved in accordance with HUD FHA's requirements will reduce FHA's risk of loss to the insurance fund. The amount for recommendation 1B was calculated as \$57,215,592 (see appendix D) in unpaid principal for 405 loans multiplied by the 50 percent FHA loss severity rate. The amount for recommendation 1B was calculated as \$39,765,976 in unpaid principal for 304 loans multiplied by the 50 percent FHA loss severity rate. The 50 percent loss rate is based on HUD's Single Family Acquired Asset Management System's "case management profit and loss by acquisition" computation for the first quarter of fiscal year 2015, based on actual sales.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments



MEMORANDUM OF DISAGREEMENT

TO: Tanya E. Schulze

Regional Inspector General for Audit, 9DGA

Kathleen A. Zadareky

Deputy Assistant Secretary for Single Family Housing, HUD

Dane M. Narode

Associate General Counsel for Program Enforcement, CACC

FROM: Ali J. Farhang, Counsel for NOVA Financial & Investment Corporation

DATE: June 15, 2015

RE: Auditee's Response to Audit Report Number: 2015-LA-XXXX

INTRODUCTION

Since 1977, state and local housing finance agencies (HFAs) have invited lenders, such as NOVA Financial & Investment Corporation (NOVA), to participate in lending programs—including, since 1993, programs with down payment assistance (DPA)—aimed to assist credit-worthy and qualified low and moderate-income first-time homebuyers to purchase affordable single-family homes. Each of these HFA programs is operated by a governmental agency or public entity, and is therefore eligible to provide DPA, as outlined in the HUD Handbook (4155.1 5.B.4.b.) and discussed in detail in the November 29, 2012 HUD Interpretive Rule, 24 CFR 203 (the "Interpretive Rule") and HUD Mortgagee Letter 2013-14 (May 9, 2013).

The home mortgage loans originated through these HFA programs conform to strict underwriting criteria. The loans are fully amortized fixed-rate 30-year mortgages generally with: (1) a maximum allowable debt-to-income (DTI) ratio; (2) minimum allowable borrower FICO scores of 640; (3) no prepayment penalties or negative amortization; (4) limitations on points and fees charged to the borrower; (5); HUD-approved homebuyer education required; and (6) based on numerous surveys, a materially *lower* delinquency and default rate than for general market (non-HFA) mortgage loans.

These HFA programs often include a DPA grant (gift) provided by the HFA from HFA funds that may be generated in whole or in part from the capital markets, through either the sale of bonds or the sale of mortgage-backed securities (MBS) that are backed by the program loans.

¹ These HFA programs include the Home in Five Advantage mortgage origination program administered by the Phoenix and Maricopa County Industrial Development Authorities and the Homebuyer's Solution program administered by the Tucson and Pima County Industrial Development Authorities.

HFAs have been using this structure and funding mechanism for over 20 years and have originated tens of billions of dollars of mortgage loans under these programs. As a result, HFAs and participating lenders have helped tens of thousands of low and moderate-income families across the country achieve homeownership, all in the context of programs that participants, acting in good faith, believed were legal and acceptable to HUD. These programs helped stimulate and repair depressed residential real estate markets across the country and the economy as a whole.

HUD-OIG's Audit Report of NOVA contradicts clear and binding HUD guidance related to HFA DPA programs, and is completely inconsistent with HUD practice in this area — as noted below, HUD has been aware of these DPA programs since at least 2004, when it reviewed these programs in depth. Instead of relying on the clear language of the HUD Handbook, Interpretive Rule, and 20 years of actual industry practice, HUD-OIG has determined to bring new interpretations to HUD rules through the audit process. The proposed findings of HUD-OIG would, if followed by HUD, massively and unfairly broaden the scope of a lender's responsibilities in such a way that it would logically be impossible for any lender to participate in the HFA programs that have enjoyed more than 20-years of HUD approval. HUD-OIG's contrary viewpoint would potentially wipe out the huge number of state and local HFA programs that derive DPA from the capital markets; leaving low and moderate-income families unserved, and undo real estate market gains.

DISCUSSION

HUD-OIG's audit resulted in one official "Finding;" namely, "NOVA's FHA-Insured Loans With Gift Funds Did Not Always Meet HUD Requirements," allegedly caused by the following: (a) NOVA did not do its due diligence; (b) NOVA relied on development authorities (HFAs) program guidelines; and (c) NOVA determined an implied eligibility based on the reputation of the participating servicer. See (4: \P 1).² Each of these sub-findings contain unfounded assertions, many of which the HUD Handbook and Interpretive Rule directly contradict. NOVA addresses these findings in the order they appear in the Audit Report.

SUB-FINDING: "NOVA did not do its due diligence..." (4: ¶ 1), and "As the
originating lender, NOVA was responsible for ensuring that FHA insured loans complied
with all HUD FHA rules and regulations." (6: ¶ 1).

RESPONSE: NOVA met all HUD guidelines in place at the time of the subject loans regarding its due diligence. NOVA's "due diligence" with respect to DPA gift funds is <u>narrowly</u> described in the HUD Handbook as "the lender *must* be able to determine that the gift funds were *not* provided by an unacceptable source, and were the donor's own funds." (4155.1 5.B.4.d.). The following provisions of the HUD Handbook applied to the loans in question:

Comment 1

Comment 2

² All citations are to the page and paragraph in the HUD-OIG Draft Audit Report, unless otherwise indicated.

4155.1 5.B.4.b Who May Provide a Gift: ... a governmental agency or public entity that has a program providing home ownership assistance to low and moderate-income families or first-time homebuyers.

4155.1 5.B.4.c Who May Not Provide a Gift: The gift donor may *not* be a person or entity with an interest in the sale of the property, such as:

- The seller
- The real estate agent or broker
- · The builder; or
- An associated entity.

4155.1 5.B.4.e Gift Donor's Source of Funds: As a general rule, <u>FHA is not concerned with how a donor obtains gift funds</u>, provided that the funds are not derived in any manner <u>from a party to the sales transaction</u>.

Additionally, the Interpretive Rule examined this issue and concluded the following:

"HUD interprets NHA Section 203(b)(9)'s 'prohibited sources' provision in subsection (C) as <u>not</u> including funds provided directly by Federal, State, or local governments, or their agencies and instrumentalities in connection with their respective homeownership programs." (p. 13) (emphasis added).

HUD-OIG mentions neither these HUD Handbook provisions nor the Interpretive Rule, as they cannot be reconciled with the HUD-OIG findings. NOVA met its due diligence requirements in the following ways:

- NOVA determined that the funds came from an HFA, an acceptable source (4155.1 5.B.4.b and Interpretive Rule).
- The funds from the HFA were their own funds—whether the funds came from other prior
 or subsequent capital market transactions is immaterial, as the funds did not come from
 "a party to the sales transaction" (4155.1 5.B.4.d); and
- NOVA need not investigate the source of the funds <u>beyond ensuring that the funds did</u> <u>not come from NOVA</u>, the <u>Seller</u>, the <u>Builder</u>, or the <u>Broker</u>, the only other parties (except the Buyer) involved in the underlying sales transaction. (4155. 1 5.B.4.c and e).
- See also Mortgagee Letter 2013-14 (Documentation requirements).

HUD-OIG does <u>not</u> allege that NOVA failed in its record-keeping or reporting requirements under Mortgagee Letter 2013-14, which is the only authority imposing additional requirements upon the lender for verifying gift funds. Importantly, researching **how or where** the HFA received funding is <u>not</u> a requirement under HUD Handbook, the Interpretive Rule, or the Mortgagee Letter. Instead, HUD-OIG attempts to impose a broad duty upon the lender, *expost facto*, where none exists.

Comment 4

Comment 3

> SUB-FINDING: "NOVA inappropriately allowed premium pricing to be used as a source for borrowers' downpayments..." (4: ¶ 3).

RESPONSE: Premium pricing on a loan under the HUD Handbook relates to a slightly higher interest rate charged by the lender (not the HFA) to the borrower, in exchange for the lender (not the HFA) paying certain of the borrower's eligible costs. NOVA did not utilize premium pricing to fund any borrower's down payment, which is what HUD guidelines prohibit, as indicated in the following:

4155.1 5.A.2.i. Premium Pricing on FHA-Insured Mortgages: Lenders may pay a borrower's closing costs, and/or prepaid items by "premium pricing." Closing costs paid in this manner do not need to be included as part of the seller contribution limitation. The funds derived from a premium priced mortgage: may never be used to pay any portion of the borrower's down payment...

NOVA did not pay part of the borrower's closing costs. The borrower paid those from the DPA gift of the HFA. The HUD Handbook is silent with respect to whether HFAs may be funded by non-interested parties to the underlying sale (e.g., by investors in the capital markets upon sale of the related bonds or MBS). The slightly above-market interest rate is paid to the ultimate purchaser-holder of the premium tax-exempt single-family bond or GNMA or FNMA MBS, not to the HFA donor.

HUD has never deemed HFA loan program DPA, even if derived from bonds or MBS sold by an HFA for a premium, to constitute "funds derived from a premium priced mortgage." In fact, this model of state and local HFAs selling premium bonds and premium MBS (i.e., accessing the capital markets in view of the limited funding sources available for DPA) to provide DPA grants or DPA second mortgages has been in widespread use since 1993, and with HUD's direct knowledge since 2004 for premium bonds and 2012 for premium MBS (in the current historically low interest market, MBS sales are more efficient than bond sales). HUD Central specifically addressed the premium bond structure in 2004 and obviously approved the program since no adverse guidance was issued in the wake of such review. The Interpretive Rule also contains clear language that HUD understands HFAs are raising DPA funds from the bond market (the traditional capital market source of DPA funds). Thus, HUD-OIG's current findings, if accepted, would constitute nothing short of a wholesale change in current sound and longstanding HUD policy in this critically important area.

3. SUB-FINDING: "NOVA Used Programs That Depended On Circular Funding Mechanism" (5: ¶ 5); "NOVA inappropriately originated FHA Loans that included ineligible downpayment assistance gifts provided by programs administered through two State of Arizona development authorities." (4: ¶ 2); and NOVA "allowed gifts that did not meet the level required by HUD FHA rules and regulations." (4: ¶ 3).

Comment 5

Comment 7

Comment 8

RESPONSE: Gifts provided by programs administered through State and local development authorities who have "program[s] providing home ownership assistance to low and moderate-income families or first-time homebuyers" are newer considered ineligible down payment assistance. See HUD Handbook 4155.1 5.B.4.b., supra and Interpretive Rule (finding that "the amended section 203(b)(9) [of the NHA enacted in HERA] does not exclude as a permissible source of cash investment, funds provided directly by Federal, State, or local governments or their agencies or instrumentalities as part of their respective homeownership programs.").

HUD has reviewed and acknowledged HFA DPA funding mechanisms, including the use of capital markets to source these funds, which HUD-OIG now, suddenly, refers to as "circular funding mechanisms." The Interpretive Rule cited a description of these programs, including a link to the HFA program referenced in HUD-OIG's audit report, when addressing acceptable sources of gifts/DPA:

C. Other Government Funded Homeownership Assistance Programs

Another key source of homeownership assistance programs, such as assistance with closing costs, or rehabilitation, is provided by State and local governments, primarily through housing finance agencies (HFAs). According to the National Council of State Housing Finance Agencies, HFAs are generally State-chartered authorities established by State governments to help meet the affordable housing needs of State residents. Although HFAs vary widely in characteristics such as their relationship to State government, most are independent entities that operate under the direction of a board of directors appointed by their respective State governors. They administer a wide range of affordable housing and community development programs. Using housing bonds, low-income housing tax credits, HOME program funds, and other Federal and State resources, HFAs have crafted hundreds of housing programs, including homeownership, rental and all types of special-needs housing. HFAs have provided affordable mortgages to 2.6 million families to buy their first homes through mortgage revenue bond programs.

A recent study of HFAs found that 100 percent of the 51 HFAs surveyed said that part of their mission is "to assist low- and moderate-income residents to purchase homes and be successful homeowners." A majority of those programs—in 2011, 88 percent (45 of 51) of State HFAs—include minimum cash investment as a part of advancing their mission. Federally backed mortgage insurance is also a critical part of the HFA's strategy. Of HFA loan production in 2011, 86 percent involved FHA, Veterans Administration (VA), or Rural Housing Service loan or loan insurance programs. (emphasis added)

Comment 9

Because "as a general rule, FHA is not concerned with how a donor obtains gift funds" (4155.1 5.B.4.e), NOVA's due diligence was complete when it verified that the gift funds came from an acceptable source (HFA) and that the HFA owned the funds and was obligated to fund the borrower's minimum cash investment. Despite clear HUD guidance on this issue, HUD-OIG attempts to draft a contrary prohibition, expost facto, where none exists.

Comment 10

4. SUB-FINDING: "The down payment assistance gifts did not comply with HUD FHA's rules and regulations on premium pricing and the description of acceptable gifts. The gifts were not true gifts as defined by HUD. They were indirectly repaid by the borrowers through the premium rate in combination with the development authorities' funding mechanism." (5: § 2).

RESPONSE: The HUD Handbook rule only requires the following: Borrowers did not have any obligation to repay the DPA. Further, no portion of the slightly-higher interest rate charged to the borrower is used to refund the DPA (even remotely and indirectly) if the borrower pays off the mortgage early. HUD-OIG acknowledges this fact, but glosses over it because it because it obes not comport with the conclusion they desire. See (4: Fn 2 "Of the 420 loans reviewed, 3 were paid in full and 12 contained the required 3.5 percent minimum cash investment outside the ineligible gift, resulting in 405 loans.").

In other words, by HUD-OIG's definition, the exact same "unacceptable" DPA gifts become "acceptable" if the borrower pays off the loan, as <u>no</u> portion of the slightly higher interest rate can be attributed to reimbursement of the DPA. This is a situation where HUD-OIG's reach exceeds its grasp, as HUD-OIG's findings and resulting recommendations far exceed the requirements promulgated by the NHA, HERA, HUD Guidelines, and the HUD Interpretive Rule.

5. SUB-FINDING: "NOVA signed lender agreements with the development authorities to participate in the down payment assistance programs... The agreements contained language indicating NOVA's knowledge that the down payment assistance was to be reimbursed and would include a higher than market interest rate to provide for such reimbursement... (6: ¶ 1).

RESPONSE: First, reimbursement by a non-interested party to the underlying sale (such as by investors in the capital markets upon sale of the related bonds or MBS) was not prohibited for reasons stated above, but HUD-OIG appears to directly contradict itself regarding NOVA's actual knowledge of the reimbursement mechanism by later acknowledging with respect to the Home in Five Lender Agreement:

"Although the lender agreement does not specifically spell out development authority reimbursement, the GNMA purchase agreement between the

development authorities and the participating investment bank states that the development authorities would be reimbursed for the downpayment assistance grant." (7: \P 3) (emphasis added)

The above section of the Audit Report begs the question: how was NOVA, not a party to the GNMA purchase agreement between the HFA and its financial counterpart, to know that the development authorities would be reimbursed for the DPA grant? How far "down the chain" must NOVA investigate to determine if the HFA receives reimbursement from various purchasers or re-purchasers of the related bonds or MBS? NOVA earnestly submits that this type of investigation is far beyond any reasonable interpretation of its due diligence responsibilities under HUD rules.

Additionally, this finding cannot be reconciled with multiple HUD Handbook statements relating to the qualification of HFA-provided DPA funds: (1) HFAs, by definition, are acceptable sources of DPA gifts (4155.1 5.B.4.b); (2) HUD acknowledged that HFAs receive funding from a variety of sources (Interpretive Rule); (3) HUD acknowledges that "FHA is not concerned with how a donor obtains gift funds, provided that the funds are not derived in any manner from a party to the sales transaction" (4155.1 5.B.4.e); and (4) NOVA verified that the HFA did not receive funding from the Seller, Broker, Builder, or lender.

HUD-OIG's finding attempts to impose a duty upon NOVA, ex post facto, where none exists under the regulatory framework. If HUD were to adopt the Audit Recommendations, lenders across the country will be in the untenable position of having to analyze each and every HFA program in exhaustive detail in an attempt to discern if there is any theoretically potential violation of an FHA rule. This is completely unrealistic and a ridiculous burden that would almost certainly kill lender and servicer participation in any HFA DPA programs. No reasonable lender is going to become a guarantor of every aspect of an HFA program.

HFAs have been accessing the capital markets since 1993 to raise DPA—and not once has HUD ever issued any guidance questioning any aspect of these programs. In 2004, HUD reviewed the very issue involved in the HUD-OIG audit—the use by HFAs of premium bonds sold in the capital markets to raise DPA funds—and following that review, no negative guidance was ever issued by HUD, then or since.

 SUB-FINDING: "NOVA "[improperly] relied on development authorities' program guidelines and determined an implied eligibility based on the reputation of the participating servicer." (4: § 1).

RESPONSE: NOVA properly relied on HUD Handbook guidelines for "Who May Provide a Gift" (4155.1 5.B.4.b) and on the Interpretive Rule, which expressly determined that HFAs are eligible to provide DPA, so long as the funds did not come from a party to the underlying sales transaction.

Comment 4

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Comment 13

This is <u>not</u> the situation that Congress, by enacting HERA, sought to prohibit. NOVA did not collaborate and rely on the program guidelines of unknown, questionably "charitable" entities that provided seller-funded DPA. Instead, NOVA partnered with state and local government-chartered authorities (HFAs), which are direct agencies and instrumentalities of state and local government. Most HFAs operate under the direction of a government-appointed board of directors and administer a wide range of programs. HFA DPA programs do not charge a fee to the Seller in the underlying transaction and do not receive funding from the Seller, so there is no inducement to inflate home prices to offset fees or DPA reimbursement. Moreover, HFAs receive funding from a variety of sources (<u>not</u> from any source with an interest in the sale of the property), and are <u>not</u> solely funded by DPA reimbursement. HUD expressly considered these factors when issuing the Interpretive Rule and approving HFA DPA programs such as those at issue.

Additionally, NOVA relied upon advice and strong encouragement to participate in the development authorities' program by a representative of the HUD Quality Assurance Division. At the time, such HFA's were providing DPA <u>under very similar terms and conditions as are at issue</u>. Specifically, HUD Quality Assurance Division employee, Ramona J. Cabrera, sent an email to NOVA's Chairman and CEO, Jon Volpe, in August of 2011, inquiring:

"Are you doing bond/IDA programs? . . . There is a lot of money in the Bond/IDA program still left for homebuyers. I would like to see Nova play a bigger role in this program." (emphasis added)

NOVA provided a copy of this correspondence to HUD-OIG on February 10, 2015 in connection with this Audit, though HUD-OIG chose not to include it in the Draft Audit Report.

7. SUB-FINDING: "FHA Borrowers Receiving a Down Payment Assistance Gift Paid More" (8: topic heading); "The premium rate imposed on FHA borrowers put them at a distinct disadvantage due to higher monthly mortgage payments." (4: ¶ 1); and "The table below illustrates how a borrower receiving a premium interest rate associated with a down payment assistance gift would pay substantially more over the lifetime of a mortgage, compared to a borrower who did not receive a down payment assistance gift." (8: ¶ 3).

RESPONSE: This finding truly makes no sense. Under the facts presented by HUD-OIG itself, borrowers receiving DPA massively <u>benefit</u> from receiving DPA even if they pay a slightly higher mortgage rate. The analysis and table on Audit Report page 8 demonstrate the utter fallacy of HUD-OIG's arguments:

 Describing \$4,449.60 over the entire 30-year loan period (without any present value consideration (i.e., any consideration of the time value of money)) as "substantially more" is just not rational, especially when the borrower received \$7,585.00 at closing.

Comment 13

See the analysis below regarding the massive differential in values based on various loan prepayment scenarios.

- · Paying a slightly higher amount to be able to buy a home, where otherwise you could not purchase a home, is a perfectly logical and from a credit standpoint, safe and smart strategy, especially when it comes out to paying only \$12.36 more a month.
- · No borrower is taken advantage of under the HFA programs. Even in the unlikely event that the loan were repaid over the full 30-year term, and one ignored the present value analysis, the borrower still would receive a net gain of \$3,135.40.

This kind of structure is completely different than the case of seller-reimbursed DPA (disallowed by HUD), where the Seller inflates the price of the home to match the DPA amount.

HUD-OIG also fails to acknowledge the practical reality that most homebuyers do not keep the same mortgage for 30 years. In fact, most first-time homebuyers will sell the home or refinance after 5-7 years, thus greatly increasing the "net gain" with respect to the DPA by the borrower.

As stated above, HUD-OIG's conclusion does not take into consideration the time value of money with respect to the extra interest paid by the borrower receiving the DPA. If one properly considers the present value (PV)3 of the extra interest payments, the following tables show the true comparison of borrowers who receive DPA with a slightly higher rate and borrowers who do not receive DPA, assuming the loan is prepaid after 30, 14,4 and 5 years, respectively – one can see that under that proper analysis, any extra interest is deminimus:

ASSUMING LOAN IS OUTSTANDING FOR 30 YEARS

Loan Detail	Borrower A with premium pricing	Borrower A without premium pricing		Mortgage		
Loan Amount	\$152,192.00	\$	152,192.00	payment		
Downpayment Assistance	\$7,585.00	\$	-		difference	
Interest Rate	3.625%		3.480%			
Mortgage Payment	694.07		681.71	\$	12.36	
Yearly difference					148.32	
Total additional payments over 30 years				\$	4,449.60	
Present Value of Additional Payments					\$1,502.23	
Downpayment Assistance				\$7,585.00		
NET DU FACULANA DENESTE TO DODOUNED					40.000.77	

NET PV ECONOMIC BENEFIT TO BORROWER

 ³ Present value calculations assume monthly compounding.
 ⁴ In 1991 (its last determination), FHA determined that all FHA loans prepaid on average in 13.61 years from the period from 1970 to June 30, 1991; first-time homebuyers prepaid at a faster rate.

Comment 13

	T	LOAN IS OUTSTAND			
Loan Detail	Borrow	r A with premium Borrower A without pricing premium pricing		Mortgage	
Loan Amount	\$	152,192.00	\$	152,192.00	payment
Downpayment Assistance	\$	7,585.00	\$	-	difference
Interest Rate		3.625%		3.480%	
Mortgage Payment		694.07		681.71	\$12.36
Total additional payments over 14 years					\$2,824.69
Present Value of Additional Payments				\$953.65	
Downpayment Assistance					\$7,585.00
NET PV ECONOMIC BENEFIT	TO BORR	OWER			\$6,631.35

ASSUMING LOAN IS OUTSTANDING FOR 5 YEARS

Loan Detail	Borrower A with premium Borrower A without pricing premium pricing		Mortgage		
Loan Amount	\$	152,192.00	\$	152,192.00	payment
Downpayment Assistance	\$	7,585.00	\$	-	difference
Interest Rate		3.625%		3.480%	
Mortgage Payment		694.07		681.71	\$12.36
Total additional payments over 5 years					\$1,079.91
Present Value of Additional Payments				\$364.59	
Downpayment Assistance				\$7,585.00	
NET PV ECONOMIC BENEFIT TO BORROWER				\$7,220.41	

Comment 13

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As demonstrated, rather than causing an undue hardship or "distinct disadvantage," HFA DPA programs such as those at issue actually create an enormous advantage and benefit to qualifying borrowers. Additionally and contrary to HUD-OIG's conclusions, these types of loans do not put the FHA mortgage insurance fund at unnecessary risk, as numerous surveys have demonstrated that delinquency and default rates for such HFA program loans in fact are materially lower than the delinquency and default rates for general market, non-HFA loans.

CONCLUSION

HUD-OIG's Audit Report would seem to contradict more than 20 years of HFA industry standards of operation, direct HUD guidance in the HUD Handbook, direct HUD guidance in the form of the Interpretive Rule, and additional HUD guidance in Mortgagee Letter 2013-14.

Additionally, HUD has been aware of this exact issue since at least 2004 as to premium bonds and at least 2011 as to MBS, as the National Association of Local Housing Finance Agencies (NALHFA) sent letters directly to HUD on these issues. John C. Murphy, then Executive Director of NALHFA, sent a letter on April 19, 2004 to John Coonts, then Deputy

Assistant Secretary, Office of Single Family Housing, U.S. Department of Housing and Urban Development, stating the following (copy attached as Exhibit A):

It has come to my attention that your Office is considering reaching a conclusion that tax-exempt mortgage revenue bonds using a premium bond structure, where the bond premium is used to make downpayment assistance in the form of an outright grant (or gift), would not qualify for FHA mortgage insurance...

The use of premium bonds to create downpayment assistance grants dates at least from 1993, and has been employed by numerous local and state housing issuers across the country. According to one NALHFA member, it is by far the most common type of single family structure in the marketplace today. Hundreds of bond issues, with total principal amount of probably more than a billion dollars, are issued and outstanding under this structure. Moreover, there are bond issues being priced as I write and lending programs across the county currently making loans under this structure.

My reading of Section 2-10(C) of the FHA Single Family underwriting handbook indicates that an outright gift of the cash investment is acceptable if the donor is a government agency or a public entity that has a program to provide homeownership assistance to low- and moderate-income homebuyers, the gift funding is not from the seller of the property, and no repayment of the gift is expected or implied. This is exactly how these programs are structured; for example, if a homebuyer sells or refinances the mortgage loan, no repayment of the gift is required and the homebuyer retains the entire gift. It is true that the mortgage loan rate is higher due to the premium bond rate but this rate applies only to the mortgage loan and there is no requirement to repay the grant directly or indirectly. It is my further understanding that this structure is so universally utilized that, based on the handbook, there are no approvals needed unless the issuer is structuring the program to require a second mortgage to recover the assistance.

In the wake of that letter, and based on our understanding, HUD (in Washington, D.C.) actively considered the issue and, after such consideration, did not issue any final guidance – presumably based on a conclusion that the HFA program did not violate HUD rules.

Subsequently, then Executive Director John C. Murphy also sent a letter on behalf of NALHFA on December 6, 2011 to the Honorable Carol Galante, then Assistant Secretary for HUD, stating the following (copy attached as Exhibit B):

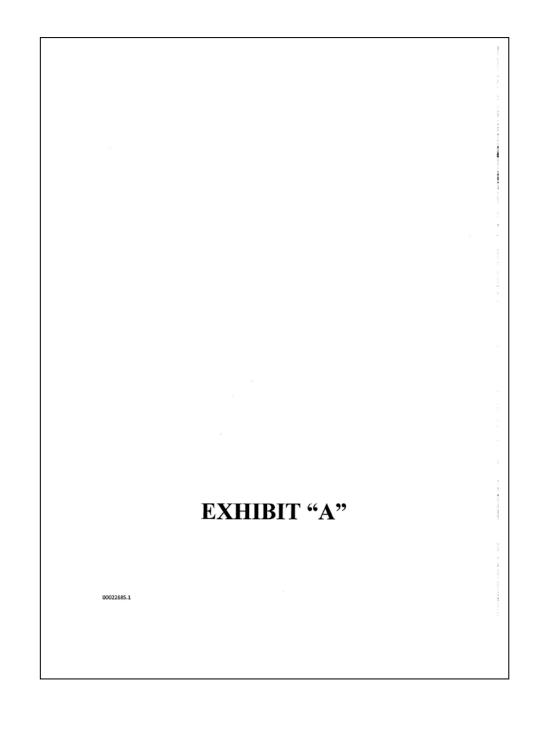
[S]ince 1994 HFAs have provided borrower assistance to first-time home buyers with capital raised through the issuance of tax-exempt housing bonds sold at a premium, and most of the loans involved have been FHA insured loans. The premium produced from the sale of tax-exempt bonds has been used, often with other sources, to provide necessary funds to HFAs so that they could offer borrower assistance in the form of gifts or secondary financing. HFAs have relied upon HUD guidance in providing borrower assistance in the form of gifts (currently in Chapter 5, Section B.4 of HUD Handbook 4155.1), and HUD guidance in providing borrower assistance in the form of secondary

financing (currently in Chapter 5, Sections C.1 and C.2, and previously set forth in Mortgagee Letter 2002-22). A long history of satisfactory FHA audits of participating lenders has also given HFAs comfort in providing borrower assistance in the form of gifts or secondary financing in connection with tax-exempt bond financed FHA insured mortgage loans.

Due to the current historic low GNMA yields, many HFAs are attempting to change the way they raise capital to finance their affordable homeownership programs. Instead of selling tax-exempt housing bonds to find loans to first time home buyers which would have been non-existent save for the NIBP program, local HFAs are not turning to the GNMA private market to hedge and fund their mortgage loans. As with tax-exempt housing bonds, HFAs will need to sell GNMAs at a premium to fund the mortgage loan and to provide all or a portion of the funds necessary to continue to offer borrower assistance in the form of gifts or secondary financing. The informal HUD advice was that this would not be permissible. If HFAs are not allowed to use premium pricing of GNMAs to fund such borrower assistance with respect to FHA insured loans, it will dramatically restrain their ability to provide assistance to first-time home buyers.

As expected, NALHFA has not changed its viewpoint, and current Executive Director Jason Boehlert recently sent a letter on behalf of NALHFA on June 8, 2015 to Ms. Kathleen Zadareky, the current Deputy Assistant Secretary of HUD (copy attached as **Exhibit C**).

As the 2004 and 2011 NALHFA letters pre-dated and contained strikingly similar language as the Interpretive Rule and Mortgagee Letter 2013-14, it is apparent that HUD was aware of these issues and NALHFA's viewpoint on HFA DPA programs. HUD-OIG's Audit Report completely fails to acknowledge direct and binding authority, while simultaneously attempting to impose requirements that do not exist under the current regulatory framework. Legislation by audit, ex post facto, should be discouraged. This is especially true when the important policy goals of HUD and of HFAs would thereby be put at direct risk—thus depriving hundreds of thousands of creditworthy, low and moderate-income first-time homebuyer families in communities nationwide of the opportunity to access sustainable and affordable home financing with DPA provided by HFAs.



Comment 6



2025 M Street, N.W., Suite 800 Washington, DC 20036-3309 Phone: (202) 367-1197 Fax: (202) 367-2197 www.nalhfa.org

Pice President Olson Lee San Francisco, California Redevelopment Agency

Treasurer
Frank Barber
El Paso County, Colorado
Office of Economic Development
And Public Finance

Secretary Emestine Garey Atlanta, Georgia Development Authority

Immediate Past President Mark Ullers Dakota County, Minnesota Community Development Agency Directors

Patricia Braynon Miami-Dade County, Florida Housing Finance Authority Tom Commings Pittsburgh, PA Urban Rodevelopm

Mark Maloney Bosion, Massachusens Redevelopment Authority Jock Markowski Chicago, Illinois Department of Housing

W.D. Morris Orange County, Florida Housing Finance Authority

Syed Rushdy Los Angeles County, California Community Development Commission

Staff John C Murphy Executive Director

Scott R Lynch Association Manager Kim McKinon Membership Coordin

Tracy McCrimmon
Administrative Coordinator

April 19, 2004

John Coonts Deputy Assistant Secretary Office of Single Family Housing U.S. Department of Housing and Urban Development Room 9282 451 7th Seventh St., SW Washington, DC 20410

Dear Mr. Coonts:

It has come to my attention that your Office is considering reaching a conclusion that tax-exempt mortgage revenue bonds using a premium bond structure, where the bond premium is used to make downpayment assistance in the form of an outright grant (or gift), would not qualify FHA mortgage insurance. On behalf of the members of the National Association of Local Housing Finance Agencies (NALEFA), I and all of the industry participants with whom I've spoken are extremely concerned about such a potential conclusion.

The use of premium bonds to create downpayment assistance grants dates at least from 1993, and has been employed by numerous local and state housing issuers across the country. According to one NALHFA member, it is by far the most common type of single family structure in the marketplace today. Hundreds of bond issues, with total principal amount of probably more than a billion dollars, are issued and outstanding under this structure. Moreover, there are bond issues being priced as I write and lending programs across the country currently making leaves meter this lending programs across the country currently making loans under this

My reading of Section 2-10(C) of the FHA Single Family underwriting handbook indicates that an outright gift of the cash investment is acceptable if the donor is a government agency or a public entity that has a program to provide homeownership assistance to low-and moderatea program to provide homeownership assistance to low-and moderate-income homebuyers, the gift funding is not from the seller of the property, and no repayment of the gift is expected or implied. This is exactly how these programs are structured; for example, if the homebuyer sells or refinances the mortgage loan, no repayment of the gift is required and the homebuyer retains the entire gift. It is true that

28

the mortgage loan rate is higher due to the premium bond rate but this rate applies only to the mortgage loan and there is no requirement to repay the grant directly or indirectly. It is my further understanding that this structure is so universally utilized that, based on the handbook, there are no approvals needed unless the issuer is structuring the program to require a second mortgage to recover the assistance.

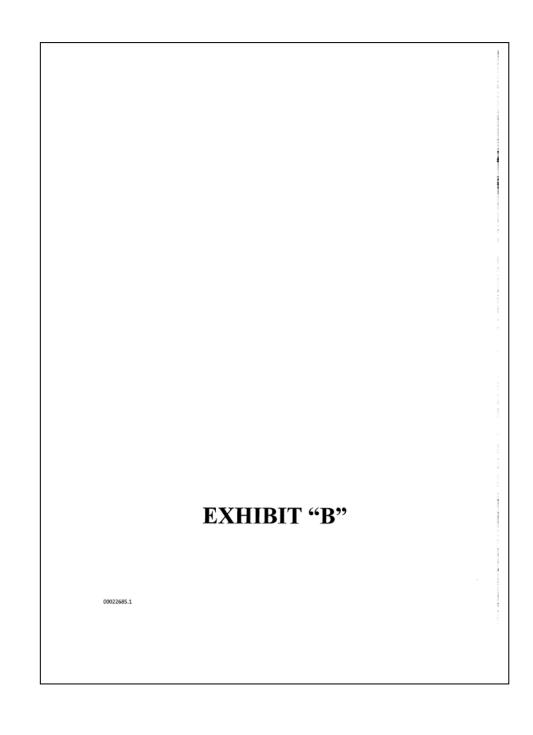
Should you reach this conclusion, it would cause a huge disruption in the bond market with untold consequences. I strongly urge you to reconsider your position, and provide instead a written affirmation that mortgages funded from the proceeds of a premium bond structure meeting the requirements of Section 2-10(C) qualify for FHA mortgage insurance.

Thank you for your favorable consideration of NALHFA's views.

Sincerely,

John Chungh

John C. Murphy Executive Director



NALHFA

2025 M Street, N.W., Suite 800 Washington, DC 20036-3309 Phone: (202) 367-1197 Fax: (202) 367-2197

Comment 6

Officers
President
Jim Shaw
Austin, Texas
Capital Area Housing Finance
Corporation

Vice President Ernestine Garey Atlanta, Georgia Development Authority

Treasurer Paula Sampson Fairfax County, Virginia Department of Housing & Community Development

Secretary Marc Jahr New York, New York Housing Development Corporation Past President
Patricia Braynon
Miami-Dade County, Florida
Housing Finance Authority

Directors
Vivian Benjamin
Montgomery County, Maryland
Housing Opportunities
Commission

Tom Cummings Pittsburgh, Pennsylvania Urban Redevelopment Authority

Doug Guthrie Los Angeles, California Department of Housing

Olson Lee San Francisco, California Mayor's Office of Housing

Orange County, Florida Housing Finance Authority

W.D. Morris

Mtumishi St. Julien New Orleans, Louisiana Finance Authority

Staff John C. Murphy Executive Director

Heather Williams Senior Associate

December 6, 2011

The Honorable Carol Galante Assistant Secretary for Housing-Federal Housing Commissioner-Designate U.S. Department of Housing and Urban Development 451 7th Street, SW Washington, DC 20410

Dear Carol:

I am writing to enlist your assistance in resolving a matter that is affecting local Housing Finance Agencies (HFAs) with regard to the provision of downpayment assistance and Federal Housing Administration (FHA) mortgage insurance.

In this very challenging time for affordable housing in the United States, NALHFA members are continually looking to develop programs to meet the needs of the people they serve. I recently learned of informal advice provided by a HUD staff member to Potomac Partners (on behalf of US Bank) regarding an emerging HFA program developed by Sedgwick and Shawnee Counties, KS, as well as many other HFAs. The advice indicated a potential compliance issue regarding down payment assistance requirements applicable to FHA insured mortgage loans. NALHFA is concerned that the inability to include FHA loans in an emerging method of providing assistance to first-time homebuyers would significantly restrain the efforts of local Housing Finance Agencies to provide affordable housing finance to such homebuyers.

By way of background, since 1994 HFAs have provided borrower assistance to first-time home buyers with capital raised through the issuance of tax-exempt housing bonds sold at a premium, and most of the loans involved have been FHA insured loans. The premium produced from the sale of tax-exempt housing bonds has been used, often with other sources, to provide necessary funds to HFAs so that they could offer borrower assistance in the form of gifts or secondary financing. HFAs have relied upon HUD guidance in providing borrower assistance in the form of gifts (currently in Chapter 5, Section B.4 of HUD Handbook 4155.1), and HUD guidance in providing borrower assistance in the form of secondary financing (currently in Chapter 5, Sections C.1 and C.2, and previously set forth in Mortgagee Letter 2002-22). A long history of satisfactory FHA audits of participating lenders has also given HFAs comfort in providing borrower assistance in the Mark Ulfers parties form of gifts or secondar Community Development Agency insured mortgage loans. form of gifts or secondary financing in connection with tax-exempt bond financed FHA

Ron Williams
Houston, Texas
Southeast Texas Housing Finance way they raise capital to finance their affordable homeownership programs. Instead of Corporation

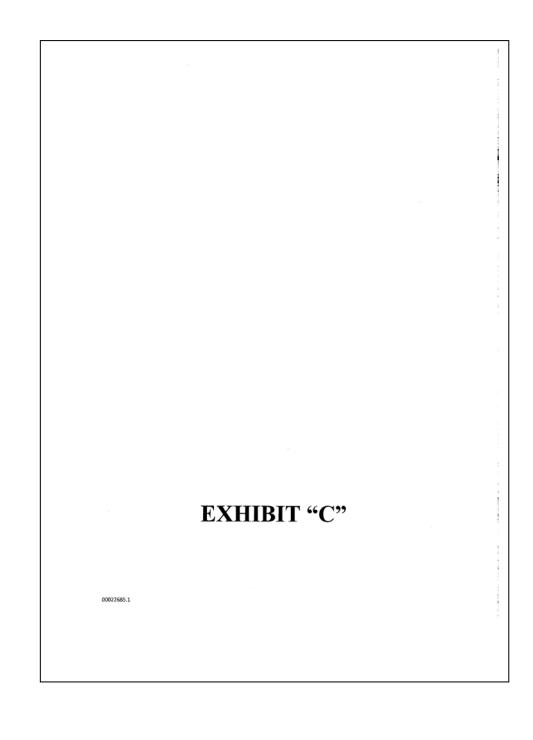
Selling tax-exempt housing bonds to fund loans to first time home buyers which would he selling tax-exempt housing bonds to fund loans to first time home buyers which would have been non-existent save for the NIBP program, local HFAs are now turning to the GNMA private market to hedge and fund their mortgage loans. As with tax-exempt housing bonds, HFAs will need to sell GNMAs at a premium to fund the mortgage loan and to provide all

or a portion of the funds necessary to continue to offer borrower assistance in the form of gifts or secondary financing. The informal HUD advice was that this would not be permissible. If HFAs are not allowed to use premium pricing of GNMAs to fund such borrower assistance with respect to FHA insured loans, it will dramatically restrain their ability to provide assistance to first-time home buyers.

I respectfully request a meeting with you and/or the appropriate HUD staff person to discuss this emerging method of providing borrower assistance and resolve any issues with respect to its use with FHA insurance. Thank you for your prompt response.

Sincerely,

John C. Murphy Executive Director





Comment 6

June 8, 2015

Ms. Kathleen Zadareky
Deputy Assistant Secretary
Office of Single Family Housing
U.S. Department of Housing and Urban Development
451 7th Street, S.W.
Washington, DC 20410

Re: HUD Office of Inspector General (OIG Phoenix Office) Audit - NOVA Home Loans/HFA Programs

Dear Ms. Zadareky:

The National Association of Local Housing Finance Agencies (NALHFA) is the national association of city, county and regional housing finance agencies (HFAs) that produce and preserve affordable single-family and multifamily housing. NALHFA is an advocate before Congress and federal agencies on legislative and regulatory issues affecting affordable housing, and provides technical assistance and educational opportunities.

We are writing to express our very serious concern with the potential findings of a nearly concluded Department of Housing and Urban Development (HUD) Office of Inspector General (OIG) audit. Several of our members recently obtained copies of the Draft Audit Report (for review and comment) prepared by the HUD OIG (Phoenix office) that finds a private lender's participation in single-family housing programs conducted by HFAs to be in violation of HUD lending guidelines. These programs are in place across the country and are helping thousands of low- and moderate-income families purchase affordable single-family homes with down payment assistance (DPA) from HFAs.

Regarding the potential audit findings, NOVA Home Loans' participation as a lender in the following state and local HFA programs is being questioned:

- Home In Five Advantage mortgage origination program administered by the Phoenix and Maricopa County Industrial Development Authorities
- Homebuyer's Solution program administered by the Tucson and Pima County Industrial Development Authorities
- Other similar unspecified programs administered by state and local HFAs in Arizona, Colorado and Nevada

These types of lending programs have been in use across the country for over 20 years, dating to 1993. Under these programs, HFAs provide DPA to help qualified low- and moderate-income homebuyers obtain an FHA-insured mortgage—as well as Veterans Administration (VA), U.S. Department of Agriculture (USDA), and Fannie Mae and Freddie Mac conforming home loans—for the purchase of affordable single-family homes. Each of these programs is operated by a governmental agency or public entity and eligible to provide homeownership assistance, as outlined in the HUD Handbook (4155.1 5.8.4.b).

2025 M Street, N.W., Suite 800 Washington, DC 20036 Phone: (202) 367-1197 • Fax: (202) 367-2197 www.nalhfa.org The home loans originated through these programs conform to strict underwriting criteria and Qualified Mortgage/Ability-to-Repay (QM/ATR) guidelines. They are fully amortized fixed-rate 30-year mortgages with: a maximum allowable debt-to-income (DTI) ratio of 45 percent (as allowed by FHA); minimum allowable borrower FICO scores of 640; no prepayment penalties or negative amortization; and limitations on points and fees charged to the borrower.

These programs often include a DPA grant (gift) that is provided by the HFA from HFA funds that may be generated, in whole or in part, from the capital markets through either the sale of bonds or mortgage-backed securities (MBS)—Ginnie Mae, Freddie Mac or Fannie Mae—that are backed by the program loans. HFAs have been using this affordable housing program structure for over 20 years and have originated billions of dollars of mortgage loans. In 2004, HUD headquarters in Washington, D.C. conducted an in depth review of this issue and did not release/publish any subsequent official guidance indicating these programs were prohibited under HUD rules (see attached April 2004 NALHFA letter).

In its Draft Audit Report (DAR), OIG contends that the HFA loan programs being utilized by the lender violate HUD rules for two main reasons: 1) the DPA is derived from a "premium priced mortgage"; and 2) borrowers are making a "repayment" of the DPA grant through an above-market mortgage loan rate. We strongly disagree with these claims and note that for 20 years HUD has not challenged HFAs for violating these, or any other, HUD regulation.

Regarding the OIG's first claim, HUD's premium pricing rule set forth in HUD Handbook section 4155.1 5.A.2.i states:

Lenders may pay a borrower's closing costs, and/or prepaid items by "premium pricing." Closing costs paid in this manner do not need to be included as part of the seller contribution limitation. The funds derived from a premium priced mortgage may never be used...to pay any portion of the borrower's down payment.

The rule clearly speaks of closing costs and prepaid items paid by the lender on behalf of the borrower. In HFA loan programs, those costs are paid by the borrower from the proceeds of the HFA DPA grant and are not paid by the lender. Moreover, the rule suggests that premium pricing relates to a program of the lender, and not as a participating lender under a third-party program from a qualified provider of DPA funds such as an HFA. As a consequence, a lender by itself may not increase the interest rate in order to generate funds for down payment. We are unaware of any instance in which HUD has categorized a DPA grant from an HFA loan program to be "funds derived from a premium priced mortgage." We strongly urge HUD to clarify that the "premium pricing" rule does not apply to loans made pursuant to HFA programs that provide DPA grants.

Regarding the OIG's second item of contention, the rule set forth in HUD Handbook section 4155.1 5.8.4.a states "in order for funds to be considered a gift, there must be no expected or implied repayment of the funds to the donor by the borrower."

In an HFA lending program that provides a DPA gift, the borrower makes no repayment of the DPA to the donor HFA (or for that matter, lender or servicer). The loan is pre-payable at any time by the borrower without penalty and there is no obligation to repay the DPA. It is true that all or a portion of the DPA grant may be raised from the sale of the related bonds or MBS. In such cases, the interest rate of the borrower's mortgage may be modestly higher. The additional interest rate is paid to the holder of

June 8, 2015 NALHFA Letter to HUD Deputy Assistant Secretary Zadareky
HFA DPA Mortgage Loan Programs

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the bonds or the MBS, not to the HFA donor. At any time, the borrower can prepay the loan and still retain the full benefit of the DPA grant.

This model for FHA-insured loans (and VA, USDA and Fannie Mae and Freddie Mac conforming conventional loans)—whereby state and local HFAs sell premium bonds or MBS to provide a source of DPA—has been used nationwide by HFAs since 1993—and, as noted above, with HUD's knowledge since at least 2004.

Also, a November 29, 2012 HUD Interpretive Rule (24 CFR 203) and HUD Mortgagee Letter 2013-14 (May 9, 2013) discuss in detail HFA-funded DPA. The Mortgagee Letter confirms lender ability to advance DPA funds on behalf of an HFA. The Interpretive Rule discusses the various means by which HFAs derive DPA funds, including from taxable and tax-exempt bonds. Historically, HFAs have generated DPA funds through bond issuances. However in this current market that is characterized by historically low interest rates, HFAs generally sell MBSs instead of bonds—MBS sales produce lower mortgage rates to consumers than bond sales. As mentioned above, this same issue was raised in 2004 and reviewed by HUD without any negative findings.

If finalized as currently drafted, the OlG's audit report could shut down HFA-provided DPA programs, nationwide. At a minimum, we believe the audit report will have a chilling effect on the participation of lenders and servicers in these programs across the country. Lender withdrawal from these programs would halt the extremely important work of HFAs in helping qualified low- and moderate-income families realize their dream of affordable homeownership.

We understand OlG's submission of its final audit conclusions is imminent. Because of this time consideration, we respectfully request HUD provide interpretive guidance regarding this issue, as soon as possible. If appropriate, we would also urge that HUD request the OlG to postpone final action until such a time as HUD has had the opportunity to review this issue, in depth. Finally, we request the opportunity to discuss this issue with you, and members of your team, in further detail. Please feel free to contact me at your earliest convenience. Thank you for your consideration of this important request.

Sincerely,

Jason Boehlert Executive Director

Enclosure

CC: Edward Golding, General Deputy Assistant Secretary for Housing

June 8, 2015 NALHFA Letter to HUD Deputy Assistant Secretary Zadareky
HFA DPA Mortgage Loan Programs

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OIG Evaluation of Auditee Comments

Comment 1

Like NOVA, OIG recognizes housing finance agencies provide homeownership opportunities to low and moderate income families. However, OIG disagrees with their assertion that the audit report is not consistent with and contradicts clear and binding HUD guidance related to housing finance agencies and downpayment assistance programs. The audit report does not attempt to reinterpret HUD Handbook 4155.1, Mortgagee Letter 2013-14, or Interpretative Rule Docket No. FR-5679-N-01. In fact, the audit report does not dispute or address housing finance agencies and their ability to provide downpayment assistance. Rather, the audit report used criteria as stated in HUD Handbook 4155.1 regarding premium pricing, gift funds, and fees¹⁰ to illustrate how the FHA loans identified were not underwritten in accordance with HUD requirements.

Comment 2

For clarification, the elements of the finding NOVA described as sub-findings are what was determined to be the causes of the finding that NOVA's FHA-insured loans with downpayment assistance gift funds did not always meet HUD requirements. The actual subsections of the finding, as stated in the audit report, are 1) NOVA allowed premium pricing associated with downpayment assistance, 2) NOVA used programs that depended on a circular funding mechanism, 3) NOVA did not ensure downpayment assistance was eligible, 4) FHA borrowers receiving a downpayment assistance gift paid more, and 5) fees were not reasonable or customary.

Comment 3

OIG disagrees that NOVA met all HUD guidelines regarding its due diligence. NOVA was obligated as the lender to conduct its due diligence to ensure that planned downpayment assistance gifts met the requirements described in HUD Handbook 4155.1. The relevant provisions that governed NOVA's due diligence, which it did not conduct, are as follows:

• In order for funds to be considered a gift, there must be no expected or implied repayment of the funds to the donor by the borrower (HUD Handbook 4155.1 5.B.4.a). To receive downpayment assistance, borrowers had to agree to mortgage interest rates (premium rates) that were above the prevailing market rate of interest for mortgages without downpayment assistance. The agreements between NOVA, the housing finance agencies, and US Bank required reimbursement to the housing finance agencies upon the sale of the mortgages in the secondary market. The borrowers will pay back a substantial portion of the downpayment assistance "gift" through higher mortgage payments over the life of the loan and the required premium interest rate enabled housing finance agency reimbursement upon the subsequent bundled mortgage backed security sale. Therefore, repayment was expected and/or implied.

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¹⁰ See appendix C.

• The funds derived from a premium priced mortgage may never be used to pay any portion of the borrower's downpayment (HUD Handbook 4155.1 5.A.2.i). Where the premium pricing is used to pay any portion of the borrower's downpayment, the loan would be ineligible even where the source of the downpayment is considered acceptable to HUD, such as a housing finance agency. Premium pricing is only permitted by HUD to allow lenders to pay a borrower's closing costs, and/or prepaid items. In this case, the premium pricing was solely to enable the sale of the increased market value bundled loans (mortgage backed securities) to recapture the downpayment assistance and the programs' operating costs and to fund future downpayment assistance. This is an ineligible use.

Comment 4

OIG does not disagree with Interpretative Rule Docket No. FR-5679-N-01 and Mortgagee Letter 2013-14 that housing finance agencies, as instrumentalities of State or local governments, may provide downpayment assistance. The audit report did not dispute housing finance agencies are an acceptable source of funds and for this reason, the references were not included in the audit report. Neither HUD's interpretive ruling nor its related Mortgagee Letter 2013-14 contemplate the use of premium pricing by a lender to reimburse the housing finance agency. The Housing and Economic Recovery Act of 2008 amended Section 203(b)(9)(C) of the National Housing Act to preclude the abuse of the program where a seller (or other interested or related party) funded the homebuyer's cash investment after the closing by reimbursing third-party entities, including, specifically, private non-profit charities. Similarly, it would be contrary to the intended purpose of the Housing and Economic Recovery Act to allow a local governmental entity to do the very same thing.

Comment 5

Although OIG agrees with NOVA that the premium interest rate was set by the housing finance agencies, OIG disagrees that the rate was not charged by the lender. In its acceptance to participate in the downpayment assistance programs, NOVA also accepted the premium interest rates that were charged to FHA borrowers. These premium rates were above the prevailing rates for FHA borrowers that did not receive downpayment assistance. Therefore, NOVA did utilize premium pricing, which was used to fund borrowers' downpayment assistance and for housing finance agency reimbursement. See comment 3.

Comment 6

OIG disagrees with NOVA's assertion that the lack of specific guidance from HUD regarding housing finance agencies and premium pricing in response to letters written by the National Association of Local Housing Finance Agencies implies the practice is not improper or acceptable. In support, NOVA provided three letters written by the National Association of Local Housing Finance Agencies addressed to HUD in 2004, 2011, and 2015. Absent from the letters are guidance or regulations from HUD specifically indicating premium pricing in relation to downpayment assistance is acceptable. In fact, the letters could be interpreted as showing HUD has had concerns about this type of program dating

back to 2004. NOVA did not provide any response from HUD to the three letters cited in 2004, 2011, and 2015.

- OIG disagrees with NOVA's interpretation that gifts provided by programs administered through State and local development authorities who have programs providing home ownership assistance to low and moderate income families are never considered ineligible downpayment assistance. Downpayment assistance, even when provided by State and local development authorities, must meet requirements found in HUD Handbook 4155.1. In order for funds to be considered a gift, there must be no expected or implied repayment of the funds to the donor by the borrower. See comment 3.
- Comment 8 OIG acknowledges that housing finance agencies have used various funding mechanisms as part of their downpayment assistance programs. However, the downpayment assistance programs described in the audit report are not housing bonds, tax credits, or HOME funds. Rather, the programs discussed in the audit report are part of the "To Be Announced – TBA" market and have only recently been used by housing finance agencies. The "To Be Announced" market was created in the 1970's to facilitate the forward-trading of mortgage-backed securities issued by Fannie Mae, Freddie Mac and Ginnie Mae. "To Be Announced" trades are 'placeholders' for the purchase or sale of mortgage pools. The circular funding mechanism described in the audit report allows downpayment assistance reimbursement and a perpetually funded program through the premium interest rate. In comparison, mortgage revenue bonds are tax-exempt bonds that State and local governments issue through housing finance agencies to help fund, typically, below market interest rate mortgages. See comments 3 and 4.
- Comment 9 Nova states that FHA is not concerned with how a donor obtains the gift funds; however this is not accurate. The cited reference in NOVA's response, HUD Handbook 4155.1 5.B.4.e, provides that the source of the funding must not have a prohibited interest in the transaction. See comments 3 and 4.
- Comment 10 OIG does not agree with NOVA's interpretation that the audit report found loans acceptable where the borrower paid off the mortgage loan. The three loans identified in the audit report that were paid in full were removed from the total unpaid principal balance calculation and reimbursement of the misrepresented discount points because the loans no longer presented a risk to HUD. At no point did the audit report infer the downpayment assistance gifts used in the origination of the three loans was acceptable. To the contrary, the three loans also contained ineligible downpayment assistance gifts. See comments 3 and 4.
- Comment 11 OIG disagrees with NOVA's assertion that they should not have known that the development authorities would be reimbursed for the downpayment assistance grant. As stated in the audit report, interviews conducted with NOVA employees indicated their knowledge of the downpayment assistance process. The two

downpayment assistance programs identified in the audit report are identical in their design and funding mechanism. The main difference was with respect to how the funds were provided at closing. With the Home in Five Advantage Mortgage program, NOVA provided the downpayment assistance at closing on behalf of the development authorities. With the Pima Tucson Homebuyer's Solution program, the development authorities provided the downpayment assistance at closing. However, the required premium interest rate which enabled reimbursement upon the subsequent bundled mortgage backed security sale was identical for both programs.

- Comment 12 During the audit, NOVA provided an email from a former HUD employee dated August 2011. The email and its contents was not included in the audit report because OIG determined that email referred to industrial development authority bond programs and not specifically the Home in Five Advantage Mortgage or the Pima Tucson Homebuyer's Solution programs, both of which are not bond programs. Therefore, the email did not indicate an opinion or approval of either program that was identified in the audit report.
- Comment 13 We disagree with NOVA that borrowers received an enormous advantage and benefit. In response to the audit report section "FHA Borrowers Receiving Downpayment Assistance Gifts Paid More", NOVA discussed the net present value benefit of the loans in question and stated first-time homebuyers typically refinance within 5-7 years. NOVA's assumptions are based on hypothetical scenarios that do not supersede any HUD guidance or regulations. The purpose of the subsection in the audit report "FHA Borrowers Receiving Downpayment Assistance Gifts Paid More" was intended to show that the required premium interest rate put an unnecessary burden or disadvantage on FHA borrowers in the form of higher monthly mortgage payments, compared to borrowers that did not receive downpayment assistance. As stated in the audit report, borrowers were also not always fully aware of the premium interest rate or its impact on their mortgage. It also can't be assumed that borrowers are always aware of their refinance options. For clarification and to avoid confusion to the reader, the report was edited and the associated table removed.

Criteria

HUD Handbook 4155.1

2.A.2.a Maximum Mortgage Amount for a Purchase

In order for FHA to insure this maximum loan amount, the borrower must make a required investment of at least 3.5% of the lesser of the appraised value or the sales price of the property.

2.A.2.c Closing Costs as Required Investment

Closing costs (non-recurring closing costs, pre-paid expenses, and discount points) may *not* be used to help meet the borrower's minimum required investment.

5.A.1.a. Lender Responsibility for Estimating Settlement Requirements

For each transaction, the lender must provide the initial Good Faith Estimate, all revised Good Faith Estimates and a final HUD-1 *Settlement Statement*, consistent with the Real Estate Settlement Procedures Act, to determine the cash required to close the mortgage transaction.

In addition to the minimum downpayment requirement described in HUD Handbook 4155.1 5.B.1.a, additional borrower expenses must be included in the total amount of cash that the borrower must provide at mortgage settlement. Such additional expenses include, but are not limited to closing costs, such as those customary and reasonable costs necessary to close the mortgage loan, discount points, and premium pricing on FHA-insured mortgages.

5.A.2.a Origination Fee, Unallowable Fees, and Other Closing Costs

Lenders may charge and collect from borrowers those customary and reasonable costs necessary to close the mortgage loan. Borrowers may not pay a tax service fee.

5.A.2.c Discount Points

Discount points paid by the borrower become part of the total cash required to close and are *not* eligible for meeting the minimum down payment requirement.

Section 5.A.2.i Premium Pricing on FHA-Insured Mortgages

The funds derived from a premium priced mortgage may *never* be used to pay any portion of the borrower's downpayment and *must* be disclosed on the GFE [good faith estimate] and HUD-1 Settlement Statement.

Section 5.B.1.a Closing Cost and Minimum Cash Investment Requirements

Under most FHA programs, the borrower is required to make a minimum downpayment into the transaction of at least 3.5% of the lesser of the appraised value of the property or the sales price.

Section 5.B.4.a Description of Gift Funds

In order for funds to be considered a gift, there must be no expected or implied repayment of the funds to the donor by the borrower.

Section 5.B.5.b Documenting the Transfer of Gift Funds

The lender must document the transfer of the gift funds from the donor to the borrower.

Section 5.B.4.d Lender Responsibility for Verifying the Acceptability of Gift Fund Sources

Regardless of when gift funds are made available to a borrower, the lender *must* be able to determine that the gift funds were *not* provided by an unacceptable source, and were the donor's own funds.

HUD Handbook 4155.2

Paragraph 6.A.3.a Collecting Customary and Reasonable Fees

The lender may only collect fair, reasonable, and customary fees and charges from the borrower for all origination services. FHA will monitor to ensure that borrowers are not overcharged. Furthermore, the FHA Commissioner retains the authority to set limits on the amount of any fees that a lender may charge a borrower(s) for obtaining an FHA loan.

Appendix D

Summary of Loans With Ineligible Downpayment Assistance

	FHA loan information					Funds derived from premium-priced mortgage not disclosed	
Case number	Original mortgage amount	Status ¹¹	Unpaid loan balance	Gift letter	Gift transfer	HUD-1	Good Faith Estimate
022-2385828	\$78,452	A	\$75,755			X	X
022-2398628	\$58,913	A	\$56,705		X	X	X
022-2400484	\$96,306	A	\$92,771		X	X	X
022-2402485	\$64,804	A	\$62,576		X	X	X
022-2403077	\$122,489	A	\$118,087		X	X	X
022-2404361	\$155,138	A	\$150,026			X	X
022-2405344	\$61,367	A	\$59,257		X	X	X
022-2405909	\$124,699	A	\$120,412			X	X
022-2406310	\$112,917	A	\$109,035			X	X
022-2408494	\$101,134	A	\$97,729			X	X
022-2408538	\$100,152	A	\$96,852			X	X
022-2408646	\$116,844	R	\$112,994			X	X
022-2408797	\$198,341	A	\$191,664			X	X
022-2409323	\$120,772	A	\$116,807			X	X
022-2409947	\$69,321	A	\$67,045		X	X	X
022-2410186	\$83,460	A	\$80,602			X	X
022-2410577	\$105,061	A	\$101,612		X	X	X
022-2410685	\$96,224	A	\$93,065			X	X
022-2411152	\$136,482	A	\$132,001			X	X
022-2411175	\$131,572	A	\$127,048			X	X
022-2412532	\$171,830	A	\$165,922			X	X
022-2414658	\$80,514	A	\$77,830		X	X	X
022-2414839	\$107,448	R	\$104,113			X	X
022-2415160	\$88,369	A	\$85,485		X	X	X
022-2415624	\$98,679	A	\$95,592		X	X	X
022-2416297	\$126,859	R	\$124,398			X	X
022-2417841	\$157,003	A	\$151,879			X	X
022-2418882	\$108,007	A	\$104,628		X	X	X
022-2420052	\$88,369	A	\$85,343		X	X	X
022-2420516	\$112,917	A	\$109,050			X	X
022-2421318	\$98,188	A	\$94,915			X	X

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¹¹ A=active, R=refinanced, T=terminated

	FHA loan informati	ion		docu	ns not mented operly	premiu	rived from m-priced not disclosed
Case number	Original mortgage amount	Status ¹¹	Unpaid loan balance	Gift letter	Gift transfer	HUD-1	Good Faith Estimate
022-2422061	\$114,880	A	\$111,209		X	X	X
022-2422394	\$103,797	A	\$100,409			X	X
022-2422444	\$96,224	A	\$93,083		X	X	X
022-2422791	\$109,971	A	\$106,457		X	X	X
022-2423354	\$169,144	A	\$163,739			X	X
022-2423506	\$153,174	A	\$148,175			X	X
$022 - 2424060^{12}$	\$75,605	A	\$73,137			X	X
022-2424127	\$127,326	A	\$123,257			X	X
022-2424337	\$96,224	A	\$93,149		X	X	X
022-2424684	\$123,717	A	\$120,037		X	X	X
022-2425945	\$100,152	A	\$97,019			X	X
022-2428033	\$115,862	A	\$112,699		X	X	X
022-2428788	\$148,265	A	\$144,218		X	X	X
022-2429328	\$165,938	R	\$161,409			X	X
022-2429334	\$134,518	A	\$130,925		X	X	X
022-2430089	\$108,007	A	\$105,059		X	X	X
022-2430349	\$71,677	A	\$69,763			X	X
022-2431793	\$131,572	R	\$128,589			X	X
022-243232712	\$66,768	A	\$65,098		X	X	X
022-2432391	\$103,642	R	\$101,017			X	X
022-2432986	\$102,564	A	\$100,133			X	X
022-2434068	\$176,739	A	\$171,915			X	X
022-2435300	\$89,351	A	\$87,325			X	X
022-2435477	\$97,206	A	\$94,610		X	X	X
022-2435670	\$90,842	A	\$88,828			X	X
022-2436568	\$122,710	A	\$120,080		X	X	X
022-2437403	\$152,192	A	\$148,818			X	X
022-2437636	\$117,826	A	\$115,214			X	X
022-2439071	\$115,827	A	\$113,381			X	X
022-2440527	\$83,460	A	\$81,736			X	X
022-2440612	\$141,391	A	\$138,151		X	X	X
022-2441892	\$114,781	R	\$112,797			X	X
022-2441913	\$191,369	A	\$187,080			X	X

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 $^{^{12}}$ The loan contained ineligible downpayment assistance; however, it had funds to meet the minimum cash investment without the downpayment assistance.

	FHA loan informati	on		docu	ns not mented operly	premiu	rived from n-priced oot disclosed
Case number	Original mortgage amount	Status ¹¹	Unpaid loan balance	Gift letter	Gift transfer	HUD-1	Good Faith Estimate
022-2441959	\$149,737	A	\$146,381			X	X
022-2443228	\$140,409	R	\$137,509			X	X
022-2443598	\$133,536	A	\$130,899			X	X
022-2444180	\$121,262	A	\$118,721			X	X
022-2444564	\$165,938	A	\$162,219			X	X
022-244460812	\$70,695	A	\$69,134			X	X
022-2445191	\$112,917	A	\$110,585		X	X	X
022-2446072	\$126,663	A	\$124,047		X	X	X
022-2446303	\$67,750	A	\$66,287		X	X	X
022-2448175	\$127,645	A	\$124,998		X	X	X
022-2448508	\$125,975	R	\$123,420			X	X
022-2448940	\$108,989	A	\$106,729			X	X
022-2448986	\$103,098	R	\$101,738			X	X
022-2449170	\$63,822	A	\$62,444			X	X
022-2449351	\$106,043	A	\$103,844		X	X	X
022-2449561	\$139,428	R	\$137,503		X	X	X
022-2449821	\$87,878	A	\$86,056			X	X
022-2450179	\$90,824	A	\$88,940			X	X
022-2450337	\$77,569	A	\$75,960			X	X
022-2450372	\$147,283	A	\$144,228			X	X
022-2450524	\$114,880	A	\$112,497			X	X
022-2451054	\$93,279	A	\$91,344			X	X
022-2452820	\$132,554	A	\$129,924		X	X	X
022-2453231	\$103,098	A	\$100,864			X	X
022-2453595	\$136,482	A	\$134,015			X	X
022-2453747	\$181,649	A	\$177,712			X	X
022-2456107	\$91,805	A	\$89,984			X	X
022-2456273	\$103,098	A	\$101,643			X	X
022-2456300	\$186,459	A	\$182,760			X	X
022-245646012	\$124,185	R	\$122,471			X	X
022-2456766	\$149,623	R	\$146,655			X	X
022-245710212	\$86,896	A	\$85,325			X	X
022-2457306	\$142,373	R	\$139,800		X	X	X
022-2457597	\$97,697	A	\$95,801			X	X
022-2457647	\$83,460	A	\$81,840			X	X
022-2457732	\$106,043	A	\$103,985			X	X
022-2457857	\$91,315	A	\$89,665		X	X	X

	FHA loan informati	on		docu	ns not mented operly	Funds derived from premium-priced mortgage not disclose	
Case number	Original mortgage amount	Status ¹¹	Unpaid loan balance	Gift letter	Gift transfer	HUD-1	Good Faith Estimate
022-2457994	\$125,681	A	\$123,460			X	X
022-2458087	\$128,627	A	\$126,811			X	X
022-2458449	\$188,718	A	\$185,307			X	X
022-2458659	\$76,587	A	\$75,203			X	X
022-2458919	\$105,463	A	\$103,557			X	X
022-2459496	\$125,681	A	\$123,460			X	X
022-2460176	\$68,732	A	\$67,490			X	X
022-2460630	\$93,279	A	\$91,785			X	X
022-2460929	\$83,460	A	\$81,985			X	X
022-2461092	\$91,119	A	\$89,626		X	X	X
022-2461107	\$88,369	A	\$86,807			X	X
022-2461737	\$131,572	R	\$129,587			X	X
022-2463137	\$103,443	A	\$101,811		X	X	X
022-2463274	\$137,464	Α	\$135,161			X	X
022-2463694	\$167,902	A	\$165,311			X	X
022-2463796	\$171,830	A	\$168,952			X	X
022-2464161	\$89,351	A	\$87,854			X	X
022-2464228	\$174,284	A	\$171,365			X	X
022-2464569	\$137,365	A	\$135,198			X	X
022-2465541	\$161,230	A	\$158,686		X	X	X
022-2465824	\$92,083	A	\$90,754			X	X
022-2465847	\$179,905	A	\$177,066		X	X	X
022-2466025	\$134,518	A	\$132,442			X	X
022-2466031	\$124,974	A	\$123,210			X	X
022-2467910	\$165,938	A	\$163,377		X	X	X
022-2467927	\$144,337	A	\$142,299			X	X
022-2468236	\$103,540	A	\$101,942		X	X	X
022-2470217	\$122,735	A	\$121,395			X	X
022-2470281	\$123,717	R	\$122,132		X	X	X
022-2470319	\$79,532	A	\$78,409		X	X	X
022-2470348	\$112,484	A	\$110,896			X	X
022-2470978	\$103,098	A	\$101,643			X	X
022-2471416	\$100,152	A	\$98,738			X	X
022-2471582	\$129,510	A	\$127,682			X	X
022-2472802	\$89,743	A	\$88,476		X	X	X
022-2473032	\$108,007	A	\$106,624		X	X	X
022-2473221	\$80,514	A	\$79,483		X	X	X

FHA loan information					ns not mented operly	Funds derived from premium-priced mortgage not disclose	
Case number	Original mortgage amount	Status ¹¹	Unpaid loan balance	Gift letter	Gift transfer	HUD-1	Good Faith Estimate
022-2473338	\$108,007	A	\$106,482		X	X	X
022-2473481	\$146,655	A	\$144,777			X	X
022-2473656	\$109,971	A	\$108,562			X	X
022-2473787	\$109,971	A	\$108,562		X	X	X
022-2473820	\$97,781	A	\$96,529		X	X	X
022-2474021	\$166,822	R	\$164,903			X	X
022-2474543	\$162,011	A	\$159,936		X	X	X
022-2476153	\$78,158	A	\$77,157		X	X	X
022-2476617	\$131,572	R	\$130,058			X	X
022-2477159	\$113,407	A	\$111,955			X	X
022-2477795	\$115,862	A	\$114,499			X	X
022-2477924	\$117,826	A	\$116,568			X	X
022-2477947	\$108,007	A	\$106,905		X	X	X
022-2478233	\$137,464	R	\$135,883			X	X
022-2478761	\$157,003	A	\$155,156			X	X
022-2478790	\$142,373	A	\$140,735			X	X
022-2478811	\$136,482	A	\$134,912		X	X	X
022-2479012	\$152,192	R	\$150,639		X	X	X
022-2479087	\$85,963	A	\$85,045		X	X	X
022-2480129	\$102,991	A	\$102,052		X	X	X
022-2480482	\$73,150	A	\$72,369			X	X
022-2480821	\$113,792	A	\$112,423		X	X	X
022-2480975	\$103,981	A	\$102,871		X	X	X
022-2481022	\$196,886	A	\$194,464			X	X
022-2481147	\$117,826	R	\$116,408			X	X
022-2481754	\$155,455	A	\$153,832			X	X
022-2482693	\$139,027	A	\$137,576			X	X
022-2482897	\$137,464	A	\$136,029		X	X	X
022-2482901	\$117,727	A	\$116,498			X	X
022-2483291	\$145,319	R	\$143,802			X	X
022-2483495	\$146,791	A	\$145,293			X	X
022-2483988	\$68,732	A	\$68,015		X	X	X
022-2485234	\$78,452	A	\$77,615			X	X
022-2485313	\$157,003	A	\$155,572		X	X	X
022-2485450	\$152,192	A	\$150,805		X	X	X
022-2485654	\$139,397	A	\$138,098			X	X
022-2485806	\$147,283	A	\$145,970		X	X	X

	FHA loan informati	on		docu	ns not mented operly	premiu	rived from m-priced not disclosed
Case number	Original mortgage amount	Status ¹¹	Unpaid loan balance	Gift letter	Gift transfer	HUD-1	Good Faith Estimate
022-2486180	\$125,681	A	\$124,535		X	X	X
022-2486223	\$149,737	A	\$148,372		X	X	X
022-2486570	\$161,029	A	\$159,561			X	X
022-2487077	\$117,328	A	\$116,259		X	X	X
022-2487206	\$117,826	A	\$116,752			X	X
022-2488116	\$142,274	A	\$140,977		X	X	X
022-2488615	\$112,917	A	\$111,888			X	X
022-2488831	\$147,283	A	\$145,940			X	X
022-2489174	\$101,134	A	\$100,191			X	X
022-2489548	\$147,283	A	\$145,940		X	X	X
022-2489837	\$159,065	A	\$157,615		X	X	X
022-2491007	\$110,481	A	\$109,600		X	X	X
022-2491036	\$127,645	A	\$126,627			X	X
023-5182698	\$152,192	A	\$146,117			X	X
023-5184551	\$137,260	A	\$132,440			X	X
023-5187094	\$166,920	A	\$160,393			X	X
023-5226589	\$176,739	Т	\$0			X	X
023-5245116	\$206,196	A	\$198,955			X	X
023-5247730	\$196,377	A	\$189,481			X	X
023-525115712	\$48,602	A	\$46,895			X	X
023-5257412	\$175,757	A	\$169,585			X	X
023-5258496	\$123,717	A	\$120,758			X	X
023-5265366	\$160,256	A	\$155,026			X	X
023-5268391	\$153,174	R	\$148,038			X	X
023-5271896	\$203,348	A	\$196,529			X	X
023-5275392	\$150,228	A	\$144,953			X	X
023-5283058	\$122,735	A	\$119,084			X	X
023-5300786	\$195,395	A	\$189,151			X	X
023-5310255	\$127,645	A	\$123,365			X	X
023-5313029	\$162,011	A	\$157,492			X	X
023-5320237	\$159,976	A	\$154,611			X	X
023-5323679	\$181,649	A	\$175,721			X	X
023-5325809	\$191,468	A	\$185,219			X	X
023-5330975	\$117,826	A	\$113,980			X	X
023-533313112	\$119,790	R	\$117,518			X	X
023-5339502	\$166,920	A	\$161,586			X	X
023-5341797	\$117,826	A	\$114,709			X	X

	FHA loan information			docu	ns not mented operly	Funds derived from premium-priced mortgage not disclose	
Case number	Original mortgage amount	Status ¹¹	Unpaid loan balance	Gift letter	Gift transfer	HUD-1	Good Faith Estimate
023-5342095	\$210,123	A	\$203,408			X	X
023-5345015	\$129,310	A	\$125,178			X	X
023-5357233	\$225,735	A	\$219,438			X	X
$023 - 5357535^{12}$	\$88,369	A	\$85,545			X	X
023-5358821	\$152,192	A	\$147,947			X	X
023-5361995	\$194,904	A	\$189,467			X	X
023-5370003	\$139,428	A	\$135,539	X		X	X
023-537222012	\$98,087	A	\$95,351			X	X
023-5374947	\$233,197	A	\$226,692			X	X
023-5381274	\$168,884	A	\$164,173			X	X
023-5384156	\$214,814	A	\$209,077			X	X
023-538431412	\$114,346	A	\$111,840			X	X
023-5384973	\$155,138	A	\$150,811			X	X
023-5386974	\$129,609	R	\$127,257			X	X
023-5390355	\$159,203	A	\$156,114			X	X
023-5394885	\$144,337	A	\$141,064			X	X
023-5399223	\$171,830	A	\$167,240			X	X
023-5403080	\$116,353	A	\$113,715			X	X
023-5403681	\$215,916	R	\$212,085			X	X
023-5404635	\$168,490	A	\$164,407			X	X
023-541070312	\$127,645	A	\$124,720			X	X
023-5421055	\$189,378	A	\$184,889			X	X
023-5429138	\$122,735	A	\$119,923			X	X
023-5432318	\$169,866	A	\$166,059			X	X
023-5432403	\$157,052	R	\$154,398			X	X
023-5432540	\$127,546	A	\$124,624			X	X
023-5433517	\$181,649	A	\$177,487			X	X
023-5436326	\$168,884	A	\$165,099			X	X
023-5438096	\$177,721	A	\$173,649			X	X
023-5441180	\$152,192	A	\$148,930			X	X
023-5444634	\$199,124	A	\$195,261			X	X
023-5451346	\$184,594	A	\$180,548			X	X
023-5451375	\$151,210	R	\$148,404			X	X
023-5452703	\$151,603	A	\$148,472			X	X
023-5457594	\$135,500	A	\$132,701		 	X	X
023-5457650	\$169,866	A	\$166,357			X	X
023-5460354	\$111,443	R	\$109,658			X	X

	FHA loan informati	on		docu	ns not mented operly	Funds derived from premium-priced mortgage not disclose	
Case number	Original mortgage amount	Status ¹¹	Unpaid loan balance	Gift letter	Gift transfer	HUD-1	Good Faith Estimate
023-5468959	\$141,293	A	\$138,309			X	X
023-5474347	\$161,986	A	\$158,565			X	X
023-5476637	\$124,601	A	\$121,910			X	X
023-5479265	\$115,371	A	\$112,879			X	X
023-5481541	\$231,072	A	\$227,506			X	X
023-5481558	\$109,971	A	\$107,740			X	X
023-5491085	\$152,192	A	\$149,036			X	X
023-5493693	\$145,319	A	\$142,305			X	X
023-5501862	\$123,717	A	\$121,208			X	X
023-5506440	\$181,649	A	\$177,625			X	X
023-5507185	\$171,830	A	\$168,496			X	X
023-5507258	\$206,196	R	\$202,214			X	X
023-5508247	\$112,917	A	\$110,470	X		X	X
023-5508860	\$294,566	A	\$288,592			X	X
023-551052312	\$68,197	A	\$66,964			X	X
023-5510829	\$135,990	R	\$133,232			X	X
023-5518107	\$175,757	A	\$172,193			X	X
023-5518759	\$190,387	Т	\$0			X	X
023-5519196	\$159,065	A	\$155,839			X	X
023-5519279	\$127,645	A	\$125,056			X	X
023-5523188	\$163,975	R	\$161,922			X	X
023-5526677	\$148,559	R	\$146,126			X	X
023-5527739	\$205,214	A	\$201,232			X	X
023-5528422	\$142,373	A	\$140,176			X	X
023-5530773	\$162,011	A	\$158,867			X	X
023-5541724	\$117,826	A	\$116,317			X	X
023-5542686	\$196,377	A	\$192,828			X	X
023-5545828	\$211,217	A	\$207,679	X		X	X
023-5547053	\$162,011	A	\$159,147			X	X
023-5551189	\$157,592	A	\$154,744			X	X
023-5554094	\$206,196	A	\$202,551			X	X
023-5557254	\$216,015	A	\$212,397			X	X
023-5563214	\$112,917	A	\$110,965			X	X
023-5564176	\$244,391	A	\$240,388			X	X
023-5567143	\$208,160	A	\$204,673			X	X
023-5567563	\$140,409	R	\$138,611			X	X
023-5567671	\$134,518	A	\$132,315			X	X

	FHA loan informati	on		docu	ns not mented operly	premiui	rived from n-priced oot disclosed
Case number	Original mortgage amount	Status ¹¹	Unpaid loan balance	Gift letter	Gift transfer	HUD-1	Good Faith Estimate
023-5567738	\$153,174	R	\$151,212			X	X
023-5576218	\$131,572	R	\$129,368			X	X
023-5577417	\$218,371	A	\$215,001			X	X
023-5577446	\$171,830	A	\$169,179			X	X
023-5584657	\$147,283	A	\$145,010			X	X
023-5586028	\$127,645	A	\$125,675			X	X
023-5586273	\$265,010	A	\$260,829			X	X
023-5586982	\$115,371	A	\$113,591			X	X
023-5588557	\$101,624	A	\$100,056			X	X
023-5591092	\$127,546	A	\$125,745			X	X
023-5591562	\$119,790	A	\$117,942			X	X
023-5591585	\$245,471	A	\$241,683			X	X
023-5591897	\$171,830	A	\$169,404			X	X
023-5594496	\$169,757	A	\$167,138	X		X	X
023-5596829	\$117,826	A	\$116,008			X	X
023-5597644	\$141,391	A	\$139,209			X	X
023-5598003	\$203,250	A	\$200,114			X	X
023-5600250	\$164,933	A	\$162,605			X	X
023-5600331	\$119,790	A	\$117,942			X	X
023-5601119	\$153,174	A	\$151,012			X	X
023-5602455	\$132,456	A	\$130,586			X	X
023-5602931	\$230,743	A	\$227,486			X	X
023-5603546	\$172,812	A	\$170,372			X	X
023-5604608	\$152,192	A	\$150,044			X	X
023-5604672	\$172,812	A	\$170,372			X	X
023-5605025	\$145,319	A	\$143,268			X	X
023-5606014	\$150,228	A	\$148,107			X	X
023-5606276	\$157,102	A	\$154,884			X	X
023-5610258	\$117,826	R	\$116,317			X	X
023-5615232	\$123,717	A	\$121,970			X	X
023-5615357	\$182,631	A	\$180,292			X	X
023-5615719	\$142,373	A	\$140,363			X	X
023-5615856	\$200,305	A	\$197,477			X	X
023-5619113	\$95,243	A	\$93,898			X	X
023-5620459	\$202,268	R	\$200,204			X	X
023-5620987	\$129,609	A	\$127,779			X	X
023-5622046	\$125,681	A	\$123,907			X	X

	FHA loan informati	on		docu	ns not mented operly	Funds derived from premium-priced mortgage not disclosed	
Case number	Original mortgage amount	Status ¹¹	Unpaid loan balance	Gift letter	Gift transfer	HUD-1	Good Faith Estimate
023-5623137	\$175,213	A	\$172,969			X	X
023-5625918	\$157,592	A	\$155,574			X	X
023-5626019	\$181,649	A	\$179,322			X	X
023-5628837	\$140,311	A	\$138,514			X	X
023-5629508	\$171,830	A	\$169,629			X	X
023-5630801	\$110,461	A	\$109,046	X		X	X
023-5632014	\$254,633	A	\$252,259			X	X
023-5632775	\$162,011	A	\$159,936			X	X
023-5636097	\$130,099	A	\$128,433			X	X
023-5637346	\$127,645	A	\$126,010			X	X
023-5637930	\$133,733	A	\$132,195			X	X
023-5638495	\$161,029	R	\$159,386	X		X	X
023-5638653	\$112,917	A	\$111,471			X	X
023-5639297	\$111,443	Α	\$110,161			X	X
023-5639330	\$127,543	A	\$125,909			X	X
023-5639709	\$196,278	A	\$193,764			X	X
023-5640339	\$152,192	A	\$150,243			X	X
023-5641118	\$166,920	A	\$164,782			X	X
023-5642687	\$139,428	A	\$137,824			X	X
023-5644070	\$162,011	A	\$159,936			X	X
023-5648486	\$109,971	A	\$108,562			X	X
023-5650546	\$179,685	R	\$177,618			X	X
023-5650791	\$174,775	A	\$172,764			X	X
023-5651535	\$136,383	R	\$134,991			X	X
023-5652865	\$147,283	A	\$145,397			X	X
023-5655231	\$171,830	R	\$169,853			X	X
023-5655356	\$142,274	A	\$140,637			X	X
023-5655514	\$137,464	A	\$135,810			X	X
023-5655645	\$79,532	A	\$78,617			X	X
023-5656640	\$93,279	A	\$92,084			X	X
023-5657218	\$157,102	A	\$155,295			X	X
023-5659857	\$157,102	A	\$155,295			X	X
023-5661998	\$166,822	A	\$165,081			X	X
023-5662182	\$238,598	A	\$235,791			X	X
023-5666812	\$120,772	A	\$119,319			X	X
023-5666864	\$147,283	A	\$145,780			X	X
023-5667036	\$163,876	A	\$161,948			X	X

	FHA loan information					Funds derived from premium-priced mortgage not disclosed	
Case number	Original mortgage amount	Status ¹¹	Unpaid loan balance	Gift letter	Gift transfer	HUD-1	Good Faith Estimate
023-5668468	\$214,051	A	\$211,533			X	X
023-5670563	\$198,341	A	\$195,955			X	X
023-5670694	\$196,377	R	\$194,327			X	X
023-5670744	\$137,464	A	\$135,997			X	X
023-5670796	\$152,093	A	\$150,263			X	X
023-5672196	\$225,834	A	\$223,117			X	X
023-5673060	\$142,274	A	\$140,600	X		X	X
023-5674904	\$194,413	A	\$192,126	X		X	X
023-5676890	\$176,739	A	\$174,660			X	X
023-5677397	\$151,995	A	\$150,246			X	X
023-5677867	\$127,645	A	\$126,109			X	X
023-5679092	\$219,537	A	\$216,836			X	X
023-5680026	\$101,134	A	\$99,917			X	X
023-5680288	\$154,646	A	\$152,785			X	X
023-5682258	\$270,171	A	\$267,287			X	X
023-5682663	\$155,138	A	\$153,230			X	X
023-5684273	\$139,918	A	\$138,391			X	X
023-5687791	\$169,866	A	\$168,053			X	X
023-5688541	\$108,007	A	\$106,854			X	X
023-5688564	\$193,431	A	\$191,412			X	X
023-5688570	\$140,311	A	\$138,813			X	X
023-5697362	\$124,699	A	\$123,368			X	X
023-5702456	\$136,383	A	\$134,959	X		X	X
023-5702853	\$167,902	A	\$166,110			X	X
023-5705627	\$275,793	A	\$272,914			X	X
023-5705656	\$197,359	A	\$195,252			X	X
023-5705662	\$119,790	A	\$118,673			X	X
023-5705951	\$179,685	Т	\$0			X	X
023-5706067	\$162,011	A	\$160,282	X		X	X
023-5707033	\$173,794	A	\$172,137			X	X
023-5708442	\$139,428	A	\$137,940			X	X
023-5708993	\$270,019	A	\$267,137			X	X
023-5711763	\$199,372	A	\$197,471			X	X
023-5713039	\$185,478	A	\$183,498	X		X	X
023-5713101	\$204,517	A	\$202,334	X		X	X
023-5717581	\$129,609	A	\$128,373			X	X
023-5717625	\$118,808	A	\$117,675	X		X	X

	FHA loan information					Funds derived from premium-priced mortgage not disclosed	
Case number	Original mortgage amount	Status ¹¹	Unpaid loan balance	Gift letter	Gift transfer	HUD-1	Good Faith Estimate
023-5717677	\$152,192	A	\$150,568			X	X
023-5720489	\$251,853	A	\$249,452			X	X
023-5721418	\$127,645	A	\$126,455	X		X	X
023-5722625	\$134,360	A	\$133,079	X		X	X
023-5724054	\$110,461	A	\$109,408			X	X
023-5724973	\$119,790	A	\$118,673			X	X
023-5725609	\$201,286	A	\$199,410			X	X
023-5726502	\$160,341	A	\$158,846			X	X
023-5727277	\$228,288	A	\$226,160			X	X
023-5727304	\$150,228	A	\$148,796			X	X
023-5727406	\$173,302	A	\$171,686			X	X
023-5727905	\$188,522	A	\$186,765	X		X	X
023-5728033	\$155,138	A	\$153,692			X	X
023-5730440	\$147,283	A	\$145,910	X		X	X
023-5730594	\$176,739	A	\$175,091	X		X	X
023-5732096	\$166,920	A	\$165,589	X		X	X
023-5732890	\$188,522	A	\$186,725			X	X
023-5733981	\$200,270	A	\$198,403			X	X
023-5738117	\$245,471	A	\$243,183	X		X	X
023-5739325	\$229,270	A	\$227,133			X	X
023-5745060	\$125,681	A	\$124,535			X	X
023-5746253	\$188,522	A	\$186,765			X	X
023-5749112	\$213,069	A	\$211,331	X		X	X
Ineligible loans	\$58,247,206	-	\$57,215,592	21	68	405	405
Minimum required investment met ¹³	\$1,089,185	-	\$1,063,998	-	1	12	12
Terminated ¹⁴	\$546,811	-	0	-	-	3	3
Totals	\$59,883,202	-	\$58,279,590	21	69	420	420

¹³ The 12 loans (highlighted in gray) contained ineligible downpayment assistance; however, the loans had enough funds to meet the minimum cash investment without the downpayment assistance.

¹⁴ The three loans (highlighted in blue) contained ineligible downpayment assistance; however, the loans were

terminated.

Summary of Loans With Inappropriate Fees

Recommendation 1D		
FHA case number	Discount fees charged	Noncustomary or unreasonable fees charged
022-2400484		\$460
022-2415624	\$987	
022-2424127	\$45	
022-2441913		\$460
022-2443228		\$460
022-2445191		\$460
022-2448508		\$460
022-2448940		\$276
022-2449170		\$460
022-2456300		\$460
022-2477159		\$150
022-2478761		\$460
022-2478811		\$560
023-5182698	\$1,522	
023-5184551	\$1,373	
023-5187094	\$1,699	
023-5226589	\$1,767	
023-5245116	\$2,062	
023-5247730	\$1,964	
023-5251157	\$486	
023-5257412	\$1,758	
023-5258496	\$1,237	
023-5265366	\$1,603	
023-5268391	\$1,504	
023-5271896	\$2,033	
023-5275392	\$1,502	
023-5283058	\$1,227	
023-5300786	\$1,954	
023-5310255	\$1,276	
023-5313029	\$1,620	
023-5320237	\$1,600	
023-5323679	\$1,816	
023-5325809	\$1,915	

Recommendation 1D		
FHA case number	Discount fees charged	Noncustomary or unreasonable fees charged
023-5330975	\$1,178	
023-5333131	\$1,198	
023-5339502	\$1,669	
023-5341797	\$1,553	
023-5342095	\$2,101	
023-5345015	\$1,293	
023-5357233	\$2,257	
023-5357535	\$884	
023-5358821	\$1,522	
023-5361995	\$1,949	
023-5370003	\$1,394	
023-5372220	\$981	
023-5374947	\$2,332	
023-5381274	\$1,689	
023-5384156	\$2,148	
023-5384314	\$1,143	
023-5384973	\$1,551	
023-5386974	\$1,296	
023-5390355	\$1,592	
023-5394885	\$1,443	
023-5399223	\$1,718	
023-5403080	\$1,164	
023-5403681	\$2,159	
023-5404635	\$1,685	
023-5410703	\$1,276	
023-5421055	\$1,894	
023-5429138	\$1,227	
023-5432318	\$1,699	
023-5432403	\$1,571	
023-5432540	\$1,275	
023-5433517	\$1,816	
023-5436326	\$1,689	
023-5438096	\$1,777	
023-5441180	\$1,522	
023-5444634	\$1,991	
023-5451346	\$1,846	
023-5451375	\$1,512	

Recommendation 1D		
FHA case number	Discount fees charged	Noncustomary or unreasonable fees charged
023-5452703	\$1,516	
023-5457594	\$1,355	
023-5457650	\$1,699	
023-5460354	\$1,114	
023-5468959	\$1,413	
023-5474347	\$1,620	
023-5476637	\$1,246	
023-5479265	\$1,154	
023-5481541	\$2,311	
023-5481558	\$1,100	
023-5491085	\$1,522	
023-5493693	\$1,453	
023-5501862	\$1,237	
023-5506440	\$1,816	
023-5507185	\$1,718	
023-5507258	\$2,062	
023-5508247	\$1,129	
023-5508860	\$2,946	
023-5510523	\$682	
023-5510829	\$1,360	
023-5518107	\$1,758	
023-5518759	\$1,904	
023-5519196	\$1,591	
023-5519279	\$1,276	
023-5523188	\$1,640	
023-5526677	\$1,486	
023-5527739	\$2,052	
023-5528422	\$1,424	
023-5530773	\$1,620	
023-5541724	\$1,178	
023-5542686	\$1,964	
023-5545828	\$2,112	
023-5547053	\$1,620	
023-5551189	\$1,576	
023-5554094	\$2,062	
023-5557254	\$2,160	
023-5563214	\$1,129	

Recommendation 1D		
FHA case number	Discount fees charged	Noncustomary or unreasonable fees charged
023-5564176	\$2,444	
023-5567143	\$2,082	
023-5567563	\$1,404	
023-5567671	\$1,345	
023-5567738	\$1,532	
023-5576218	\$1,316	
023-5577417	\$2,184	
023-5577446	\$1,718	
023-5584657	\$1,473	
023-5586028	\$1,276	
023-5586273	\$2,650	
023-5586982	\$1,154	
023-5588557	\$1,016	
023-5591092	\$1,275	
023-5591562	\$1,198	
023-5591585	\$2,455	
023-5591897	\$1,718	
023-5594496	\$1,698	
023-5596829	\$1,178	
023-5597644	\$1,414	
023-5598003	\$2,033	
023-5600250	\$1,649	
023-5600331	\$1,198	
023-5601119	\$1,532	
023-5602455	\$1,325	
023-5602931	\$2,307	
023-5603546	\$1,728	
023-5604608	\$1,522	
023-5604672	\$1,728	\$460
023-5605025	\$1,453	
023-5606014	\$1,502	
023-5606276	\$1,571	
023-5610258	\$1,178	
023-5615232	\$1,237	
023-5615357	\$1,826	
023-5615719	\$1,424	
023-5615856	\$2,003	

Recommendation 1D		
FHA case number	Discount fees charged	Noncustomary or unreasonable fees charged
023-5619113	\$952	
023-5620459	\$2,023	
023-5620987	\$1,296	
023-5622046	\$1,257	
023-5623137	\$1,752	
023-5625918	\$1,576	
023-5626019	\$1,816	
023-5628837	\$1,403	
023-5629508	\$1,718	
023-5630801	\$1,105	
023-5632014	\$2,546	
023-5632775	\$1,620	
023-5636097	\$1,301	
023-5637346	\$1,276	
023-5637930	\$1,337	
023-5638495	\$1,610	
023-5638653	\$1,129	
023-5639297	\$1,114	
023-5639330	\$1,275	
023-5639709	\$1,963	
023-5640339	\$1,522	
023-5641118	\$1,669	
023-5642687	\$1,394	
023-5644070	\$1,620	
023-5648486	\$1,100	
023-5650546	\$1,797	
023-5650791	\$1,748	
023-5651535	\$1,364	
023-5652865	\$1,473	
023-5655231	\$1,718	
023-5655356	\$1,423	\$89
023-5655514	\$1,375	
023-5655645	\$795	
023-5656640	\$933	
023-5657218	\$1,571	
023-5659857	\$1,571	
023-5661998	\$1,668	

Recommendation 1D		
FHA case number	Discount fees charged	Noncustomary or unreasonable fees charged
023-5662182	\$2,386	
023-5666812	\$1,208	
023-5666864	\$1,473	
023-5667036	\$1,639	
023-5668468	\$2,141	
023-5670563	\$1,983	
023-5670694	\$1,964	
023-5670744	\$1,375	
023-5670796	\$1,521	
023-5672196	\$2,258	
023-5673060	\$1,423	
023-5674904	\$1,944	
023-5676890	\$1,767	
023-5677397	\$1,520	
023-5677867	\$1,276	
023-5679092	\$2,195	
023-5680026	\$1,011	
023-5680288	\$1,546	
023-5682258	\$2,702	
023-5682663	\$1,551	
023-5684273	\$1,399	\$375
023-5687791	\$1,699	
023-5688541	\$1,080	
023-5688564	\$1,934	
023-5688570	\$1,403	
023-5697362	\$1,247	
023-5702456	\$1,364	
023-5702853	\$1,679	
023-5705627	\$2,758	
023-5705656	\$1,974	
023-5705662	\$1,198	
023-5705951	\$1,797	
023-5706067	\$1,620	
023-5707033	\$1,738	
023-5708442	\$1,394	
023-5708993	\$2,700	\$610
023-5711763	\$1,994	

Recommendation 1D		
FHA case number	Discount fees charged	Noncustomary or unreasonable fees charged
023-5713039	\$1,855	\$610
023-5713101	\$2,045	
023-5717581	\$1,296	
023-5717625	\$1,188	
023-5717677	\$1,522	
023-5720489	\$2,519	
023-5721418	\$1,276	
023-5722625	\$1,344	
023-5724054	\$1,105	
023-5724973	\$1,198	
023-5725609	\$2,013	
023-5726502	\$1,603	
023-5727277	\$2,283	
023-5727304	\$1,502	
023-5727406	\$1,733	\$300
023-5727905	\$1,885	
023-5728033	\$1,551	
023-5730440	\$1,473	
023-5730594	\$1,767	
023-5732096	\$1,669	
023-5732890	\$1,885	
023-5733981	\$2,003	
023-5738117	\$2,455	
023-5739325	\$2,293	
023-5745060	\$1,257	
023-5746253	\$1,885	
023-5749112	\$2,131	
Totals	\$376,102	\$7,110