First Niagara Bank, Lockport, NY

Single-Family Housing Servicing

Office of Audit, Region 2
New York-New Jersey

Audit Report Number: 2015-NY-1006
May 22, 2015

To:	Kathleen Zadareky Deputy Assistant Secretary for Single Family Housing, HU
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From:	Kimberly Greene Regional Inspector General for Audit, 2AGA
Subject:	First Niagara Bank, Lockport, NY, Did Not Always Properly Implement HUD's Loss Mitigation Requirements in Servicing FHA-Insured Mortgages

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of First Niagara Bank's servicing of Federal Housing Administration (FHA)-insured mortgages.

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 (212) 264-4174.

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First Niagara Bank, Lockport, NY, Did Not Always Properly Implement HUD's Loss Mitigation Requirements in Servicing FHA-Insured Mortgages

Highlights

What We Audited and Why

We conducted a review of First Niagara Bank's servicing of Federal Housing Administration (FHA)-insured mortgages and its implementation of the U.S. Department of Housing and Urban Development's (HUD) Loss Mitigation program. We selected First Niagara Bank based on an Office of Inspector General risk assessment of single-family lenders. The objective of the audit was to determine whether First Niagara Bank properly serviced FHA-insured mortgages; specifically, whether it (1) properly implemented HUD's Loss Mitigation program, (2) provided the proper reporting for the FHA-insured mortgages it serviced, and (3) established and implemented an effective quality control program.

What We Found

There were 10 loans with a total of more than $1.65 million in unpaid principal balance, for which HUD needs to determine whether the servicing practices were adequate. First Niagara Bank did not always properly implement applicable procedures and requirements in servicing FHA-insured mortgages. Specifically, they did not (1) properly implement HUD's Loss Mitigation program, (2) did not accurately report their servicing of FHA-insured mortgages, and (3) did not implement an effective quality control program. The lack of adequate loss mitigation efforts could affect the borrower's ability to retain home ownership and have a negative impact on the FHA insurance fund. If HUD determines that First Niagara Bank did not take the appropriate actions, it could result in an unnecessary loss of home ownership and more than $825,000 loss to the insurance fund. Furthermore, First Niagara Bank did not accurately report the servicing of their FHA-insured mortgages.

What We Recommend

We recommend that HUD instruct First Niagara Bank to provide support showing that the lender's servicing practices for identified loans were acceptable for mortgages insured by HUD. For any loan for which HUD determines that the servicing practices were inadequate, HUD should take the appropriate administrative actions, including indemnifying inadequately serviced loans. We also recommend that HUD instruct First Niagara Bank to provide evidence that 80 loans were either paid in full or closed; and remove the loans from HUD's FHA-insured portfolio. As such, this will result in a $4,201,504 reduction in obligations to the mortgage insurance fund, and reinstate the 15 loans totaling $951,723 that were incorrectly terminated from HUD's FHA-insured portfolio.

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Background and Objective

First Niagara Bank is an approved Federal Housing Administration (FHA) loan servicer located in Lockport, NY. It services more than 1,600 FHA-insured mortgage loans.

The U.S. Department of Housing and Urban Development (HUD) established the Loss Mitigation program in 1996 to ensure that distressed FHA-insured borrowers would have opportunities to retain their homes and to reduce losses to FHA's insurance fund. Loss mitigation is considered critical to FHA because it fulfills the goal of helping borrowers in default retain home ownership while reducing, or mitigating, the economic impact on the insurance fund.

FHA's Loss Mitigation program returns responsibility for managing loan defaults to lenders and provides financial incentives to recognize them for their efforts. Lenders must consider the comparative effects of their servicing actions and take appropriate actions that can generate the smallest financial loss to HUD. The Loss Mitigation program has reinstatement options to promote retention of borrowers' homes and disposition options that assist in disposing of their homes. The lender must evaluate the borrower for both informal and formal forbearance plans[1] before considering one of FHA's loss mitigation home retention options. These forbearance plans are the only options available for delinquent borrowers without verifiable losses of income or increases in living expenses.

FHA's loss mitigation home retention options must be considered in the following order: (1) special forbearances, (2) loan modifications, and (3) FHA's Home Affordable Modification Program (HAMP). A special forbearance is a written agreement between a lender and borrower to reduce and/or suspend mortgage payments. A special forbearance is available only to borrowers who are unemployed. A loan modification is a permanent change to the terms of a borrower's loan. FHA-HAMP typically involves the combination of a loan modification and a partial claim, which may include an amount needed to cover arrears in loan payments, and potentially, an additional amount for principal deferment. However, it may now involve the use of one or both, of the loss mitigation options.

The disposition options are pre-foreclosure sale and deed in lieu of foreclosure. The pre-foreclosure sale option allows the defaulted borrower to sell their home and use the sales proceeds to satisfy the mortgage debt, even if the proceeds are less than the amount owed. A deed in lieu of foreclosure, allows a borrower to turn their home over to HUD in exchange for a release from all mortgage obligations.

[1] Forbearance plans are arrangements between a lender and borrower that may allow for a period of reduced or suspended payments; and, may provide specific terms for repayment depending on the circumstances. Informal forbearance plans are oral agreements relating to a period of three months, or less. Formal forbearance plans are written agreements relating to a period of greater than three months and less than six months.

The objective of the audit was to determine whether First Niagara Bank properly serviced FHA-insured mortgages; specifically, whether it (1) properly implemented HUD's Loss Mitigation program, (2) provided the proper reporting for FHA-insured mortgages serviced, and (3) established and implemented an effective quality control program.

Results of Audit

Finding 1: First Niagara Bank Did Not Properly Implement HUD's Loss Mitigation Program

First Niagara Bank did not properly implement HUD's Loss Mitigation program for 10 loans totalling an unpaid principal balance of $1.65 million. This deficiency occurred because First Niagara Bank did not provide adequate oversight to ensure that servicing procedures for FHA-insured mortgages were properly implemented. The lack of adequate loss mitigation efforts affects the borrower's ability to retain home ownership and has a negative impact on the FHA insurance fund. Therefore, HUD needs to determine whether the servicing practices were adequately supported for these 10 loans. If First Niagara Bank did not take the appropriate actions, this deficiency could result in unnecessary loss of home ownership and more than an $825,000 potential loss to the insurance fund.

Ten Loans With Significant Loss Mitigation Servicing Deficiencies

First Niagara Bank failed to document significant aspects of their loss mitigation efforts for 10 of 20 loans reviewed. Summary details for these 10 loans are contained in Appendix D of this Report. Specifically, First Niagara Bank did not:

- Document that borrowers qualified for the loss mitigation option.
- Provide evidence of the loss mitigation evaluation.
- Evaluate all loss mitigation options and ensure proper waterfall[2] was followed.
- Evaluate for loss mitigation options prior to the fourth missed installment payment.

The required servicing practices lending institutions must follow for HUD insured mortgages are cited in 24 CFR (Code of Federal Regulations) 203(C). Additionally, HUD Handbook 4330.1, REV-5, has procedural standards and guidelines that must be followed when servicing an FHA-insured mortgage. Further, there are several mortgagee letters containing guidance on servicing FHA-insured mortgages. Appendix F specifies applicable excerpts from regulatory guidance that were in effect for the loans reviewed.

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[2] FHA Loss Mitigation Home Retention Option Priority Order (Waterfall), Mortgagee Letters 2012-22 and 2013-32;provide that after evaluating a delinquent mortgagor for Informal and Formal Forbearance Plans, FHA's Loss Mitigation options must be considered in the following order: (1) Special Forbearances; (2) Loan Modifications; and (3) FHA-HAMP.

As of December 31, 2014, these 10 loans had a total unpaid principal balance of $1,650,266. Based on the current loss severity rate of 50 percent, if HUD determines inadequate servicing practices existed over these loans, this could result in indemnification of $825,133 in estimated losses. The following Table summarizes the identified loan deficiencies:

FHA number	Unqualified for loss mitigation option	Loss mitigation action lacked evaluation of financial review	Failure to evaluate for all loss mitigation options	Lack of loss mitigation evaluation by fourth missed installment
371-4717616	X	X	X	X
061-3259909	X		X	X
061-4177067	X	X	X	X
061-3710379	X		X	X
061-3151312	X		X	
061-3894372	X		X	
061-3904897		X	X	X
372-2302948		X	X	
061-3011089			X	
061-3084419			X	X
Totals	**6**	**4**	**10**	**6**

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Lack of Documentation Showing That the Borrower Qualified for the Loss Mitigation Option

The Lender lacked the appropriate support to show that borrowers qualified, and were offered, the loss mitigation option in 6 out of 10 loans that were already identified as having servicing deficiencies. For these six loans, the documentation either did not support, or First Niagara Bank had not verified, the accuracy of the information used to approve the loss mitigation option.

Additionally, without obtaining a waiver from HUD at the time a partial claim was approved, one loan was provided with a HAMP stand-alone partial claim[3] when it was proven the borrower's interest rate was greater than the market rate.

Lack of Evidence of the Loss Mitigation Evaluation

For 4 of 10 loans that were already identified as having servicing deficiencies, First Niagara Bank recorded that loss mitigation occurred, but did not have sufficient documentation to show either an evaluation of loss mitigation or that a review of the borrowers' financial information was accomplished. Mortgagee Letter 2000-05 requires that to be considered for any of the loss mitigation options, the borrower must provide detailed financial information to the lender. First Niagara Bank stated this error occurred due to terminology used in the collection industry that has different meanings in HUD's Loss Mitigation program, such as promise to pay; and because they did not receive financial information as requested from the borrowers. Mortgagee Letter 2013-15 states promises to pay are to be reported if the mortgagor has advised the mortgagee that the loan will be brought current by making a one-time payment. According to the lender, if a customer calls and promises to make a payment, it is called a promise to pay in the collection industry. These recording errors occurred in four additional loans (see Finding 2) and impact the actual number of loss mitigation forbearance plans the lender initiated.

Lack of Evaluation for All Loss Mitigation Options, Including Ensuring That Proper Waterfall Priority Was Followed

For all 10 loans with servicing deficiencies, First Niagara Bank did not conduct an overall evaluation for loss mitigation, such as (1) evaluating the borrower for all retention loss mitigation options, (2) ensuring that the proper waterfall priority was followed, and (3) considering property disposition options.[4]

A combination of the following discrepancies occurred for the 10 service deficient loans, specifically:

- Six loans, did not contain documented support that all loss mitigation home retention options were considered.

- Two loans were not reviewed by First Niagara Bank for FHA-HAMP options. The officials stated that the holder of the loan, which is the entity that gets paid in the event of a claim, did not participate in HAMP. However, the holder was given a waiver to modify loans with a decrease in their interest rate. The waiver did not exclude the holder from the overall HAMP options of modification or partial claim.

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[3] A stand-alone partial claim is permissible under FHA-HAMP if the borrower's (i) current interest rate is at or below market rate and (ii) the borrower's current mortgage payment is at or below the targeted payment.

[4] Regulations at 24 CFR 203.605(a); HUD Handbook 4330.1, REV-5, sections 7-12 and 9-3; and Mortgagee Letters 2000-05, 2012-22, and 2013-32

- Two loans did not contain documented support that the lender used the correct waterfall priority options which were in effect at the time the borrower was reviewed for loss mitigation options.

- Seven loans did not contain documented support that First Niagara Bank evaluated or notified the borrower of the availability of property disposition options. Without considering property disposition options, the lender could not ensure that its servicing actions could generate the smallest financial loss to HUD.

Lack of Evaluation of Loss Mitigation Options Before the Fourth Missed Installment

For 6 of the 10 loans that were already identified as having servicing deficiencies, documented evidence did not support their situation was reviewed for mitigation strategies. The lender was required to evaluate all of the loss mitigation techniques available, to determine which options were appropriate prior to the borrower missing four full monthly mortgage installments.[5] . However, the files reviewed, and the lender's reporting to HUD, did not include this timely evaluation. For three of these loans, First Niagara Bank incorrectly reported to HUD that loss mitigation actions were taken by the fourth missed installment; although the borrower's financial situation actually was not evaluated for any loss mitigation options before the fourth missed installment.

Inadequate Oversight To Ensure That Servicing Procedures for FHA-insured Mortgages Were Properly Implemented

First Niagara Bank did not provide adequate oversight to ensure that servicing procedures for FHA-insured mortgages were properly implemented. Specifically, the lender did not ensure that the loans were re-evaluated monthly and that files supported loss mitigation decisions. Lenders are required to re-evaluate each loan on a monthly basis until reinstatement or foreclosure. In addition, documentation must be maintained for the initial, and any subsequent evaluations and their resulting loss mitigation actions.[6] The files provided by First Niagara Bank did not clearly indicate that evaluations of loss mitigation actions were being taken, nor did they support that the loans were re-evaluated monthly. Although the lender maintained daily collection notes taken by staff, there was not a clearly defined process of steps being taken to mitigate the loss. Further, since the loss mitigation process was not clearly documented, First Niagara Bank incorrectly reported the status of loans to HUD systems (see Finding 2).

Additionally, in the absence of documentation to show whether initial and subsequent evaluations were accomplished, there was no assurance that the proper loss mitigation options were followed. Likewise, the documentation supporting the loss mitigation decisions was inadequate. For 18 of the 20 loans reviewed, the audit team had to request documentation many times to support the lender's decisions. In some instances, the lender was unable to provide the supporting documentation. For eight loans, the lender could not support whether the pamphlet, HUD-PA-426, How To Avoid Foreclosure, was sent to the borrower. The lender maintained its

[5] Regulations at 24 CFR 203.605(a) and Mortgagee Letters 2012-22 and 2013-32
[6] Regulations at 24 CFR 203.605(a) and Mortgagee Letter 2000-05

files electronically and had difficulty in obtaining the requested information in a timely manner. The lender's lack of monthly evaluation of the borrower's financial situation for potential loss mitigation and its deficient maintenance of electronic documents made it difficult to ensure that servicing procedures for FHA-insured mortgages were properly implemented.

Conclusion

First Niagara Bank failed to document significant aspects of their loss mitigation efforts for 10 of 20 loans reviewed. As a result, the lender increased the risk to the FHA insurance fund by more than $825,000. The potential estimated loss to HUD is described in Appendix C. In the absence of adequate support documentation to show that First Niagara Bank provided adequate servicing for the loans identified in Appendix D, HUD should consider indemnification. Deficient servicing impacts the borrower's ability to retain home ownership and increases the loss to HUD.

Recommendations

We recommend that the Deputy Assistant Secretary for Single Family Housing instruct First Niagara Bank to:

1A. Provide HUD evidence that the lender's servicing practices for loans identified in Appendix D were acceptable for mortgages insured by HUD. In the event that HUD determines servicing practices were inadequate, First Niagara Bank should indemnify HUD for $825,133 in estimated losses for 10 loans. The estimated loss is based on the loss severity rate of 50 percent of the total unpaid principal balance of $1,650,266 as of December 31, 2014.

1B. Implement procedures requiring the lender to evaluate for all loss mitigation options, and to determine whether any are appropriate by the required time frame. The lender must re-evaluate monthly loss mitigation options based upon the borrower's financial situation. The lender's servicing files should include monthly notations and explain the analysis used to determine the appropriate loss mitigation option.

1C. Implement effective management oversight procedures for the servicing of FHA-insured mortgages to ensure compliance with regulatory guidance and ensure that files include all supporting documentation.

Finding 2: First Niagara Bank Failed To Accurately Record Its Servicing Actions for FHA-Insured Loans

First Niagara Bank did not accurately report the servicing of their FHA-insured mortgages. Specifically, officials (1) did not ensure that loans paid in full or otherwise closed were removed from HUD systems, (2) incorrectly terminated loans from HUD systems, (3) failed to properly report later events for loans with open delinquencies, and (4) failed to accurately report actions in the Single Family Default Monitoring System (SFDMS). These deficiencies occurred because First Niagara Bank did not provide adequate oversight to ensure that HUD systems were accurately maintained. The lender's lack of verification of the total loans serviced led to an inaccurate account of total loans and the amount of FHA-insured mortgages outstanding. There were 80 loans totaling more than $4.2 million in unpaid principal balance incorrectly recorded as obligations to the mortgage insurance fund. Also, there were 15 loans totaling more than $951,000 in unpaid principal balance that need to be added back to HUD systems. Further, the lack of proper reporting affected HUD's ability to collect and track the key significant events that occur between the beginning of a default episode and its resolution.

Closed Loans Not Removed From HUD Systems

There were 80 loans recorded in HUD systems as being actively serviced that First Niagara Bank indicated had been paid in full or closed. The total unpaid principal balance on these loans was more than $4.2 million. First Niagara Bank believed that all of these loans had been closed and should be removed from HUD systems. For 44 of the 80 loans, First Niagara Bank could find no evidence that they had serviced the loans. For each of the loans, information in HUD systems showed that servicing had been transferred from a bank that First Niagara Bank had wholly acquired. The absence of a record in First Niagara Bank systems indicates that the loans either had been purged from First Niagara Bank systems or were not part of the sale.

Loans Incorrectly Terminated From HUD Systems

There were 15 loans that First Niagara Bank incorrectly terminated from HUD systems. The total unpaid principal balance on these loans was more than $951,000. First Niagara Bank stated that each of these loans had its mortgage insurance premium canceled due to either borrower request or automatic termination. The insurance on all of these loans was canceled, and the loans were most likely recorded incorrectly as terminated in HUD systems. First Niagara Bank confirmed that these loans were actively being serviced. Reinstating these loans would ensure that the loans will be serviced in accordance with HUD regulations.[7]

Loans With Open Delinquencies Not Updated

There were 18 current loans that were identified in SFDMS as delinquent. In each case, First Niagara Bank reported a delinquency but failed to report an updated status on the loan. Lenders are required to report the monthly status of a delinquent loan throughout the term of the mortgage.[8] First Niagara Bank verified that each of these loans had become current after the

[7] Regulations at 24 CFR 203(C)
[8] Mortgagee Letter 2013-15

delinquent reporting period. Thus, the loans were incorrectly identified in HUD systems as still delinquent.

The Table below summarizes the 18 loans identified as delinquent with no follow-up reporting.

FHA number	Last reporting period	Delinquent status code	Delinquent status definition
061-1595633	12/2007	42	Delinquent
061-1848212	1/2008	12	Repayment
372-2468531	1/2008	42	Delinquent
372-3095648	1/2008	42	Delinquent
372-3238058	9/2008	42	Delinquent
061-2514337	11/2008	10	Partial claim started
061-2921830	6/2009	42	Delinquent
061-1757968	3/2010	42	Delinquent
061-1516535	4/2010	42	Delinquent
061-2725246	12/2010	42	Delinquent
372-4003228	12/2012	42	Delinquent
446-0308063	8/2013	42	Delinquent
372-3526647	8/2013	11	Promise to pay
372-3551641	8/2013	42	Delinquent
372-2877543	10/2013	11	Promise to pay
372-2740684	10/2013	42	Delinquent
372-2883815	10/2013	42	Delinquent
061-3770083	1/2014	42	Delinquent

Inaccurate Reporting of Loan Actions in the Single Family Default Monitoring System

First Niagara Bank failed to accurately report actions in SFDMS for 17 of the 20 loans in our sample. Lenders are required to accurately report data to provide HUD with an up-to-date account of the status and trends of FHA-insured mortgages.[9] This reporting indicates the effectiveness of the servicing activities and the potential risk to the insurance funds. For four loans,[10] First Niagara Bank reported loss mitigation actions on the loans, but the lender had performed no evaluation to support loss mitigation. As a result, the level of loss mitigation actions performed by the lender was inaccurately represented, which had a negative impact on the evaluation of the lender's overall performance regarding loss mitigation. Also, there were five loans for which the loan status was listed as current when the loan was still delinquent. First Niagara Bank stated that information in the collection notes caused data entry personnel to incorrectly update the status. A description of the codes recorded and the correct codes for these 17 loans can be found in Appendix E.

Inadequate Oversight To Ensure That HUD Systems Were Accurately Maintained

First Niagara Bank did not ensure that HUD systems were accurately maintained. Specifically, the lender did not accomplish reconciliations between their own internal systems to HUD systems in order to update key significant events occurring in loss mitigation actions. First Niagara Bank was required to complete a reconciliation of their FHA-insured portfolio.[11] First Niagara Bank stated that the reconciliation was not done for either loss mitigation actions or their servicing portfolio.

Conclusion

The lender's lack of verification of the total loans serviced, overall led to an inaccurate account of total loans and the amount of FHA-insured mortgages outstanding. Further, the lack of proper reporting affected HUD's ability to collect and track the key significant events that occur between the beginning of a default episode and its resolution. Correct data is crucial for ensuring that information used in metrics to assess servicer performance, such as tiered ranking, are accurate.

Recommendations

We recommend that the Deputy Assistant Secretary for Single Family Housing instruct First Niagara Bank to:

2A. Provide evidence that the 80 loans were paid in full or closed, and remove the loans from HUD's FHA-insured portfolio, which will result in a $4,201,504 reduction in obligations to the mortgage insurance fund.

2B. Reinstate the 15 loans incorrectly terminated from HUD's FHA-insured portfolio, which will result in an additional $951,723 in loans recorded to ensure that the loan servicing actions are documented.

2C. Implement verification procedures to improve oversight over the maintenance of HUD systems to ensure that information is accurate.

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[9] HUD Handbook 4330.1, REV-5, paragraph 7-8(A)
[10] The four loans in question were 061-4362753, 061-2987049, 061-3972953, and 372-4558045.
[11] Mortgagee Letter 2005-42

2D. Record the proper default status code for 18 loans to show that the delinquency was corrected.

Finding 3: First Niagara Bank Did Not Follow HUD's Requirements When Implementing Its Quality Control Program

First Niagara Bank did not adequately implement their quality control plan for the servicing of delinquent FHA loans in accordance with HUD requirements. We attributed this deficiency to First Niagara Bank not implementing corrective action procedures to mitigate and address the root cause of repetitive findings in their quality control reviews. As a result, the effectiveness of the lender's quality control program in ensuring compliance with servicing requirements and protecting HUD from unacceptable risk was diminished.

Inadequate Implementation of the Quality Control Plan

First Niagara Bank's quality control plan met HUD requirements; however, it was not adequately implemented. First Niagara Bank consistently identified repetitive findings in their quality control reviews over the servicing of delinquent FHA loans. These findings included: missing and untimely collection letters; occupancy and the reason for default not adequately verified; foreclosure not initiated in a timely manner; errors entered into various claim fields; and claims not submitted in a timely manner. These findings recurred due to (1) a lack of corrective action, (2) inadequate implementation of corrective actions, and (3) not conducting quality control reviews in a timely manner. One of HUD's overriding goals of quality control is that the lender designs a program to ensure swift and appropriate corrective action.[12]

According to First Niagara Bank's quality control reports, management was not required to respond to findings that were determined by its quality control department to have an "acceptable risk" level. As a result, approximately 42 percent of the findings identified by First Niagara Bank during our sample period did not have corresponding management responses and, thus, were not addressed. Many of these findings without responses were those that had been identified as recurring throughout our sample period. Although First Niagara Bank considered these deficiencies to have an "acceptable risk" level, they negatively affected the servicing efforts for delinquent FHA loans and, thus, negatively impacted HUD. The deficiencies included a failure to (1) adequately report information to HUD, such as the reason for default, occupancy, and unpaid principal balance; (2) perform a timely property inspection; (3) complete the foreclosure action within the required timeframes; and (4) document that pamphlet, HUD PA 426-H, How to Avoid Foreclosure, was mailed to the borrower timely. Therefore, the findings were significant enough to have required a response from management and should be addressed.

HUD requirements state that quality control reviews must thoroughly evaluate the lender's servicing functions to determine the root cause of deficiencies.[13] First Niagara Bank should have also considered escalating the risk level of these findings as they continued to occur. HUD requirements state that when fraud or patterns of deficiencies are uncovered, the scope of the review must be expanded.[14] Although these findings did not suggest that any fraudulent activity

[12] HUD Handbook 4060.1 REV-2, section 7-2
[13] HUD Handbook 4060.1, REV-2, paragraph 7-3(F)
[14] HUD Handbook 4060.1, REV-2, paragraph 7-3(F)

occurred, they could have resulted from a larger systemic problem requiring they be reviewed and addressed in more detail.

First Niagara Bank proposed corrective actions to remedy some of the recurring deficiencies that were assigned higher risk levels and identified in our audit sample. However, during subsequent audit review, these deficiencies continued to appear on the First Niagara Bank monthly quality control reports. Specifically, in a December 19, 2012 response to an August 2012 quality control review, First Niagara Bank stated appropriate correction actions were implemented. However, during this subsequent review we determined 12 of 25 quality control reports that still contained deficiencies identified during the previous reviews. First Niagara Bank did not adequately implement appropriate actions and was unable to provide sufficient evidence that ensure management responses to findings and corrective actions were implemented. Unless deficiencies are corrected, the risk of future errors still remains.

First Niagara Bank could have addressed deficiencies sooner and mitigated repetitive findings had they conducted quality control reviews in a timely manner. HUD requirements state for FHA loans that are in a delinquent status, lenders must conduct monthly quality control reviews.[15] Further, these reviews are to be conducted on a regular and timely basis for as long as these loans remain in a delinquent status. Although First Niagara Bank was performing 100 percent reviews over their monthly delinquent FHA loan reports, these were not being conducted in a timely manner and often occurred approximately 90 days after the end of the month under review. As a result, this delay raises concerns over potential issues not being promptly identified and corrected.

Conclusion

First Niagara Bank did not adequately implement their quality control plan for the servicing of delinquent FHA loans in accordance with HUD requirements. This deficiency was evidenced by officials' consistently identifying repetitive findings in their quality control reviews. We attributed these deficiencies to First Niagara Bank not implementing corrective action procedures to mitigate and address the root cause of repetitive findings in their quality control reviews. As a result, the effectiveness of First Niagara Bank's quality control program to ensure compliance with servicing requirements and to protect HUD from unacceptable risk was diminished.

Recommendations

We recommend that HUD's Deputy Assistant Secretary for Single Family Housing instruct First Niagara Bank to:

3A. Establish and implement procedures in their quality control plan that will require a response to findings identified during quality control reviews regardless of the risk level that was determined.

[15] HUD Handbook 4060.1, REV-2, paragraph 7-3(D)

3B. Implement procedures in their quality control plan to ensure that corrective action effectively mitigates and addresses the root causes of the identified deficiencies to prevent repetitive findings.

3C. Implement procedures in their quality control plan to ensure that quality control reviews are performed on a more timely basis and that swift and appropriate corrective action is taken.

Scope and Methodology

We performed our onsite work at First Niagara Bank's servicing offices located at 4224 Ridge Lea Road, Amherst, NY, from August 2014 to February 2015. Our audit generally covered the period June 1, 2012, through June 30, 2014, and was extended when necessary to meet our audit objective. We used computer-processed data and verified data by reviewing hardcopy supporting documentation, reviewing data from a different source, or performing a minimal level of testing. We found the data to be adequate for our purposes.

To accomplish our objective, we

- Reviewed Federal regulations, HUD handbooks, and mortgagee letters;
- Reviewed applicable First Niagara Bank policies and procedures relating to its servicing, collections, and quality control programs;
- Reviewed First Niagara Bank's servicing, collection, and quality control files;
- Compared data maintained in First Niagara Bank systems to data reported in HUD systems; and
- Conducted discussions with HUD and First Niagara Bank officials.

As of June 30, 2014, First Niagara Bank had 245 loans listed as delinquent in Neighborhood Watch.[16] We selected a non-statistical sample of 20 loan files to review based on each of the loss mitigation actions identified in Neighborhood Watch, in addition to seriously delinquent loans not in loss mitigation. The sample consisted of

- 5 loans in forbearance,
- 5 loans that were seriously delinquent but not in loss mitigation,
- 3 loans listed as FHA-HAMP actions,
- 3 loans indicated as partial claims,
- 3 loans in which the borrower's financial information was under review, and
- 1 loan listed as in pre-foreclosure.

We performed a 100 percent match of the total loans serviced and delinquent loans to ensure that the information in HUD systems was recorded accurately. The total number of loans serviced by First Niagara Bank was more than 1,600. Also, we matched the 245 loans that were identified as delinquent in HUD systems as of June 30, 2014, to First Niagara Bank defaulted FHA-insured loans.

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[16] Neighborhood Watch is a secure Web-based application designed to provide comprehensive data querying, reporting, and analysis capabilities for tracking the performance of loans originated, underwritten, and serviced by FHA-approved lending institutions.

We reviewed 100 percent of the servicing quality control reviews that First Niagara Bank performed on its FHA-insured mortgages between April 2012 and April 2014. The reviews consisted of the quarterly FHA servicing reports and the monthly FHA servicing delinquent quality control reviews, including management's response to those reports.

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

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:

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Reliability of financial data – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.
- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.

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:

- First Niagara Bank did not have adequate controls to ensure that the Loss Mitigation program met its objectives when they failed to document significant aspects of their loss mitigation efforts and properly implement their quality control program (see Findings 1 and 3).
- First Niagara Bank did not have adequate controls over the reliability of financial data when they failed to reconcile information in their systems to data maintained in HUD systems (see Finding 2).

Appendixes

Appendix A

Schedule of Funds To Be Put to Better Use

Recommendation number	Funds to be put to better use 1/
1A	$825,133
2A	$4,201,504
2B	$951,723
Totals	**$5,978,360**

1/ 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, de-obligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in pre-award reviews, and any other savings that are specifically identified. In this instance, if HUD determines that the servicing practices were inadequate, it would result in indemnification for $825,133 in estimated losses (see Appendix C) for the 10 loans identified in Appendix D. The estimated loss is based on the loss severity rate of 50 percent of the total unpaid principal balance of $1,650,266; as of December 31, 2014. If HUD determines that the 80 loans were paid in full or otherwise closed and are removed from HUD's FHA-insured portfolio, it would result in a $4,201,504 reduction in obligations to the mortgage insurance fund. Reinstating the 15 loans that were incorrectly terminated from HUD's FHA-insured portfolio will result in an additional $951,723 in loans recorded in the FHA system to ensure that the loan servicing actions are documented and tracked.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation	Auditee Comments

FIRST NIAGARA

MEMO

TO: Karen A. Campbell-Lawrence
Acting Regional Inspector General for Audit, 2AGA

FROM: First Niagara Bank

DATE: April 28, 2015

RE: Response to FHA's Draft Audit Report

Finding 1: First Niagara Bank Did Not Properly Implement HUD's Loss Mitigation Program

1A. Provide HUD evidence that the lender's servicing practices for loan identified in appendix D were acceptable for mortgages insured by HUD. If HUD determines that the servicing practices were inadequate, First Niagara Bank should indemnify HUD for $825,133 in estimated losses for 10 loans. The estimated loss is based on the loss severity rate of 50 percent of the total unpaid principal balance of $1,650,266 as of December 31, 2014.

Comment 1

RESPONSE: Please see attached Exhibit A.

1B. Implement procedures requiring the lender to evaluate a borrower's financial situation monthly to determine the appropriate loss mitigation option. The lender's servicing files should include monthly notations, explaining the analysis used to determine the appropriate loss mitigation option.

RESPONSE

Comment 2
Comment 3

First Niagara is respectfully seeking clarification on the request above. We are unable to evaluate a borrower without financials and contact from the borrower. Is the above recommendation to be interpreted to refer to those borrowers who respond to First Niagara and provide financials? If so, we will implement said procedures effective June 2015. Attached hereto on Page 4 of Exhibit B is a sample of the procedures with said assumption.

1

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation | **Auditee Comments**

1C. Implement effective management oversight procedures for the servicing of FHA-insured mortgages to ensure compliance with regulations and ensure that files include all supporting documentation.

RESPONSE

Comment 4
Comment 3

Effective June 2015, a monthly review of loss mitigation efforts on HUD loans to ensure compliance will be conducted by the loss mitigation manager. Attached hereto on Page 4 of Exhibit B is an updated procedure documenting same.

Finding 2: First Niagara Bank Failed to Accurately Record Its Servicing Actions for FHA-Insured Loans

2A. Provide evidence that the 80 loans were paid in full or closed and remove the loans from HUD's FHA-insured portfolio, which will result in a $4,201,504 reduction in obligations to the mortgage insurance fund.

RESPONSE

Comment 5
Comment 3

The 80 loans have been reviewed and removed from HUD's FHA-insured portfolio. Please see the attached Exhibit C and Exhibit D showing the status on FHA Connection.

2B. Reinstate the 15 loans incorrectly terminated from HUD's FHA-insured portfolio, which will result in an additional $951,723 in loans recorded to ensure that the loan servicing actions are documented.

RESPONSE

Comment 6
Comment 3

The 15 loans have been reviewed and we determined to be incorrectly terminated from HUD's FHA-insured portfolio. The loans have been reinstated. Please see the attached Exhibit C and Exhibit D showing the status of these loans on FHA Connection.

2C. Implement verification procedures to improve oversight over the maintenance of HUD systems ensuring that information is accurate.

RESPONSE

Comment 7

Effective June 2015, the Real Estate Collection Department's Investor Reporting group will reconcile on a monthly basis the delinquent loans on the HUD system and are documenting the process.

2

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation	Auditee Comments

2D. Record the proper default status code of 18 loans to show that the delinquency has been corrected.

RESPONSE

Comment 8

We have corrected the 18 loans with the exception of the two below. We are unable to change the delinquent status on 061-2921830 from 2009 as the loan became delinquent again in 2014 and was reported as a 20 on the February 2015 cycle. Also, we could not change 372-3551641 from 2008 as the loan is currently delinquent and being reported as such.

Finding 3: First Niagara Did Not Follow HUD's Requirements When Implementing Its Quality Control Program

3A. Establish and implement procedures in their quality control plan that will require a response to findings identified during quality control reviews regardless of the risk level that was determined.

RESPONSE

Comment 9

First Niagara Bank has updated its Quality Control Procedures incorporating said recommendation. Attached hereto as Exhibit E is a copy of the updated procedures effective June 15, 2015.

3B. Implement procedures in their quality control plan to ensure that corrective action effectively mitigates and addresses the root causes of the identified deficiencies to prevent repetitive findings.

RESPONSE:

Comment 10
Comment 3

First Niagara Bank has updated its Quality Control Procedures incorporating said recommendation. Attached hereto as Exhibit E is a copy of the updated procedures effective June 15, 2015.

3C. Implement procedures in their quality control plan to ensure that quality control reviews are performed on a more timely basis and that swift and appropriate corrective action is taken.

RESPONSE:

Comment 11
Comment 3

First Niagara Bank has updated its Quality Control Procedures incorporating said recommendation. Attached hereto as Exhibit E is a copy of the updated procedures effective June 15, 2015.

3

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation	Auditee Comments

Comment 12

First Niagara believes it was within accordance of HUD guidelines as stated in HUD's handbook 4060.1 Chapter 7-3-d and 7-10. As shown below:

D. Timeliness. Mortgagees must ensure that quality control reviews are performed on a regular and timely basis. Depending on a mortgagees production volume, origination reviews may be performed weekly, monthly, or quarterly. The review of a specific mortgage should be completed within 90 days of closing. Reviews of different aspects of servicing will vary in frequency; however, delinquent servicing and loss mitigation activities should be reviewed monthly. Timeliness is discussed further in the Origination and Servicing sections of this Chapter.

Timeliness and Frequency. Quality Control of servicing must be an ongoing function. Due to the importance of these aspects of servicing,
mortgagees must perform monthly reviews of delinquent loan servicing, claims, and foreclosures. The other items listed in the previous paragraph must be reviewed at least quarterly and should address activity that occurred within the prior three months.

4

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

EXHIBIT A

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation	Auditee Comments

FHA response to Audit

Name: [redacted]

FHA case number: 371-4717616

Lender loan number: FHA/FHLMC Mortgage # 20080307

Loan amount: 239,137

UPB: 231,447

Status as of 12/31/14: Delinquent

Comment 13

A completed loss mitigation application was assigned to an analyst on 5/1/14 at which time a full financial review was completed. Despite multiple efforts to solicit a loss mitigation package, we did not receive one before the fourth missed installment. Therefore, we respectfully disagree with the finding of lack of evaluation by the fourth missed installment.

Comment 14

A repayment plan was approved with a $9,600.00 contribution and an agreement was mailed to the homeowner detailing the plan of $9,600 down and 6 payments of $2,402.33 to cure the current delinquency of $13,061.43 and maintain the regular monthly payment of $1,825.42. First Niagara respectfully disagrees with the finding that this was not evaluated properly. Further, the customer made $11,600 gross per month, coupled with half of the 401k supported the $9600 contribution.

On 6/25/14, the homeowner sent a letter stating he could only come up with $8,500 of the agreed upon $9,600 ($1,100 difference). At this point, a second waterfall worksheet was not completed which would have continued his evaluation under the waterfall steps. The $1,100.00 difference in the down payment made the monthly repayment plan payment more than 85% of his surplus income which was outside of FHA guidelines.

Comment 15

The analyst agreed to accept the lower contribution payment and increase the monthly repayment plan payment to $2,900 for 6 months which would cure the loan. However, the homeowner argued that the monthly repayment plan was too high and an additional month now needed to be added to the plan due to time lapsed. A new agreement was drawn up with a contribution payment of $8,500 and an 8 month plan of $2625.42, which was outside of the FHA guidelines. No supportive documentation that FNFG requested an exception approval from FHA can be located.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation	Auditee Comments
	The plan was closed due to default on 12/16/14 and a new loss mitigation package was sent to the homeowner. The loan was in a verbal repayment arrangement with the collection department according to notes which was reported through delinquency reporting.
Comment 16	In response to the last full paragraph commentary regarding December 2012, the loan was due for the December 2012 payment (5 days past due) which was below the 90 day requirement to evaluate monthly.
Comment 17	On 4/3/14, a request for loss mitigation was received. The comments state that First Niagara did not review loss mitigation options prior to this but we did not have financials to do so.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation	Auditee Comments

FHA response to Audit

Name: [redacted]

FHA case number: 061-3259909

Lender loan number: FHA/CHFA Mortgage #145312907

Loan amount: 185,200

UPB: 173,397

Status as of 12/31/14: State-mandated delay or mediation

Comment 18
Comment 3

First Niagara agrees with the three deficiencies noted in the report. Unfortunately, the CHFA Bulletins #3 and #9 were misconstrued which lead to the deficiency. Shortly after the closure of the Connecticut office said misinterpretation was discovered. This misinterpretation was isolated to the small Connecticut office (2 loss mitigation specialists). With the closure of the Connecticut office the issue has been resolved. Attached is a copy of the Bulletins for your reference.

As a side note, on May 26, 2014, a sales offer was received and an FHA approval was granted June 25, 2014. However, on July 14, 2014, First Niagara Bank was notified that the short sale fell through as the buyers could not secure financing. Lastly, it was determined on 8/14/14 that a deed in lieu consideration was not possible as there was not clear title.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

FHA response to Audit

Name: [redacted]

FHA case number: 061-4177067

Lender loan number: FHA/CHFA Mortgage #20074700

Loan amount: 136,451

UPB: 132,404

Status as of 12/31/14: FHA-HAMP trial payment plan

Comment 19

In April 2013, First Niagara Bank reported that the customer was not eligible for loss mitigation. This loan originated in February 2012 with a first payment date of April 2012. According to the Mortgagee Letter 2009-23 dated July 30, 2009, the seasoning requirements on existing mortgages is as follows: " The first payment due date must be at least 12 months in the past, and at least 4 full mortgage payments must have been paid." As of April 2013, the loan was in its twelfth month from origination but not "in the past" as the requirement states. Therefore, it was reported as ineligible for loss mitigation.

Therefore, we respectfully disagree with the deficiencies listed. A further review shows a full HUD analysis was performed. The HUD worksheet was completed and all options were evaluated. Also, we did not receive a loss mitigation package before the fourth missed installment.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation	Auditee Comments

FHA response to Audit

Name: [redacted]

FHA case number: 061-3710379

Lender loan number: FHA/CHFA Mortgage #145313864

Loan amount: 157,100

UPB: 145,668

Status as of 12/31/14: FHA- HAMP stand-alone partial claim started

Comment 18

The loan is a CHFA FHA insured loan. First Niagara agrees with the deficiencies noted. Unfortunately, the CHFA Bulletins #3 and #9 were misconstrued which lead to the deficiency. Shortly after the closure of the Connecticut office said misinterpretation was discovered. This misinterpretation was isolated to the small Connecticut office (2 loss mitigation specialists). With the closure of the Connecticut office the issue has been resolved. Attached is a copy of the Bulletins for your reference.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation	**Auditee Comments**

FHA response to Audit

Name: [redacted]

FHA case number: 061-3151312

Lender loan number: FHA/CHFA Mortgage #145312522

Loan amount: 191,800

UPB: 174,759

Status as of 12/31/14: FHA- HAMP stand-alone partial claim started

Comment 18

The loan is a CHFA FHA insured loan. First Niagara agrees with the two deficiencies noted in the report. Unfortunately, the CHFA Bulletins #3 and #9 were misconstrued which lead to the deficiency. Shortly after the closure of the Connecticut office said misinterpretation was discovered. This misinterpretation was isolated to the small Connecticut office (2 loss mitigation specialists). With the closure of the Connecticut office the issue has been resolved. Attached is a copy of the Bulletins for your reference.

Ref to OIG Evaluation	Auditee Comments

FHA response to Audit

Name: [redacted]

FHA case number: 061-3894372

Lender loan number: FHA/CHFA Mortgage #145314458

Loan amount: 133,100

UPB: 127,803

Status as of 12/31/14: FHA-HAMP stand-alone partial claim started.

Comment 18

The loan is a CHFA FHA insured loan. First Niagara agrees with the two deficiencies. Unfortunately, the CHFA Bulletins #3 and #9 were misconstrued which lead to the deficiency. Shortly after the closure of the Connecticut office said misinterpretation was discovered. This misinterpretation was isolated to the small Connecticut office (2 loss mitigation specialists). With the closure of the Connecticut office the issue has been resolved. Attached is a copy of the Bulletins for your reference.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

FHA response to Audit

Name: [redacted]

FHA case number: 061-3904897

Lender loan number: FHA/CHFA Mortgage #145314260

Loan amount: 258,900

UPB: 242,821

Status as of 12/31/14: Chapter 13 Bankruptcy

Comment 20
Comment 21

First Niagara respectfully disagrees with all three deficiencies. The customer was in the middle of the loss mitigation review during their fourth missed installment. (April 2014) Upon re-review, the proper waterfall was evaluated for all loss mitigation options in April and November 2014. Also, the two worksheets and packages support the loss mitigation evaluation.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation	Auditee Comments

FHA response to Audit

Name: [redacted]

FHA case number: 372-2302948

Lender loan number: FHA Mortgage #20028593

Loan amount: 69,731

UPB: 42,945

Status as of 12/31/14: Delinquent

First Niagara respectfully disagrees with these two deficiencies as we did not receive a loss mitigation package in 2013 or 2014. Loss mitigation packages were sent to the customer(s) at a minimum at the following times: 7/17/13, 1/23/14, & 9/24/14.

Comment 22

The homeowner was not on an informal or formal forbearance or a repayment plan during the months of November and December. Regular monthly payments in the amount of $695.01 were made 11/28/14, 12/26/14 and 1/29/15.

Comment 23

A loss mitigation package was finally received on February 25, 2015. On March 4, 2015 additional information was requested. On March 18, 2015 all documents were received and the file was assigned for analysis. The file was approved for a FHA HAMP stand-alone modification based upon the FHA waterfall described in Mortgagee Letter 2013-32. A three month pre-modification trial agreement has been mailed to the homeowner. Once the agreement is returned signed, dated, and notarized the HUD status will be updated to 37-FHA-HAMP standalone modification started.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation	Auditee Comments

FHA response to Audit

Name: [redacted]

FHA case number: 061-3011089

Lender loan number: FHA/CHFA Mortgage #145312016

Loan amount: 256,900

UPB: 236,313

Status as of 12/31/14: Foreclosure sale held

Comment 18

The loan is a CHFA FHA insured loan. First Niagara agrees with the one deficiency noted in the report. Unfortunately, the CHFA Bulletins #3 and #9 were misconstrued which lead to this deficiency. Shortly after the closure of the Connecticut office said misinterpretation was discovered. This misinterpretation was isolated to the small Connecticut office (2 loss mitigation specialists) With the closure of the Connecticut office the issue has been resolved. Attached is a copy of the Bulletins for your reference.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

<u>FHA response to Audit</u>

Name: [redacted]

FHA case number: 061-3084419

Lender loan number: FHA/CHFA Mortgage #145312368

Loan amount: 152,200

UPB: 142,709

Status as of 12/31/14: State-mandated delay or mediation

Comment 24

The loan is a CHFA FHA insured loan. First Niagara respectfully disagrees with the two deficiencies. The customer never submitted a complete loss mitigation package to evaluate.

An incomplete loss mitigation package was received on 3/11/14. Letters to request additional information for review were sent on 3/18/14 and 4/7/14. Three attempts to contact the customer over the phone were made on: 3/24/14, 3/31/14, & 4/14/14. On 3/24/14, the customer spoke to the loss mitigation specialist and confirmed he received the request but that he was on his way to an interview and would call back if he had any questions. On 3/31/14 and 4/14/14, no contact was made as a result of the phone calls. 4/29/14, the file was withdrawn due to no response and incomplete status.

The following information was missing from the loss mitigation request and as a result, the financial analysis could not be completed:

- Date the First Niagara Hardship letter (enclosed)
- Date the Household Monthly Expense sheet (enclosed)
- Two additional paystubs for Nelson
- Two months most consecutive bank statements with all pages for Sedrick and Andrea
- Signed and dated monthly contribution letter from Andrea as well as authorization to pull a credit report
- Signed and dated 2012 or 2013 tax return with all W2's, 1099's, and schedules for both Sedrick and Andrea

OIG Evaluation of Auditee Comments

Comment 1 First Niagara Bank provided a response to the 10 loans identified as having inadequate servicing in their exhibit A and our evaluation of the responses is listed for each loan starting with comment 13.

Comment 2 First Niagara Bank requested clarification and states that they are unable to evaluate a borrower without financials and contact from the borrower. They questioned whether the recommendation was to be interpreted to refer to those borrowers who respond to First Niagara Bank and provide financials. First Niagara Bank needs to provide evidence that it made an evaluation before the fourth delinquent month and that all loss mitigation options had been reviewed as required. If financial information had not been received from the borrower, First Niagara Bank needs to document and report it to HUD. We revised recommendation 1B based on First Niagara Bank's comments.

Comment 3 First Niagara Bank provided updated procedures and documentation in various exhibits that do not by themselves constitute comments on the findings and recommendations and were too voluminous to include in the report. First Niagara Bank's complete response including these supporting documents will be provided to HUD and should be evaluated as part of audit resolution process.

Comment 4 First Niagara Bank states that effective June 2015, a monthly review of loss mitigation efforts on HUD loans to ensure compliance will be conducted by the loss mitigation manager. The actions of First Niagara Bank are responsive to our recommendation; however, HUD will still need to verify the corrective actions were accomplished as part of the audit resolution process.

Comment 5 First Niagara Bank states that the 80 loans have been reviewed and removed from HUD's FHA-insured portfolio. The actions of First Niagara Bank are responsive to our recommendation; however, HUD will still need to verify the corrective actions were accomplished as part of the audit resolution process.

Comment 6 First Niagara Bank determined the 15 loans were incorrectly terminated from HUD's FHA-insured portfolio and have been reinstated. The actions of First Niagara Bank are responsive to the recommendation; however, HUD will still need to verify the corrective actions were accomplished as part of the audit resolution process.

Comment 7 First Niagara Bank indicated that effective June 2015; the Real Estate Collection Department's Investor Reporting group will reconcile the delinquent loans on the HUD system monthly and will document the process. The actions of First

Niagara Bank are somewhat responsive to our recommendation. First Niagara Bank also needs to reconcile current FHA-insured loans on a monthly basis.

Comment 8 First Niagara Bank indicated that they have corrected the default status of 16 of the 18 loans. They are unable to change the delinquent status on 061-2921830 from 2009 as the loan became delinquent again in 2014 and was reported as a loan status 20, reinstated by borrower without loss mitigation, on the February 2015 cycle. Also, they could not change 372-3551641 from 2008 as the loan is currently delinquent and being reported as such. The actions of First Niagara Bank are responsive to our recommendation.

Comment 9 First Niagara Bank indicated that it has updated its Quality Control Procedures by incorporating recommendation 3A. The actions of First Niagara Bank are responsive to our recommendation. However, HUD will still need to verify the adequacy of the corrective actions as part of the audit resolution process.

Comment 10 First Niagara Bank indicated that it has updated its Quality Control Procedures incorporating recommendation 3B. The actions of First Niagara Bank are responsive to our recommendation. However, HUD will still need to verify the adequacy of the corrective actions as part of the audit resolution process.

Comment 11 First Niagara Bank states that it has updated its Quality Control Procedures incorporating recommendation 3C. The actions of First Niagara Bank are responsive to the recommendation. However, HUD will still need to verify the adequacy of the corrective actions as part of the audit resolution process.

Comment 12 First Niagara Bank states that it believes that they were in accordance of HUD guidelines on timeliness as stated in HUD's handbook 4060.1 Chapters 7-3d and 7-10. HUD requirements state that lenders must ensure that quality control reviews are performed on a regular and timely basis. First Niagara Bank's delinquent loan quality control reviews were generally conducted around 3 months after the period under review, which raised concerns over potential issues not being promptly identified and corrected.

Comment 13 First Niagara Bank states despite multiple efforts to solicit a loss mitigation package, they did not receive one before the fourth missed installment. Therefore, they disagree with the finding of lack of evaluation by the fourth missed installment. The files did not support that detailed financial information was received and that the lender evaluated for loss mitigation options before the fourth monthly installment was due. First Niagara Bank should not have reported loss mitigation actions prior to evaluating the borrower's financials and should have reported that the borrower had not provided financials indicating that an evaluation of all loss mitigation options could not be performed by the fourth missed installment.

Comment 14 First Niagara Bank disagreed with the finding that this loan was not evaluated properly. The borrower made $11,600 gross per month, coupled with half of the

401K supported the $9600 contribution for the repayment plan. However, the files indicated the borrower stated that the funds would come from a 401K loan. Also, the hardship letter stated that only half of the 401K balance was available to the borrower for loans and did not support the level of funding needed to make the initial $8,500 payment. The borrower's financial information did not support that he had the ability to make the one-time payment.

Comment 15 First Niagara Bank states a new agreement was drawn up with a contribution payment of $8,500 and an 8 month plan of $2,625.42, which was outside of the FHA guidelines. No supportive documentation that First Niagara Bank requested an exception approval from FHA could be located. First Niagara Bank's response is in agreement with the finding.

Comment 16 First Niagara Bank states in response to the last full paragraph commentary regarding December 2012, the loan was due for the December 2012 payment (5 days past due) which was below the 90 day requirement to evaluate monthly. First Niagara Bank reported in December 2012 that the loan was one month delinquent. There was no mention in the report that the evaluation was to be completed in December.

Comment 17 First Niagara Bank states on April 3, 2014, a request for loss mitigation was received from the borrower. First Niagara Bank did not review loss mitigation options prior to this but they did not have financials to do so. The files did not support that detailed financial information was received and that the lender evaluated for loss mitigation options before the fourth monthly installment was due. First Niagara Bank should not have reported loss mitigation actions prior to evaluating the borrower's financials and should have reported that the borrower had not provided financials indicating that an evaluation of all loss mitigation options could not be performed by the fourth missed installment.

Comment 18 First Niagara Bank agrees with the deficiencies noted in the report. Unfortunately, the Connecticut Housing Finance Agency (holder) bulletins #3 and #9 were misconstrued which lead to the deficiency. Shortly after the closure of the Connecticut office these misinterpretation were discovered. This misinterpretation was isolated to the Connecticut office. With the closure of the Connecticut office the issue has been resolved. First Niagara Bank's comments are responsive to the finding. HUD will need to assess First Niagara Bank's comments as part of the audit resolution process for recommendation 1A.

Comment 19 First Niagara Bank states that Mortgagee Letter 2009-23 provided seasoning guidelines on existing mortgages; "The first payment due date must be at least 12 months in the past, and at least 4 full mortgage payments must have been paid." As of April 2013, the loan was in its twelfth month from origination but not "in the past" as the requirement states. Therefore, it was reported as ineligible for loss mitigation. However, the loan was reported in HUD systems as repayment for 2 months and promises to pay for 5 months before foreclosure too. The lender indicated that it did not receive financials before foreclosure. The documentation indicated that the borrower was not considered for loss mitigation before foreclosure when the loan was 5 months delinquent. First Niagara Bank should not have reported loss mitigation actions prior to evaluating the borrower's financials and should have reported that the borrower had not provided financials and indicated that an evaluation of all loss mitigation options could not be performed by the fourth missed installment. First Niagara Bank's response did not address the conditions regarding that it could not support that the borrower qualified for loss mitigation and there was no evidence that the borrower was considered for disposition options.

Comment 20 First Niagara Bank disagreed with all three deficiencies. The customer was in the middle of the loss mitigation review during their fourth missed installment. First Niagara Bank did not determine that the loan was ineligible for loss mitigation based upon a financial review until May 2014 when the loan was 5 months delinquent. Also, the loan was reported in HUD systems as a promise to pay for the months of August 2013, October 2013, December 2013, and January 2014. First Niagara Bank should not have reported loss mitigation actions prior to evaluating the borrower's financials and should have reported that the borrower had not provided financials indicating that an evaluation of all loss mitigation options could not be performed by the fourth missed installment.

Comment 21 First Niagara Bank states the proper waterfall was evaluated for all loss mitigation options in April and November 2014. Also, the two worksheets and packages support the loss mitigation evaluation. The financial analysis documentation was incomplete, raising questions regarding whether the borrower was adequately evaluated for all loss mitigation options. The loss mitigation package considered complete in April was missing several documents related to the borrower's income. The loss mitigation package that was considered complete in November had 4 months of receipts related to the rental income received by the borrower. However, these documents were illegible and could not support the amount of rental income. Neither loss mitigation package submitted by the borrower contained supporting documentation for all of the expenses reported on both the uniform borrower assistance forms and monthly household expenses worksheets.

Comment 22 First Niagara Bank disagreed with the two deficiencies because they did not receive a loss mitigation package and the borrower was not on an informal, formal forbearance or repayment plan during the months of November and December. The loan was reported to HUD as delinquent for September 2014 but was shown as repayment in HUD systems for the months of November and December. First Niagara Bank should not have reported loss mitigation actions prior to evaluating the borrower's financials.

Comment 23 First Niagara Bank indicated that borrower provided all the documents on March 18, 2015, and that the file was approved for a FHA HAMP standalone modification. This occurred after our audit period and did not impact the issue of reporting loss mitigation actions prior to evaluating the borrower's financials and therefore no revision to the report was needed.

Comment 24 First Niagara Bank states that it disagrees with the two deficiencies because the borrower never submitted a complete loss mitigation package. The borrower became delinquent in April 2012 and was 4 months delinquent by November 2012. There was no evaluation of loss mitigation options identified in the files. Also, the lender reported in HUD systems that the borrower was ineligible for loss mitigation in July 2012. However, First Niagara Bank stated that this information was incorrect and the loan should have been reported as delinquent. First Niagara Bank should not have reported loss mitigation actions prior to evaluating the borrower's financials and should have reported that the borrower had not provided financials indicating that an evaluation of all loss mitigation options could not be performed by the fourth missed installment. In addition, the files showed no evidence that First Niagara Bank evaluated the loan or offered the borrower disposition options before proceeding to foreclosure.

Appendix C

Schedule of Potential Loss to HUD

FHA number	Original mortgage amount	Unpaid principal balance	Loss to HUD[17]	Loan status as of December 31, 2014
371-4717616	$239,137	$231,447	$115,724	Delinquent
061-3259909	$185,200	$173,397	$86,698	State-mandated delay or mediation
061-4177067	$136,451	$132,404	$66,202	FHA-HAMP trial payment plan
061-3710379	$157,100	$145,688	$72,834	FHA-HAMP stand-alone partial claim started
061-3151312	$191,800	$174,759	$87,380	FHA-HAMP stand-alone partial claim started
061-3894372	$133,100	$127,803	$63,901	FHA-HAMP stand-alone partial claim started
061-3904897	$258,900	$242,821	$121,411	Chapter 13 bankruptcy
372-2302948	$69,731	$42,945	$21,472	Delinquent
061-3011089	$256,900	$236,313	$118,157	Foreclosure sale held
061-3084419	$152,200	$142,709	$71,354	State-mandated delay or mediation
Totals	**$1,780,519**	**$1,650,266**	**$825,133**	

[17] We classified $825,133 as funds to be put to better use (see appendix A). This is 50 percent of the $1,650,266 in unpaid principal balances for the 10 loans as of December 31, 2014. The 50 percent is the estimated percentage of loss HUD would incur when the FHA property is foreclosed upon and resold as supported by the HUD Single Family Acquired Asset Management for the fourth quarter of fiscal year 2014 based on actual sales.

Appendix D

Loan Summaries

FHA case number:	371-4717616
Lender loan number:	20080307
Loan amount:	$239,137
Unpaid principal balance:	$231,447
Months delinquent:	5
Status as of 12/31/2014:	Delinquent

Servicing Deficiencies:

- Lack of documentation showing that the borrower qualified for the loss mitigation option.
- Lack of evidence of the loss mitigation evaluation.
- Lack of evaluation for all loss mitigation options, including ensuring that the proper waterfall priority was followed.
- Lack of evaluation of loss mitigation options before the fourth missed installment.

First Niagara Bank approved the borrower for a loss mitigation option outside the prescribed regulations. Loss mitigation was conducted in May 2014 and resulted in a formal forbearance plan that was revised and approved by the borrower in July 2014. Initially the borrower was going to make a one-time payment of $9,600 followed by six monthly installment payments to bring the loan current. However, the plan had to be revised because the borrower stated that he could make only a one-time payment of $8,500, thus increasing the monthly payments needed to approximately eight. HUD requirements state that formal forbearance plans are written agreements with a period of greater than 3 months but not more than 6 months. Also, the borrower's financial information did not support that he had the ability to make the one-time payment. The borrower stated that the funds would come from a 401K loan. However, the hardship letter stated that only half of the 401K balance was available to the borrower for loans and did not support the level of funding needed to make the initial $8,500 payment. First Niagara Bank indicated a loss mitigation option failure in December 2014.

The files did not show that the borrower was evaluated for all loss mitigation options. First Niagara Bank indicated that there was no change in income that made the housing payment unaffordable and that it was an intentional default to pay for other items. However, the hardship letter stated that the borrower had experienced a series of setbacks, causing him to fall behind on the mortgage payments. In addition, the files did not show that the lender ensured that the borrower's surplus income would cure the arrears in 6 months. This shortcoming indicated that the borrower had not been properly evaluated.

First Niagara Bank did not evaluate the borrower for loss mitigation options in accordance with the time requirements after the borrower became delinquent in December 2012. First Niagara Bank indicated that complete financial information was in review in April 2014 when the loan was 6 months delinquent. HUD requirements state that before four full monthly installments due on the mortgage have been unpaid, the lender must evaluate all of the loss mitigation options monthly to determine which is appropriate. The lender reported the loan action as a repayment and promise to pay for the periods June 2013 through March 2014, which indicates a type of forbearance loss mitigation option. According to First Niagara Bank, promise to pay was reported because, as the collection notes showed, the borrower went back and forth regarding his verbal agreement to repay and promise to pay. However, to be considered for any of the loss mitigation options, the borrower must provide detailed financial information to the lender. The files did not support that detailed financial information was received and that the lender evaluated for loss mitigation options before the fourth monthly installment was due.

FHA case number:	061-3259909
Lender loan number:	145312907
Loan amount:	$185,200
Unpaid principal balance:	$173,397
Months delinquent:	20
Status as of 12/31/2014	State-mandated delay or mediation

Servicing Deficiencies:

- Lack of documentation showing that the borrower qualified for the loss mitigation option.
- Lack of evaluation for all loss mitigation options, including ensuring that the proper waterfall priority was followed.
- Lack of evaluation of loss mitigation options before the fourth missed installment.

First Niagara Bank could not support that the borrower qualified for any loss mitigation options. First Niagara Bank files contained discrepancies regarding various 2013 financial analyses. In October, First Niagara Bank stated in a declination letter that a review of financial information received found that the borrower's mortgage payment and other financial obligations were not affordable at the borrower's present level of income. Then in December, a letter was sent to the borrower that offered a payment plan followed by a more permanent loss mitigation solution through a HUD partial claim. The files did not support either analysis. First Niagara Bank was unable to provide their analysis to support the decisions. In 2014, the borrower was offered a preforeclosure sale agreement. However, the evaluation at that time was based on only one of the borrowers' financial information. Thus, we could not determine whether the borrower qualified for the loss mitigation option or possibly home retention options. In addition, the collection notes were contradictory regarding the borrowers' intentions of remaining in the property.

First Niagara Bank failed to evaluate all of loss mitigation options. According to First Niagara Bank, the lender holding the loan was not participating in FHA-HAMP at the time of the submission of the loss mitigation package and evaluation. We acknowledge that the lender holding the loan had received a waiver for reduction in interest rates regarding any type of modification. But this waiver would not negate a review by First Niagara Bank of partial claim or modification without interest rate reduction. First Niagara Bank should have reviewed the loans for potential HAMP retention options.

First Niagara Bank did not evaluate the borrower for loss mitigation options in accordance with time requirements. The documents provided did not support that a loss mitigation decision was evaluated before four full monthly installments were due and unpaid. We concur with First Niagara Bank that the borrower submitted a package to First Niagara Bank in July 2013. However, there was no indication in the documentation provided of whether the package was reviewed in a timely manner, whether the application was complete, and whether additional information was necessary. Further, there was no indication of a review, which was reported by First Niagara Bank in HUD's systems, having been performed. The loss mitigation package provided had a declination letter from First Niagara Bank, dated October 29, 2013, when the loan was nearly 7 months delinquent.

FHA case number:	061-4177067
Lender loan number:	20074700
Loan amount:	$136,451
Unpaid principal balance:	$132,404
Months delinquent:	15
Status as of 12/31/2014	FHA-HAMP trial payment plan

Servicing Deficiencies:

- Lack of documentation showing that the borrower qualified for the loss mitigation option.
- Lack of evidence of the loss mitigation evaluation.
- Lack of evaluation for all loss mitigation options, including ensuring that the proper waterfall priority was followed.
- Lack of evaluation of loss mitigation options before the fourth missed installment.

First Niagara Bank could not support that the borrower qualified the for loss mitigation option provided. The borrower's financial information was reviewed in June 2014. In July 2014, First Niagara Bank informed the borrower that they did not qualify for any home retention options. A review of the documentation indicated several questionable items regarding expenses. The borrower resubmitted the loss mitigation package in August 2014. However, the information provided in the package was not supported. The monthly household expense form was a whited-out copy of a form submitted in June 2014 and showed monthly household expenses totaling $4,000. The numbers had been changed on the most recent submission form to total only $921 per month, or $3,079 less than that showed in the June package. First Niagara Bank stated that the most important difference in the two packages was that the borrower obtained full-time employment a few months after the initial review. Our analysis indicated that the additional documentation provided by the lender did not support an FHA-HAMP partial claim due to the lack of verification of the income increase or the decrease in expenses identified and considered for the loss mitigation actions.

The documentation provided no evidence that the borrower was considered for disposition options. The borrower did not provide financial information to the lender until after foreclosure proceedings had been initiated. The loan was referred to management for foreclosure review in February 2014 and approved. However, the files did not contain evidence that the borrower was offered or evaluated for disposition options.

First Niagara Bank did not evaluate the borrower for loss mitigation options in accordance with the time requirements. The borrower became delinquent in August 2012. In April 2013, the lender reported in the HUD system that the borrower was ineligible for loss mitigation. However, First Niagara Bank was unable to determine why this entry was coded in this manner. First Niagara Bank indicated that loss mitigation was not considered unless they received a full and complete loss mitigation financial package. The lender indicated that it did not receive one before foreclosure. However, it was indicated in HUD systems as repayment for 2 months and promises to pay for 5 months before foreclosure. The lender stated that the use of promise to pay in the collection industry has one meaning. In the collection industry, if a customer calls and promises to make a payment, whether it is one or two, it is called a promise to pay. The industry measures a collector's productivity by calls made, right party contacts, promises made, promises kept, and defaults cured. However, in SFDMS, a promise to pay is a one-time payment for the full amount. The documentation indicated that the borrower was not considered for loss mitigation before foreclosure when the loan was 5 months delinquent.

FHA case number:	061-3710379
Lender loan number:	145313864
Loan amount:	$157,100
Unpaid principal balance:	$145,668
Months delinquent:	20
Status as of 12/31/2014	FHA-HAMP stand-alone partial claim started

Servicing Deficiencies:

- Lack of documentation showing that the borrower qualified for the loss mitigation option.
- Lack of evaluation for all loss mitigation options, including ensuring that the proper waterfall priority was followed.
- Lack of evaluation of loss mitigation options before the fourth missed installment.

First Niagara Bank could not support that they evaluated the borrower for all loss mitigation options or that the borrower qualified for a loss mitigation option. However, the borrower was offered a loss mitigation option in July 2013 that was not consistent with any approved option in place at the time. An entry into the collection notes in July showed that First Niagara Bank received a note that the holder of the loan would not participate in FHA-HAMP. The note further stated that First Niagara Bank was preparing a letter to the borrower for a three-payment prepartial claim trial plan and a recommendation for the borrower to apply to the lender holding the loan for the Connecticut Emergency Mortgage Assistance Program. We acknowledge that the lender holding the loan had received a waiver for reduction in interest rates regarding any type of modification. However, this waiver would not negate a review by First Niagara Bank of partial claim or modification without interest rate reduction.

The borrower was offered another loss mitigation option in June 2014. Again, the documentation regarding what loss mitigation option was approved but what was expected of the borrower was unclear. A June 11, 2014, letter to the borrower showed that the borrower was approved for a trial plan to partial claim. Then, the agreement letter sent on June 14, 2014, discussed acceptance of a forbearance plan and told the borrower to submit updated financial information to attempt to qualify for a more permanent loss mitigation solution. In addition, the documentation did not support a verifiable loss of income or an increase in living expenses to be eligible for home retention loss mitigation options. During the 2013 financial analysis, there was a notation in the collection notes that there was no hardship. First Niagara Bank's response to the hardship did not clearly address the details or whether it adequately evaluated the borrower's documentation to show that an actual hardship existed. While there was mention of child support at the time of application, the files did not support that loss of income was due to not receiving child support.

The documentation provided no evidence that the borrower was considered for disposition options. The loan was referred to management for foreclosure review in September 2013 and approved. However, the files did not have evidence that the borrower was offered or evaluated for disposition options.

First Niagara Bank did not evaluate the borrower for loss mitigation options in accordance with the time requirements when the loan became delinquent in July 2012. There were notations in the collection notes that a financial package was received from the borrower in October 2012. However, the files have no evidence supporting the techniques used by the lender to determine which loss mitigation options were appropriate. The loan became 4 months delinquent in October 2012, and First Niagara Bank should have clearly documented their loss mitigation approach at this time. The borrower was finally approved for loss mitigation in July 2013 when the loan was 7 months delinquent.

FHA case number:	061-3151312
Lender loan number:	145312522
Loan amount:	$191,800
Unpaid principal balance:	$174,759
Months delinquent:	10
Status as of 12/31/2014	FHA-HAMP stand-alone partial claim started

Servicing Deficiencies:

- Lack of documentation showing that the borrower qualified for the loss mitigation option.
- Lack of evaluation for all loss mitigation options, including ensuring that the proper waterfall priority was followed.

First Niagara Bank could not support that the borrower qualified for the loss mitigation option that had been provided. The borrower was approved for partial claim when the borrower's interest rate was above the market rate. First Niagara Bank needed to ensure that the borrower's interest rate was at or below market rate to offer an FHA HAMP stand-alone partial claim. First Niagara Bank could not provide an adequate reason for their approval. Before the partial claim loss mitigation offer, First Niagara Bank attempted to enter into a loss mitigation offer that was not consistent with approved options at the time. First Niagara Bank offered the borrower an 18-month payment plus plan, which was not an approved home retention loss mitigation option. In addition, First Niagara Bank was unable to support the figures that were used in the analysis that led to the partial claim. Specifically, First Niagara Bank was unable to support that an eligible sibling contributed to the household as part of the borrower's income. Also, we could not find that First Niagara Bank received the documentation it requested regarding the expenses listed on the borrower's financial package. Therefore, we are unsure what expenditures were used in the analysis.

The documentation provided no evidence that the borrower was considered for disposition options. The borrower provided no financial information to the lender until after foreclosure proceedings had been initiated. The loan was approved for foreclosure in May 2013. However, the files did not have evidence that the borrower was offered or evaluated for disposition options.

FHA case number:	061-3894372
Lender loan number:	145314458
Loan amount:	$133,100
Unpaid principal balance:	$127,803
Months delinquent:	11
Status as of 12/31/2014	FHA-HAMP stand-alone partial claim started

Servicing Deficiencies:

- Lack of documentation showing that the borrower qualified for the loss mitigation option.
- Lack of evaluation for all loss mitigation options, including ensuring that the proper waterfall priority was followed.

First Niagara Bank could not support that the borrower qualified for the loss mitigation option provided. In November 2012, First Niagara Bank told the borrower that the borrower had insufficient income to qualify for a partial claim or other loss mitigation programs. First Niagara Bank did not respond to our inquiry regarding the appearance that only a partial claim action was followed. The loss mitigation files provided did not include any evidence that First Niagara Bank considered the HUD waterfall priority options with supporting data indicating whether the borrower qualified for any of the loss mitigation options.

The borrower received a partial claim without adequate supporting documentation. The borrower submitted another financial package in July 2013. On August 1, 2013, First Niagara Bank again told the borrower that the borrower was not eligible for any loss mitigation options at that time due to insufficient income. The files contained an in-house form summarizing the borrower's income and expenses as of August 1, 2013, but the form was not consistent with the HUD-prescribed waterfall priority. The files also included an in-house form summarizing the borrower's income and expenses 2 months after the previous August 1, 2013, document cited above. Again, the form was not consistent with the HUD-prescribed waterfall priority. There was no explanation or documentation supporting the calculation of income and expenses relating to why the monthly income amount increased and the monthly expense amount decreased over the course of 2 months to make the borrower eligible for a loss mitigation option. We also do not believe that the lender considered the coborrower's financial information in any of its analyses.

The documentation provided no evidence that the borrower was considered for disposition options. The borrower had been denied loss mitigation options in November 2012. The loan was approved for foreclosure in April 2013. However, the files contained no evidence that the borrower was offered or evaluated for disposition options.

FHA case number:	061-3904897
Lender loan number:	145314260
Loan amount:	$258,900
Unpaid principal balance:	$242,821
Months delinquent:	12
Status as of 12/31/2014	Chapter 13 bankruptcy

Servicing Deficiencies:

- Lack of evidence of the loss mitigation evaluation.
- Lack of evaluation for all loss mitigation options, including ensuring that the proper waterfall priority was followed.
- Lack of evaluation of loss mitigation options before the fourth missed installment.

First Niagara Bank documented in their files and indicated on HUD systems that loss mitigation options were offered to the borrower but without a financial review. First Niagara Bank claimed that loss mitigation began for this loan when the borrower returned the financial information in March 2014. However, the loan was reported in HUD systems as a promise to pay for the months of August 2013, October 2013, December 2013, and January 2014. The collection notes in September 2013 showed that the borrower was offered a repayment plan with a payment amount of 1.25 times monthly until reinstatement starting in October 2013. However, there was no documentation to support that this amount was realistic and based upon the borrower's ability to pay. Regarding the promise to pay, First Niagara Bank believed that during that period, promise to pay was the correct reporting code. The officials stated that they would use repayment plan for future entries. Delinquency status repayment plan would indicate that the borrower had entered into an informal forbearance plan, which would require the lender to perform financial analysis to determine the borrower's current and future ability to meet the monthly mortgage obligation, which did not occur.

The financial analysis documentation was incomplete, raising questions regarding whether the borrower was adequately evaluated for all loss mitigation options. First Niagara Bank deemed the documentation submitted to be complete and assigned the loan for review in April 2014 and November 2014, respectively. We identified many deficiencies with the documentation. Although two separate loss mitigation reviews were performed, the loss mitigation files provided included only one FHA loss mitigation home retention options worksheet. This worksheet did not include a date so it was unclear which loss mitigation review it was. The loss mitigation package considered complete in April was missing several documents related to the borrower's income. Specifically, the files contained no Internal Revenue Service forms W-2 for either borrower as well as no support related to the borrower's rental income, support related to the borrower's business income, or a full month of pay stubs for the borrower.

The loss mitigation package that was considered complete in November had 4 months of receipts related to the rental income received by the borrower. However, these documents were illegible and could not support the amount of rental income. Neither loss mitigation package submitted by the borrower contained supporting documentation for all of the expenses reported on both the uniform borrower assistance forms and monthly household expenses worksheets. The borrower was denied all loss mitigation options on May 20, 2014, and November 20, 2014. However, there were inconsistencies between the two denial letters regarding what loss mitigation options were evaluated. Specifically, the May 20, 2014, denial letter stated that only forbearance-repay plan and modification were evaluated for, while the November 20, 2014, denial letter stated that the borrower was evaluated for formal forbearance-repayment plan, modification, HAMP modification, and partial claim. It was unclear why First Niagara Bank did not evaluate for HAMP modification or partial claim during the first loss mitigation review. Also, First Niagara Bank did not discuss disposition options with the borrower after the borrower was denied all available loss mitigation retention options in May 2014 and before First Niagara Bank commenced foreclosure proceedings in June 2014.

First Niagara Bank did not evaluate the borrower for loss mitigation options in accordance with time requirements. The loan became delinquent in August 2013. There were notations in the collection notes that a financial package was received from the borrower in March 2014 when the loan was already 3 months delinquent. First Niagara Bank did not determine that the loan was ineligible for loss mitigation until May 2014 when the loan was 5 months delinquent.

FHA case number:	372-2302948
Lender loan number:	20028593
Loan amount:	$69,731
Unpaid principal balance:	$42,945
Months delinquent:	1
Status as of 12/31/2014	Delinquent

Servicing Deficiencies:

- Lack of evidence of the loss mitigation evaluation.
- Lack of evaluation for all loss mitigation options, including ensuring that the proper waterfall priority was followed.

The borrower completed a modification loss mitigation option in January 2012 but a data entry mistake changed the loan type on First Niagara Bank's systems from FHA to conventional. As a result, the delinquency was not reported to HUD when the loan became delinquent in April 2013 and again in June 2013 through February 2014. In addition, HUD-approved loss mitigation options were not followed. The borrower became delinquent again in September 2014 and notified the lender that she would like loss mitigation assistance again. It was at this point that First Niagara Bank realized that the loan type was incorrect. The loan was reported to HUD as delinquent for September 2014 but was shown as repayment in HUD systems for the months of November and December. This entry indicates that an informal forbearance plan was in effect. However, the files contained no support of a financial package provided by the borrower or a financial review by First Niagara Bank, including evidence that waterfall priority options were followed.

FHA case number:	061-3011089
Lender loan number:	145312016
Loan amount:	$256,900
Unpaid principal balance:	$236,313
Months delinquent:	37
Status as of 12/31/2014	Foreclosure sale held

Servicing Deficiency:

- Lack of evaluation for all loss mitigation options, including ensuring that the proper waterfall priority was followed.

First Niagara Bank did not adequately document their evaluation of the borrower's financial information. They reported that the financial information was reviewed and the borrower was denied loss mitigation options in February 2012 and August 2013. However, the documentation supporting these evaluations did not support the conclusions. Loss mitigation documentation included inconsistencies among the income, expense, and asset data provided on the various documents; did not include support for the expenses reported; and had missing or incomplete documentation. First Niagara Bank did not verify that the amounts reported by the borrower were accurate. Therefore, the lender could not ensure that the financial analysis requirements were followed. In addition, the FHA loss mitigation home retention option priority order worksheets provided for both loss mitigation reviews were inadequate in relation to HUD's waterfall requirements. Specifically, the worksheets did not show that all of the loss mitigation retention options identified in HUD's option priority were reviewed. Further, the documentation did not have evidence that the borrower was properly considered for disposition options. First Niagara Bank began foreclosure procedures in April 2012. The files did not indicate an evaluation or an offer of disposition options to the borrower. The files did show evidence that First Niagara Bank considered disposition options after the August 2013 review. However, this was after the borrower abandoned the property and the options were limited.

FHA case number:	061-3084419
Lender loan number:	145312368
Loan amount:	$152,200
Unpaid principal balance:	$142,709
Months delinquent:	29
Status as of 12/31/2014	State-mandated delay or mediation

Servicing Deficiencies:

- Lack of evaluation for all loss mitigation options, including ensuring that the proper waterfall priority was followed.
- Lack of evaluation of loss mitigation options before the fourth missed installment.

First Niagara Bank's servicing actions did not ensure the smallest potential financial loss to HUD. The borrower became delinquent in April 2012 and was 4 months delinquent by November 2012. There was no evaluation of loss mitigation options identified in the files. The lender reported in HUD systems that the borrower was ineligible for loss mitigation in July 2012. However, First Niagara Bank stated that this information was incorrect and the loan should have been reported as delinquent. It was not until the loan was in its 15th month of delinquency that the lender started foreclosure proceedings. In addition, the files showed no evidence that First Niagara Bank evaluated the loan or offered the borrower disposition options before proceeding to foreclosure.

Appendix E

Schedule of Correct Single-Family Default Monitoring System Codes

FHA number	Lender loan number	Reporting period	SFDMS code reported	Correct SFDMS code
371-4717616	20080307	5/2013	12 – Repayment	42 – Delinquent
		6/2013	11 – Promise to pay	42 – Delinquent
		7/2013	11 – Promise to pay	42 – Delinquent
		8/2013	11 – Promise to pay	42 – Delinquent
		9/2013	11 – Promise to pay	42 – Delinquent
		10/2013	11 – Promise to pay	42 – Delinquent
		11/2013	11 – Promise to pay	42 – Delinquent
		12/2013	11 – Promise to pay	42 – Delinquent
		1/2014	11 – Promise to pay	42 – Delinquent
		2/2014	11 – Promise to pay	42 – Delinquent
		3/2014	11 – Promise to pay	42 – Delinquent
		7/2014	98 – Reinstated after loss mitigation intervention	06 – Formal forbearance
		8/2014	09 – Special forbearance	06 – Formal forbearance
		9/2014	09 – Special forbearance	06 – Formal forbearance
061-3259909	145312907	7/2013	42 – Delinquent	AA – Complete financials received and in review
		8/2013	42 – Delinquent	AA – Complete financials received and in review
		9/2013	42 – Delinquent	AA – Complete financials received and in review
		11/2013	12 – Repayment	68 – First legal action to commence foreclosure
		12/2013	12 – Repayment	68 – First legal action to commence foreclosure

FHA number	Lender loan number	Reporting period	SFDMS code reported	Correct SFDMS code
061-4177067	20074700	4/2013	AO – Ineligible for loss mitigation	42 – Delinquent
		6/2013	12 – Repayment	42 – Delinquent
		8/2013	11 – Promise to pay	42 – Delinquent
		9/2013	11 – Promise to pay	42 – Delinquent
		12/2013	11 – Promise to pay	42 – Delinquent
		1/2014	11 – Promise to pay	42 – Delinquent
		10/2014	08 – Type II special forbearance-trial payment plan	39 – FHA-HAMP trial payment plan
		11/2014	08 – Type II special forbearance-trial payment plan	39 – FHA-HAMP trial payment plan
		12/2014	08 – Type II special forbearance-trial payment plan	39 – FHA-HAMP trial payment plan
061-3710379	145313864	8/2013	42 – Delinquent	AP – Ineligible for loss mitigation due to no response
		9/2013	42 – Delinquent	68 – First legal action to commence foreclosure
		6/2014	10 – Partial claim started	39 – FHA-HAMP trial payment plan
		7/2014	10 – Partial claim started	39 – FHA-HAMP trial payment plan
		8/2014	10 – Partial claim started	39 – FHA-HAMP trial payment plan
		9/2014	10 – Partial claim started	39 – FHA-HAMP trial payment plan
		10/2014	10 – Partial claim started	39 – FHA-HAMP trial payment plan

FHA number	Lender loan number	Reporting period	SFDMS code reported	Correct SFDMS code
061-3710379	145313864	11/2014	10 – Partial claim started	39 – FHA-HAMP trial payment plan
		12/2014	10 – Partial claim started	39 – FHA-HAMP trial payment plan
061-3151312	145312522	10/2013	95 – State-mandated delay or mediation	39 – FHA-HAMP trial payment plan
		11/2013	12 – Repayment	39 – FHA-HAMP trial payment plan
		2/2014	41 – FHA-HAMP loan modification-partial claim started	12 – Repayment
		3/2014	41 – FHA-HAMP loan modification-partial claim started	39 – FHA-HAMP trial payment plan
		4/2014	41 – FHA-HAMP loan modification-partial claim started	39 – FHA-HAMP trial payment plan
		5/2014	41 – FHA-HAMP loan modification-partial claim started	39 – FHA-HAMP trial payment plan
		6/2014	41 – FHA-HAMP loan modification-partial claim started	39 – FHA-HAMP trial payment plan
		7/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started
		8/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started

FHA number	Lender loan number	Reporting period	SFDMS code reported	Correct SFDMS code
061-3151312	145312522	9/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started
		10/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started
		11/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started
		12/2014	10 – Partial claim started	36 – FHA-HAMP stand-alone partial claim started
061-3894372	145314458	10/2013	10 – Partial claim started	39 – FHA-HAMP trial payment plan
		11/2013	95 – State-mandated delay or mediation	39 – FHA-HAMP trial payment plan
		12/2013	95 – State-mandated delay or mediation	39 – FHA-HAMP trial payment plan
		1/2014	95 – State-mandated delay or mediation	36 – FHA-HAMP stand-alone partial claim started
		2/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started
		3/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started
		4/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started
		5/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started
		6/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started

FHA number	Lender loan number	Reporting period	SFDMS code reported	Correct SFDMS code
061-3894372	145314458	7/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started
		8/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started
		9/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started
		10/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started
		11/2014	41 – FHA-HAMP loan modification-partial claim started	36 – FHA-HAMP stand-alone partial claim started
		12/2014	Not reported	36 – FHA-HAMP stand-alone partial claim started
061-3904897	145314260	3/2013	Not reported	20 – Reinstated without loss mitigation intervention
		5/2013	Not reported	42 – Delinquent
		6/2013	Not reported	42 – Delinquent
		8/2013	11 – Promise to pay	42 – Delinquent
		10/2013	11 – Promise to pay	42 – Delinquent
		12/2013	11 – Promise to pay	42 – Delinquent
		1/2014	11 – Promise to pay	42 – Delinquent
372-2302948	20028593	4/2013	Not reported	42 – Delinquent
		5/2013	Not reported	20 – Reinstated without loss mitigation intervention
		6/2013	Not reported	42 – Delinquent

FHA number	Lender loan number	Reporting period	SFDMS code reported	Correct SFDMS code
372-2302948	20028593	7/2013	Not reported	42 – Delinquent
		8/2013	Not reported	42 – Delinquent
		9/2013	Not reported	42 – Delinquent
		10/2013	Not reported	42 – Delinquent
		11/2013	Not reported	42 – Delinquent
		12/2013	Not reported	42 – Delinquent
		1/2014	Not reported	42 – Delinquent
		11/2014	12 – Repayment	42 – Delinquent
		12/2014	12 – Repayment	42 – Delinquent
061-3011089	145312016	2/2012	42 – Delinquent	AO – Ineligible for loss mitigation
		4/2012	42 – Delinquent	68 – First legal action to commence foreclosure
		8/2013	68 – First legal action to commence foreclosure	AO – Ineligible for loss mitigation
061-3084419	145312368	7/2012	AO – Ineligible for loss mitigation	42 – Delinquent
		5/2013	AO – Ineligible for loss mitigation	68 – First legal action to commence foreclosure
		6/2013	42 – Delinquent	68 – First legal action to commence foreclosure
061-4362753	20084500	5/2013	Not reported	42 – Delinquent
		6/2013	Not reported	42 – Delinquent
		6/2014	12 – Repayment	42 – Delinquent
		8/2014	11 – Promise to pay	42 – Delinquent
		9/2014	12 – Repayment	42 – Delinquent
		10/2014	11 – Promise to pay	42 – Delinquent

FHA number	Lender loan number	Reporting period	SFDMS code reported	Correct SFDMS code
061-2987049	145311939	8/2013	11 – Promise to pay	42 – Delinquent
		10/2013	11 – Promise to pay	42 – Delinquent
		12/2013	11 – Promise to pay	42 – Delinquent
		1/2014	11 – Promise to pay	42 – Delinquent
		2/2014	11 – Promise to pay	42 – Delinquent
		3/2014	11 – Promise to pay	42 – Delinquent
		4/2014	11 – Promise to pay	42 – Delinquent
		5/2014	12 – Repayment	42 – Delinquent
		6/2014	12 – Repayment	42 – Delinquent
		8/2014	11 – Promise to pay	42 – Delinquent
		9/2014	11 – Promise to pay	42 – Delinquent
		10/2014	11 – Promise to pay	42 – Delinquent
		11/2014	12 – Repayment	42 – Delinquent
		12/2014	12 – Repayment	42 – Delinquent
061-3972953	143400144	9/2013	11 – Promise to pay	42 – Delinquent
		12/2013	11 – Promise to pay	42 – Delinquent
		1/2014	11 – Promise to pay	42 – Delinquent
		2/2014	11 – Promise to pay	42 – Delinquent
		3/2014	11 – Promise to pay	42 – Delinquent
		4/2014	11 – Promise to pay	42 – Delinquent
		6/2014	11 – Promise to pay	42 – Delinquent
		8/2014	11 – Promise to pay	42 – Delinquent
		9/2014	11 – Promise to pay	42 – Delinquent
		11/2014	12 – Repayment	42 – Delinquent
		12/2014	12 – Repayment	42 – Delinquent

FHA number	Lender loan number	Reporting period	SFDMS code reported	Correct SFDMS code
372-4558045	20083675	1/2014	11 – Promise to pay	42 – Delinquent
		6/2014	11 – Promise to pay	42 – Delinquent
		7/2014	11 – Promise to pay	42 – Delinquent
		8/2014	11 – Promise to pay	42 – Delinquent
		9/2014	11 – Promise to pay	42 – Delinquent
061-2828243	145311045	3/2014	46 – Property conveyed to insurer	1A – Foreclosure sale held
		4/2014	Not reported	1A – Foreclosure sale held
		5/2014	Not reported	1A – Foreclosure sale held
		6/2014	Not reported	1A – Foreclosure sale held
		7/2014	Not reported	1A – Foreclosure sale held
		8/2014	Not reported	1A – Foreclosure sale held
		9/2014	Not reported	1A – Foreclosure sale held
		10/2014	Not reported	1A – Foreclosure sale held
		11/2014	Not reported	1A – Foreclosure sale held
		12/2014	1E – Eviction started	1A – Foreclosure sale held
446-0229867	20062098	11/2012	12 – Repayment	42 – Delinquent
		12/2012	12 – Repayment	42 – Delinquent
		1/2013	12 – Repayment	42 – Delinquent
		2/2013	12 – Repayment	42 – Delinquent
		3/2013	12 – Repayment	42 – Delinquent
		4/2013	12 – Repayment	42 – Delinquent
		6/2013	68 – First legal action to commence foreclosure	42– Delinquent
		3/2014	08 – Type II special forbearance-trial payment plan	39 – FHA-HAMP trial payment plan

FHA number	Lender loan number	Reporting period	SFDMS code reported	Correct SFDMS code
446-0229867	20062098	4/2014	98 – Reinstated after loss mitigation	39 – FHA-HAMP trial payment plan
		5/2014	08 – Type II special forbearance-trial payment plan	39 – FHA-HAMP trial payment plan
		6/2014	10 – Partial claim started	39 – FHA-HAMP trial payment plan
		7/2014	10 – Partial claim started	41 – FHA-HAMP loan modification-partial claim started
372-4073395	20059841	10/2013	11 – Promise to pay	42 – Delinquent
		11/2013	11 – Promise to pay	42 – Delinquent

Appendix F

Criteria

Finding 1, including appendix D	
Loss mitigation general documentation	**Regulations at 24 CFR 203.605(a)** state, "Documentation must be maintained for the initial and all subsequent evaluations and resulting loss mitigation actions."
	HUD Handbook 4330.1, REV-5, paragraph 7-12, states, "Mortgagees must assure that servicing files fully document that all servicing requirements have been followed and steps have been taken to save a mortgage prior to making a decision to foreclose. All actions taken with respect to collection, forbearance, or other actions alternative to foreclosure must be fully documented."
	Mortgagee Letters 2013-32 and 2012-22 state that the lender's servicing records should include monthly notations explaining the lender's analysis used to determine the appropriate loss mitigation option. If there has been no change in the borrower's circumstances, the lender may simply notate this in its records.
Loss mitigation qualification – FHA-HAMP stand-alone partial claim	**Mortgagee Letters 2013-32 and 2012-22** state that a lender may use an FHA-HAMP stand-alone partial claim without an accompanying loan modification if the following three conditions are met: (1) the borrower's current interest rate is at or below market rate, (2) the borrower's current mortgage payment is at or below the target monthly payment, and (3) the borrower otherwise qualifies for FHA-HAMP.
Loss mitigation qualification – formal forbearance	**Mortgagee Letter 2013-32** states "Formal Forbearance plans are written agreements with a period of greater than three months but, not more than six months. If the mortgagee determines that 85 percent of the mortgagor's surplus income is sufficient to bring the mortgage current within six months, the only available loss mitigation option is a Formal Forbearance plan that provides for repayment within the six months."
Loss mitigation supporting documentation	**Mortgagee Letter 2000-05** states that regardless of how the borrower's financial information was secured, the lender must independently verify the financial information by obtaining a credit report and any other forms of verification the lender deems appropriate.
Evaluation of financial information	**Mortgagee Letter 2000-05** states that to be considered for any of the loss mitigation options, the borrower must provide detailed financial information to the lender. Regardless of the option under consideration, the lender must analyze the borrower's current and future ability to meet the monthly mortgage obligation by estimating the borrower's assets and surplus income.

Loss mitigation options considered	**Regulations at 24 CFR 203.605(a)** state, "…the mortgagee shall evaluate on a monthly basis all of the loss mitigation techniques provided at § 203.501 to determine which is appropriate. Based upon such evaluations, the mortgagee shall take the appropriate loss mitigation action.**"**
	HUD Handbook 4330.1, REV-5, paragraph 9-3, states, "Foreclosure should be considered only as a last resort and shall not be initiated until all other relief options have been exhausted."
Loss mitigation priority order (waterfall) home retention	**Mortgagee Letters 2013-32 and 2012-22** state that after evaluating a delinquent borrower for informal and formal forbearance plans, FHA's loss mitigation home retention options must be considered in the following order: (1) special forbearances, (2) loan modifications, and (3) FHA-HAMP.
Loss mitigation property disposition	**Regulations at 24 CFR 203.501(a)** state, "Mortgagees must consider the comparative effects of their elective servicing actions, and must take those appropriate actions which can reasonably be expected to generate the smallest financial loss to the Department. Such actions include, but are not limited to, deeds in lieu of foreclosure under § 203.357, pre-foreclosure sales under § 203.370."
	Mortgagee Letter 2000-05 states that when the cause of the default is not curable or the borrower is not committed to remaining in the home, HUD expects lenders to consider disposition options in the following order: (1) preforeclosure sale and (2) deed-in-lieu.
Evaluating for loss mitigation in a timely manner	**Regulations at 24 CFR 203.605(a)** state, "Before four full monthly installments due on the mortgage have become unpaid, the mortgagee shall evaluate on a monthly basis all of the loss mitigation techniques…."
	Mortgagee Letters 2013-32 and 2012-22 state that before four full monthly installments due on the mortgage go unpaid, the lender must evaluate a borrower's financial situation monthly to determine the appropriate loss mitigation option when the mortgage is in default or imminent default.

Finding 2	
Verification of data	**Mortgagee Letter 2003-17** states that it is imperative that the data contained in HUD's Single Family Insurance System regarding a lender's FHA-insured portfolio are accurate. To assist lenders in verifying and updating the data in HUD's systems, this letter reviews several of the current data submission requirements and processes, restates existing requirements for timely and accurate data reporting, and identifies the consequences of a lender's failure to comply with these requirements.
	Mortgagee Letter 2005-42 cautions all lenders that they must complete a reconciliation of their FHA-insured portfolio.
	Explanation of Portfolio Data Reconciliation, National Servicing Center letter, dated May 12, 2014, states that starting with Mortgagee Letter 2003-17 and continuing with Mortgagee Letters 2004-34, 2005-11, and 2005-42, lenders have been on notice to reconcile their portfolios. Portfolio data reconciliations consist of comparing a list of FHA cases in lenders' servicing systems with a list from HUD's system of record.
SFDMS data entry	**HUD Handbook 4330.1, REV-5, paragraph 7-8(A),** states, "Prompt and accurate reporting by mortgagees is extremely important in providing HUD with an up-to-date account of the status and trends of HUD-insured mortgages. This reporting serves an indicator of the effectiveness of origination and servicing activities, and the potential risk to the insurance funds."
	Mortgagee Letter 2013-15 reminds lenders that they are required to report their servicing efforts to HUD, maintain accurate data in HUD's system(s) of record, report the monthly status of a delinquent loan throughout the term of the mortgage, and ensure proper documentation of servicing activities with date and time notations.
Assessment of loss mitigation performance	**Regulations at 24 CFR 203.605(b)** state, "HUD will measure and advise mortgagees of their loss mitigation performance through the Tier Ranking System (TRS). Under the TRS, HUD will analyze each mortgagee's loss mitigation efforts portfolio wide on a quarterly basis, based on 12 months of performance, by computing ratios involving loss mitigation attempts, defaults, and claims. Based on the ratios, HUD will group mortgagees in four tiers (Tiers 1, 2, 3, and 4), with Tier 1 representing the highest or best ranking mortgagees and Tier 4 representing the lowest or least satisfactory ranking mortgagees."

Finding 3	
Quality control	**HUD Handbook 4060.1, REV-2, paragraph 7-2,** states, "The following are the overriding goals of Quality Control. Mortgagees must design programs that meet these basic goals: * Assure compliance with FHAs and the mortgagees own origination or servicing requirements throughout its operations; * Protect the mortgagee and FHA from unacceptable risk; * Guard against errors, omissions and fraud; and * Assure swift and appropriate corrective action."
	HUD Handbook 4060.1, REV-2, paragraph 7-3(D), states, "Mortgagees must ensure that quality control reviews are performed on a regular and timely basis. Depending on a mortgagee's production volume, origination reviews may be performed weekly, monthly, or quarterly. The review of a specific mortgage should be completed within 90 days of closing. Reviews of different aspects of servicing will vary in frequency; however, delinquent servicing and loss mitigation activities should be reviewed monthly."
	HUD Handbook 4060.1, REV-2, paragraph 7-3(F), states, "The Quality Control reviews must thoroughly evaluate the mortgagees origination and/or servicing functions to determine the root cause of deficiencies. The mortgagee must expand the scope of the Quality Control review when fraud or patterns of deficiencies are uncovered; scope means both an increased number of files as well as more in-depth review."
	HUD Handbook 4060.1, REV-2, paragraph 7-10(B), states, "Quality Control of servicing must be an ongoing function. Due to the importance of these aspects of servicing, mortgagees must perform monthly reviews of delinquent loan servicing, claims, and foreclosures."