



Issue Date	September 30, 2009
Audit Report Number:	2009-CH-1021

TO: Phillip A. Murray, Deputy Assistant Secretary for Single Family Housing, HU

FROM:   
Heath Wolfe, Regional Inspector General for Audit, 5AGA

SUBJECT: Custom Closing Services, Incorporated, Farmington Hills, Michigan, Did Not Always Comply with Its Contract When Closing Sales of HUD Real Estate-Owned Properties

## **HIGHLIGHTS**

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

We performed an audit of Custom Closing Services, Incorporated (Custom), a contractor closing sales of U.S. Department of Housing and Urban Development (HUD) real estate-owned properties in the state of Michigan. The audit was conducted based on a complaint to our hotline alleging that Custom caused significant delays in the closing of HUD homes in Michigan. Our audit objective was to determine whether Custom complied with its contract for closing sales of HUD real estate-owned properties.

### **What We Found**

Custom did not fully comply with its contract when closing sales of HUD homes. Specifically, it did not request city presale inspections<sup>1</sup> and contract extensions in a timely manner. Additionally, Custom did not always cancel expired sales contracts and submit requests for payments to the marketing and management contractor for cancelled contracts in a timely manner. It also did not provide required information to HUD. Custom's delays in requesting pre-sale inspections

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<sup>1</sup> Certain cities in Michigan require compliance inspections before the sale or transfer of single-family residential properties. City representatives and the seller(s) arrange the inspections.

contributed to delays in the closings of HUD homes, which resulted in HUD incurring additional holding costs<sup>2</sup> to maintain properties in its inventory. In addition, HUD lacked assurance that Custom represented HUD's best interests and upheld a positive image of HUD as required under the performance measures of its contract.

### What We Recommend

We recommend that the Deputy Assistant Secretary for Single Family Housing require Custom to

- Implement the real estate property sale closing software in accordance with its contract to monitor and track the progress of its closing files,
- Notify the selling brokers and buyers of the contracts' expiration dates in accordance with its contracts,
- Maintain accurate accounting records to reflect cash receipts for cancelled files in accordance with HUD's requirements,
- Implement adequate procedures and controls to ensure that it properly administers requests for extensions to sales contracts, and
- Coordinate with the marketing and management contractor in regard to requesting city presale inspections.

We also recommend that the Deputy Assistant Secretary for Single Family Housing determine whether Custom is performing satisfactorily under its current contract with HUD. If the same conditions exist as identified in this audit report, the Deputy Assistant Secretary should determine the appropriate course of action regarding the current contract.

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

### Auditee's Response

We provided the results of deficient files to Custom's management during the audit. We also provided our discussion draft audit report to Custom's president and HUD's staff during the audit. We conducted the exit conference with Custom's president on September 18, 2009.

We asked Custom's president to provide written comments on our discussion draft audit report by September 28, 2009. Custom's president provided written

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<sup>2</sup> Holding costs are the costs incurred for maintaining a property in HUD's inventory such as, property maintenance and upkeep, taxes, utilities, etc.

comments to the discussion draft report, dated September 28, 2009, that generally disagreed with our finding and recommendations. With the exception of one binder containing 20 exhibits, the complete text of Custom's written response, and our evaluation of that response, can be found in appendix A of this report.

## TABLE OF CONTENTS

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Background and Objective	5
Results of Audit	
Finding: Custom Did Not Fully Comply with Its Contract When Closing Sales of HUD Homes	6
Scope and Methodology	11
Internal Controls	13
Appendixes	
A. Auditee Comments and OIG's Evaluation	15
B. Schedules of Reviewed Files	42
C. HUD's Requirements	44

## BACKGROUND AND OBJECTIVE

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The Federal Housing Administration (FHA) administers the single-family mortgage program. Upon default and foreclosure of an insured mortgage loan, the lender files a claim for insurance benefits. In exchange for payment of the claim, the lender conveys the foreclosed property to the U.S. Department of Housing and Urban Development (HUD). The property is then deemed a HUD real estate-owned property. HUD, through marketing and management contractors, manages and initiates the sale of these single-family homes (HUD homes) to promote homeownership and maximize the return to the mortgage insurance fund. HUD also contracts with closing agents<sup>3</sup> to close sales of HUD homes.

In March 2008, HUD awarded a sole contract, valued at more than \$7 million, to Custom Closing Services, Incorporated (Custom), to close sales of its single-family properties, consisting of one to four units, in Michigan. Custom is located at 28275 Orchard Lake Road, Farmington Hills, Michigan.

Under its contract, it is expected to (1) proactively represent HUD's interests at the sales closings, (2) close on the sales contracts as soon as possible after executing the contract (up to 60 calendar days), (3) ensure that HUD's sales proceeds received from the settlements are accurate and provided in a timely manner to the United States Treasury, and (4) accomplish sales closings without documentation errors.

Our objective was to determine whether Custom complied with its contract for closing sales of HUD real estate-owned properties in the state of Michigan.

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<sup>3</sup> Closing agents settle real estate transactions through the preparation of the HUD-1 settlement statements and disbursement of the sales proceeds.

## RESULTS OF AUDIT

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### Finding: Custom Did Not Fully Comply with Its Contract When Closing Sales of HUD Homes

Custom did not fully comply with its contract when closing sales of HUD homes. Specifically, it did not request city presale inspections and contract extensions in a timely manner. Additionally, Custom did not always cancel expired sales contracts and submit requests for payments to the marketing and management contractor for cancelled contracts in a timely manner. It also did not provide required information to HUD. The problems occurred because Custom lacked adequate procedures and controls to ensure that it complied with its contract. As a result, the sales of HUD homes were not always closed in a timely manner, which contributed to HUD's incurring additional holding costs to maintain the homes in its inventory. In addition, HUD lacked assurance that Custom represented HUD's best interests and upheld a positive image of HUD as required under the performance measures of its contract.

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#### **Custom Did Not Always Order City Presale Inspections in a Timely Manner**

Using HUD's systems and Custom's data, we determined that 5,339 real estate sales contracts were ratified<sup>4</sup> during our audit period of January 1, 2008, through January 31, 2009. Of the 5,339 contracts, 939 sales of HUD homes took more than 90 days to close. We selected 25 of the 939 closing files for review to determine whether Custom performed closings on the sale of HUD homes in accordance with its contract.

Custom did not always order city presale inspections in a timely manner. Of the 25 closing files reviewed, Custom was contractually obligated to order the city presale inspections for seven of the files. None of the seven presale inspection applications contained in the files was submitted to the appropriate cities in a timely manner. According to its contract and to reduce the closing timeframe, Custom would advance the inspection fees on behalf of HUD and forward the applications to the various cities within one day of receipt of the closing files (see appendix C). However, when Custom received the sales closing packages from the marketing and management contractor, it took Custom 28 to 42 days to submit the applications.

According to HUD, the marketing and management contractor is responsible for the presale inspections. However, Custom should proactively coordinate with the marketing and management contractor to ensure that preinspection applications

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<sup>4</sup> Sales contracts that have been approved by the buyer and seller are deemed ratified.

are submitted to the various cities in a timely manner to ensure that sales contracts close within 60 calendar days as required under its contracts.

### **Custom Did Not Effectively Administer Contract Extensions**

Custom did not effectively administer requests to extend sales' closing dates. For the 25 closing files reviewed, there were 112 requests for extensions to the sales contracts' closing dates. Of the 112 requests, Custom submitted 40 requests after the previous contracts' extensions expired. The 40 requests represent 18 of the 25 files. Of the 40 requests to extend the closing dates, 29 were due to either delays with city presale inspections or lead-based paint abatements. These 29 requests were submitted to the marketing and management contractor 4 to 86 days after the previous contracts' extensions expired. According to its contract, Custom's primary objective is to perform closings of HUD homes as quickly as possible. Typically, a buyer is provided up to 60 calendar days to close the transaction. The contractor must coordinate with the marketing and management contractor to affect the closing within the timeframe specified in the sales contract unless an extension is necessary due to circumstances outside the contractor's control (see appendix C).

The remaining 11 contract extensions were due to buyer requests. Custom submitted these requests to the marketing and management contractor for approval 4 to 95 days after the previous contracts expired. Although it was the buyer's responsibility to initiate a request for an extension to the date on the sales contracts, according to its contract, Custom is required to inform the buyers that their sales contract would expire and result in cancellation if they did not request an extension (see appendix C). Additionally, the contract states that as of the next business day after the closing date stated on the contract, if no closing has occurred, the contractor must notify the broker in writing that the sale did not close and the marketing and management contractor has been notified that the sale was canceled (see appendix C). However, Custom's closing files did not contain documentation to sufficiently determine that the buyers, brokers, and marketing and management contractor were notified when the sales did not close. Further, according to HUD Handbook 4310.5, REV-2, all correspondence pertaining to extensions is to be included in the case file (see appendix C).

Additionally, for one of the closing files, Custom did not file any extension requests when the contract expired, yet it closed the sale.

Custom did not always schedule closings in a timely manner upon receiving the cities' presale inspection reports. Of the 25 closing files reviewed, 17 were for properties that required city presale inspections. Of the 17, Custom did not proactively work with the brokers or buyers to schedule the closings for one

property after it received the inspection report. The sale subsequently closed 27 days later.

The file contained a letter from the selling broker indicating the buyer's discontent with the length of time that had elapsed in closing the sale. Custom's contract requires that closings be fully completed and reconciled in the shortest timeframe possible but no later than the date specified in the sales contract (see appendix C).

**Custom Did Not Cancel Expired Sales Contracts or Submit Invoices for Payment in Accordance with Its Contract**

Using HUD's systems and Custom's data, we determined that Custom cancelled 1,312 sales contracts. Of the 1,312 cancelled contracts, 977 were ratified during our audit period of January 1, 2008, through January 31, 2009. We statistically selected 40 cancelled files to determine whether Custom complied with its contract in regard to cancelling sales of HUD homes. However, one of the cancelled sales contracts was reinstated and closed, thus reducing the number of files to 39.

For the 39 cancelled files reviewed, Custom did not notify the marketing and management contractor and/or broker that 12 of the sales contracts had expired. The number of days that elapsed before the sales contracts were cancelled ranged from 4 to 88. According to Custom's contract, the next business day after the closing date stated on the sales contract, if no closing has occurred, the contractor must notify the broker in writing that the sale did not close and that the marketing and management contractor has been notified that the sale was cancelled (see appendix C).

For 5 of the 39 files, Custom did not submit invoice transmittals to the marketing and management contractor for closing expenses incurred in a timely manner as required by HUD. According to its contract, all invoices should be submitted no later than the 10th calendar day of the following month. According to Custom's president, Custom was requesting payment for the remaining 34 files. However, as of July 31, 2009, these files had been cancelled for more than three months.

Additionally, Custom did not maintain accounting records for payments from cancelled sales. According to HUD Handbook 4310.5, REV-2, the closing agent shall maintain complete and accurate accounting records (see appendix C).



## **Custom Did Not Provide Required Information to HUD**

Custom did not provide information required under its contract to HUD and the marketing and management contractor. According to its contract, Custom is required to report to HUD and the marketing and management contractor the current status of all cases assigned on a weekly basis. The report should also include an attachment summarizing the responsiveness, timeliness, and cooperation of the marketing and management contractor to facilitate timely closings (see appendix C). However, Custom did not include this attachment when it submitted its weekly reports to the marketing and management contractor and HUD.

## **Conclusion**

Custom did not fully comply with its contract when closing sales of HUD homes. The problems occurred because Custom lacked adequate policies and procedures to ensure that it complied with its contract. Specifically, it did not fully implement the real estate property closing software as required under its contract (see appendix C). According to the contract, the software would enable Custom to better manage its inventory of closing files. For instance, the software has timetables built into it that would automatically send the required notification to the seller agents and buyers. If a file did not progress to the next closing level, the property would be flagged for monitoring. This process would reduce the closing time due to title resolutions or inspection problems, as they would be monitored on a daily basis.

The software also would generate required letters to the buyers and selling agents, notifying them of the pending expiration of sales contracts, 15 days before the contracts expire. If the contract expired and extensions were not filed, the software would notify Custom that the file had expired and print the required cancellation documents. Instead of using the software, Custom used a spreadsheet to manage sales closings. However, in reviewing the spreadsheet, we determined that it contained repetitive information or it did not always reflect the accurate status of the sales closings. According to Custom's president, Custom did not use all of the functions of the software because its staff did not have time to learn it. However, Custom was implementing the software for its intended purpose.

As a result of Custom's contract noncompliance, the sales contracts for HUD homes were not always closed in a timely manner, and these closing delays contributed to HUD's incurring additional holding costs to maintain the properties in its inventory. In addition, HUD lacked assurance that Custom represented

HUD's best interests and upheld a positive image of HUD as required under the performance measures of its contract.

## Recommendations

We recommend that the Deputy Assistant Secretary for Single Family Housing require Custom to

- 1A. Use the real estate property sale closing software in accordance to its contract to monitor and track the progress of its closing files.
- 1B. Notify the selling brokers and buyers of the contracts' expiration dates in accordance with its contracts.
- 1C. Maintain accurate accounting records in accordance with HUD's requirements for receipts of cancelled sales.
- 1D. Implement adequate procedures and controls to ensure that it properly administers requests for extensions to sales contracts.
- 1E. Coordinate with the marketing and management contractor in regard to requesting city presale inspections.

We also recommend that the Deputy Assistant Secretary for Single Family Housing

- 1F. Determine whether Custom is performing satisfactorily under its current contract. If the same conditions exist as identified in this audit report, the Deputy Assistant Secretary should determine the appropriate course of action regarding the current contract.

## SCOPE AND METHODOLOGY

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We performed the audit at Custom's and HUD's Chicago regional office. The review covered the period January 1, 2008, through January 31, 2009. We expanded the audit as necessary.

To accomplish our audit, we researched and reviewed Custom's contract and applicable HUD regulations, mortgagee letters, and other reports and policies related to the disposition of HUD homes. We also conducted interviews with Custom's management and staff, HUD's staff, the marketing and management contractor, and the selling brokers and buyers involved in the loans selected for review.

### Sales Contracts for Closed Sales

Using HUD's Single Family Data Warehouse system and Custom's data, we determined that Custom performed 6,903 closings between February 25 and May 13, 2009. Of the 6,903 closings, the sales contract for 5,339 properties was ratified within our audit period of January 1, 2008, through January 31, 2009. Of the 5,339 ratified sales contracts, 939 sales took from 90 to 464 days to close. We used unrestricted attribute sampling at a 90 percent confidence, 10 percent precision, and 25 percent expected error rate. We statistically selected 48 closed files to review. However, we reduced the number of files reviewed to 25 (52 percent) since the delayed files were the result of city presale inspections and/or lead-based paint abatements and their impact on the buyers. Additionally, the review of 25 files provided us with a sufficient basis for our finding results; thus, reviewing the remaining 23 files would not have changed the audit results.

### Cancelled Sales Contracts

Using HUD's Single Family Data Warehouse system and Custom's data, we determined that Custom cancelled 1,312 sales contracts from April 19, 2007, to April 7, 2009. Of the 1,312 cancelled contracts, 977 sale contracts were ratified within our audit period of January 1, 2008, through January 31, 2009. Using unrestricted attribute sampling at a 90 percent confidence, 10 percent precision, and 25 percent expected error rate, we statistically selected 40 cancelled files to review. We determined that one of the cancelled sales contracts had been reinstated and closed, thus reducing the number of files tested for compliance to 39.

To perform the audit, we

- Reviewed Custom's contracts with HUD in effect during our audit period;
- Obtained, reviewed, and reconciled data from HUD's systems and Custom;
- Reviewed Custom's closing files for closed and cancelled sales contracts; and
- Verified information provided by Custom with HUD's systems.

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 finding and conclusions based on our audit

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

# INTERNAL CONTROLS

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

- Program operations,
- Relevance and reliability of information,
- Compliance with applicable laws and regulations, and
- Safeguarding of assets and resources.

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

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## 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.
- Validity and reliability of 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.
- Safeguarding resources - Policies and procedures that management has implemented to reasonably ensure that resources are safeguarded against waste, loss, and misuse.

We assessed the relevant controls identified above.

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

## Significant Weakness

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

- Custom lacked adequate procedures and controls to ensure that it complied with its contract and/or HUD's regulations regarding closing sales of HUD-owned properties (see finding).

# APPENDIXES

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## Appendix A

### AUDITEE COMMENTS AND OIG'S EVALUATION

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#### Ref to OIG Evaluation

#### Auditee Comments

CUSTOM CLOSING SERVICES, INC.  
28275 Orchard Lake Road  
Suite 108  
Farmington Hills, MI 48334-3766  
248 324-9000 FAX 248 324-9001  
Email:Customclosings@sbcglobal.net

September 25, 2009

#### VIA FEDERAL EXPRESS

Mr. Heath Wolfe  
Regional Inspector General for Audit  
U.S. Department of Housing  
and Urban Development  
Office of the Inspector General  
Region V  
77 West Jackson Boulevard  
Suite 2648  
Chicago, IL 60604-3507

**RE: Custom Closing Services, Inc.  
HUD OIG Draft Audit Report**

Dear Mr. Wolfe:

Custom Closing Services, Inc. ("Custom" or "Company") is in receipt of the Draft Audit Report ("Report"), dated September 11, 2009, from the U.S. Department of Housing and Urban Development ("HUD" or "Department") Office of the Inspector General ("OIG"). The Report is based on a review of Custom's activities as a government contractor in closing the sales of HUD Real Estate Owned ("REO") properties in the state of Michigan. The audit covers only 25 closing files processed and closed by the Company during the period January 1, 2008 through January 31, 2009.

The Report states that its primary objective was to determine whether Custom complied with its contract for closing the sales of HUD REO properties. The Report contains one finding, alleging that the Company did not request certain information, submit certain documentation, or schedule real estate closings in a timely manner in connection with a handful of the 7,298 closing files received by the Company during the audit period. However, after reviewing this finding and the files at issue, it is clear that several of the allegations in the Report are at variance with the facts and the typical procedures to close REO transactions, do not constitute violations of HUD requirements or the Company's contract, or do not negatively impact the timely closing of HUD REO properties. Moreover, the Report fails to put the alleged findings in their proper context. Instead, the Report leaves the reader with the inaccurate perception that these few minor deficiencies constitute significant infractions.

**Comment 1**

**Comment 2**

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Mr. Heath Wolfe  
September 25, 2009  
Page 2

**Comment 3**

Nothing, however, could be further from the truth. The Report entirely ignores the fact that HUD, which has ultimate authority and expertise in the sale of REO properties, gave Custom a satisfactory rating in both 2008 and 2009 after reviewing the Company's performance under its contract in many of the same areas considered by the OIG. Custom, therefore, takes strong objection to the recommendations in the Report and hopes the OIG will conclude that the final Report is in need of substantial revisions. This is particularly the case as it relates to Custom's ordering of presale city inspections, the scheduling of closings and extensions of contracts when inspections and lead based paint abatements were not complete, the timely cancellation of contracts, and the implementation of the Company's real estate closing software.

As the OIG provided the Company with an opportunity to submit written comments for inclusion in the final Report, this response summarizes Custom's history and operations and addresses the individual findings in the Report. We appreciate this opportunity to comment on the OIG's findings and recommendations.

I. **BACKGROUND**

A. **CUSTOM CLOSING SERVICES, INC.**

Headquartered in Farmington Hills, Michigan, Custom was formed in 1999 as a Michigan corporation to specialize in the closing and settlement of REO properties. At the time Custom was formed, the Company operated from a single office location and employed just two employees. Currently, Custom provides closing and settlement services from three Michigan locations in Farmington Hills, Flint, and Grandville, and the Company employs approximately 29 individuals. Company employees also regularly conduct closings at off-site locations throughout the State of Michigan. Custom employs well-trained personnel who are knowledgeable and experienced in real estate settlements in Michigan.

Since Custom's inception, the Company has provided exclusive contract real estate closing services for the Department in the State of Michigan. Specifically, in connection with HUD's sale of REO properties located in Michigan, Custom acts as the closing and settlement agent in these transactions. Custom prepares the necessary closing documents, coordinates the closing with the necessary parties, conducts the actual real estate closing, disburses proceeds, records the appropriate legal documents after settlement, and resolves any post-closing issues that may arise. The Company is committed to ensuring our employees provide the highest quality services to both HUD and the purchasers of HUD's REO properties.

Custom has closed 19,775 transactions for HUD since 1999 and currently averages approximately 650 to 700 closings per month. During the audit period, it was



**Ref to OIG Evaluation**

**Auditee Comments**

Mr. Heath Wolfe  
September 25, 2009  
Page 3

not unusual for Custom employees to close as many as 100 transactions in a single business day. Custom takes pride in serving the entire State of Michigan and performing closing and settlement services in an efficient and responsible manner. The Company is well-positioned, both in location, staff and expertise, to respond to the increasing demand for REO property settlements and the need for service providers who understand the intricacies of the REO transaction. Our experience with REO properties and HUD's requirements and procedures for these transactions has allowed Custom to grow into a full-service settlement agent that makes reliability and service our first priority. Custom, therefore, takes its relationship with the Department and its responsibilities under its contract seriously.

**B. OIG AUDIT**

**Comment 4**

It is apparent from the preliminary findings included in this Report that the on-site OIG auditors that reviewed the Company's operations had not previously participated in an audit of this nature. In fact, by the OIG's own admission at the exit conference, it has responsibility for auditing and reviewing over 300 HUD programs, and the audit of a HUD REO closing contractor is not one that is routinely performed by the OIG. As a result, Custom spent a considerable amount of time instructing the on-site auditors about the process of an REO sale and the procedures involved with closing these transactions. In the course of providing those explanations, the auditors' unfamiliarity with the HUD REO process and procedures was clear from the many questions they asked of the Company. Now, after reviewing the allegations in the Report, the auditors' unfamiliarity with these procedures is also clear from the OIG's preliminary findings.

**Comment 5**

For example, the Report states in a footnote that cities in Michigan contact buyers to arrange for presale inspections. This, however, is not correct, as it is the seller's responsibility to arrange for city presale inspections. Moreover, the Report cites Custom for its failure to timely order these presale inspections. Yet, the OIG fails to account for the fact that cities often require property utilities to be in working order before inspections can be completed. Since Custom has no authority to access the properties and arrange for the utility service, it is actually prevented from ordering inspections. The Report also neglects to make the connection between the completion of city inspections and lead based paint abatements and Custom's ability to close the REO transactions as soon as possible. Had the OIG fully understood the process, it would have been clear that contract extensions are automatic when these issues are not complete, and any delay in filing these extensions would not delay the closings.

**Comment 6**

**Comment 7**

**Comment 8**

Finally, as it relates to cancelled sales contracts, the Report cites requirements for payment logs that have nothing to do with cancelled contracts, and, despite extensive explanations from Company representatives during the audit, the Report fails to mention

**Ref to OIG Evaluation**

**Auditee Comments**

Mr. Heath Wolfe  
September 25, 2009  
Page 4

that Custom is unable to submit invoices for closing expenses until it receives a cancellation letter from the marketing and management contractor ("M&M contractor").

Given these examples, we believe it is clear that had the OIG's auditors fully understood the process and procedures involved with the closing of HUD REO transactions, the ultimate findings in the Report would have been substantially different. While technical deficiencies may have existed with a mere handful of closing files, overall the Company satisfactorily complied with the requirements of its contract in the closing of the sales of HUD REO properties.

**II. RESPONSE TO THE REPORT**

**Comment 9**

The Report contains one finding, including several sub-findings, in which it alleges that Custom did not fully comply with its contract when closing the sales of a handful of HUD REO properties. Upon receipt of the draft Report, Custom conducted a thorough review of the allegations and closing files, as well as examined applicable HUD requirements and internal Company procedures during the audit period in an effort to provide pertinent information and documentation with this response. Our review indicated that several of the allegations in the Report are at variance with the facts, do not constitute violations of HUD requirements or the Company's contract, or do not negatively impact the timely closing of HUD REO properties. While we recognize that there is always room for improvement, at no time did the Company intentionally disregard its responsibilities under the contract or HUD's guidelines for REO properties. Where a deficiency existed, we have acknowledged it and strengthened our policies and procedures to assure compliance with our contract and HUD's requirements. We believe, and we hope the OIG will agree, that this response and accompanying exhibits demonstrate Custom's general compliance with the contract's requirements and HUD's guidelines for the sale of REO properties. Below we reply to the individual matters raised in the Report, evidence our adherence to the contract and HUD requirements, and set forth our opposition to certain recommendations presented in the Report.

**Comment 10**

**A. FINDING – CUSTOM MAKES ALL EFFORTS TO COMPLY WITH ITS HUD CONTRACT**

The only Finding in the Report asserts in several sub-findings that the Company did not fully comply with its contract when closing the sales of HUD REO properties. Specifically, the Report asserts deficiencies in: (1) the order of city presale inspections; (2) the administration of contract extensions; (3) the scheduling of closings; (4) the cancellation of expired sales contracts and submission of invoices for payment; and (5) the reporting of information to HUD.

**Comment 11**

Before addressing each of the individual allegations below, Custom initially takes issue with the fact that the Report does not consider the volume of transactions handled by the Company during the audit period and the resulting effects this volume had on Custom's ability to process and close the sale of HUD REO properties in an efficient manner. While the Report refers to 5,339 sales contracts identified by the OIG during its audit, this number fails to account for the thousands more files received by Custom from the M&M contractor during the applicable period. In fact, by the Company's count, Custom received a total of 7,298 closing files from the M&M contractor during the 13 months considered by the OIG as part of its audit. That averages 608 files per month, and, as a result, Custom increased its staff from five employees in January 2008 to 20 employees by December 2008 to handle the volume of HUD REO transactions. While each of these files may not have resulted in closed transactions, Custom, in accordance with its contract, processed and tracked each of these 7,298 files as though the closing would occur. As the Company endeavors to fully and perfectly comply with the HUD contract in connection with every closing file directed to us by the M&M contractor, our employees worked day and night during the audit period to ensure the sale of HUD's REO properties were closed as quickly as humanly possible.

**Comment 12**

**Comment 13**

Furthermore, out of the 5,339 sales contracts referred to in the Report, the OIG isolated 939 sales that took more than 90 days to close and statistically selected 48 closing files as part of its review. However, the OIG only reviewed 25 total closing files, or 52% of the 48 total closing files statistically selected. Custom believes the Report's reference to its review of 52% percent of the Company closing files is misleading and an inequitable representation of the volume of transactions handled by the Company during the audit period. In fact, if the OIG considers the total number of closings completed by Custom during the audit period (3,814), the OIG's review of only 25 files is a mere 0.65% of all closings conducted by the Company. Moreover, the OIG only identified 939 cases out of 5,339 files where closings occurred more than 90 or more days after contract ratification. That is a mere 17.5% of all files received and closed by the Company during the audit period, which means that more than 80% of REO properties were closed by the Company without any extensions or permitted delays. And, as will be explained below, in many instances, the delays were beyond Custom's control. With such a minimal sample, any allegations of deficiencies in connection with the files reviewed by the OIG in no way suggest a pattern or practice of noncompliance with the HUD contract. Rather, the sub-findings in the Report confirm that delays are part of human nature, particularly under circumstances where Custom's employees were managing a rolling "triage" to close an unprecedented number of HUD's REO transactions. The fact that the OIG received "a" hotline complaint under these circumstances in no way evidences a lack of commitment to customer service or failure on Custom's part to comply with the HUD contract. Accordingly, we address each of the Report's sub-findings in turn below.

**Comment 14**

**Comment 15**

**Comment 16**

Mr. Heath Wolfe  
September 25, 2009  
Page 6

1. City Presale Inspections

**Comment 17**

In the first sub-finding, the Report asserts that, in **seven** files, Custom was contractually obligated to order the city presale inspections, but did not submit the inspection applications to the respective cities within one day of receiving the sales closing packages from the M&M contractor. While Custom does not dispute that its contract contains this presale inspection requirement, the M&M contractor's HUD contract also contains this requirement, and historically the ordering of city presale inspections was completed by the M&M contractor, for which the M&M contractor accepted responsibility.<sup>1</sup> In fact, the Report acknowledges that "according to HUD, the marketing and management contractor is responsible for the presale inspections." However, because the M&M contractor is required to receive HUD approval in each individual transaction before ordering any presale inspections, this procedure often delays the closing of REO transactions. Custom is not obligated to seek this individual pre-approval, and in an attempt to assist the M&M contractor and lessen these delays, Custom volunteered, in August 2008, to assist the M&M contractor with this activity. Generally, for the five months that Custom undertook this task, it ordered city presale inspections in compliance with the requirements of the HUD contract. However, two things made the ordering of city inspections a difficult task for the Company.

**Comment 18**

First, prior to August 2008, Custom was receiving a manageable number of closing files on a monthly basis, and the Company believed that it had time to assist the M&M contractor with the ordering of city inspections. This, however, changed without warning, and Custom began to receive an unprecedented number of closing files in August 2008. For instance, from May 2008 through July 2008, Custom received a total of 624 closing files. From August 2008 through December 2008, this number skyrocketed, and the Company received a total of 5,215 closing files, which led us to double the size of our staff. Custom's employees worked tirelessly to process these closing files and manage the scheduled closings, which had to become the Company's priority under the HUD contract.

**Comment 19**

Moreover, during this later part of 2008, the M&M contractor failed to send the Company approximately 250 closing files that its system indicated had been received by Custom. As we explained to the auditors during their review, despite the M&M contractor's records that reflected these files in process with Custom, the M&M contractor inadvertently failed to send the closing files to the Company to initiate the closing process. Custom discovered this issue after reviewing the M&M contractor's status reports, which reflected numbers different from the Company's records. The M&M contractor eventually located the files and downloaded them in bulk, but the

**Comment 20**

<sup>1</sup> The Report's statement in footnote #1 that the cities contact the buyers to arrange for the inspections is incorrect. It is strictly the seller's responsibility to arrange for the ordering of presale inspections.

**Ref to OIG Evaluation**

**Auditee Comments**

Mr. Heath Wolfe  
September 25, 2009  
Page 7

damage was already done. To lessen any further delays on the 250 files, the Company was instructed to prioritize these contracts over existing files in our offices. This meant that work on closing files already in progress had to be halted, which only delayed these transactions and contributed to the overall volume of transactions that Custom's employees were managing on a daily basis. And, the volume was so substantial that it became too difficult for Custom's employees to also manage the ordering of city presale inspections. Custom believes the delays that resulted from these missing files were completely outside of our control and had a significant impact on the Company's ability to timely close many of the transactions that are a part of the Report. In fact, as many findings in the Report are directly impacted by these events, we invite the OIG to confirm these missing files, as well as the priority status they received upon discovery, with the M&M contractor.

**Comment 21**

Second, certain cities in Michigan require the utilities at a property to be in working condition before the presale inspection is conducted or require debris to be removed from the areas surrounding the property, including the sidewalks. As a closing agent, Custom has no authority under our HUD contract to access the properties and satisfy these conditions. The maintenance of the property is strictly the responsibility of the M&M contractor. Thus, in the course of ordering the presale inspections, if utilities were not in working order or sidewalks were not clear, Custom was forced to rely on the M&M contractor to order these inspections.<sup>2</sup> In other words, Custom had no ability or authority to order many of the presale inspections. Given these practical problems and the unanticipated increase in the volume of REO transactions, Custom eventually ceased ordering city presale inspections in December 2008 with the consent of our HUD contract administrator.

**Comment 22**

**Comment 23**

Under these circumstances, to the extent Custom did not order city presale inspections within one day of receiving the closing file from the M&M contractor, any delay was unintentional and the direct result of the substantial volume of closing files or Custom's lack of authority to order the inspections. When Custom offered to assist the M&M contractor with the ordering of these inspections, it had no way to anticipate that the number of closing files it would receive on a monthly basis would increase by 800%. And, yet, out of the files reviewed by the OIG, a mere seven files reflect delays in the ordering of city inspections. It is always Custom's intent to fully and timely carry out our responsibilities under the HUD contract. As it relates to the ordering of city inspections, the Company ordered each of the presale inspections in as timely a manner as was humanly possible. Surely the OIG can understand and appreciate the distinction between an isolated file and a pattern and practice of disregard for HUD requirements.

<sup>2</sup> FHA Case No. 261-891015 is a prime example of a property that had to be secured by the M&M contractor before an inspection could be ordered.

**Ref to OIG Evaluation**

**Auditee Comments**

Mr. Heath Wolfe  
September 25, 2009  
Page 8

In this case, it was clearly the former, and we would hope the final OIG Report will reflect this distinction.

**2. Contract Extensions**

**Comment 24**

In this sub-finding, the Report alleges that Custom submitted 40 requests (representing 18 closing files) to extend the closing dates on transactions after the previous extension dates had expired. Of these 40 requests, the Report states that 29 requests were related to delays with city inspections or lead based paint abatements. Eleven additional contract extensions related to borrower requests for additional time, and the Report claims that Custom did not file any extension requests in the final case. The Report suggests that Custom's failure to timely file these contract extension requests impacted the Company's primary objective under its HUD contract to perform closings of HUD REO properties as quickly as possible. Custom, however, takes strong objection to this allegation.

**Comment 25**

Specifically, in those transactions where city inspections or lead based paint abatements are not completed before the contracts' expiration, this results in automatic contract extensions, which do not delay the REO settlements. The completion of these prerequisites to closing is a seller-controlled issue, and Custom cannot close a transaction without the completion of city inspections and lead based paint abatements. Thus, when such extensions are needed, the Company files them on behalf of the seller, and there is no question the M&M contractor will automatically approve the extensions. Regardless of whether Custom files the extension request before or after the contract's expiration date, as long as the inspection or abatement remains outstanding, this has no affect whatsoever on the scheduling or conduct of the closing. In other words, the extension filing becomes a mere formality. It is the inspection or abatement itself that delays the closing, and the timely completion of these functions is out of Custom's control. Contrary to the allegations in the Report, to the extent that Custom did not file contract extensions in the files reviewed by the OIG before the contracts' expiration dates, this in no way delayed the closing of HUD REO transactions. We would have hoped that the Report would have recognized that fact. The Company still complied with its primary objective under the HUD contract to close these transactions as quickly as possible.

**Comment 26**

**Comment 27**

**Comment 28**

Moreover, contrary to the allegations in the Report, Custom was not responsible for certain extensions that were filed after the contracts' expiration dates. In March 2009, when Custom received over 1,700 new closing files for processing, the M&M contractor made the decision to issue several hundred blanket extensions on files that were nearing expiration, which the M&M contractor did without any input or filings made by the Company. Thus, to the extent the M&M contractor issued these extensions after

Mr. Heath Wolfe  
September 25, 2009  
Page 9

**Comment 29**

the expiration dates on the respective files, Custom was not responsible for these late filings. Notably, in **FHA Case No. 261-849791**, the M&M contractor created the first extension in this case and subsequently cancelled the contract. When seven additional extensions were then filed after cancellation, these were all granted directly by the M&M contractor. Custom had no responsibility for filing these extension requests or deciding whether to allow the contract extensions after cancellation, and the Company should not be held accountable for any delays. The same can be said for three other transactions, **FHA Case Nos. 261-740221, 261-824255, and 263-385902**. In the first two cases, Custom timely filed the first extension requests with the M&M contractor; however, all other extensions were handled directly by the M&M contractor and required no extension filings by the Company. To the extent the M&M contractor failed to process these extensions before the expiration date of the sales contracts, this is within the M&M contractor's discretion as the seller. In the third case, all extensions were processed and granted by the M&M contractor. While five of the ten extensions were timely, again, any delay in connection with the remaining five extensions was not Custom's responsibility. The extension and reinstatement of these four cases was strictly managed by the M&M contractor, which did not implicate Custom's obligations under its contract. We, therefore, respectfully request that these four cases be removed from the final audit Report.

**Comment 30**

**Comment 31**

Finally, it is important to emphasize that any alleged delays occurred at a time when the Company was processing and closing a record number of REO closing files per day. That volume was only exacerbated when the Company discovered approximately 250 closing files that had not been received from the M&M contractor. Once these files were identified, Custom prioritized their completion according to instructions from HUD to minimize any further delay. But, this only contributed to the overall volume of transactions that Custom employees managed on a daily basis. To the extent any extensions for which Custom was responsible were not filed timely, this was inadvertent and, in no way, an indication of any pattern or practice of noncompliance with the Company's HUD contract. Rather, as explained above, these deficiencies are a technicality that generally had no affect on whether Custom closed the transactions as quickly as possible. We ask that the final Report acknowledge this fact.

**3. Scheduling of Closings**

In this sub-finding, the Report cites the HUD contract requirement that closings be fully completed and reconciled in the shortest timeframe and alleges, in **six** cases, that Custom did not proactively work with the brokers or buyers to schedule closings once presale inspections were complete. Custom disagrees with the allegations in

## Ref to OIG Evaluation

## Auditee Comments

Mr. Heath Wolfe  
September 25, 2009  
Page 10

these cases and believes that it scheduled and closed these transactions as soon as possible.

### Comment 32

In accordance with Custom's contract, as soon as the Company received copies of the city inspections, the Company generated letters to the buyers and their agents informing them that closing could be scheduled.<sup>3</sup> In fact, in **FHA Case Nos. 261-887081, 261-891015, 261-822921, 261-890338, and 261-868064**, Custom sent letters to the buyers and their agents on the same day that the Company received a copy of the city inspections in an attempt to schedule these closings as soon as possible.<sup>4</sup> From that point, however, Custom could only schedule the closings as quickly as the buyers are ready to close. On more than one occasion buyers requested that the closings be delayed because they did not have sufficient cash to close, the lender needed additional time to arrange financing, or the buyer simply failed to attend the scheduled closing. And, each time, Closing accommodated the buyer's requests and noted them, as well as Custom's proactive attempts to schedule the closings, on the cover of each closing file (**Exhibits B-1 through B-6**).<sup>5</sup>

### Comment 33

For instance, in connection with **FHA Case No. 261-890338**, after receiving the city inspection, Custom sent a letter to the buyer and the agent on February 25, 2009 notifying them that the buyer or the agent could call the Company to schedule the closing (**Exhibit B-5**). Contact was not made with the Company by the buyer until March 5, 2009, and after one contract extension, the buyer scheduled the closing for March 20, 2009. However, on that date, the buyer failed to show up for closing, and the Company was forced to reschedule the settlement for March 27, 2009, which is the date that the sale closed. Moreover, in **FHA Case No. 261-891015**, after Custom received the inspection report on January 8, 2009 and generated a letter to the buyer and the agent on the same day, the buyer contacted Custom on January 9, 2009 to schedule the closing for February 5, 2009 (**Exhibit B-3**). However, three days prior to the scheduled closing date, the borrower, via a written letter, requested additional time

<sup>3</sup> Currently, as soon as the receipt of an inspection is entered into the system, the Company's software generates an electronic notification to the buyer and his or her agent that closing may be scheduled.

<sup>4</sup> Attached as **Exhibits A-1 through A-5** are copies of the letters generated by Custom after receiving copies of the inspection reports.

<sup>5</sup> When reviewing each cover page of the closing files, please note that the date the buyer or agent contacted Custom to schedule the closing is noted on the left side of the page, along with the name of the Company employee who scheduled the closing. The date in the middle of the page is the actual closing date. If the closing date was rescheduled, that information is also noted in the middle of the page. The dates listed on the right side of the page are the contract extension dates. The buyers purchased each of these six properties with cash, which is noted at the top of the page.



Mr. Heath Wolfe  
September 25, 2009  
Page 11

because of a family emergency (**Exhibit B-3**), and Custom rescheduled the closing for February 20, 2009, which is when the transaction closed. In both cases, Custom closed the transactions as soon as the borrowers were ready for closing.

Ultimately, Custom understands that its contract requires it to close the sale of HUD REO properties in as quickly a timeframe as possible, and the Company takes the necessary steps to proactively schedule real estate closings. At the same time, the Company must accommodate the buyer's closing date requests, and the buyers often require more time to close. The two cases mentioned above are excellent examples of Custom's proactive and timely attempts to schedule the closings, which were hampered by the borrower's availability to actually close the sales. Yet, despite the buyers' delays, Custom worked with the buyers and their agents to schedule the closings as soon as possible in each of the six cases cited in the Report. For these reasons, the Company believes that it complied with its contract in the timely scheduling of real estate closings and respectfully requests that these allegations be removed from the final Report.

**4. Expired Sales Contracts**

In this sub-finding, the Report alleges, in connection with 39 cancelled contracts, that Custom did not notify the M&M contractor, within one business day after the expiration dates of the contracts, that 12 sales contracts had expired. The Report also asserts that Custom did not submit invoice transmittals for closing expenses on five cancelled contracts before the tenth calendar day of the following month, and the Company did not maintain a log of payments received or disbursed for cancelled sales contracts. The Report, however, misinterprets certain of Custom's responsibilities under its contract and HUD's requirements as it relates to cancelled sales contracts.

First, contrary to the Report's allegations, Custom is not required to maintain a log of payments received or disbursed for cancelled sales contracts. In fact, by virtue of being a cancelled sales contract, there is no money received or disbursed for these REO properties. The Report quotes from requirements contained in HUD Handbook 4310.5, REV-2, ¶ 11-8, which states that "the closing agent shall maintain complete and accurate accounting records, which include, at a minimum, a cash receipts and disbursements register." The Report goes on to claim that this register must be reconciled monthly to the bank account and identify, for each receipt and disbursement, the property to which the receipt or disbursement applies. These requirements, however, apply to closed sales transactions, not cancelled contracts, and the payment of cancellation fees has nothing to do with the register maintained by the Company and the reconciliations performed by Custom for all closed transactions. Thus, the Company believes that these allegations have been included in the Report in error and should be removed from the final Report. Moreover, as there is no allegation that Custom failed to maintain accurate books and records to reflect cash receipts and

**Comment 34**

Ref to OIG Evaluation

Auditee Comments

Mr. Heath Wolfe  
September 25, 2009  
Page 12

disbursements for the closing of sales, we also request that the Report's recommendation for compliance in this area be removed from the final Report.

Comment 35

Second, as we discussed in detail with the OIG auditors, the Report fails to mention that Custom is unable to submit invoices to the M&M contractor for closing expenses until it receives a letter from the M&M contractor canceling the sale.

Comment 36

Otherwise, HUD will reject these invoices even if they are submitted in accordance with the timeframe in Custom's contract. Attached as **Exhibit C** is a copy of an email responding to invoices for cancellation fees submitted by the Company and requesting a cancellation letter from the M&M contractor. As made clear in this email, the invoices cannot be processed without a copy of the cancellation letter for the contracts at issue. Thus, while Custom acknowledges that there were delays in submitting the five invoices at issue in the Report, in at least two cases, these delays were directly impacted by the M&M contractor's delay in providing the letters to cancel the sales. Notably, in **FHA Case Nos. 261-700771 and 261-873180**, after failing to receive cancellation letters directly from the M&M contractor, Custom was forced to access the M&M contractor's electronic system to download the documentation needed to complete the invoices and send them to the M&M contractor for processing. Had the cancellation letters been received in a timely fashion, we believe the Company would have submitted the invoices for these cases within the time frame specified in Custom's contract.

Comment 37

Comment 38

Finally, with regard to the 12 cancelled contracts identified in the Report, the Company disagrees with the allegation that it did not notify the M&M contractor of, at least, five cancelled contracts immediately after the contracts' expiration. Attached as **Exhibits D-1 through D-5** are copies of the cancellation notices that Custom provided to the M&M contractors in connection with **FHA Case Nos. 261-873180, 261-698703, 261-831441, 263-335035, and 261-896799**. As these documents demonstrate, in accordance with its contract, Custom notified the M&M contractor the next business day after each of these sales contracts expired. Whether the M&M contractor then reflected the contracts as cancelled in a timely manner is another issue over which Custom had absolutely no control. The Company, therefore, requests that these five cases be removed from the allegations in the final Report.

With regard to the remaining cases, Custom acknowledges that it should have notified the M&M contractor earlier about the expiration and cancellation of these contracts. However, as discussed in detail above, the audit period coincides with the highest volume of HUD REO properties that the Company has ever managed, and Custom's employees worked tirelessly to process closing files and schedule and administer the closing of these sales. Custom received over 5,000 closing files in the span of five months in 2008 and substantially increased the size of its staff to ensure the Company managed these files and closed the transactions in accordance with its

Mr. Heath Wolfe  
September 25, 2009  
Page 13

**Comment 39**

contract and HUD requirements. While it is Custom's goal to perform perfectly under its contract, the Company's employees are human, and given the number of files for which they were responsible, delays occurred. This, however, is, in no way, representative of Custom's general performance under and compliance with its HUD contract. In fact, seven delayed transactions out of 7,298 files received during the audit period is a mere 0.10% of all transactions managed and processed by the Company. Custom strove at all times to notify the M&M contractor of all cancelled contracts within one business day after the cancellation of the sale, which is now an automatic and automated process.

**5. Reporting to HUD**

**Comment 40**

In this sub-finding, the Report alleges that Custom did not report to HUD and the M&M contractor the status of all cases on a weekly basis and did not provide HUD with an attachment to the weekly report that summarized the responsiveness, timeliness, and cooperation of the M&M contractor. Contrary to this broad allegation, Custom endeavored at all times to submit timely weekly reports to both HUD and the M&M contractor during the audit period, and the Company believes that its overall success rate was high. That being said, given the tremendous volume of closing files that Custom managed during the audit period, the Company acknowledges that it may not have always submitted the weekly reports in a timely fashion. This, however, does not mean that Custom did not track the status of all closing files assigned to it. In fact, the Company was quite capable of providing up-to-date status information to the Department or to the M&M contractor at any time, which is Custom's ultimate obligation under its contract.

**Comment 41**

Moreover, despite the language in the contract requiring a weekly attachment to update HUD on the activities of the M&M contractor, the Company's Government Technical Representative ("GTR") did not require this of Custom. Rather, her approach was to encourage continual, open lines of communication where Custom could raise any concerns about the M&M contractor's responsiveness or timeliness. Thus, where issues arose, Custom informally notified HUD of these concerns through the GTR. When Custom transitioned to a new GTR in March 2009, he required that Custom submit a weekly narrative addressing the M&M contractor's performance. The format for this narrative was left up to the Company, and Custom developed a standard weekly narrative form to accompany its weekly reports to HUD. Attached as **Exhibit E** are samples of these weekly attachments. To the extent the Company's weekly reports did not include an attachment, this is because Custom's previous GTR did not require them. Since April 2009, Custom has, at all times, attached its weekly narrative form to the weekly reports required by both HUD and the Company's contract. We, therefore, ask that this sub-finding be revised to reflect Custom's compliance with the weekly reporting required of the Company during the audit period.

Mr. Heath Wolfe  
September 25, 2009  
Page 14

**6. Controls and Recommendations**

**a. Real Estate Closing Software**

**Comment 42**

Based on the sub-findings above, the Report makes a final allegation that Custom lacked adequate policies and procedures to ensure that it complied with its contract, particularly because the Company did not fully implement the real estate property closing software. However, the Report also acknowledges that Custom is implementing the software for its intended purpose. Custom, in fact, has fully implemented its real estate closing software, which has been operational since April 2009. Although Custom previously performed all tasks manually to comply with its obligations under the contract, the real estate closing software allows Custom to streamline certain of these tasks, communicate with the M&M contractor through the system, and generate electronic notifications to buyers and their agents.

It is also important to note that the Company would have implemented this software earlier but for a bad experience with a failed technology representative. Notably, after award of the contract in 2005, Custom spent thousands of dollars to hire a technology representative to assist us in implementing the real estate closing software. Unfortunately, this individual turned out to be inexperienced and ineffective in getting the software fully up and running. Soon thereafter, Custom's HUD contract also was up for renewal, and the Company was hesitant to invest thousands more dollars in the software system and the training of its employees until the outcome of the HUD contract was determined. All that said, once the contract award to Custom was renewed in March 2009, the Company immediately took the steps necessary to fully implement the real estate closing software and train its employees to use the software's features. This electronic system is now Custom's primary method to manage and schedule the closing of HUD REO transactions, notify buyers and their agents of important dates in connection with the transactions, and ensure that all contract extensions are processed on a timely basis.

**b. HUD's Review of Custom's Compliance under the Contract**

**Comment 43**

In addition, the Report makes an over-generalized and unfounded allegation that HUD lacked assurance that Custom represented the Department's best interests and upheld a positive image of HUD. The Report also recommends that HUD determine whether Custom is performing satisfactorily under its contract and take appropriate action, including the termination of the Company's contract. Custom strongly disagrees with the Report's suggestion that the technical deficiencies described in the Report indicate the Company is performing unsatisfactorily and failing to uphold the Department's best interests in closing REO transactions in Michigan. In fact, we question how, in good faith, the OIG can make such a draconian recommendation given

Mr. Heath Wolfe  
September 25, 2009  
Page 15

that any deficiencies here represent less than 1% of the transactions closed during the relevant period, and especially in as much as many of the OIG's findings are at variance with the closing procedures and practices in our industry. Custom prides itself on its extensive knowledge and experience in closing HUD REO transactions and completing these sales in an efficient and well-documented manner in compliance with its HUD contract.

**Comment 44**

Custom's performance under its contract was reviewed by its GTR both in September 2008 and June 2009, and the Company received good marks from its reviewers. In the September 2008 review, the Company's GTR assessed Custom's compliance with file maintenance, escrow deposits and disbursements, weekly reports, and the transmission of closing packages, to name a few, and determined that Custom was performing at a low risk (Exhibit F). In June 2009, the GTR reviewed the Company's compliance in areas such as the preliminary review of HUD-1 Settlement Statements, the implementation of sales incentives, sales extensions, bank reconciliations, wire transfers, weekly reports and narratives, customer surveys, and case reviews, to name a few. The GTR noted Custom's "welcomed addition" of the real estate closing software and determined that "Custom Closing Services is performing satisfactorily" (Exhibit G). It is always the Company's intent to fully comply with the terms of its contract, and we believe that it is significant that the GTR praised Custom's knowledge of the contract. The GTR also noted that Custom "demonstrated an eager and willing organization to provide necessary support to HUD's closing service challenges in Michigan" (Exhibit G). **As the Department has already determined that Custom is performing satisfactorily under its contract, there is no basis for the OIG to include an obviously inflammatory recommendation that HUD actually consider the termination of the Company's contract.** The continued inclusion of such a recommendation would be inequitable and unsupported by the OIG's findings. Moreover, Custom's satisfactory performance refutes any suggestion that Custom does not protect the Department's interests or uphold a positive image of HUD. We, therefore, respectfully request that this language, as well as the recommendation regarding termination, be removed from the final Report.

c. Recommendations Outside of Custom's Authority

**Comment 45**

Furthermore, the Report makes recommendations that fall outside Custom's responsibilities or authorizations under its HUD contract. Notably, the Report recommends that Custom coordinate with the M&M contractor regarding the order of city presale inspections and monitor the status of inspection applications to ensure the closings occur as soon as possible. As discussed herein, this is the responsibility of the M&M contractor, and Custom does not have the authority to access the properties or otherwise maintain the properties as required for city inspections. This means that

Ref to OIG Evaluation

Auditee Comments

Mr. Heath Wolfe  
September 25, 2009  
Page 16

Custom is prevented from coordinating the order of presale inspections, and the Company is pursuing the formal removal of this obligation from its contract. To the extent that the OIG has concerns about the ordering of city inspections or the amount of time that is typically required to complete them, these concerns are best directed to the M&M contractor or the cities themselves. Otherwise, once these inspections are complete, Custom already has adequate policies and procedures in place to schedule and complete the closings as soon as possible.

d. Other Recommendations

Finally, while the audit process is still ongoing at the time the OIG issues its "final" report, the Report and the OIG's recommendations are made public on the OIG website. As a result, Custom's customers and peers are able to access the preliminary recommendations of the OIG before a final assessment as to their merit can be made by the Department. These entities often misinterpret the OIG's recommendations to be final actions by the Department. Under these circumstances, making these preliminary recommendations public and including a recommendation to consider termination of Custom's contract will have a material, adverse effect on the Company's business. If the OIG's goal is to present the reader with a full and accurate disclosure of the audit and its implications to the audited entity, the Report should include the following disclosure on the first page in bold, capitalized lettering:

Comment 46

**THE REPORT FINDINGS REFLECT THE VIEWS OF THE OFFICE OF INSPECTOR GENERAL AND DO NOT CONSTITUTE A FINAL DETERMINATION OF THE MATTERS RAISED HEREIN BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. THE FINAL DETERMINATION IN THIS MATTER WILL BE MADE BY THE REPORT'S ADDRESSEE, THE HUD ASSISTANT SECRETARY FOR HOUSING – FEDERAL HOUSING COMMISSIONER, WHO WILL ULTIMATELY DECIDE WHETHER TO ACCEPT, REJECT OR MODIFY THE REPORT'S RECOMMENDATIONS.**

Comment 47

Moreover, although the OIG provides the Company with an opportunity to submit written comments for inclusion in the final Report, we understand that final audit reports routinely include auditors' comments about the audited entity's written response, but that the company is not provided an opportunity to respond to these additional comments. Often, these comments include substantive allegations or statements that were not a part of the draft audit report provided to the company. To the extent that the OIG makes such additional substantive comments in this instance, we respectfully request an opportunity to respond to these additional statements to ensure that a complete and accurate picture of the audited issues is presented in the final Report.

Comment 48

Mr. Heath Wolfe  
September 25, 2009  
Page 17

As Custom values its relationship with the Department and strives to always adhere to HUD's requirements and its contract, we respectfully request that the OIG reconsider the technical nature of its alleged deficiencies, focus on the Company's substantial compliance with its contract, and revise its recommendations to appropriately fit the facts of this case.

**III. CONCLUSION**

Custom takes the matters raised in the draft Report seriously. Because the Company depends on the HUD contract to sustain our operations and the livelihood of our employees, Custom is committed to ensuring our compliance with HUD's requirements and the terms of our contract. And, we believe that Custom satisfactorily complied with both.

First, the OIG conducted its review of the Company during an unprecedented time in Custom's history, with upwards of 1,200 new closing files arriving in Custom's office per month and 100 closings occurring per day. Custom increased its employees from five to 29 to handle this substantial volume, the effects of which the OIG witnessed firsthand when it began its on-site review of the Company. The management and closing of nearly 100 REO transactions per day was a time-intensive and a paper-intensive process, and Custom mastered these tasks under difficult circumstances. Second, the auditors' lack of familiarity and understanding of the process and procedure in closing HUD REO transactions resulted in uninformed and inequitable allegations of noncompliance. As a result, the Report leaves the impression that Custom substantively failed to execute its contract, when the auditors only identified a handful of technical delays and deficiencies that generally had no impact on Custom's primary responsibility to close REO transactions as quickly as possible. Additionally, the OIG failed to cite the fact that Custom received satisfactory performance reviews from the Department in both 2008 and 2009. Accordingly, based on Custom's thorough review of the findings in the Report, we believe the overall allegations in the Report are at variance with the facts, do not constitute deficiencies in HUD requirements or the Company's contract, or do not negatively impact the timely closing of HUD REO properties. Custom respectfully requests that the OIG revise the allegations cited in the Report based on the information and documentation provided in this response.

Ref to OIG Evaluation

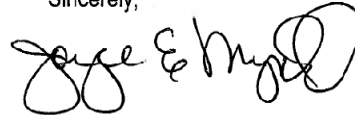
Auditee Comments

Mr. Heath Wolfe  
September 25, 2009  
Page 18

Moreover, since receiving the closing files cited in the Report, Custom has continued to enhance its practices and procedures to address many of the issues raised in the Report. Most notably, the Company has fully implemented its real estate closing software, which streamlines and automates many of the Company's responsibilities under its contract. And, this software is only one example of Custom's continued satisfactory performance as a HUD contractor. Custom strives at all times to fully implement the terms of its contract and ensure the interests of the Department are 100% protected in the sale of HUD REO properties.

If you have any additional questions, or if you need additional information, please do not hesitate to contact our Washington counsel, Phillip L. Schulman, at (202) 778-9027. Thank you for your kind consideration.

Sincerely,



Joyce E. Myrold  
President

cc: Phillip L. Schulman, Esq.



## OIG Evaluation of Auditee Comments

- Comment 1** Custom contends that the report contains one finding, alleging that it did not request certain information, submit certain documentation, or schedule real estate closings in a timely manner in connection with a handful of the 7,298 closing files it received during our audit period. We disagree. The finding in the report is not in connection with the 7,298 closing files Custom stated it received during the audit period. Instead, the finding in the report is based on actual ratified sales that closed or cancelled during the audit period, which totaled 6,316 (5339 closed files plus 977 cancelled files). This information can be found in the Scope and Methodology section of this audit report.
- Comment 2** Custom contends that the violations in the report do not constitute violations of HUD requirements or its contract, or do not negatively impact the timely closing of HUD's properties. We disagree. The report identified that Custom did not fully comply with its contract and HUD's requirements. Additionally, Custom's delays in requesting presale inspections, a requirement under its contract, contributed to delays in closing the sales of HUD properties.
- Comment 3** Custom stated that HUD has ultimate authority and expertise in the sale of real estate-owned properties and HUD gave it a satisfactory rating in both HUD's 2008 and 2009 after reviewing Custom's performance. We agree that HUD has the expertise in the sale of real estate-owned properties, which is why we consulted with HUD throughout the audit. We also agree that HUD gave Custom an overall satisfactory rating in 2008 and 2009; however, HUD's review did not indicate a review of delinquent closing files or cancelled sales contract files as reported in this audit report. Therefore, HUD's review did not cover the same areas.
- Comment 4** Custom contends that our unfamiliarity with the real estate-owned properties process and procedures was clear from the many questions asked. We disagree. The audit was a contract performance review and the staff was well equipped to perform such an audit. Additionally, our audit procedures require us to conduct interviews to obtain a sufficient understanding of an auditee's business operations, policies, and procedures to proficiently perform audits of HUD's programs. We are not to assume, instead inquire about each auditee's operations to provide the auditee a mechanism to explain their processes.
- Comment 5** Custom contends that the footnote in the audit report was incorrect. We agree and adjusted the audit report. We thoroughly obtained an understanding of the process by contacting representatives from the various cities in regards to city inspections.
- Comment 6** Custom's contends that we failed to account for the fact that cities often require property utilities to be in working order before inspections can be completed. We disagree. Custom did not provide any documentation showing that for the

properties cited in our discussion draft audit report, the reason for Custom's delay in ordering the presale inspection was due to utilities.

**Comment 7** Custom contends that had we fully understood the process regarding the completion of city inspections and the lead based paint abatements, it would have made it clear that contract extensions are automatic when these issues are not complete and any delay in filing these extensions would not delay the closing. We disagree. Our draft audit report did not indicate that delayed extension requests results in delayed closings. However, it did mention that HUD lacks assurance that Custom represented HUD's best interests and the failure to file contract extensions timely did not protect HUD's interest because the sales contracts were no longer valid. Therefore, the buyers were not contractually obligated to continue the sales transaction.

**Comment 8** Custom contends that our report cites requirements for payment logs that have nothing to do with cancelled contracts. We disagree. The report does not cite requirements for payment logs, but cites requirements for complete and accurate accounting records, which includes payment logs for receipts and disbursements. Therefore, Custom is required to maintain complete and accurate accounting records. However, Custom was unable to provide records of funds received for cancelled sales contracts. We adjusted the audit report to reflect this revision.

Additionally, Custom stated that it was unable to submit invoices for closing expenses until it receives a cancellation letter from the marketing and management contractor. Although this may be true, in contacting the marketing and management, we were provided documentation indicating that it sent cancellation letters electronically to the selling brokers and copied Custom for 29 of the 34 files identified in our draft audit report. Therefore, Custom should have been able to submit invoices to the marketing and management contractor for payment for the 29 cancelled sales contracts.

**Comment 9** See comment number 2.

**Comment 10** Custom contends that at no time did it intentionally disregard its responsibilities under the contract and HUD's guidelines for real estate properties. Our audit report did not state that Custom intentionally disregarded its responsibilities under its contract and HUD's guidelines. In fact, the audit report stated that Custom did not fully comply with its contract requirements because it lacked adequate procedures and controls to ensure that it complied with its contract.

**Comment 11** Custom contends the report did not consider the volume of transactions it handled during the audit period and the resulting affects this volume had on Custom's ability to close the sale of real estate-owned properties in an efficient manner. We agree that the audit report did not mention the volume of the sales closing that occurred during the audit period. However, the volume of sales closings was within the thresholds listed in its contract with HUD. For instance, the contract

identifies that the minimum quantity of closing should not be less than 260 per year and the maximum quantity should not exceed 7,500 per year. Additionally, according to the contract, Custom must furnish the necessary personnel to perform the activities specified in the contract.

**Comment 12** Custom states that it received 7,298 closing files during the 13 month considered by us during the audit. As a result, Custom increased its staff to handle the volume. The audit report did not identify the number of files that Custom received during our audit period. Additionally, according to the contract, Custom must furnish the necessary personnel to perform the activities specified in the contract.

**Comment 13** Custom believes that the report's reference to its review of 52 percent of the company closing files is misleading and inequitable representation of the volume of transactions it handled during the audit period. We disagree. Although we reviewed 25 percent of our statistical sample of 48 closing files, if we would have reviewed the entire sample of closing files, the results would not change the finding. In fact, in briefly reviewing the files, we determined that Custom had the similar issues and the number of deficiencies would have increased. Additional information regarding the statistical sampling used during the audit can be found in the Scope and Methodology section of this audit report.

**Comment 14** Custom contends that if we consider the 3,814 closings it completed during the audit period, then our review of only 25 files was a mere 0.65 percent of all closing conducted by the company. We disagree. Of the 5,339 sales that closed during our audit period, we determined that 939 sales took more than 90 days to close. Of the 939, we statistically selected and reviewed 25 files. Of the 25 files, Custom ordered the inspections for seven files. All seven files were not ordered timely. Our results are based on the review of 25 files. Further, had we projected the number of deficient cases to the universe of the 939 delayed closings, the number of files with deficiencies would have been higher. Additional information regarding the statistical sampling used during the audit can be found in the Scope and Methodology section of this audit report.

**Comment 15** Custom contends that 939 cases of the 5,339 files where closings occurred more than 90 days after contract ratification represents 17.5 percent of all files received and closed by Custom during the audit period, which means that more than 80 percent of real estate-owned properties were closed by Custom without any extensions or permitted delays. We disagree. The 939 delayed closing files represented the closings that were delayed more than 90 days; however, according to Custom's contract, closings should occur within 60 days. Therefore, using the time required by HUD to close a sales contract, of the 5,339 closings that occurred during our audit period, 2,117 closing files, which represents nearly 40 percent, were delayed sales closings.

**Comment 16** See comments 13 and 14.

**Comment 17** Custom states that it does not dispute that its contract contains the city presale inspection requirement, and the marketing and management contractor also contains this requirement, and historically the ordering of city pre-sale inspections was completed by the marketing and management contractor. The audit report clearly indicates that for seven files, in which Custom was contractually obligated to order the city pre-sale inspections, it did not timely submit the city presale inspections to appropriate cities for all seven files (100) percent. Although both Custom and HUD stated that it is not Custom's responsibility to order the city presale inspection, the contract states otherwise. Additionally, Custom did not provide an amendment to its contract that retracted this responsibility.

**Comment 18** Custom contends that from May through July 2008, it received a total of 624 closing files. However, from August to December 2008, this number increased and Custom received 5,215 closing files, which led it to double its staff. Although this may be true, Custom's contract applies to a maximum of 7,500 closing files in a year. The 5,839 (624 plus 5,215) closing files that it received during the previously mentioned time period represents only 78 percent of the maximum quantity of files under its contract.

Therefore, Custom should have adequate resources to meet the requirements specified in its contract since it was aware of the maximum closing files allowed under its contract.

**Comment 19** Custom contends that it had a backlog of 250 files due to the marketing and management contractor's failure to send the files and that we were aware of the backlog. We agree that Custom informed us of the 250 files; however, when we asked Custom to identify the files and provide us with a reconciliation that was done to identify the 250 files, Custom informed us that it did not maintain the requested records.

**Comment 20** See comment 5.

**Comment 21** Custom contends that it was forced to rely on the marketing and management contractor to order many of the city presale inspections. Therefore, it had no ability or authority to order many of these inspections. We disagree. The audit report addressed seven closing files in which Custom actually ordered the inspections.

**Comment 22** Custom states that it eventually ceased ordering city presale inspections in December 2008 with the consent of its HUD contract administrator. We disagree. According to Custom's contract, it was required to forward the applications for city presale inspections to the various cities within one day of receipt of the closing files. Additionally, Custom did not provide an amendment to its contract removing this requirement or documentation from HUD relieving it of this requirement.

**Comment 23** See comments 10, 11, 12, and 21.

**Comment 24** See comment 7.

**Comment 25** Custom states that regardless of whether it files extension requests before or after the contract's expiration date, as long as the inspection or abatement remains outstanding, this has no impact on the scheduling or conducting of the closing. We disagree. Without a valid extension to the sales contract, buyers are not contractually obligated to continue with the purchase and can request refunds of earnest money deposits. Executing extensions to sales contracts in a timely manner protects HUD's interest in the sale of its properties.

**Comment 26** Custom contends that the inspection or abatement delays the closing and the timely completion of these functions was out of its control. We disagree. According to its contract, if Custom receives the closing file, it is required to order the presale inspection. However, if the inspection cannot be ordered in a timely manner, according to its contract, Custom must proactively work with the marketing and management contractor to ensure that closings are performed in a timely manner. Additionally, delays in ordering presale inspections contribute to delays in the closing of HUD's properties.

**Comment 27** See comments 7 and 26.

**Comment 28** Custom contends that in March 2009 it received more than 1,700 new closing files for processing that the marketing and management contractor made the decision to issue several hundred blanket extensions on files that were near expiration, which the marketing and management contractor did without any input or filings made by Custom. We appreciate Custom providing this information. However, this information is not relevant since the files reviewed as a part of this audit was ratified during January 1, 2008, through January 31, 2009.

**Comment 29** Custom contends that the marketing and management contractor created the first extension for FHA case number 261-849791 and subsequently cancelled the contract. We disagree. In reviewing the first contract extension request form for the file, it showed that Custom signed the request form. Additionally, the remaining seven requests also identified signatures by Custom. If the marketing and management contractor initiated and filed the extensions requests, Custom did not provide any documentation/evidence showing that it did not sign the extension requests.

**Comment 30** Custom contends that for FHA case numbers 261-740221, 261-824255, and 263-385902 the marketing and management contractor was also responsible for these late extensions. We disagree. The extensions for the previously mentioned case numbers all contained signatures by Custom. Further, Custom did not provide us any documentation to determine that it did not sign these requests.

**Comment 31** See comments 12, 18, and 19.

**Comment 32** Custom stated that it sent letters to buyers and their agents on the same day that it received a copy of the city inspection in an attempt to schedule closings as soon as possible for case numbers 261-887081, 261-891015, 261-822921, 261-890338, and 261-868064 and that the buyers requested the additional time to close. We agree. In reviewing the documentation provided by Custom, we adjusted the audit report to reflect this information.

**Comment 33** See comment 32.

**Comment 34** Custom contends that it was not required to maintain a log of payments received or disbursed for cancelled sales contracts. We partially agree. Although Custom was not required to maintain a log of funds received for cancelled files, it was required to maintain complete and accurate accounting records. We adjusted the audit report to reflect this information.

**Comment 35** Custom contends that we failed to mention that it was unable to submit invoices to the marketing and management contractor for closing expenses until it received a letter from the marketing and management contractor cancelling the sale. Although this may be true, the marketing and management contractor provided documentation indicating that it sent cancellation letters electronically to the selling brokers and copied Custom for 29 of the 34 files identified in the audit report. However, Custom had not submitted invoices for these files.

**Comment 36** Custom provided a copy of an electronic mail responding to invoices for cancellation fees submitted and requested a cancellation letter from the marketing and management contractor. We disagree. In reviewing the documentation provided, we determined that the case number identified in the electronic mail was not included in our audit report.

**Comment 37** Custom contends that for FHA case numbers 261-700771 and 261-873180 it did not receive cancellation letters; therefore, it was forced to access the marketing and management contractor's system to generate the letters. We disagree. Custom did not provide documentation to substantiate its claim.

**Comment 38** Custom contends that for 5 of the 12 cancelled contracts, it notified the marketing and management contractor the next business day after each of the sales contracts expired and it provided notification letters as supporting documentation. We partially agree. In reviewing the documentation, we determined that for two of the five case numbers (261-831441 and 263-335035), the documentation referred to contract extensions that were not contained in the closing files. Therefore, based on the date of the previous extension or contract, the dates that Custom notified the marketing and management contractor that the sales cancelled were after the contracts and/or extensions had expired. Additionally, Custom did not provide documentation that it notified the brokers in writing that the sales did not

close and the marketing and management contractor was notified that the sales were cancelled for all five files. We made appropriate adjustments to the audit report to reflect the documentation provided by Custom.

- Comment 39** Custom stated the seven delayed transactions out of 7,298 files received during the audit period was .10 percent of all transactions it managed and processed. We disagree. Custom did not provide sufficient documentation to determine that five of the 12 files were supported. Therefore, all 12 of the cancelled files were not in compliance with its contract. Additionally, to accurately determine the percentage of delinquent transactions, this should be compared to the number of files reviewed. Therefore, of the 39 files reviewed, 12 (nearly 31 percent) were not in compliance.
- Comment 40** Custom contends that the audit report alleges it did not report to HUD and the marketing and management contractor the status of all cases on a weekly basis and did not provide HUD with an attachment to the weekly report summarizing the responsiveness, timeliness, and cooperation of the marketing and management contractor. We disagree. The report did not state that Custom did not report to HUD and the marketing and management contractor the status of all cases on a weekly basis. Instead, the audit report states that Custom did not provide required information to HUD. In particular, an attachment to the weekly reports summarizing the responsiveness, timeliness, and cooperation of the marketing and management contractor to facilitate timely closings as required under its contract.
- Comment 41** Custom provided documentation required by its new government technical representative under its current contract as evidence that it began providing the required attachment. We commend Custom for now complying with this requirement. However, this requirement was also a part of the previous contract effective during our audit period.
- Comment 42** Custom acknowledges that since April 2009 that it has fully implemented the real estate closing software as required under its contract. We commend Custom for complying with this requirement. However, this requirement was also included in the previous contract effective during our audit period.
- Comment 43** Custom strongly disagrees with the audit report's suggestion that the technical deficiencies described in the report indicates that it was performing unsatisfactorily and failed to uphold HUD's best interest in closing real estate owned transactions in Michigan. We disagree. The report states that HUD lacked assurance that Custom represented HUD's best interest and upheld a positive image of HUD as required under the performance measures of its contract. The report did not state that Custom performed unsatisfactorily and failed to uphold HUD's best interests.
- Comment 44** Custom contends that HUD has already determined that Custom is performing satisfactorily under its new contract and there was no basis for us to include a

recommendation that HUD actually consider the termination its contract. In addition to requesting that the recommendation regarding termination be removed from the final report, Custom also requests that the report's suggestion that it did not protect HUD's interest and uphold a positive image of HUD also be removed from the final report. We partially agree. However, HUD's review did not include a review of delayed or cancelled sales contract files. Therefore, we modified the recommendation as appropriate. However, the language regarding HUD's lack of assurance that Custom represented HUD's best interest and upheld a positive image of HUD as required under the performance measures of its contract remained in the audit report.

- Comment 45** Custom contends that the audit report's recommendation regarding the coordination between Custom and the marketing and management contractor regarding the ordering of city presale inspections and monitoring the status of the inspection applications to ensure that closings occur as soon as possible is not in Custom's authority. We disagree. Custom's contract requires the ordering of city presale inspections. Therefore, when Custom receives a closing file from the marketing and management contractor that did not contain documentation that the presale inspection was ordered, it should proactively coordinate with the marketing and management contractor to ensure that the closing occur as soon as possible after the sale contract is executed. Additionally, according to Custom's contract, upon receipt of the closing file, it should order the city presale inspection.
- Comment 46** Custom contends that the audit report should include a disclosure on the first page that the finding represents the view of OIG and do not constitute final determinations. The final determination will be made HUD's Assistant Secretary for Housing-Federal Housing Commissioner. We disagree. The issues identified in the audit report are based on Custom's contract and HUD's requirements. Further, our determination of compliance or noncompliance was based on the review of documentation maintained by Custom and provided upon request in connection with this audit.
- Comment 47** Custom contends that the final determination will be made by HUD's Assistant Secretary for Housing-Federal Housing Commissioner. We disagree. The Deputy Secretary makes the final determinations on the recommendations, if agreement cannot be reached. However, we reserve the right to report any disagreement in our semiannual reports to Congress.
- Comment 48** Custom requests that it be allowed to respond to our evaluation of its comments. We disagree. According to our audit operating procedures, we communicated with Custom throughout the audit through update meetings and correspondence. We provided Custom with schedules and conducted update meetings on the status of the audit. Additionally, we provided Custom the opportunity to respond to the discussion draft report and provide supporting documentation. If Custom does



not agree with our evaluation of its comments to the discussion draft report, it has the opportunity to work with HUD to resolve the audit recommendations.

## Appendix B

### SUMMARY OF NONCOMPLIANCE CLOSING FILES

FHA case number	Delays in closing (91-259 days)	Inspection not ordered in a timely manner	Closing not scheduled on time (27-31 days)	Extension filed late (4-95 days)	Reason for extension
261-845784	X			X	City inspection
261-740221	X			X	Buyer request
261-690439	X	X		X	City inspection
261-845879	X			X	City inspection
261-880469	X			X	City inspection
261-784538	X				City inspection - buyer request
261-867041	X	X		X	City inspection
261-824255	X			X	Lead-based paint
261-788723	X	X		X	Buyer request
263-268274	X	X		X	Lead-based paint
263-385902	X			X	Lead-based paint
261-813920	X			X	City inspection
261-890562	X			X	City inspection
261-687774	X	X		X	City inspection
262-151307	X				Buyer request
263-318848	X			X	Lead-based paint
261-746135	X				City inspection
261-745773	X		X	X	City inspection
261-887081	X				City inspection
261-891015	X	X			City inspection – buyer request
261-822921	X	X			City inspection
261-890338	X			X	Inspection
261-868064	X			X	City inspection
261-840894	X				Process delay
261-849791	X			X	Buyer request

## SUMMARY OF NONCOMPLIANCE CANCELLED FILES

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<b>Case number</b>	<b>Number of days delayed in cancellation</b>	<b>Untimely invoice submission</b>
261-698703	88	
262-153107	12	
261-846701	35	
261-675159	19	
262-149122	19	X
261-734476	7	
261-867012	11	X
261-899437	5	
261-831441	16	
261-896799	18	
261-700771		X
263-335035	16	
261-873180		X
261-875924	4	X

## Appendix C

### HUD'S REQUIREMENTS

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HUD's Property Disposition Handbook - One to Four Family (4310.5), REV-2, chapter 11, section 11-8, states that sales shall be closed as soon as possible after execution of the sales contract. For all individual property sales, the sales contract should provide for a specific time within which the sale shall be closed. Field offices shall follow up on each sale to ensure a timely closing or a contract cancellation, as appropriate.

Section 11-12 of the handbook states that if scheduled closing dates cannot be met, buyers may request extensions of the closing time. Such requests, as well as HUD's decision, must be in writing. All correspondence pertaining to extensions is to be maintained in the case file.

Section 11-16(c) of the handbook states that the closing agent shall maintain complete and accurate accounting records.

Custom's contract agreement with HUD, effective March 1, 2008, part C, performance work statement, states that the primary objective is to perform closings of HUD-owned properties as quickly as possible. Typically, a buyer is provided up to 60 calendar days to close the transaction. However, from time to time, HUD may offer special incentive programs to home buyers to close in a shorter period, such as 30 days after contract execution. The contractor must coordinate with the marketing and management contractor to affect the closing within the timeframe specified in the sales contract unless an extension is necessary due to circumstances outside the contractor's control.

Section B, task 2(d), states that the contractor must provide written notifications as required.

(1) Not less than 15 calendar days before the latest possible closing date, the contractor must provide the broker a written warning if a firm closing date has not been established, that the contract may expire.

(2) The next business day after the closing date stated on the contract, if no closing has occurred, the contractor must notify the broker in writing that the sale did not close and that the marketing and management contractor has been notified that the sale has been canceled. The deed shall be voided and returned to the marketing and management contractor if closing does not take place within seven calendar days of the special warranty deed.

Section C.2(l) of the contract states that to reduce the closing timeframe, Custom will advance the inspection fees on behalf of HUD and forward the applications to the various cities within one day of receipt of file. At settlement, Custom will show the inspection fees advanced, as a line charge to HUD.

Section C.2(c) of the contract states that Custom's software will have timetables built into it that will automatically send the required notification to the selling agents and the buyers. If a file

does not progress to the next closing level, the property will be flagged for monitoring. This property would show up on the end of the day report as a flagged file. This process will reduce the closing time due to title resolutions or inspection problems, as they will be monitored on a daily basis. Closing documents will be precise and accurate. The HUD I form would be sent to the marketing and management contractor for preclosing approval via e-mail. Fifteen calendar days before expiration, the software will generate required letters to the buyer and the selling agent notifying them of the pending expiration of contract date. If the contract expires and extensions are not filed, the software will notify Custom that this file is expired and will print the required cancellation documents. This process will ensure prompt notification to both the selling agent and the buyer of the closing timeframes and requirements.

Section G.2(c) of the contract states that the contractor must prepare and submit an original single-family accounting asset management systems form 1106, invoice transmittal, with an original signature, to the marketing and management contractor, along with appropriate supporting documentation (e.g., tax bill and proof of payment). Except for invoices for amounts advanced by the contractor on HUD's behalf at closing (which are to be included as part of the closing package), invoices may be submitted on a weekly basis; however, the contractor must submit all invoices for expenses incurred each month no later than the tenth calendar day of the following month.

Section C.1(b) of the contract states that the closings are fully completed and reconciled in the shortest timeframe possible but no later than the date specified in the sales contract (unless an extension of time to close has been approved).

- Section C.1(vi) of the contract states that on the first business day of each week, the contractor must electronically provide to the marketing and management contractor and government technical representative the following report:

(A) Closing status report. The current status of all cases assigned as of the close of business the previous Friday.

As an attachment to the closing status report, the contractor must provide a narrative report to the government technical representative summarizing the responsiveness, timeliness, and cooperation of the marketing and management contractor to facilitate timely closings. The summary shall address the marketing and management actions regarding submission of the initial case assignments, responses to extension requests, preclosing approvals and deed submissions, and any comments/complaints received about the marketing and management contractor. Information must be substantiated with specific case numbers or instances.