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Audit Report Number 2011-HA-0003

TO: Jemine Bryon, Chief Procurement Officer, Office of the Chief Procurement Officer, N
Theodore W. Tozer, President, Government National Mortgage Association, T

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FROM: Sandra G. Elion, Director, Headquarters Audit Division, GAH

SUBJECT: HUD Needs To Obtain Complete Documentation To Close Ginnie Mae Contracts

HIGHLIGHTS

What We Audited and Why

We audited the Office of the Chief Procurement Officer's (procurement office) procedures for closing out completed and expired Government National Mortgage Association (Ginnie Mae) contracts in compliance with applicable regulations. This audit was part of our audit plan for fiscal year 2010. Our objective was to determine whether the procurement office performed timely closeouts on completed and expired Ginnie Mae contracts.

What We Found

The procurement office did not obtain documentation from Ginnie Mae to close out completed and expired Ginnie Mae contracts in a timely manner. The procurement office did not follow the Federal Acquisition Regulation (FAR) and U.S. Department of Housing and Urban Development (HUD) guidelines for contract closeout procedures. In addition, Ginnie Mae did not follow HUD's guidelines for contract closeout. The procurement office did not have access to

Ginnie Mae's financial systems or data and Ginnie Mae did not always retain documentation needed to close aged contracts.

What We Recommend

We recommend that HUD's Chief Procurement Officer (1) ensure that her staff follows the closeout procedures and the FAR time standards for closing out contracts and (2) clearly define the type and frequency of financial data Ginnie Mae needs to provide to the procurement office to close out contracts.

We recommend that the President of Ginnie Mae require his staff to (1) follow the procurement office's policies and procedures for closing out contracts, (2) retain complete contract files until contracts are formally closed, and (3) routinely provide the required financial data to HUD's procurement office.

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.

Auditees' Response

We provided the discussion draft report to the procurement office and Ginnie Mae for comment on April 21, 2011. We held an exit conference with the procurement office on April 29, 2011, and with Ginnie Mae on May 11, 2011, to discuss the discussion draft report. Based on comments and additional information received at the exit conferences, we revised the draft report. The final draft report was provided to the procurement office and Ginnie Mae on June 14, 2011. The Chief Procurement Officer provided written comments on June 24, 2011, and the President of Ginnie Mae provided written comments on July 7, 2011, both generally concurred with our recommendations.

The complete text of the auditees' responses, along with our evaluation of those responses, can be found in appendix A of this report.

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BACKGROUND AND OBJECTIVE

The Office of the Chief Procurement Officer (procurement office) is responsible for awarding and administering contract actions for the U.S. Department of Housing and Urban Development (HUD). In addition to awarding contracts, the procurement office administers a large portfolio of existing contracts that have been completed or have expired and are ready for closeout. Contract closeout refers to the administrative actions taken to retire completed contracts (contracts in which all work has been finished, all deliverables have been received and accepted or otherwise disposed of, and all financial matters have been settled). The program office initiates the closeout process.

In September 2006, the headquarters procurement office implemented an aggressive closeout initiative to remedy the serious backlog of aged contract actions throughout HUD that were complete but not closed out in the procurement and accounting systems. This initiative was implemented to reduce the backlog of contract actions and liquidate millions of dollars remaining on HUD's books. The procurement office planned to accomplish this goal by hiring a contractor and developing a closeout function within the headquarters procurement office to close approximately 9,500 contract actions that were in the procurement systems. Currently the closeout contractors are responsible for closing contracts that were completed or expired before 2006 which included more than 300 Government National Mortgage Association (Ginnie Mae) contract actions.¹ During our previous review of the procurement office's closeout procedures for completed and expired contracts (Audit Report 2010-HA-0003, dated September 30, 2010), the Ginnie Mae contract actions were excluded from our review because the procurement office could not locate the Ginnie Mae contract files that we requested.

Ginnie Mae is a government-owned corporation within HUD that provides guarantees on federally insured mortgage-backed securities. At the time of our review, Ginnie Mae had a staff of approximately 70 employees and used various contractors to support its business processes. During fiscal year 2010, Ginnie Mae had 95 ongoing contract actions that were valued at approximately \$234 million. Unlike other HUD program offices Ginnie Mae did not receive appropriated funds to pay for contract services; contract services were paid for from revenues (fees and interest) generated from mortgage-backed-securities. In addition, Ginnie Mae must get approval from the Office of Management and Budget each year to fund its contracts. In fiscal year 2011, the contract authorization limit was \$64 million. Another unique aspect of Ginnie Mae's operations is that it has its own accounting system that is separate from HUD's accounting system.

Before 1998, Ginnie Mae was solely responsible for its own procurement actions. Since that time, HUD's procurement office has been delegated the authority for awarding and administering contracts for Ginnie Mae. However, Ginnie Mae's Procurement Management Division (Ginnie Mae procurement) (1) developed and implemented internal policies and procedures to plan and oversee Ginnie Mae contracts, (2) prepared all of Ginnie Mae's requests

¹ Contract actions include base contracts and task orders.

for contract services, (3) provided oversight of the government technical representative functions, and (4) supported Ginnie Mae's Office of Finance in analyzing financial aspects of the contracts.

The audit objective was to determine whether the procurement office performed timely closeouts on completed and expired Ginnie Mae contracts.

RESULTS OF AUDIT

Finding 1: The Procurement Office Did Not Close Out Ginnie Mae Contracts in a Timely Manner

The procurement office neither requested nor received adequate documentation from Ginnie Mae to close completed and expired contracts. The procurement office did not follow the Federal Acquisition Regulation (FAR) and HUD guidance. Ginnie Mae did not follow HUD guidance for contract closeout. Additionally, the procurement office did not have access to Ginnie Mae's financial system and records and Ginnie Mae did not retain the documentation needed to close out the backlog. As a result, Ginnie Mae's contract actions were not closed out in a timely manner and there was a backlog of more than 300 Ginnie Mae contract actions that should have been closed; hence, approximately \$500 million remained in HUD's procurement system as being obligated.

Documentation Not Provided To Close Contracts

The procurement office has overall responsibility for closing out all contracts but must coordinate this process with the program office and the contractor.² Although the procurement office has had responsibility for administering the Ginnie Mae contracts since the late 1990's, that office had not routinely received or requested documentation from Ginnie Mae to close contracts that had been completed or expired as early as 1996.

When a contract expires and all work has been completed the contract should be closed within the time standards established in subpart 4.804 of the FAR (48 CFR [Code of Federal Regulations], chapter 1). The standard practice in HUD to close a contract was to have the government technical representative³ create a request for contract services⁴ alerting the contracting officer that the contract is complete and available to be closed. The procurement office should then contact the contractor to obtain the contractor's release of claims.⁵

² This process is applicable to all HUD program offices and contractors for closing out contracts.

³ A program office employee appointed to a specific contract to support procurement office staff in technical and programmatic matters related to the contract. Chief responsibilities include maintaining a complete working file for each contract, monitoring and evaluating contractor performance, and inspecting products and services.

⁴ The request for contract services includes form HUD 720 (Request for Contract Services), form HUD 718 (used if deobligation of funds is needed), the contractor's final performance evaluation, final payment, payment registers, certification of deliverables, copies of reports, and other supporting documentation for the expired contract.

⁵ This is a final release discharging the government, and its officers, agents, and employees from all liabilities, obligations, and claims under the contract.

However, neither the procurement office nor Ginnie Mae followed these closeout procedures. Ginnie Mae's technical representatives did not notify or send the requests for contract services to the procurement office when contracts were completed. In addition, the procurement office did not request from Ginnie Mae, the documents it needed to close the contracts. Everyone's focus was on awarding, not closing, contracts.

As a consequence of not requesting or receiving documents, the procurement office did not follow the FAR to close out contracts in a timely manner. Specifically, the procurement office did not follow subpart 4.804-1 which specifies the time standards and subpart 4.804-5 which describes the administrative closeout procedures that must be used to close out contracts. Until late 2010, minimal emphasis was placed on closing out Ginnie Mae contracts because records were not available and the procurement office generally considered the closeout process to be a low priority.

Ginnie Mae's Role in the Contract Closeout Process

Chapter 12-16 of the HUD procurement handbook (2210.3 REV-9) clearly states that the government technical representative shall provide the contracting officer all documentation related to the performance of the contract. Our interviews with Ginnie Mae representatives disclosed that they were unaware of their responsibility to provide the closeout documentation to the procurement office. Ginnie Mae stated that they were told to wait for the procurement office to request the closeout documentation. However, we found no documented evidence to show that the procurement office told Ginnie Mae not to provide them with closeout documentation. Ginnie Mae acknowledged that they used the HUD procurement handbook for guidance and received annual training on the government technical representative's roles and responsibilities. Chapter 12-16 of the handbook specifically states

Closeout begins with the GTR's [government technical representative] submission of the final performance evaluation to the Contracting Officer.

Hence, Ginnie Mae's practice of waiting for the procurement office to request closing documents is contrary to the handbook requirements.

One key aspect of closing contracts is to have an accurate accounting of the funds (i.e., the payment registers as well as the final payment). However, when we inquired about the financial information for Ginnie Mae contracts we found that the procurement office did not have financial reports or access to Ginnie Mae's financial systems or data. This is an atypical arrangement, given that the other HUD program offices have a shared accrual and budgetary accounting system to

which the procurement office has access and from which it can obtain financial data when needed. Ginnie Mae, on the other hand, uses a different system based on generally accepted accounting principles, to track and report its financial information. If contracts are to be routinely closed upon their completion, the procurement office needs the financial documentation as well as the request for contract services documents to close out contracts on a regular basis.

Another aspect to closing contracts, according to chapter 12-16.C. of the HUD procurement handbook, is for the contracting officer to determine that “all contract requirements have been met and that the final payment amount is proper. The contracting officer must approve requests for final payments before they are processed.” However, because of Ginnie Mae’s independent financial accounting system, the procurement office cannot access the contract expenditure information it needs to close out the contracts. Therefore, the procurement office must rely solely upon Ginnie Mae to provide all financial information including the final payment information on all contract actions.

Strategy for Closing Out Backlog

In September 2006, the headquarters procurement office implemented an aggressive closeout initiative to remedy the serious backlog of aged contract actions throughout HUD that were complete but not closed out in the procurement and accounting systems. In its attempts to reduce the backlog of aged contract actions, the procurement office failed to close more than 300 completed and expired Ginnie Mae contract actions⁶ that dated back as far as 1996. According to the procurement office, these contract actions were valued at more than \$166 million.

The procurement office used contractors to conduct this closeout initiative. When the contractors began reviewing the backlog of Ginnie Mae’s aged contract actions in September 2010 they realized that they did not have the necessary financial data for closeout. At that time the procurement office contacted Ginnie Mae to obtain financial data for the aged contract actions.

In response to the requests for aged contract files, Ginnie Mae advised the procurement office that, “... per documentation retention policy, Ginnie Mae has not retained complete records for events that occurred greater than six years and nine months ago. Thus, for most of the contracts in question, we do not have documentation evidencing expended amounts, or confirmation of services rendered.”

⁶ These contract actions included task orders on 36 contracts.

In turn, the Chief Procurement Officer accepted Ginnie Mae's response and issued a memorandum dated March 9, 2011, that stated:

OCPO [the procurement office] has made a business decision to administratively close these contract actions unilaterally. . . . These contract actions will be closed using a streamlined procedure that consists of HUD Procurement System/Small Purchase System (HPS/SPS) generated modification and no formal notification to the contractor. Accordingly, this memorandum will serve as representation of a modification to be placed in all contract files that fall under the expedited closeout process.

The Chief Procurement Officer's memorandum will be used for all Ginnie Mae contract actions that expired before 2006. Hence, the closeout initiative contractor can close all Ginnie Mae contracts that were in the backlog without obtaining additional records or documentation.

We agree with the premise used to reduce the backlog of aged Ginnie Mae contract actions (actions with expiration dates before 2006); however, we believe that Ginnie Mae should have retained the government technical representatives' working files and provided those files to the procurement office so that contracts could have been officially closed.

Future Closeout Procedures

During our audit, the procurement office implemented an ambitious plan to close the current as well as the aged Ginnie Mae contract actions by December 31, 2011. As part of the plan, Ginnie Mae procurement sent all of its files for contracts that had expired after 2005 to the procurement office. Those files purportedly included the financial data and requests for contract services for 32 contracts that Ginnie Mae valued at \$518.6 million. However, because the procurement office had not determined, at the end of the audit, whether the requests for contract services corresponded to the applicable contract files or whether the files were sufficient to close the contracts, we were unable to verify the completeness of those files.

We recognize that progress had been made in closing aged Ginnie Mae contracts since our audit began, but it was evident from discussions with the procurement office and Ginnie Mae that there continued to be a disconnect regarding who should "take the lead" in closing out future contracts. Even though the guidance, as written, is ambiguous in sections, the procedures are clearly applicable to HUD program offices. However, given Ginnie Mae's unique structure and relationship

to HUD, we believe additional procedures are needed to ensure that the necessary financial documentation such as the “Contract Activity Report” is regularly provided to the procurement office and that all government technical representative working files are retained until the contracting officer formally closes the contract.

Without sufficient documentation, such as the contractor’s evaluation, final payment, payment registers and certification of deliverables, Ginnie Mae’s contracts were not closed out in a timely manner and resulted in the backlog of completed and expired contract actions. This situation resulted in approximately 340 Ginnie Mae contract actions that had expired but had not been closed.

Ginnie Mae contract actions that should be closed out		
Expiration Date	Contract Actions	
	Number	Amount
1995-2006	303	\$166,349,501
2006-2009	39	\$341,642,792
Total	342	\$507,992,293

Source: HUD’s procurement system, November 2010

It is important that contracts are closed out in a timely manner to ensure that the terms of the contract have been met before the contractor receives the final payment and the contractor releases the government from being obligated to pay additional claims on the contract.

HUD’s procurement system interfaces with the Federal Procurement Data System-Next Generation that is used by Congress, Federal agencies and the public. As such, it is important for HUD to accurately report the status of its procurement activities. As a result of Ginnie Mae’s completed and expired contracts remaining in HUD’s procurement system, HUD’s procurements were overstated by more than \$500 million.

Conclusion

If the Ginnie Mae contracts are to be closed in a timely manner, the procurement office must coordinate closely with Ginnie Mae throughout the contract period. Specific procedures must be established for obtaining financial data from Ginnie Mae because (1) Ginnie Mae’s financial system uses a different accounting basis than other HUD program offices and (2) the procurement office does not have access to Ginnie Mae’s financial systems or records.

Recommendations

We recommend that HUD's Chief Procurement Officer

- 1A. Ensure that her staff follows the closeout procedures and the FAR time standards for closing out contracts.
- 1B. Clearly identify the type and frequency of financial data Ginnie Mae needs to provide to close out contracts.

We recommend that the President of Ginnie Mae

- 1C. Require his staff to follow HUD's policies and procedures for closing out contracts, specifically the request for contract services and the final payment documents.
- 1D. Ensure that employees retain complete contract files until the contracts are formally closed by the contracting officer.
- 1E. Implement procedures to routinely provide to the procurement office the necessary financial data to close out contracts in a timely manner.

SCOPE AND METHODOLOGY

We performed our audit from October 2010 through March 2011 in Washington, DC at HUD headquarters and Ginnie Mae offices. Our audit generally covered the period January 1, 2004, through March 31, 2010.

To accomplish our objective we:

- Reviewed applicable laws, the FAR, HUD procurement handbook (2210.3 REV-9), HUD Acquisition Instructions and Ginnie Mae policies and procedures.
- Examined 18 Ginnie Mae contract files.
- Reviewed contract history reports from HUD's procurement system.
- Conducted interviews with procurement office staff members to determine their roles and responsibilities regarding the Ginnie Mae contracts and the closeout process.
- Conducted interviews with Ginnie Mae's Office of Finance and Ginnie Mae procurement to determine their roles and responsibilities regarding Ginnie Mae contracts and the closeout process.

To achieve our objective, we relied in part on computer-processed data from HUD's procurement system. Although we did not perform a detailed assessment of the reliability of the data, we performed a minimal level of testing and found the data to be adequate for our purposes.

The procurement office provided us with two lists of contracts separated by status. The first list was comprised of 40 contracts that had been completed or expired and the second list was comprised of 18 contracts that had been closed. The contracts we selected were not representative of the entire Ginnie Mae contract universe; therefore, we did not project our results to the entire universe. Of the 40 expired Ginnie Mae contracts, we chose eight contracts to review in detail. The contracts had two statuses (active/expired⁷ and active/in closeout⁸). From the list of completed and expired contracts we selected the following:

- One active/in closeout contract,
- Two contracts with the highest obligated amounts and
- Five contracts with the longest contract periods.

From the second list of closed contracts, we initially chose to review all 18 contracts. However, due to delays in receiving the contract files from the procurement office and directions from our management, we limited our review to 10 closed contracts. We reviewed the contract files, individual contract history reports, invoices and other applicable documentation to determine whether the completed and expired contracts should be closed and whether the closed contracts were closed in a timely manner.

⁷ Active/expired is when a contract's last option period has passed.

⁸ Active/in closeout is when a contract enters the closeout process.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding and conclusion based on our audit objective.

INTERNAL CONTROLS

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

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

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

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objectives

- Procedures that the procurement office had established with the program offices to effectively and efficiently administer HUD's contracts.

We assessed the relevant controls identified above.

Internal Control Deficiency

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

Based on our review, we believe that the following item is an internal control deficiency

- The procurement office did not have adequate controls in place to ensure compliance with the FAR and HUD closeout procedures when a contract was completed and expired.

APPENDIX


Appendix A

CHIEF PROCUREMENT OFFICER'S COMMENTS AND OIG EVALUATION

Ref to OIG Evaluation

Auditee Comments

Comment 1

	<p>U.S. Department of Housing and Urban Development Washington, D.C. 20410</p> <p>JUN 24 2011</p> <p>OFFICE OF THE CHIEF PROCUREMENT OFFICER</p> <p>MEMORANDUM FOR: Sandra G. Elion, Director, Headquarters Audit Division, GAH</p> <p>FROM: Jemine A. Bryon, Chief Procurement Officer</p> <p>SUBJECT: Final Draft Audit Report- Closeout Procedures on Completed and Expired Ginnie Mae Contracts</p> <p>OCPO appreciates the Inspector General's review of, and recommendations for HUD's Closeout procedures on the Ginnie Mae Contracts. OCPO concurs with the OIG's assessment that further improvements are needed to strengthen the department's close out procedures, and remains committed to improving HUD's overall closeouts. OCPO's responses to the recommendations are:</p> <p>RECOMMENDATION 1A: Ensure that her staff follows the closeout procedures and the FAR time standards for closing out contracts.</p> <p>OCPO concurs with the recommendation and will remind the staff to follow closeout procedures and the time standards for closing out contract actions. The reminder will originate from the Acquisition Instruction 08-1, Close out Procedures. Further, OCPO has included closeouts in contract specialists' EPPES.</p> <p>RECOMMENDATION 1B: Clearly identify the type and frequency of financial data Ginnie Mae needs to provide to close out contracts.</p> <p>OCPO concurs with the recommendation and will ensure Ginnie Mae is provided with clear identification of the types and frequency of financial data required for close outs. This will be accomplished by memorandum.</p> <p>For questions regarding this memorandum, please contact Mr. David Blocker at 202-402- 6907 or at David.S.Blocker@hud.gov.</p>
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OIG Evaluation of the Chief Procurement Officer's Comments

Comment 1 We agree with the Chief Procurement Officer's proposed actions.

GINNIE MAE'S COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation


Auditee Comments



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-9000

PRESIDENT, GOVERNMENT
NATIONAL MORTGAGE ASSOCIATION

July 7, 2011

MEMORANDUM FOR: Sandra G. Elion, Director, Headquarters Audit Division, GAH
FROM: Theodore W. Tozer, 
SUBJECT: Final Draft Audit Report – Closeout Procedures on Completed
and Expired Ginnie Mae Contracts

Ginnie Mae has reviewed the final draft report, as provided by the Office of Inspector General (OIG), on the procedures used to close completed and expired Ginnie Mae contracts. We appreciate OIG meeting with us to discuss the draft. Ginnie Mae's response to OIG's recommendations is as follows:

OIG Recommendations:

"We recommend that the President of Ginnie Mae require his staff to (1) follow the procurement office's policies and procedures for closing out contracts, (2) maintain complete contract files until contracts are formally closed, and (3) routinely provide the required financial data to HUD's procurement office."

Ginnie Mae Response:

Ginnie Mae appreciates the confusion that can occur between the Office of the Chief Procurement Officer (OCPO) and Ginnie Mae in managing Ginnie Mae's contracts. Our contracts are unique, in that they are covered under mandatory spending authority, while all other HUD contracts are funded through annual appropriations. Contracts that are covered by mandatory spending authority can span more than one fiscal year. Additionally, even though a contract is awarded for a stated dollar amount that is then reserved, GAAP accounting rules require that the funds not be obligated until the service being contracted has been invoiced. Contract features such as these, unique to Ginnie Mae contracts, do not necessarily lend themselves to the policies and procedures OCPO applies to contracts across the rest of HUD, contracts funded through the appropriations process. The confusion has been further compounded by the frequent turnover of the OCPO contracting officer responsible for Ginnie Mae contracts over the past four years.

Comment 1

www.hud.gov

espanol.hud.gov

Comment 2

To assure future contract closeouts are done in a more timely manner, Ginnie Mae will work with OCPO to (1) develop more relevant and consistently-interpreted procedures for Ginnie Mae contracts for use by OCPO and Ginnie Mae staff, and (2) improve the communications and coordination between our staffs to avoid the timing problems that the OIG auditors observed during their audit of the contracting closeout process.

If you have any questions, please contact Michael J. Najjum, Jr. at 202-475-4956, or Victoria Cabrera at 202-426-3908.

OIG Evaluation of Ginnie Mae's Comments

- Comment 1** We acknowledged the uniqueness of Ginnie Mae's structure, funding and accounting systems in the background and results of audit sections of this report. We did not make any recommendations about changing the accounting methodology.
- Comment 2** Although Ginnie Mae did not respond to our specific recommendations, these proposed actions should enhance Ginnie Mae's working relationship with the procurement office and should result in a more timely contract closeout process. However, the final decision regarding the proposed corrective actions on the OIG's recommendations will be determined during the audit resolution process.