

Federal Housing Finance Agency
Office of Inspector General



FHFA Should Name an Ombudsman and Document the Office of the Ombudsman's Procedures



AUD-2019-011

September 16,
2019

Executive Summary

The Federal Housing Finance Agency (FHFA) is charged by the Housing and Economic Recovery Act of 2008 (HERA) with oversight of Fannie Mae, Freddie Mac, the Federal Home Loan Banks (collectively, the regulated entities), and the Federal Home Loan Banks' fiscal agent, the Office of Finance. Since 2008, FHFA has also served as conservator of Fannie Mae and Freddie Mac.

HERA required FHFA to establish, by regulation, the Office of the Ombudsman. On February 10, 2011, FHFA adopted a regulation that established the Office of the Ombudsman and specified the authorities and duties of the Ombudsman. According to the regulation, the office is to be headed by an Ombudsman who will consider complaints and appeals from the regulated entities, Office of Finance, and any person that has a business relationship with a regulated entity or the Office of Finance regarding any matter relating to the regulation and supervision of such regulated entity or the Office of Finance by FHFA. The regulation further requires the Ombudsman to (1) establish procedures for carrying out the functions of the office, (2) establish and publish procedures for receiving and considering complaints and appeals, and (3) report, at least annually, to the FHFA Director on the activities of the office. In addition, the regulation establishes requirements for receiving and addressing claims of retaliation and ensuring that safeguards exist to preserve confidentiality.

In this audit, we sought to determine whether FHFA's Office of the Ombudsman conducts its operations in accordance with the law, regulation, and policies and procedures. The scope of this audit covered the period January 1, 2017, to March 31, 2019 (review period).

We found that the Office of the Ombudsman is not currently headed by an Ombudsman, as required by FHFA's regulation. In the absence of a permanent or acting Ombudsman, the functions and duties of the office have been performed by others. While FHFA has established an Ombudsman website which provides the public with required information about the office, the required procedures for carrying out the functions of the office have not been documented. We also found weaknesses in the tracking of complaints and documentation of the office's activities.

We make two recommendations in this report. In a written management response, FHFA agreed with the recommendations.

This report was prepared by James Lisle, Audit Director; Marco Uribe, Auditor-in-Charge, and Michael Rivera, Auditor; with assistance from Bob



AUD-2019-011

September 16,
2019

Taylor, Senior Advisor. We appreciate the cooperation of FHFA staff, as well as the assistance of all those who contributed to the preparation of this report.

The report has been distributed to Congress, the Office of Management and Budget, and others, and will be posted to our website, www.fhfaog.gov, and www.oversight.gov.

Marla A. Freedman, Deputy Inspector General for Audits /s/

TABLE OF CONTENTS

EXECUTIVE SUMMARY2

ABBREVIATIONS5

BACKGROUND6

 Establishment of FHFA’s Office of Ombudsman and its Authorities and Duties6

 Coalition of Federal Ombudsmen Guidance6

FACTS AND ANALYSIS.....7

 FHFA Has Not Had a Permanent Ombudsman since 2014, Nor an Acting
 Ombudsman since January 2019; However, the Functions and Duties of the Office
 Have Been Performed by Others7

 The Office of the Ombudsman’s Policies and Procedures Were Not Documented8

 Documentation of the Office of the Ombudsman’s Activities Was Not Consistently
 Maintained8

FINDING10

CONCLUSION.....10

RECOMMENDATIONS11

FHFA COMMENTS AND OIG RESPONSE.....11

OBJECTIVE, SCOPE, AND METHODOLOGY11

APPENDIX: FHFA MANAGEMENT RESPONSE14

ADDITIONAL INFORMATION AND COPIES15

ABBREVIATIONS

COFO	Coalition of Federal Ombudsmen
FHFA	Federal Housing Finance Agency
GAO	U.S. Government Accountability Office
Green Book	<i>Standards for Internal Control in the Federal Government</i>
HERA	Housing and Economic Recovery Act of 2008
OIG	Federal Housing Finance Agency Office of Inspector General

BACKGROUND

Establishment of FHFA’s Office of Ombudsman and its Authorities and Duties

HERA required FHFA to establish, by regulation, an Office of the Ombudsman.¹ On February 10, 2011, as presented in the Executive Summary of this report, FHFA published and adopted a final regulation amending its regulations to establish the office and specify the authorities and duties of the Ombudsman.²

Coalition of Federal Ombudsmen Guidance

According to the Government Accountability Office (GAO), an ombudsman, or ombuds, is a dispute resolution practitioner who (1) receives complaints, concerns, and questions from individuals; (2) works to resolve these issues, making recommendations on individual matters where appropriate; and (3) brings to an entity’s attention chronic or systemic problems and makes recommendations for improvement.³

The Coalition of Federal Ombudsmen (COFO) is an organization of ombudsman practitioners within the federal government and is the principal interagency forum that provides collaboration, advice, and guidance on professional ombudsman standards, skills development, program development, and effectiveness. In May 2006, COFO issued guidance that provides best practices for federal ombudsman offices. COFO’s manual, *A Unified Model for Developing an Ombudsman Function*,⁴ provides a roadmap and model for structuring and implementing ombudsman programs that are an organizational “best fit.” *A Guide for Federal Employee Ombuds*⁵ is intended for use by federal employee ombudsmen in connection with their functions for the federal government. Among other things, the guidance suggests that an agency designing its ombudsman program consider policies and procedures that include establishing roles and responsibilities, customer service standards, time frames, records

¹ Pub. L. No. 110-289, § 1105(e) (codified at 12 U.S.C. § 4517(i)).

² FHFA, *Office of the Ombudsman*, 76 Fed. Reg. 7479 (Feb. 10, 2011) (codified at 12 C.F.R. Part 1213).

³ See General Accounting Office, *The Role of Ombudsmen in Dispute Resolution* (Apr. 2001) (GAO-01-466) (online [here](#)). In 2004, the General Accounting Office’s name was changed to the Government Accountability Office.

⁴ See COFO, *A Unified Model for Developing an Ombudsman Function* (May 9, 2006) (online [here](#)).

⁵ See COFO and Federal Interagency Administrative Dispute Resolution Working Group Steering Committee, *A Guide for Federal Employee Ombuds, A Supplement to and Annotation of the Standards for the Establishment and Operations of Ombuds Offices Issued by the American Bar Association* (May 9, 2006) (online [here](#)).

creation and retention practices, standards of practice, case management procedures, and professional development or training plans.

* * * * *

Our objective for this audit was to determine whether FHFA’s Office of the Ombudsman conducts its operations in accordance with the law, regulation, and policies and procedures. The scope of this audit covered the period January 1, 2017, to March 31, 2019 (review period).

FACTS AND ANALYSIS

FHFA Has Not Had a Permanent Ombudsman since 2014, Nor an Acting Ombudsman since January 2019; However, the Functions and Duties of the Office Have Been Performed by Others

The regulation⁶ requires the Office of the Ombudsman to be headed by an Ombudsman responsible for considering complaints and appeals from the regulated entities, Office of Finance, and any person that has a business relationship with a regulated entity or the Office of Finance regarding any matter relating to the regulation and supervision of such regulated entity or the Office of Finance by FHFA. FHFA has not named a permanent Ombudsman since 2014.⁷ The former Director’s Chief of Staff served as the Acting Interim Ombudsman from October 2015 until she left FHFA in January 2019. Since then, the FHFA Ombudsman position has been vacant. FHFA officials told us that the functions and duties of the office are currently being performed by an Executive Assistant in the Office of the Director, overseen by the Director’s Chief of Staff, but no employee has been named to act in the Ombudsman position. The officials explained that those functions and duties include receiving complaints through the Ombudsman’s voicemail, email, fax, and U.S. mail; tracking the complaints using the Ombudsman Tracking Log; assessing whether the complaints are appropriate for the Ombudsman’s consideration; conducting inquiries and facilitating resolution of the complaints; and reporting annually to the Director on the activities of the Office of the Ombudsman.

⁶ As required by HERA (Pub. L. No. 110-289, § 1105(e), codified at 12 U.S.C. § 4517(i)), FHFA published the final regulation, *Office of the Ombudsman*, 76 Fed. Reg. 7479 (Feb. 10, 2011) (codified at 12 C.F.R. Part 1213).

⁷ The last named Ombudsman held the position from August 2011 to May 2014.

The Office of the Ombudsman’s Policies and Procedures Were Not Documented

The regulation requires that the Ombudsman (1) establish procedures for carrying out the functions of the Office of the Ombudsman, (2) establish and publish procedures for receiving and considering complaints and appeals, and (3) report annually to the Director on the activities of the office, or more frequently, as determined by the Director. In addition, management’s communication of responsibilities through documented policies and procedures is a basic tenet of internal control as cited in *Standards for Internal Control in the Federal Government* (the Green Book).⁸ Effective documentation can assist in management’s design of internal controls, for example, ensuring that functions and duties of the office are performed in accordance with professional best practices, such as those promoted by COFO. Such documentation also provides a means to help retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel.

We found that FHFA has established an Ombudsman website, which provides the public with information about the Ombudsman’s mission and duties, instructions on how to contact the Ombudsman, and a description of how the Ombudsman protects complainant confidentiality.⁹ During our review, we inquired of the Executive Assistant about written procedures for carrying out the functions of the Office of the Ombudsman and were told that none existed.

Documentation of the Office of the Ombudsman’s Activities Was Not Consistently Maintained

FHFA provided us with the Ombudsman Tracking Log for our review period that showed the Office of the Ombudsman received 125 complaints. The employees assigned to handle the responsibilities of that office determined that five were appropriate for consideration by the Office of the Ombudsman in accordance with its role, as defined in the regulation. By way of example, many of the remaining 120 complaints were from consumers about terms of their mortgages with financial institutions which fall outside the scope of the Ombudsman’s duties.

⁸ 31 U.S.C. §§ 3512(c) and (d) requires the Comptroller General to issue these standards. The Green Book is published by the Government Accountability Office; see GAO-14-704G (Sep. 2014) (online [here](#)). The Green Book adapts for the government environment the principles related to the five components of internal control (Control Environment, Risk Assessment, Control Activities, Information and Communication, and Monitoring) introduced by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). See Principle 3 – Establish Structure, Responsibility, and Authority, page 27.

⁹ The FHFA public website regarding the Ombudsman is available at www.fhfa.gov/AboutUs/Pages/About-The-Ombudsman.aspx. As of July 11, 2019, the website contained outdated information; specifically, it listed the then-FHFA Director’s Chief of Staff (who left FHFA in January 2019) as the Acting Interim Ombudsman. After we brought this to FHFA’s attention, the website was updated to remove the reference to the former Acting Interim Ombudsman.

Based on our review, there was no assurance that the Ombudsman Tracking Log was complete because (1) not all complaints were input sequentially by date, (2) six complaints in the Ombudsman Tracking Log had typos or omissions with regard to the submission or resolution dates, and (3) there were no procedures to reconcile the Ombudsman Tracking Log to the Ombudsman’s inbox used to maintain the original complaint submissions.

According to the Green Book, management is to clearly document all transactions and other significant events in a manner that allows the documentation to be readily available for examination.¹⁰

We tested 25 of the 125 complaints and found:

- For the five complaints deemed appropriate for consideration by the Office of the Ombudsman, we found that three had a reasonable rationale for the resolution documented in the Ombudsman Tracking Log. For the other two complaints, we could not determine whether the rationale for resolution was reasonable because it was not documented. The Executive Assistant told us that she was directed, by the then-Acting Interim Ombudsman, to document in the Ombudsman Tracking Log that these two complaints had been closed. We also noted that four of the complaints were resolved in 90 days or less, while the fifth complaint took over 13 months to resolve.¹¹
- Our testing of 20 complaints that were determined not appropriate for consideration by the office found that the determination was consistent with the role of the office, as defined by the regulation. The Ombudsman Tracking Log showed that these complaints were either: closed upon receipt because the complaint was indecipherable (2 complaints), forwarded to FHFA’s Consumer Help Division¹² (14 complaints), forwarded to FHFA’s Office of General Counsel (3 complaints), or forwarded to a regulated entity (1 complaint). These complaints were either closed or forwarded within 7 days of receipt.¹³ For 18 of these complaints, the office provided

¹⁰ See GAO, Green Book, Principle 10 – Design Control Activities, page 48.

¹¹ FHFA did not have a documented customer service standard for time to resolution, a suggested practice in *A Unified Model for Developing an Ombudsman Function*.

¹² FHFA’s Consumer Help function resides within its Office of Congressional Affairs and Communications division and is responsible for resolving consumer complaints and forwarding the complaints to the appropriate party (e.g. the regulated entities, FHFA-OIG).

¹³ According to the Executive Assistant, her goal was to act on complaints within seven days.

documentation supporting the recorded disposition, but could not provide supporting documentation for the remaining 2 complaints.¹⁴

We found that the Office of the Ombudsman, consistent with the regulation, submitted annual reports summarizing the activities of the office to the Director for both calendar years 2017 and 2018 in our review period.

FINDING

Our audit identified the following shortcomings with FHFA’s compliance with the regulation:

- FHFA’s Office of the Ombudsman is not currently headed by an Ombudsman; and,
- The Office of the Ombudsman does not have written procedures for carrying out the functions of the office.

Our audit also found that documentation of the Office of the Ombudsman’s activities was not consistently maintained in accordance with government-wide internal control standards.

As a result of these shortcomings, there is an increased risk that complaints and appeals directed to FHFA that are within the purview of the Ombudsman may not be properly and timely tracked, considered, and resolved.

CONCLUSION

FHFA established an Office of the Ombudsman; however, the office is not currently headed by an Ombudsman, as required by the regulation. In the absence of a permanent Ombudsman, the functions and duties of the office, including the submission of required annual reports to the Director summarizing the activities of the office, have been performed by others. However, we found weaknesses in the tracking of complaints and instances where the documentation of Ombudsman activities was not consistently maintained. While FHFA has established an Ombudsman website that provides the public with required information about the office, procedures for carrying out the functions of the office have not been documented.

¹⁴ The Ombudsman Tracking Log shows that these two complaints were forwarded as complaints not appropriate for consideration by the Ombudsman, but the Office of the Ombudsman was unable to provide documentation to support that fact.

RECOMMENDATIONS.....

We recommend that FHFA:

1. Name an Ombudsman, and ensure that the position is continuously filled going forward, and
2. Develop written procedures for carrying out the functions of the Office of the Ombudsman, to include procedures for documenting that all incoming complaints and appeals are tracked, considered, and appropriately resolved. In developing these procedures, the guidance published by the Coalition of Federal Ombudsmen should be taken into consideration.

FHFA COMMENTS AND OIG RESPONSE.....

OIG provided FHFA an opportunity to respond to a draft of this audit report. FHFA provided technical comments on the draft report and those comments were considered in finalizing this report. FHFA also provided a management response, which is included as the Appendix to this report. In its response, FHFA agreed with both recommendations and stated that it has begun, or plans to begin taking the following corrective actions.

1. FHFA is currently evaluating its options for the Ombudsman position, taking into consideration the statutory and regulatory requirements for the position and the limited volume of Ombudsman-related complaints received annually. FHFA expects to name an Ombudsman by January 31, 2020.
2. FHFA will develop written procedures for the Office of the Ombudsman by April 30, 2020, which will be tailored to FHFA's size and volume of incoming complaints, taking into consideration external examples and best practices.

FHFA's planned corrective actions are responsive to our recommendations.

OBJECTIVE, SCOPE, AND METHODOLOGY.....

We conducted this audit to determine whether FHFA's Office of the Ombudsman conducts its operations in accordance with the law, regulation, and policy and procedures. The scope of this audit was from January 1, 2017, to March 31, 2019 (review period).

To accomplish our objective, we:

- Reviewed the following documentation:
 - Federal Housing Finance Agency, *Office of the Ombudsman*, 76 Fed. Reg. 7479 (Feb. 10, 2011) (codified at 12 C.F.R. Part 1213)
 - GAO-14-704G, *Standards for Internal Control in the Federal Government* (September 2014)
 - COFO, *A Guide for Federal Employee Ombuds: A Supplement to and Annotation of the Standards for the Establishment and Operations of Ombuds Offices Issued by the American Bar Association* (May 9, 2006)
 - COFO, *A Unified Model for Developing an Ombudsman Function* (May 9, 2006)
- Reviewed FHFA’s Office of the Ombudsman website.
- Interviewed FHFA personnel to gain an understanding of the Office of the Ombudsman’s process for receiving, processing, and reporting the results of complaints received by the office.
- Reviewed the Ombudsman Tracking Logs covering our audit period to determine the population of complaints received and considered by the office.
- Reviewed all 5 complaints that FHFA determined appropriate for consideration by the Ombudsman to assess whether this determination was consistent with the role of the office defined in the regulation, appropriate action or a reasonable rationale for resolution was documented in the Ombudsman Tracking Log, and this resolution was reached within a reasonable timeframe.
- Reviewed a non-projectable sample of 20 complaints FHFA determined were not appropriate for consideration by the Ombudsman to assess whether this determination was consistent with the role of the office defined in the regulation, the action documented in the Ombudsman Tracking Log was supported, and this resolution was reached within a reasonable timeframe.
- Reviewed the 2017 and 2018 *Ombudsman Report to the Director* to determine whether statements made in the reports were consistent with the Ombudsman Tracking Log.

We conducted this performance audit from March 2019 through September 2019 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 the findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.


APPENDIX: FHFA MANAGEMENT RESPONSE.....



Federal Housing Finance Agency

MEMORANDUM

TO: Marla Freedman, Deputy Inspector General for Audits

FROM: John Roscoe, Chief of Staff 

SUBJECT: Management Response to the Draft Audit Report: *FHFA Should Name an Ombudsman and Document the Office of the Ombudsman's Procedures*

DATE: September 10, 2019

Thank you for the opportunity to respond to the draft management report titled, *FHFA Should Name an Ombudsman and Document the Office of the Ombudsman's Procedures* (Report). In the draft Report, the Office of Inspector General (OIG) makes two recommendations for the Federal Housing Finance Agency (FHFA). We agree with the Report's recommendations and will take appropriate actions to address them.

Recommendation 1: *Name an Ombudsman, and ensure that the position is continuously filled going forward.*

Management Response: We appreciate OIG's acknowledgment that, although the FHFA did not have a named Ombudsman, the functions and duties have been performed by others during the audit period. FHFA is currently evaluating its options for the Ombudsman position, taking into consideration the statutory and regulatory requirements for the position and the limited volume of Ombudsman-related complaints received annually. FHFA expects to name an Ombudsman by January 31, 2020.

Recommendation 2: *Develop written procedures for carrying out the functions of the Office, to include procedures for documenting that all incoming complaints and appeals are tracked, considered, and appropriately resolved. In developing these procedures, the guidance published by the Coalition of Federal Ombudsmen should be taken into consideration.*

Management Response: By April 30, 2020, FHFA will develop written procedures for the office of the Ombudsman that will be tailored to the Agency's size and volume of incoming complaints, taking into consideration external examples and best practices.

Cc: Chris Bosland
Larry Stauffer
Mark Laponsky
John Major

ADDITIONAL INFORMATION AND COPIES.....

For additional copies of this report:

- Call: 202-730-0880
- Fax: 202-318-0239
- Visit: www.fhfaoig.gov

To report potential fraud, waste, abuse, mismanagement, or any other kind of criminal or noncriminal misconduct relative to FHFA's programs or operations:

- Call: 1-800-793-7724
- Fax: 202-318-0358
- Visit: www.fhfaoig.gov/ReportFraud
- Write:

FHFA Office of Inspector General
Attn: Office of Investigations – Hotline
400 Seventh Street SW
Washington, DC 20219