White Paper:

BEST PRACTICES FOR MANAGING A LIEN RELEASE PROVIDER

By Joellen Thompson

This white paper is written for mortgage servicers that manage the lien release process as a final step in processing mortgage loan payoffs. This report covers best practices for managing third party service providers for the processing of lien release documents, with attention to new OCC, CFPB and National Mortgage Settlement requirements.

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Of the many tasks the modern mortgage loan servicer must complete in the course of the workday, perhaps lien release management offers the fewest tangible rewards for the effort. Executives that run successful firms in this industry are busy managing a wide range of tasks while trying to stay focused on the core, revenue generating portions of their businesses. They know that's the key to overall success. Unfortunately, lien release management is among the tasks that does not contribute directly to bottom line success, but if improperly handled can lead to significant costs.

Regulators and legislators have realized that lien release management is an important part of the work the industry must complete in order to keep the marketplace running smoothly for consumers. While it is not a profit center for the servicer nor is it an area in which they have any hope of distinguishing themselves in the marketplace, failure to perform in this area can lead to significant dissatisfaction on the part of borrowers. Failure to properly manage your vendors could also lead to substantial trouble for mortgage lenders and servicers under new regulations. Controls to manage vendors on various aspects need to be in place like never before. Most companies hope to complete this work in a timely manner to avoid penalties for non-compliance at the lowest possible cost.

This paper is designed to shed light on how the industry's strongest competitors accomplish that. It will share a set of best practices that can make any mortgage loan servicer adept at managing the lien release documentation portion of their work while expending the least possible resources.

A New Age of Compliance

Evaluating the vendor on their compliance controls and standards is no easy task. A cookie-cutter approach is not

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recommended, each vendor is not the same and each practice has its own unique set of challenges. New regulations require that you have controls in place to manage your vendor relationships on a whole new level. Being prepared for those changes is critically important.

Here are the top 10 hottest issues that you should consider when evaluating your current vendor or your own internal practices:

1) Compliance to Office of the Comptroller of Currency (OCC), Consumer Financial Protection Bureau (CFPB) and National Mortgage Settlement standards relating to managing vendors
2) Audited and validated security protocols
3) Processes and procedures clearly outlined in writing with supporting flow charts
4) Audited internal policies and practices
5) Document review and signing practices
6) Signing Authority Database management and authorized signer protocols
7) Indemnification offered by the vendor for work performed
8) Access to national attorney network to review document forms nationwide regularly
9) Vendor's ability to resolve missing intervening assignment issues
10) Proficiency in conducting chain of title research

Benefit of Using a Third Party for Lien Releases

U.S. financial services companies must operate within the lines drawn for them by regulators at every conceivable layer of government. Every county in the nation has its own set of rules governing the format, document type, required verbiage, recording fees and timelines for lien releases. In most cases, they are not standardized within state lines. Subtle differences from jurisdiction to jurisdiction can cost servicers thousands of dollars in fees and penalties.

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Compliance is a top concern for most mortgage servicers, and with good reason. The risks associated with noncompliance are too great to ignore.

> "Compliance is a top concern for most mortgage servicers, and with good reason."

At one time the state of Pennsylvania, for instance, assessed non-compliance penalties that could range as high as the amount of the unpaid mortgage. In a case like that, the lien release could end up costing the servicer hundreds of thousands of dollars. While most jurisdictions don't have penalties this severe, even penalties ranging from $500 to $25,000 per occurrence—which is closer to what servicers expect to see when they compare penalties across the nation—can destroy a company if applied to an entire pool of loans of average loan balance.

In light of this, many successful loan servicing organizations are assigning the lien release process to third party service providers with dedicated teams of individuals that specialize in this process.

Controls to Manage Authorized Signers

Signing practices have come under critical scrutiny in the mortgage industry. Controls on corporate resolutions granting signing authority, how to deactivate signers and electronic modules within the system to assign statuses to authorized signers are more important than ever before. A best practice is to create a signing authority database to manage the process and allow for various statuses for signers that can be adjusted at any time. Statuses such as, Qualified, Active, Suspended and Removed, are important to give you flexibility to manage the process. A signing authority database establishes the system protocols required to ensure your signing process is being done accurately and legally. Most of all it should give you peace of mind knowing you have proven procedures in place to prevent abuse.

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When considering a vendor's signing authority database, or evaluating your own internal process, the following points are recommended to be on the top of the list.

a) It is recommended that a vendor maintain each corporate resolution in its own record separated by client, with the capability of controlling the signer's availability status per each client/corporate resolution. Broad, system-wide changes are no longer sufficient. The ability to control it down to the smallest detail is imperative.

b) There are four recommended statuses, *Qualified, Active, Suspended, Removed.* The names of the authorized signers should be assigned to the various statuses so that you can make changes on a moment's notice that will reach through to all documents, including those in progress before they have been sent. As an example, if a new corporate resolution is issued that removes an authorized signer, best practices would dictate the removal of the authorized signer when the new corporate resolution is submitted. But, in order to maintain multiple controls in this case, you would need to have the capability of changing the signer's status from *Active* to *Removed* at the push of a button. Thereby immediately pulling ALL documents off the production line with that authorized signer's name.

   The status of *Qualified* is helpful so that you can manage teams of signers for variable workload, and have a pool of qualified personnel fully trained to substantially review and then sign documents, even if not yet marked *Active*. You then have additional *Qualified* authorized signers on hand for volume demands, but until they are marked *Active,* system controls will not allow the document to print or electronically generate.

The OCC is monitoring this process closely. New rules that apply as a result of the National Mortgage Settlement, now require that the top banks manage their vendors' signing practices and that they only sign when authorized. It is not just

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the top 5 banks that should be concerned though. Although there is no specific rule governing this process for everyone else, it is expected that all lending and servicing institutions should monitor their vendors in this way and have adequate controls in place to protect homeowners.

Your vendor's system needs to be failsafe with protocols in place to monitor and control all aspects of authorized signers and corporate resolutions granting signing authority, so that you can verify and have confidence that all your documents are legally prepared and signed. It comes down to having the technology to manage the process. The system needs to also have an eArchive process. This system records every step taken and can be used as evidence to prove that your signing process is complete, error free and adheres to all applicable laws.

"A collaborative approach is best. Share updates with your vendor and your vendor should update your own system."

Managing Lien Release Forms Nationwide

Under new OCC requirements, a mortgage lender/servicer must review their vendor's document forms. As a recommended best practice, you should conduct a review of your lien release provider's forms at least once per year. Forms change and requirements change on a regular basis. A collaborative approach is best. Share updates with your vendor and your vendor should update your own system. The process will run smoother if your vendor is flexible enough to meet your needs, and provides you with assurances to let you know that they are on top of every detail.

Additionally, your vendor should have a network of attorneys in place for every state to call upon to review, correct and approve the use of every version of a document form used in that state. This ensures the highest level of compliance relating to document forms.

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Value Proposition for Lien Release Outsourcing

Many mortgage servicers experience real benefits by assigning lien release processing and management work to an external team. There are a number of reasons for this.

1) Once the relationship is in place, sending out work is easy.

Like any other business relationship, setting up to outsource lien releases takes some effort early on, but unlike outsourcing more complex processes, lien release work is typically easier to outsource. Services can either send work to the vendor on a batched basis or set up a workflow that allows the servicer's personnel to send files to the vendor as the work presents itself. Most servicers find that the right vendor can make assigning new work fairly simple.

> "With the right [Service Level Agreements] in place, most servicers will find managing the lien release process fairly straightforward."

2) It's easier than most processes to manage effectively.

The lien release process can be easily scoped, tracked and gauged for success, allowing firms to easily establish meaningful and manageable service level agreements (SLA's). With the right SLA's in place, most servicers will find managing this relationship fairly straightforward. The key to establishing correct lien release SLA's is first driven by the statute compliance deadlines, also called Out Of Compliance (OOC) timeframes.

3) It solves staffing volatility.

The need to recruit, train and deploy new full time employees every time a spike in refinances occurs is mitigated. Staffing volatility is a huge problem for mortgage servicers and most are actively seeking solutions that will allow them to handle changes in workload effectively.

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4) It mitigates the risk of high out-of-compliance penalties.

The costs of non-compliance are very high. Most good vendors will offer compliance guarantees that can shield the servicer from this risk.

In short, lien release work falls into a category defined by tedious, exacting work, high risks associated with failure and no profit potential for the company.

Choosing an outside vendor is the answer for effective lien release management, but choosing the right partner, establishing the basis for a strong partnership, and tracking the right metrics are critical to overall success.

Best Practices for Choosing a Lien Release Partner

The key word here is *partner*. You want to be sure to engage a company that you feel confident will work *with* you to meet your needs and go that extra mile for you. Before embarking on a search for a new vendor partner, it is recommended that you create a list of criteria that any prospective vendor must meet in order to be considered. The following criteria can be considered best practices for establishing such a partnership.

> "The best way to gauge preparer performance is by monitoring the county document rejection percentage. This should be below 3%."

1) Demand a specific commitment to accuracy and compliance.

As mentioned above, the highest concern among mortgage servicers is typically compliance. This boils down to the accuracy of the database containing the statutory deadlines, requirements and document format guidelines for all recording jurisdictions nationwide. An effective way to gauge preparer performance is by monitoring the county document rejection percentage. This should be well below 3%. But beyond that, the vendor must address the proactive as well as the reactive by maintaining constant proactive contact with recorders and working with them to perfect the submission process.

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Regardless of how well a potential lien release partner performs, a strong indemnity policy is a must. This coverage protects the mortgage servicer by putting any potential liabilities springing from non-performance or noncompliance on the shoulders of the vendor hired to perform the task. In the lien release market this is an indication of the vendor's confidence in its own ability to provide timely and accurate lien releases.

2) Demand a commitment to fulfilling the SLA.

Most vendors typically agree to meet your service level agreement (SLA) requirements. Most do, but there always exists the possibility that SLA timelines will be compromised. When the completion of the work is dependent on outside parties, service level agreements can become hard promises to keep.

> "If the company's core competencies are focused on lien releases, then they should have no problem staffing up quickly to meet the servicer's volume demands."

If the outsourcer is competent and accurate, maintaining service level agreements should never be a problem. With that said, it is important to be leery of outsourcers that promise service level agreements that sound too good to be true; as with most things, they usually are. If an outsourcer seems to be promising a service level agreement that's extremely expedient, look at their rejection percentage. If it is above 3 percent, they may be making errors due to rushed and unmanaged work.

3) Require a strong focus on the lien release business.

Most good vendors in this market segment will find that the infrastructure they maintain is suitable for a range of services. Regardless of which services the vendor offers, a good lien release partner will demonstrate a strong focus on lien releases.

A dedicated infrastructure not only means providing a sufficient number of full time employees, but that the compliment is filled with knowledgeable staff. If the company's core competencies

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are focused on lien releases, then they should have no problem staffing up quickly to meet the servicer's volume demands with an experienced team.

Some outsourcing companies make the mistake of redeploying human resources when they perceive higher profit potential in another area. A quality outsourcing partner will have a dedicated staff seasoned in handling lien releases.

4) Require the vendor to conform to your business.

One should not confuse a proficiency in a certain process with a standard for doing business for the servicing company as a whole. Too often, outsourcers will put undue demands on a servicing shop, disguising those demands as required conditions necessary to achieve success. Experience indicates that the surest path to success lies in changing as little as possible about the servicer's infrastructure while delivering a high quality service that meets a realistic service level agreement. The best results are achieved when both the servicer and the vendor can share best practices that make both more effective.

"Successful outsourcing arrangements today are built on solid technology that provides seamless integration."

In most cases, servicers will find that to be most effective, the vendor should develop a custom workflow to interface smoothly with the servicer's team. The best vendors are adept at doing this.

This means that an effective lien release partner must be willing to customize everything about its service in order to fit well with the way the servicer does business.

5) Require a commitment to providing adequate technology.

Successful outsourcing arrangements today are built on solid technology that provides seamless integration with appropriate data security and transparency from the first time data is touched until the process is completed. While there are many

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ways to judge a technology platform, there are certain elements that must be included in order to create an effective outsourcing partnership.

Full integration with a new vendor should take no more than 30 days. Reporting and auditing should be built in, real time and accessible remotely. Workflow should be completely automated and the outsource partner should be able to quickly locate any release in the pipeline at any time. Because of federal regulation, these technologies should be certified by a third party. See more below.

6) Require third party validation of vendor claims.

An important part of the due diligence process for any outsourcing initiative involves seeking out third party endorsements of the prospective partner.

Most firms will have a set of business references handy. In the case of the lien release business, a good partner will also have paperwork available to establish its successful completion of third party audits and reviews.

"In today's marketplace your vendor *must* be SSAE-16 certified."

The best vendors have invested a significant amount of money meeting these requirements. The audit costs required to operate as a service provider to mortgage banking and financial service companies have nearly tripled in the past few years. In today's marketplace your vendor *must* be SSAE-16 SOC-I certified (previously called a SAS-70 Type II audit), and have regular ISO audits, reviewed financials, disaster recovery, business continuity plans, HR audits, and security audits. All of which should be readily available for your review.

7) Demand Transparency.

Arguably the most important point in the use of any vendor is their transparency. Will that vendor act as if they are a part of your shop, seemingly "working right down the hall" from you,

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or will communication and interaction be few and far between? Will they show you everything and make it easy to manage ongoing volumes, or will they attempt to make you conform to their system, causing possible data gaps? Communication and transparency shouldn't be a challenge. It should be free-flowing and flexible to adapt to your needs.

In Conclusion

Success with any outsourcing initiative is built on establishing the basis for a strong partnership from the very beginning and tracking the right metrics throughout the engagement.

A well-written contract based on a clearly scoped project is the basis for a good partnership. However, no contract, regardless of the service level agreements it contains, will force a vendor to meet the company's real needs. Making sure that the new vendor satisfies the criteria above will do more than any contract to establish a good working relationship. As they say in Hollywood, casting is 90 percent of success.

"In the lien release business, there is only one metric that really matters: Out of Compliance Percentage."

Even so, a good set of written contracts that specify how the work is to be completed and within what time frame is a requirement for doing business. Good vendors can supply sample agreements that have served well with other clients in the industry.

In the lien release business, there is only one metric that really matters: *Out of Compliance (OOC) Percentage.* Specifically, this is the number of lien releases not filed in a timely, accurate and compliant manner. In this business, success can be clearly defined. There is no gray area in which to hide. Demand metrics and reports that provide true transparency. Insist on selecting a company that runs their business on a model of accuracy and compliance above all else.

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