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## CHAPTER 1. GENERAL PROGRAM INFORMATION

- 1-1 Legislative and Regulatory Authority. This section identifies the statutory and regulatory authorities applicable to the Department's role in the provision of housing counseling services.
- A. Section 106 of the Housing and Urban Development Act of 1968. The Department's primary authority to provide housing counseling services is HUD's Housing Counseling Program authorized by Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701x) as amended. Section 106 authorizes HUD to provide, make grants to or contract with public or private organizations to provide a broad range of housing counseling services to homeowners and tenants to assist them in improving their housing conditions and in meeting the responsibilities of tenancy or homeownership. Subsection 106(a)(1)(iii) states that the Secretary is authorized to provide counseling and advice to tenants and homeowners with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and in meeting the responsibilities of tenancy or homeownership.
  - B. Section 255 of the National Housing Act (12 U.S.C. §1715z-20(d)(2)(B)). Section 255(d)(2)(B) of the National Housing Act (12 U.S.C. §1715z-20(d)(2)(B)) provides that to be eligible for insurance, a Home Equity Conversion Mortgages (HECM) must be executed by a qualifying elderly mortgagor who received "adequate counseling" by an independent third party that "is not associated with or compensated by" a party involved in originating, servicing, or funding the mortgage. Subsection 255(f) establishes that the Department shall provide or cause to be provided qualifying HECM housing counseling by entities other than the lender. Mortgagors may also waive the housing counseling requirement for a mortgage provided to refinance an existing HECM when the conditions specified in subsection 255(k)(3) of the National Housing Act and HUD's regulations at 24 CFR§ 206.53 are satisfied. Pursuant to subsection 255(f), HECM housing counseling must include certain topics as described in the HECM Handbook 4235.1, this Handbook, and any subsequent mortgagee letters and housing notices issued regarding HECM counseling.
  - C. 24 CFR §5.100. This section incorporates definitions for "homeownership counseling", and "rental counseling" and adds a clarifying definition for "housing counseling", implemented by HUD's Final Rule titled "Housing Counseling: New Certification Requirements," 81 FR 90632, that apply to all HUD programs that provide housing counseling in accordance with 24 CFR part 214.
  - D. 24 CFR Part 214. This part of HUD's regulations implements the Housing Counseling program authorized by section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701x). The regulations contained in this part prescribe the procedures and requirements by which the Housing Counseling program is administered.

- E. 24 CFR Part 206. This part of HUD’s regulations implements the Home Equity Conversion Mortgage Insurance program authorized by Section 255 of the National Housing Act, which was amended by the FHA Modernization Act, which Title I of Division B of the Housing and Economic Recovery Act of 2008 to require that adequate counseling be provided to mortgagors by counselors who meet qualification standards and are independent third parties not associated with or compensated by originating or servicing entities. The regulation at 24 CFR § 206.41(a) requires that a HECM mortgagor, any non-borrowing spouse, and any non-borrowing owner must receive housing counseling and 24 CFR part 206 Subpart E sets forth the requirements for the HECM Counselor Roster.
- F. Other Requirements. In addition to the requirements of 24 CFR part 214, the Housing Counseling program is subject to other applicable federal requirements including but not limited to the nondiscrimination, equal opportunity, and fair housing requirements at 24 CFR §5.105(a) and the requirements in Chapter 3, Paragraph 3-7 of this Handbook.
- 1-2 Program Description. This program supports the delivery of a wide variety of housing counseling services to homebuyers, homeowners, renters and individuals experiencing homelessness. The primary objective of the program is to educate families and individuals to help them make informed decisions regarding improving their housing situation and meeting the responsibilities of tenancy and homeownership. HUD certified housing counselors also help borrowers avoid inflated appraisals, unreasonably high interest rates, unaffordable repayment terms and other conditions that can result in a loss of equity, increased debt, default and possible foreclosure. Counselors may also provide reverse mortgage counseling to elderly homeowners who seek to convert equity in their homes to pay for home improvements, medical costs, living expenses or other expenses. Additionally, housing counselors may also distribute and be a resource for information concerning Fair Housing and Fair Lending. The Housing Counseling Program is instrumental to the achievement of HUD’s mission. The program’s far-reaching effects support numerous departmental programs, including, but not limited to, the Home Investment Partnerships Program, Community Development Block Grant Program, Public and Indian Housing, and FHA Single Family.
- 1-3 Compliance with Program Requirements. Section 106 of the Housing and Urban Development Act of 1968 authorizes HUD to provide, make grants to or contract with public or private organizations to provide a broad range of housing counseling services to homeowners and tenants to assist them in improving their housing conditions and in meeting the responsibilities of tenancy or homeownership. The regulations contained in 24 CFR §§ 5.100 and 5.111 prescribe guidance to all applicable HUD programs, including the requirement that all HUD-approved housing counseling must be provided by HUD certified housing counselors. The regulations contained in 24 CFR part 214 and 24 CFR part 206 prescribe the procedures and requirements by which the Housing

Counseling Program is administered. In accordance with 24 CFR § part 214.1, all agencies participating in HUD's Housing Counseling Program must comply with the requirements outlined in the Housing Counseling program regulations in 24 CFR part 214. Additionally, participants must comply with this handbook, other applicable governing documents, including mortgagee letters, OMB regulations governing federal grant recipients, other applicable federal requirements including but not limited to the nondiscrimination and equal opportunity requirements at 24 CFR 5.105(a) and the requirements in Chapter 3, Paragraph 3-7 of this Handbook, and if applicable, grant agreements.

1-4 Definitions.

- A. Action plan. The action plan outlines what the housing counseling agency and the client will do in order to meet the client's housing goals and, when appropriate, address the client's housing problem(s).
- B. Affiliate. An affiliate is defined as a nonprofit organization participating in the HUD-Housing Counseling program of an intermediary, or State Housing Finance Agency. The affiliate is incorporated separately from the intermediary or state housing finance agency. An affiliate is: (1) duly organized and existing as a tax-exempt nonprofit organization, (2) in good standing under the laws of the state of the organization, and (3) authorized to do business in the states where it provides or proposes to provide housing counseling services.
- C. Branch or Branch Office. The branch or branch office is an organizational and subordinate unit of a local housing counseling agency, multi-state organization, intermediary, or state housing finance agency, not separately incorporated or organized, that participates in HUD's Housing Counseling program. A branch or branch office must be in good standing under the laws of the state where it provides or proposes to provide housing counseling services. A branch or branch office cannot be a subgrantee or affiliate.
- D. Client Management System (CMS). A client management system is a commercial or self-developed online Housing Counseling application that is required to interface with HUD's Housing Counseling System (HCS). A CMS automates much of the housing counseling process, including client intake, file creation and maintenance, along with the collection and reporting of client-level information including, but not limited to, financial and demographic data, counseling services provided, and outcomes. CMSs also provide counselors with sophisticated calculators and other tools, that can analyze credit, evaluate readiness for homeownership and compare loan products and features.
- E. Clients. Clients are individuals or households who seek assistance from an agency participating in HUD's Housing Counseling program to meet a housing need or resolve a housing problem.

- F. Disaster Assistance Counseling. Disaster Assistance Counseling is the provision of education and counseling services, where the need for services is created by a disaster, either pending or occurred. A disaster may be a natural or man-made event that is local, regional or national in scope.
- G. Education. For the purposes of HUD’s Housing Counseling program, education is defined as formal classes, with established curriculum and instructional goals, provided in a group or classroom setting, or other formats approved by HUD, covering topics such as, but not limited to: (1) renter rights; (2) the home buying process; (3) how to maintain a home; (4) budgeting; (5) fair housing and civil rights; (6) identifying and reporting predatory lending practices; and (7) the importance of good credit. Special Note: The educational topic of “fair housing” includes the promotion and protection of civil rights as they relate to ensuring equal housing opportunity; rights of applicants with negative criminal, credit, or eviction records; the benefits of and help with moving to well-resourced areas of opportunity; and the housing rights of survivors of domestic violence, dating violence, sexual assault, or stalking. Such educational sessions may include topics such as identifying and reporting discriminatory policies, procedures, and practices; rights for individuals with disabilities; and fair lending.
- H. FHA – Federal Housing Administration. The Federal Housing Administration is the organizational unit within HUD that provides mortgage insurance on loans made by FHA approved lenders nationwide.
- I. FHA Connection (FHAC). FHA Connection is the web-based platform that houses the database for HUD counselors, including HECM roster counselors and HUD certified housing counselors. Once the counselor has taken and passed the HUD Housing Counselor Certification written exam, the individual applies for certification through FHA Connection. Similarly, HECM counselors must also request their certificate through FHA Connection.
- J. FHAC Application Coordinator. FHAC application coordinator is any individual(s) designated by the HUD-participating agency to verify the counselor’s employment at the agency and to manage the data regarding the counselor’s employment status in the future.
- K. Grant Agreement. A grant agreement is a legal instrument that outlines the terms and conditions that HUD-approved housing counseling agency must comply with when it receives a HUD Housing Counseling Grant award. The agency and the HUD Grant Officer or authorized designee sign the agreement.
- L. Grantee. A grantee is a HUD-approved housing counseling agency or State Housing Finance Agency that receives housing counseling funds from HUD. The term “Grantee” includes the agency’s branch or branch offices identified in the grant application.

- M. Grant Officer (GO). The GO is the HUD official who is the designated authority for the award and administration of HUD grants.
- N. Homeownership Counseling. Homeownership counseling means housing counseling related to homeownership and residential mortgage loans when provided in connection with HUD's Housing Counseling Program or required by or provided in connection with HUD Programs as defined in 24 CFR §5.111. Homeownership counseling is housing counseling that covers the decision to purchase a home, the selection and purchase of a home, issues arising during or affecting the period of ownership of a home (including financing, refinancing, default, foreclosure, and other financial decisions) and the sale or other disposition of a home.
- O. Housing Counseling. Housing counseling is independent, expert advice customized to the need of the consumer to address the consumer's housing barriers and to help achieve their housing goals and must include the following processes: Intake; financial and housing affordability analysis; an action plan, except for reverse mortgage counseling; and a reasonable effort to have follow-up communication with the client when possible. The content and process of housing counseling must meet the standards outlined in 24 CFR part 214. Homeownership counseling and rental counseling are types of housing counseling.
- P. Housing Counseling Grant Funds. Housing counseling grant funds are awarded to participating agencies under section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701x). In the past, HUD has awarded grants for the purposes of funding comprehensive housing counseling activities, as well as for training designed to improve and standardize the quality of counseling provided by housing counselors.
- Q. Housing Counseling System (HCS). The HCS is a real-time web application that allows agencies to verify certain information and reports, such as client level data, submitted from their CMS. Agencies also use the HCS to verify agency profile information such as changes in address, telephone number, and contact information. HUD may use the HCS to manage the housing counseling program, including the scoring of grant applications, and of calculating grant amounts. The system is accessed through the Housing Counseling webpage.
- R. Housing Counseling Work Plan. The housing counseling work plan is a participating agency's plan that includes but is not limited to: (1) the needs and problems of the target population; (2) how the agency will address one or more of these needs and problems with its available resources; (3) the type of housing counseling services offered including rental or homeownership counseling, as applicable; (4) fee structure, if applicable; (5) the geographic service area to be served; and (6) the anticipated results (outcomes) to be achieved. An agency's housing counseling work plan must also address, if appropriate, alternative settings and formats for the provision of housing counseling services. Alternative formats can include telephonic counseling or remote counseling systems designed using internet video conferencing

technology. Plans for an Intermediary, State Housing Finance Agency and Multi-State Organization include similar information for the network of their affiliated agencies or branches.

Changes or amendments to the work plan must be in accordance with Chapter 3, Paragraph 3-2 (B) of this Handbook.

- S. Housing Goal. A housing goal is a realistic short- or long-term objective set by the client, with advice from a housing counselor.
- T. HUD-Approved Housing Counseling Agency. HUD-approved housing counseling agencies are private and public nonprofit organizations that are exempt from taxation under section 501(a) pursuant to section 501(c) of the Internal Revenue Code of 1996, 26 U.S.C. §§ 501(a) and 501(c)) and approved by HUD, in accordance with this part and 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. § 1701x(e)), to provide housing counseling services to clients directly, or through their affiliates or branches, and which meet the requirements set forth in 24 CFR part 214.
- U. HUD Certified Housing Counselor. A HUD certified housing counselor is a housing counselor who has passed the HUD Certification examination, works for a participating agency, and is certified by HUD as competent to provide housing counseling services.
- V. HUD Certified Housing Counselor Certificate. The HUD certified housing counselor certificate is one that HUD issues to an individual who has passed the HUD Certification examination, works for a participating agency, and is certified by HUD as competent to provide housing counseling services.
- W. Interface Control Document (ICD). The ICD is a technical guide to assist CMS vendors that have been contracted by housing counseling agencies to build an interface to HUD's database for the submission of client level and agency data.
- X. Intermediary. An intermediary is a HUD-approved organization that provides housing counseling services indirectly through its branches or affiliates, for whom it exercises control over the quality and type of housing counseling services rendered. The Housing Counseling Program recognizes two types of intermediaries, which include:
  - 1. National Intermediary. A national intermediary provides, in multiple regions of the United States: (a) housing counseling services, through its branches or affiliates or both; and (b) administrative and supportive services to its network of affiliates or branches, including but not limited to oversight, pass-through funding, training and technical assistance.



2. Regional Intermediary. A regional intermediary provides, in a generally recognized region within the United States such as the Southwest, Mid-Atlantic, New England: (a) housing counseling services, through its branches or affiliates or both; and (b) administrative and supportive services to its network of affiliates or branches, including but not limited to oversight, pass-through funding, training and technical assistance.
- Y. Local Housing Counseling Agency (LHCA). A local housing counseling agency that directly provides housing counseling services. A LHCA may have a main office, and one or more branch offices, in no more than two contiguous states.
- Z. Marketing and Outreach. Marketing and outreach is the provision of information to raise awareness about critical housing topics, such as predatory lending, fair lending and fair housing issues, including how to file a discrimination complaint, and the availability of housing counseling and other forms of assistance. Marketing and outreach include distributing materials, presenting at community events, conducting informational campaigns such as public service announcements (PSAs), advertisements, or other forms of media campaigns, including social media, and advocating with lenders and other industry partners.
- AA. Multi-State Organization (MSO). A multi-state organization provides housing counseling services through a main office and branches in two or more states.
- BB. Non-Profit Organization. As used in this Handbook, Non-Profit Organization shall have the meaning given in 42 U.S.C. § 12704(5), except that, pursuant to 12 U.S.C. § 1701x(h)(1), subparagraph (D) of such section shall not apply.
- CC. Notice of Funding Opportunity (NOFO). The NOFO is HUD's funding opportunity announcement that is published to announce the availability of competitive housing counseling grant funds. It sets forth the instructions regarding the preparation and submission of a housing counseling grant application.
- DD. Office of Housing Counseling Point of Contact (OHC POC) - The OHC POC is a HUD staff person that oversees and monitors the activities of Participating Agencies including but not limited to grant activities of grantees and the agency's housing counseling grant agreement.
- EE. Other HUD Programs. Any housing counseling required under or provided in connection with any program administered by HUD must be provided by HUD certified housing counselors that work for an agency approved to participate in HUD's program. For the purposes of this definition, required under or provide in connection with any program administered by HUD means:
1. Housing counseling required by statute, regulation, NOFO, or otherwise required by HUD;

2. Housing counseling that is funded under a HUD program;
3. Housing counseling that is required by a grantee or subgrantee of a HUD program as a condition of receiving assistance under the HUD program; or
4. Housing counseling to which a family assisted under a HUD program is referred, by a grantee or subgrantee of the HUD program.

FF. Participating Agency. Participating Agencies are all housing counseling and intermediary organizations participating in HUD's Housing Counseling program, including HUD-approved agencies, affiliates and branches of HUD-approved intermediaries, HUD-approved MSOs, and State Housing Finance Agencies.

GG. Person in a Position of Trust. This person in a position of trust is a participating agency's employee (including both paid and volunteer staff), consultant, officer, director, elected or appointed official, any member of their immediate families, or anyone who is in a position to influence a participating agency's decision-making process or who has access to the agency's confidential client information.

HH. Predatory Lending. Predatory lending describes unscrupulous actions by lenders, appraisers, mortgage brokers, home improvement contractors and other industry participants that take advantage of mortgagors and can result in a loss of equity, increased debt, default and possible foreclosure. Examples include, but are not limited to: selling properties for more than they are worth using false appraisals; encouraging borrowers to lie about their income, expenses, or cash available for down payment in order to obtain a loan; knowingly lending more money than a borrower can afford to repay; charging higher interest rates to borrowers based on their race or national origin and not on their credit history; or charging fees for unnecessary or nonexistent products and services.

II. Rental housing counseling. Rental housing counseling is counseling related to the rental of residential property, which may include counseling regarding future homeownership opportunities when provided in connection with HUD's Housing Counseling Program or required under or provided in connection with HUD Programs as defined in 24 CFR §5.111. Rental housing counseling may also include the decision to rent, responsibilities of tenancy, affordability of renting and eviction prevention.

JJ. Reverse Mortgage. A reverse mortgage is a mortgage that pays a homeowner loan proceeds drawn from accumulated home equity and that requires no repayment until a future time.

KK. State. Each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, or any other possession of the United States.

LL. State Housing Finance Agency (SHFA) A SHFA is defined as the public body, agency or instrumentality, created by a specific act of a state legislature, empowered to finance activities designed to provide housing and related services, for example land acquisition, construction or rehabilitation, throughout an entire state. SHFAs may provide direct counseling services or sub grant housing counseling funds, or both, to affiliated housing counseling agencies within the SHFA's state. "State" includes the several states, Puerto Rico, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa and the U.S. Virgin Islands

MM. Sub grantee. An affiliate of a HUD-approved intermediary or SHFA that receives a sub-award of housing counseling funds provided under a HUD housing counseling grant.

NN. Unit of Local Government. Any city, county, parish, town, township, borough, village, or any other general-purpose political subdivision of a State.

1-5 HUD Program Responsibilities.

A. Deputy Assistant Secretary (DAS) for the Office of Housing Counseling. The DAS is the head of the Office of Housing Counseling and administers the program.

B. Office of Housing Counseling Staff. Housing Counseling staff are located at HUD Headquarters, HUD Regional offices and field offices and support the DAS in administering the Housing Counseling program. These offices review agencies for approval, evaluate grant applications and monitor participating agencies' performance relative to the Housing Counseling Program. The staff develops and implements program policy and procedures. The staff also provides technical assistance and training regarding HUD's Housing Counseling program. Housing Counseling Program staff can be contacted by emailing: [housing.counseling@hud.gov](mailto:housing.counseling@hud.gov).

C. Communication with Participating Agencies. HUD communicates Housing Counseling program information principally through email and Internet postings.

1. Housing Counseling Newsletter. The Newsletter shares news and information, stories of success within the industry and current trends in the housing counseling industry and highlights the benefits and successful outcomes of individuals and families receiving housing counseling from HUD-approved agencies.

2. Housing Counseling Gov Delivery. The participating agency's HUD point of contact that is registered in HCS will automatically be sent Housing Counseling Program updates from HUD. The agency's HUD point of contact must have a valid email address to receive these updates and is responsible for ensuring the address provided to HUD is valid. Examples of announcements include system updates, extensions to file reports, NOFO publication and training notices.

3. Housing Counseling Homepage. This webpage provides relevant information for housing counselors including Housing Counseling and HECM program information, toolkits, access to HCS, and training opportunities.

## CHAPTER 2. OBTAINING HUD APPROVAL

- 2-1 HUD Approval. A Local Housing Counseling Agency, Multi-State Organization or Housing Counseling Intermediary may be approved by HUD to participate in the Housing Counseling program upon meeting the requirements enumerated in 24 CFR part 214 and this Handbook chapter. In order for an agency to participate in HUD's Housing Counseling Program, all individuals who provide housing counseling, including homeownership and rental housing counseling, must be HUD certified housing counselors. The agency must also complete and submit all the required documentation for application outlined in [HUD-Form 9900](#).

The approval of a housing counseling agency does not create or imply a warranty or endorsement by HUD of the listed agency, or their employees, including housing counselors, to a prospective client or to any other organization or individual. Nor does it represent a warranty of any housing counseling provided by the agency. Approval means only that the agency has met the qualifications and conditions prescribed by HUD.

- A. Eligible Applicants. HUD will accept an application from an eligible housing counseling agency functioning as a private or public nonprofit organization, a unit of local, county or state government entities (including public housing authorities) and meet the criteria outlined below in Paragraph 2-2 of this Chapter.
- B. Religious and Faith-Based Organizations. HUD is committed to full implementation of [Executive Order 13279](#), "Equal Protection of the Laws for Faith-Based and Community Organizations". The Executive Order established fundamental principles and policymaking criteria to guide Federal agencies in formulating and developing policies that have implications for faith-based and community organizations to ensure the equal protection for these organizations in social service programs receiving federal financial assistance. HUD's regulations at 24 CFR § 5.109 set a general policy on the participation of religious organizations in HUD programs: "Religious organizations are eligible, on the same basis as any other organization, to participate in programs and activities. Neither the Federal government, nor a State or local government, nor any other entity that administers any HUD program or activity shall discriminate against an organization on the basis of the organization's religious character or affiliation."
- C. State Housing Finance Agencies (SHFAs). SHFAs are not required to submit an application for approval to participate in HUD's Housing Counseling Program as long as they have statutory authority to provide housing counseling throughout their entire state and adhere to all program requirements outlined in 24 CFR part 214, this handbook, and other governing documents.

To participate in HUD's Housing Counseling program, SHFAs must either:

1. Submit a successful grant application or otherwise be awarded a HUD housing counseling grant. or
  2. Submit a request and provide HUD with a list of affiliates, if applicable, and assure that they meet all program requirements. SHFAs not planning to submit a housing counseling grant application or that failed to receive funding from HUD but are still interested in participating in HUD's Housing Counseling Program must submit the information required for SHFAs in form HUD-9900, Housing Counseling Program Application.
- D. Branches and Affiliates. HUD Program affiliates of HUD-approved intermediaries or SHFA's are not required to be directly approved by HUD. Moreover, not every branch of a multi-state organization or intermediary must participate in the HUD portion of the parent entity's program. However, to participate in HUD's Housing Counseling program, whether funded or not, branches and affiliates must meet all approval and programmatic requirements described in 24 CFR part 214, this handbook and other governing documents. It is the responsibility of the parent entity to evaluate initial and ongoing eligibility and ensure compliance. If an agency, including LHCA wishes to have its branch office listed on HUD's website as approved, the agency will need to contact their HUD Point of Contact.
- E. HUD Housing Counseling Grant Funding. An organization approved by HUD to participate in the Housing Counseling Program does not automatically receive funding from HUD. Grants for the direct provision of counseling services are contingent upon congressional appropriations and a competitive grant process. Approved agencies that want to compete for funding must submit a proposal in response to a Notice of Funding Opportunity (NOFO) which outlines the application criteria along with applicable federal and HUD policies and regulations.

HUD funding is not intended to cover all costs incurred by the agency in delivering counseling services or ensuring that counselors are adequately trained. See Chapter 7 for more information on HUD housing counseling grant requirements.

2-2 Approval Criteria. The following criteria for approval apply to all agencies, including: all local housing counseling agencies (LHCA), Multi-State Organizations (MSO), and intermediaries, and all HUD program branches and affiliates that are included in an application:

- A. Nonprofit and Tax-Exempt Status. A housing counseling agency must function as a private or public nonprofit organization, or be a unit of local, county or state government (including public housing authorities). The agency must submit evidence of nonprofit status and tax-exempt status under section 501(a), pursuant to section 501(c) of the Internal Revenue Code of 1996 (26 U.S.C. §§ 501 (a) and (c)).

- Units of local, county or state government (including public housing authorities) must submit proof of their authorization to provide housing counseling services and meet the requirements outlined in the [Form HUD-9900, Housing Counseling Program Application](#).
- B. Experience. A LHCA, MSO, SHFA and/or intermediary must have administered a Housing Counseling Program for at least one year. An intermediary must have operated in an intermediary capacity for at least one year. In addition, before joining a network, affiliates and branches must have successfully administered a housing counseling program for at least one year.
- C. Compliance with Fair Housing and Civil Rights Laws. (1) Counseling agencies must comply with all applicable fair housing and civil rights requirements in 24 CFR § 5.105 (a)(1). Agencies are ineligible if they (a) have been charged by HUD concerning an ongoing systemic violation of the Fair Housing Act or receipt of a cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of a substantially equivalent state or local fair housing law proscribing discrimination because of race, color, religion, sex (including sexual orientation and gender identity), national origin, disability or familial status; or (b) are a defendant in a Fair Housing Act lawsuit filed by the United States alleging an ongoing pattern or practice of discrimination or denial of rights to a group of persons raising an issue of general public importance under 42 U.S.C. 3614(a); (c) are a defendant in any other lawsuit filed or joined by the Department of Justice, or in which the Department of Justice has intervened, or filed an amicus brief or statement of interest, alleging a pattern or practice or systemic violation of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Americans with Disabilities Act, Violence Against Women Act, or a claim under the False Claims Act related to fair housing, non-discrimination, or civil rights generally including an alleged failure to affirmatively further fair housing; (d) have received a letter of findings identifying ongoing systemic noncompliance with Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act 1974, the Violence Against Women Act, or the Americans with Disabilities Act; or (e) have received a cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of provisions of a state or local law prohibiting discrimination in housing based on sexual orientation, gender identity, or lawful source of income, and the charge, lawsuit, or letter of findings referenced in subparagraphs (a), (b), (c), (d) or (e) above has not been resolved to HUD's satisfaction. HUD will determine if actions taken to resolve the charge are sufficient to resolve the matter. Such actions may include, but are not limited to: (i) current compliance with a voluntary compliance agreement signed by all parties; (ii) current compliance with a HUD-approved conciliation agreement signed by all parties; (iii) current compliance with a conciliation agreement signed by all the parties and approved by the state governmental or local administrative agency with jurisdiction over the matter; (iv) current compliance with a consent order or consent decree; or (v) current compliance

with a judicial ruling or administrative law ruling or decision; or (vi) dismissal of charges.

(2) **Affirmatively Furthering Fair Housing.** Under section 808 (e)(5) of the Fair Housing Act, HUD has a statutory duty to affirmatively further fair housing in all its activities. Funding recipients must affirmatively further fair housing for all classes protected under the Fair Housing Act which include race, color, national origin, religion, sex (including sexual orientation or gender identity), disability and familial status. Housing counseling agencies are expected to help remedy discrimination in housing and promote fair housing rights and fair housing choice. With some exceptions for Federally recognized Indian tribes and their instrumentalities, the application must discuss how the applicant will carry out the proposed activities in a manner that affirmatively furthers fair housing in compliance with the Fair Housing Act and its implementing regulations, and how applicants will meet the requirements of the definition of AFFH at 24 CFR 5.151. Applicants may propose activities that are consistent with their jurisdiction's Analysis of Impediments (AI), an Assessment of Fair Housing (AFH), or other means of fair housing planning that meaningfully supports their AFFH certification. If the applicant will carry out proposed activities in a jurisdiction with an AFH, the proposed activities should be consistent with the AFH's fair housing goals and with fair housing strategies specified in the jurisdiction's Consolidated Plan or Public Housing Agency Plan.

- D. **Ineligible Participants.** Participating agencies must maintain policies and procedures for screening ineligible participants. An agency, including any of the agency's directors, partners, officers, principals, or employees must not be:
1. Suspended, debarred, or otherwise restricted under the Department's, or any other federal regulations;
  2. Indicted for, or convicted of, a criminal offense that reflects upon the responsibility, integrity or ability of the agency to participate in housing counseling activities. Examples of such crimes include, but are not limited to, fraud, bribery, corruption, embezzlement, identify theft, money laundering, etc. These offenses include criminal offenses that can be prosecuted at a local, state, or federal level. Before an individual is deemed ineligible because of their criminal history, they should be provided an opportunity to dispute the accuracy or relevance of the information relied upon by the participating agency and an opportunity to provide evidence of mitigating factors including the time, nature, and severity of the offense(s), and any evidence of rehabilitation. An arrest alone does not constitute evidence of a criminal offence.
  3. Subject to unresolved findings because of HUD or other government audit or investigations.
- E. **Community Base.** A housing counseling agency and its HUD Program branches and affiliates must have functioned for at least one year in the geographic area(s) the



- agency will serve as a participating agency as set forth in its housing counseling work plan.
- F. Recordkeeping and Reporting. The agency must have an established system of recordkeeping so that client files, electronic and paper, can be kept confidential and reviewed and annual activity data for the agency can be verified, reported, and analyzed.
1. Client files, both electronic and paper must be kept confidential in accordance with 24 CFR § 214.315. This system must meet the requirements of 24 CFR §§ 1.6 and 8.55 and 24 CFR part 121 and must be easily accessible to HUD for all monitoring and audit purposes (24 CFR § 214.315).
- G. Confidentiality. Participating agencies must take affirmative measures to protect the confidentiality of each client's personal and financial information, including electronic and paper records, CMS, or other electronic data system and credit reports, whether the information is received from the client or from another source. Failure to maintain the confidentiality of, or improper use of, credit reports may subject the agency to penalties under the Fair Credit Reporting Act (14 U.S.C. §§ 1681 et seq.). Hard copies of client files must be kept in locked filing cabinets and electronic client files must be kept secure, and be accessible only by authorized employees.
- H. Client Management System (CMS). All Participating Agencies shall utilize an automated housing counseling client management system for the collection and reporting of client-level information including, but not limited to, financial and demographic data, counseling services provided and outcomes. Agencies must utilize a Client Management System that satisfies HUD's requirements and interfaces with HUD's databases.
- I. Housing Counseling Resources. The agency must have the following resources to implement the proposed housing counseling work plan:
1. Funding. Evidence of funds immediately available or written commitment for funds, to cover the cost of operating the housing counseling work plan during the initial twelve-month period of HUD approval or program participation.
  2. Staff. The agency must employ staff trained in housing counseling. All staff that the agency proposes to provide housing counseling must be HUD certified. At least half the counselors must have at least 6 months experience in the job they will perform in the agency's housing counseling program.
  3. Language skills. In accordance with 24 CFR § 214.103(g)(3), the agency must have housing counselor(s) fluent in the language(s) of the clients they serve, or the housing counseling agency must use the services of an interpreter, or the agency must make a reasonable effort to refer the client to another agency that can meet the client's needs. The agency must take reasonable steps to ensure

meaningful access to their programs and activities for persons with limited English proficiency (LEP), consistent with [HUD guidance](#). For further guidance, see “[Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons](#)” published in the Federal Register on January 22, 2007, or an updated version.

4. Alternative Formats. The agency must take appropriate steps to ensure effective communications with individuals with disabilities. These organizations and individuals are required to take appropriate steps that may be necessary to ensure that communications with individuals with disabilities are as effective as communications with individuals without disabilities. Effective communication is generally provided through the use of appropriate auxiliary aids and services. All facilities must provide accessibility features or make alternative accommodations for persons with disabilities, in accordance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), 24 CFR parts 8 and 9, and the American with Disabilities Act (42 U.S.C. §§ 12101 et seq.).
  
- J. Knowledge of HUD Programs and Local Housing Market. The agency's housing counseling staff must possess a working knowledge of HUD's housing and single-family mortgage insurance programs such as FHA, other state and local housing programs available in the community, the state and local municipality Consolidated Plans including fair housing assessments, and the local housing market. The staff should also be familiar with housing programs offered by conventional mortgage lenders and other housing or related programs that may assist their clients. As a condition of approval or participation, HUD may require training, including, for example, training regarding FHA products and programs.
  
- K. Contracts or Agreements to Provide Eligible Housing Counseling Services. An agency and its branches, sub-grantees or affiliates must deliver all of the housing counseling activities set forth in the agency's housing counseling work plan. It is not permissible to contract out housing counseling services, except in the following situations:
  1. In geographic areas where a need for housing counseling services is demonstrated and no HUD-approved housing counseling agency or its branches, affiliates, or sub-grantees exists. If a housing counseling agency identifies an underserved geographic area and proposes to provide counseling in the identified area through a service contract, the agency must present a justification to HUD. The request will be reviewed and subsequently approved or disapproved by HUD. Under this exception, if the request to use contract services is approved for the identified area, the contract must delineate the respective Housing Counseling Program responsibilities of the contracting parties, the agency providing services (contractor) must meet the HUD-approval and housing counseling certification standards. Individuals providing housing counseling for the contractor must have passed the HUD certified housing counselor examination and their employment

must be verified by the HUD-approved agency in FHA Connection. In addition, the contracting agency must receive prior written approval from HUD.

2. Intermediaries and SHFAs may enter into agreements with affiliates to provide housing counseling services.
    - a. The agreements with affiliates may be in the form of an exchange of letters, or a contract, that delineates the respective Housing Counseling program responsibilities of each party.
    - b. Agreements must be sufficiently detailed to establish accountability and allow for adequate monitoring in accordance with 2 CFR part 200.
  3. With prior approval from HUD, and at HUD's discretion, intermediary organizations may participate in HUD's Housing Counseling Program with a network of affiliated counselors, rather than affiliated counseling agencies, if the structure is designed to meet a special housing counseling need identified by HUD.
- L. Community Resources. The housing counseling agency must demonstrate that it has established working relationships with private and public local community resources to which it can refer clients who need help the agency cannot offer. A description of these working relationships and partnerships must be documented in the agency's application for program approval and in the agency's application for Housing Counseling grant funds.
- M. State and Local Requirements. In accordance with 24 CFR § 214.103(k) an agency and its branches and affiliates must meet all state and local requirements for its operation.
- N. Facilities. In accordance with 24 CFR § 214.103(l), all housing counseling facilities of the agency and its branches, affiliates, and sub-grantees must meet the following criteria:
1. Have a clearly and properly identified office, with space available for the provision of housing counseling services. There must be permanent signage identifying the housing counseling office.
  2. The office should operate during normal business hours and offer extended hours when necessary. However, an exception to this requirement is allowed for certain branch offices that only have the resources to operate on a part-time basis where the counseling services are critical to the community in which they are located.
  3. Provide privacy for in-person counseling and confidentiality of client records.

4. Provide accessibility features or make alternate accommodations for persons with disabilities, in accordance with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), 24 CFR Parts 8 and 9, and the Americans with Disabilities Act (42 U.S.C. §§ 12101 et seq.).
- O. Housing Counseling Work Plan. The agency must submit a detailed yet concise housing counseling plan consistent with the requirements outlined in 24 CFR part 214 and Chapter 3, Paragraph 3-2 of this Handbook. The agency must also describe anticipated results (outcomes) to be achieved within the period of initial approval. Intermediaries and SHFAs must require that their affiliates participating in their HUD Housing Counseling Program maintain a work plan.
  - P. Conflicts of Interest and Disclosure Requirements. The agency must disclose any real or apparent conflicts of interest and describe how these conflicts will be mitigated, including any disclosures that will be provided to clients. See Chapter 6, Paragraphs 6-1 and 6-2 of this Handbook for more information on conflict of interest and disclosure requirements.
- 2-3 Application Process. For initial approval, all applicants must complete [Form HUD-9900](#) and submit the application and all supporting documentation to the Office of Housing Counseling. There are two ways to participate in HUD's Housing Counseling Program:
- A. Organizations may apply directly to HUD as one of the following: a Local Housing Counseling Agency (LHCA), an Intermediary (regional or national), and a Multi-State Organization (MSO).
  - B. Affiliates may also apply through a HUD-approved Intermediary or SHFA. Intermediaries and SHFAs provide affiliates with critical supportive services, including training, tools and templates, pass-through funding, and technical assistance. They also monitor their networks to ensure services meet program standards and effectively meet the needs of their clients.
  - C. Before applying to participate in HUD's Housing Counseling Program, HUD recommends applicant review of the following:
    - HUD Housing Counseling Handbook 7610.1
    - 24 CFR Part 214
    - HUD Office of Housing Counseling website
    - How to Become a HUD-Approved Housing Counseling Agency website
    - Eligibility Tool: To determine if an organization is ready to apply, use the Housing Counseling Agency Eligibility Tool on the HUD Exchange website. The Tool allows organizations to determine if they meet the basic qualifying criteria to apply to become a HUD-approved Housing Counseling Agency. Organizations that receive a "ready to apply" result at the end of the tool should contact an application advisor at [housing.counseling@hud.gov](mailto:housing.counseling@hud.gov).

- D. Notice of Approval. If the application meets all requirements outlined in 24 CFR § 214.103 and Paragraph 2-2 of this Chapter, HUD will approve an agency for a period up to three years. HUD will advise the agency of its approval in the form of an approval letter to the agency's main office. See Chapter 2, Paragraph 2-5 of this Chapter for more information.
- E. Deficiency. If the application does not meet all the requirements for approval and additional information is needed to evaluate the application, HUD will issue a deficiency letter. The letter will identify deficiencies and provide the applicant an opportunity to submit additional information in support of the application within a specified time period. HUD may, at its discretion, request clarification or additional information from an agency for use in determining the agency's eligibility for the Housing Counseling Program.
- F. Disapproval. If, after responding to a deficiency letter, an application does not meet all requirements in 24 CFR § 214.103 and Paragraph 2-2, of this Chapter, HUD will deny approval and provide the agency with the reasons in writing. Within 30 calendar days of the written notice of denial, the agency may submit a revised application, or appeal HUD's decision in writing to HUD, as provided in 24 CFR §214.205. If any agency decides to submit a revised application, the agency may consult HUD to determine the specific actions needed to resolve the deficiencies. See Chapter 8 for additional information on the Appeal Process.
- G. HUD Non-Response. The agency should contact [housing.counseling@hud.gov](mailto:housing.counseling@hud.gov) with "Application Approval" in the subject line if:
1. The Agency does not receive an acknowledgment of the receipt of its application within 30 days of submission to determine if HUD received the application.
  2. The Agency does not receive an approval, deficiency or disapproval letter within 90 days of submission of the application to determine the review status of the application.
- 2-4 On-site Conference. Before HUD issues the approval letter to an applicant, HUD may require an on-site conference at the agency's main office, branch office(s) and/or affiliate offices.

The HUD office may waive the on-site visit at HUD's discretion. In such an event, either HUD may require a face-to-face conference at a HUD office, or the agency may request a live video or telephone conference at HUD's expense. When HUD staff cannot conduct an on-site visit, the agency may be asked to submit photographs and floor plans of the facility to demonstrate that the facility meets programmatic requirements.

During the on-site conference, face-to-face conference at a HUD office, or live video or telephone conference, HUD staff may:

- A. Answer the agency's questions, if any, about this Handbook, its attachments, and general questions about HUD funding opportunities and the NOFO process that announces the availability of housing counseling grant funds. Please, note that because the housing counseling grants are administered through a competitive award process, staff may only provide information that is general public knowledge;
- B. Identify training needs of the agency's staff;
- C. Evaluate the facility for compliance with the requirements listed under Paragraph 2-2(N), (Facilities); and
- D. Make inquiries, request information or provide technical assistance regarding any issue relevant to the approval process or compliance with programmatic requirements.

2-5 Approval of Application. HUD's Office of Housing Counseling will send the approval letter to the agency's main office. The letter will indicate the period of approval.

- A. HUD website of Approved Housing Counseling Agencies. HUD-approved housing counseling agencies must provide HUD with the agency name and contact information to receive client referrals. This information appears on HUD's public website in a searchable database of agencies participating in the Housing Counseling Program. In addition, names and addresses of all Participating Agencies that provide housing counseling services are made available to the public through HUD's locator tool.

All clients who contact the agency as a result of these referrals must be served or referred the client to another Participating Agency as outlined in Chapter 3, Paragraph 3-1(L).

2-6 Re-approval. At the end of the approval period, and upon completion of a successful performance review, if conducted, HUD will reapprove agencies as described in Chapter 6. No application is required for re-approval.

### CHAPTER 3. DELIVERY OF HOUSING COUNSELING SERVICES

3-1 Basic Requirements. This chapter details the Housing Counseling Program procedures and requirements as provided under 24 CFR part 214 and other applicable regulations and statutes, including applicable civil rights and fair housing requirements. A participating agency's failure to remain in compliance with these basic programmatic requirements can result in consequences, which may include, but are not limited to termination of an agency's approval to participate in the housing counseling program, placement in inactive status, suspension of payment drawdown access; forfeiture of remaining grant funds; and denial of access to HUD housing counseling training resources.

The basic requirements are as follows:

- A. Housing Counseling. Participating agencies must provide housing counseling, as defined in Chapter 1, Paragraph 1-4 (O) of this Handbook, as opposed to just education, as defined in Chapter 1, Paragraph 1-4 (G) of this Handbook to current and potential homeowners or tenants to assist them in improving their housing conditions and in meeting the responsibilities of homeownership or tenancy. Participating agencies must provide counseling on one or more of the topics outlined in Paragraph 3-6 of this Chapter.
- B. Certification Requirement. Housing counseling required by or provided in connection with HUD programs must be provided only by certified housing counselors who work for participating agencies under HUD's Housing Counseling Program. To be certified, an individual must both pass a standardized written examination covering six major topic areas, and work for an agency approved to participate in HUD's Housing Counseling Program. Housing Counseling services must be performed by a HUD certified housing counselor pursuant to 24 CFR §§ 214.303(a) and 103(n).
- C. Education. All participating agencies that offer group education must be able to also offer individual counseling services on the same topics.
- D. Setting/Format. Counseling services may take place in the office space of the housing counseling agency, at an alternate location (e.g., client's home), or through an alternative format, as long as the location or format is mutually acceptable to the housing counselor and client. Alternative formats can include telephonic counseling or remote counseling systems designed using internet video conferencing technology. These technology systems can also be used to deliver group education workshops and sessions. However, if possible, all participating agencies that provide services directly must offer and provide in-person counseling to clients that prefer this format. In providing in person and alternative format counseling services, a participating agency must ensure effective communication with individuals with disabilities, including through the provision of appropriate auxiliary aids and services. See 24 CFR § 214.103(1)(3) and 24 CFR § 8.6.

- E. Housing Counseling Work Plan. A participating agency must be in compliance, and deliver housing counseling services and education consistent with, its approved housing counseling work plan as required by 24 CFR § 214.103(m) and described in Paragraph 3-2 below.
- F. Geographic Scope. Regardless of the setting or format, counseling activities must be limited to the geographic area specified in the agency's approved housing counseling work plan, and all participating agencies must continue to meet the requirements of 24 CFR § 214.103(d), §214.103(g), and §214.103(h) and Chapter 2, Paragraph 2-2 of this Handbook. For example, agencies may only offer telephone counseling to clients in their approved geographic area. Geographic scope can be expanded or reduced upon agency request as described in Paragraph 3-2 below.
- G. Civil Rights. All participating agencies must administer their housing counseling programs in accordance with and remain in compliance with corresponding Departmental regulations and guidance and the following nondiscrimination regulatory and legislative requirements:
1. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1, 24 CFR Part 1;
  2. The Fair Housing Act, 42 U.S.C. §§ 3601- 3619, 24 CFR parts 100, 103;
  3. *Nondiscrimination and Equal Opportunity in Housing*, Executive Order 11063, 24 CFR part 107;
  4. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, 24 CFR part 8;
  5. Age Discrimination Act of 1975, 42 U.S.C. 6101 - 6107, 24 CFR part 146;
  6. Americans with Disabilities Act, 42 U.S.C. 12131 *et seq.*, 28 CFR part 35;
  7. Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 - 1683, 1685 - 1688, 24 CFR part 3
  8. *Improving Access to Services for Persons with Limited English Proficiency*, Executive Order 13166.
  9. *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, Executive Order 13985; and
  10. *Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, Executive Order 14091

These requirements are designed to prevent discrimination in the delivery of benefits and services because of race, color, religion, sex, (including gender identity and sexual orientation), national origin, age, familial status or disability.



- H. Affirmatively Furthering Fair Housing. In accordance with 42 U.S.C. § 3608(e)(5), participating agencies must affirmatively further fair housing. This means that participating agencies are expected to take meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.
- I. Accessibility and Facilities. In accordance with 24 CFR § 214.103 all participating agencies, its branches, affiliates, and sub-grantees must: (1) Have a clearly identified office with space available for the provision of housing counseling services, should operate during normal business hours and offer extended hours when necessary; (2) Provide privacy for in-person counseling and confidentiality of client records; (3) Provide accessibility features or make alternative accommodations for persons with disabilities, in accordance with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), 24 CFR parts 8 and 9, and the Americans with Disabilities Act (42 U.S.C. §§ 12101 et seq) and (4) Comply with the requirements of (2) and (3) where the counseling services are provided at locations other than the offices of the participating agency. This requirement is not applicable to counseling performed in a client's home or other location requested by the client.
- J. Religious Discrimination and Influence. Agencies and their affiliates and branches are prohibited from: (1) discriminating on behalf of or against any segment of the population in the provision of services or outreach, including those of other religious affiliations; and (2) requiring religious instructions or religious counseling, conducting mandatory religious services or worship, engaging in religious proselytizing, and exerting religious influence in the provision of assistance under the agency's or its affiliate's or branch's housing counseling program.
- K. Limited English Proficiency (LEP). The participating agency must take reasonable steps to ensure meaningful access to their programs and activities for persons with provide language assistance to persons with LEP. See guidance in "[Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons](#)" published in the Federal Register on January 22, 2007, (72 FR 2732), to determine the extent of the assistance the Agency should offer based on its own circumstances.
- L. Referrals. For purposes of client referrals, participating agencies that provide housing counseling services directly must provide HUD with the agency name and contact information. This information may appear on HUD's website in a searchable database of agencies participating in the Housing Counseling Program. In addition, names and addresses of all participating agencies that provide housing counseling services directly may be made available to the public through HUD's toll-free housing counseling hotline.

All clients who contact the agency as a result of these referrals must be served. In cases where the agency does not offer the counseling services requested by the client, is unable to communicate effectively with the client, does not have sufficient resources, or the Participating Agency is required to serve certain clients only per other HUD program requirements, the agency must refer the client to another participating agency, preferably in the area. If there is not a participating agency available, the agency must make a reasonable effort to refer the client to another agency that can help the client meet their needs.

- 3-2 Housing Counseling Work Plan. The housing counseling work plan is a detailed yet concise housing counseling plan that explains (1) the needs and problems of the target population; (2) how the agency will address one or more of these needs and problems with its available resources; (3) fair housing requirements and how the agency intends to affirmatively further fair housing; (4) the type of housing counseling services offered, and specifies the geographic service area; (5) how and when the agency will cover the entire process of homeownership; (6) how the agency will provide home inspection materials to pre-purchase clients; (7) the format for delivering housing counseling and education services; (8) the impact and scope of one-on-one counseling services; (9) ensuring accessibility for persons with disabilities; (10) the agency's plan for follow-up communication with the client; (11) how the agency serves non-English speaking or clients with limited English proficiency; (12) the fee structure if applicable; (13) oversight and supervisory monitoring; (14) how the agency will monitor and document hardcopy and digital storage of client information and (15) Lead Safety. The type of counseling services in the agency's work plan must be consistent with the agency's client housing counseling disclosures and the services identified in the HUD Housing Counseling System.

Agencies that provide direct housing counseling services must address all items below in their work plan. An Intermediary, State Housing Finance Agency (SHFA) or Multistate Organization's (MSO) plan includes similar information regarding the services they propose to provide to the network of affiliated agencies or branches. Intermediaries, SHFAs and MSOs must provide the individual work plans of their affiliates and subgrantees. The quality control plan for an Intermediary and SHFA must address activities and their responsibilities related to managing their affiliates and subgrantees.

- A. Required Components of the housing counseling work plan. The work plan must include the following components:
1. Target Community. The housing counseling work plan must describe the demographics, housing needs and problems, and geographic boundaries of the target area(s) the agency plans to offer its housing counseling services and include zip codes for each proposed area.
  2. Housing Needs and Priorities. Describe the specific housing problems of the target population, barriers they face, and problems that are unique to the agency's population base. Cite specific, current sources for your information.

3. Affirmatively Furthering Fair Housing. HUD requires that all participating agencies affirmatively further fair housing (AFFH). *Affirmatively furthering fair housing* means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially or ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development.

Participating agencies are to develop an affirmative marketing and outreach plan as part of the agency's housing counseling work plan to include:

- a. specific activities the agency will use to address barriers to fair housing,
- b. how the agency will reach out and make services readily available to clients least familiar with counseling services that would benefit from such assistance within a specific market area, and
- c. how the agency measures the impact of their marketing and outreach activities.

Marketing and Outreach Initiatives. This includes providing general information and materials about housing opportunities and issues; efforts to reach groups and communities in need of services who are otherwise unlikely to know about or receive them; conducting informational campaigns; advocating with housing providers and lenders to adopt practices that expand housing opportunities (e.g. by using non-traditional lending standards; by accepting Housing Choice Vouchers or other forms of housing assistance; or by using tenant screening policies that account for the nature, severity, recency and any mitigating circumstances of a negative record); and raising awareness about critical housing topics, (e.g. fair housing rights and remedies; predatory lending and mortgage fraud; lead safety; energy efficiency options to reduce homeowner energy costs).

Marketing and outreach initiatives should follow affirmative marketing principles and be directed at those populations least likely to seek counseling services or the information marketed, including those of racial, religious or national origin groups not normally served by the sponsoring agency, as well as individuals with disabilities and persons with Limited English Proficiency (LEP). To do so, it may be necessary to broaden the target areas or provide translation and interpretive

services in languages other than English in order to reach a greater variety of racial and ethnic groups. It may also require providing outreach and services in alternative formats for individuals with disabilities (e.g., Braille, large type, sign language interpreters, audio, assistive listening devices, etc.).

4. Counseling Services. The work plan should identify housing counseling services to be provided in response to one or more of the needs in targeted communities and geographic areas where the agency and its branches and affiliates provide their housing counseling services. Only the housing counseling services described in the work plan should be checked in the agency's HUD Housing Counseling System profile. An agency's housing counseling work plan must meet the requirements described in 24 CFR § 214.300 and Paragraphs 3-1, 3-5 and 3-6 of this Chapter. Group education and marketing and outreach strategies should also be identified in the agency's housing counseling work plan.
5. Homeownership Counseling. For those agencies that provide any type of homeownership counseling including pre-purchase counseling, post-purchase non-default, mortgage delinquency and HECM origination counseling for their clients, the work plan must explain how and when the agency will cover the topics of the homeownership process that are relevant to the client.
6. Home Inspection Materials. Each client receiving Homeownership Counseling services whose needs may be met through the purchase of a home, or who expresses an interest in the purchase of a home, must receive copies of all documents HUD requires regarding the availability and importance of getting a home inspection. The agency work plan must describe procedures implemented for clients to acknowledge receipt of home inspection materials. The Office of Housing Counseling is not requiring that individual client files document distribution of home inspection materials and discussion of each relevant topic under homeownership counseling as long as the agency's work plan clearly outlines how the agency will comply with these requirements.
7. Alternative Modes for Delivery of Housing Counseling Services. An agency's housing counseling work plan must address formats for the provision of housing counseling services. The work plan must describe options in which the agency and the client mutually agree on the need for an alternative setting or alternative format. Alternative formats can include telephonic counseling or remote counseling systems, such as video conferencing, or other electronic or telephonic systems. If the agency and client cannot mutually agree upon an alternative setting or format for services, the client must be referred to another HUD-approved housing counseling agency.
8. Impact and Scope of One-on-One Counseling Services. Agencies can use the form HUD-9902 to provide projections. Services selected in sections 8 and 9 should match the types of counseling outlined in the work plan. Additionally, the

agency should identify the types of impacts expected, as identified in section 10 of the form HUD-9902 for the current fiscal year.

9. Ensuring Accessibility for Persons with Disabilities. The agency must be prepared to make reasonable accommodations to ensure an equal opportunity for persons with disabilities to access programs, services, and activities. The agency must be prepared to provide auxiliary aides and services including documents in different formats to persons with disabilities. This includes accommodations for people with visual or hearing impairments for other communication-related disabilities and people with mobility impairments. Accommodations can include but are not limited to alternative formats (such as documents in Braille) as well as physical accommodations (accessible location, counseling by telephonic and electronic means). The work plan must include a written description of all accommodations that are made available by the Agency.
10. Follow-up. The housing counseling work plan must detail the agency's plan for follow-up communication with the client. The agency must make reasonable efforts to have follow-up communication with the client, when possible, within the first 60 days of no client contact, to attempt to confirm that the client is progressing toward his or her housing goal, to modify or terminate housing counseling, and to learn and report outcomes. Follow-up efforts must be documented in the client's file. This plan must meet the requirements outlined in 24 CFR § 214.300 and Paragraph 3-5(F) of this Chapter.
11. Fee Structure. The housing counseling work plan must also describe, if applicable, the agency's fee structure and how fees are determined, for housing counseling and education services. Also, describe how the fee structure is communicated to the client. The work plan must also explain how fees charged meet HUD requirements consistent with 24 CFR § 214.313 and Chapter 7 of this Handbook, including how the agency assesses affordability and ability to pay. If no fees are charged, the work plan should note the same.
12. Limited English Proficiency. The housing counseling work plan must describe how the agency serves and ensures meaningful access for non-English speaking persons or clients having a limited ability to read, write, speak, or understand English. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP), seeks to improve access to federally assisted services, programs and benefits for individuals with limited English proficiency. Agencies participating in the Housing Counseling Program must seek to provide access to program benefits and information to LEP individuals through language assistance services, in accordance with Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons published on the Federal Register on January 22, 2007 (72 FR 2732).

13. Supervisory Monitoring and Oversight. The housing counseling workplan must include supervisory monitoring and quality control procedures. Intermediaries and SHFAs are to address activities and responsibilities related to managing their affiliates and subgrantees. The supervisory monitoring and quality control procedures must include the following:
- a. Reports and monitoring procedures to assure records of quality control findings and actions taken are maintained.
  - b. All deficiencies provided to senior management.
  - c. Prompt effective corrective measures that are taken by senior management and documented when deficiencies are identified.
  - d. Documentation of review of monthly percent of counselor(s) client files by senior management
  - e. Additional information, as needed.

This plan must also meet the requirements outlined in 24 CFR § 214.303(h) and Chapter 6, Paragraph 6-1(K) of this Handbook.

14. Documentation for Information Security Plan Compliance. The plan should include oversight to incorporate the basic requirements of the Gramm-Leach-Bliley (GLB) Act of 1999 to ensure the security and confidentiality of client information. Information includes all hard copy and digital storage of client information. The plan should include ways to monitor and document the main areas outlined in the GLB Act.

This plan must meet the requirements outlined in 24 CFR § 214.315(e) and Chapter 5, Paragraph 5-6(C) of this Handbook.

15. Lead Safety. When the housing counseling will cover the rental or purchase of housing that may include pre-1978 housing, the work plan must include informing clients of their rights and the procedures under the [Lead Disclosure Rule](#) (24 CFR part 35, subpart A) and the [EPA Renovation, Repair and Painting \(RRP\) Rule](#) (40 CFR part 745, subpart E), If the housing counseling will cover the rental or purchase of housing that may be HUD-assisted pre-1978 housing, their rights and the procedures under the Lead Safe Housing Rule (24 CFR part 35, subparts B, R, and, as applicable, F - M).

- B. Work Plan Modification. With HUD's written approval, any aspect of the work plan can be amended. If the agency is not a subgrantee or affiliated with an Intermediary or SHFA, the notice and plan must be submitted to the HUD point-of-contact (POC) for approval. However, if the agency is a subgrantee or affiliated with an Intermediary or SHFA then the notice must be submitted to the Intermediary or

SHFA, with which it is affiliated. The Intermediary or SHFA must review and confirm the work plan complies with OHC requirements and then forward a copy to the HUD POC for final approval. HUD may accept or reject work plan modifications proposed by the participating agency and may require the agency to adjust the proposed work plan as a condition for approval or participation in the housing counseling program. Approval of an agency's workplan will be based on the capacity of the agency, the demand for services and other factors. Additionally, HUD will require specialized training or certifications prior to approving certain housing counseling services such as HECM counseling. See Chapters 5 and 6, for more information on notifying HUD of work plan changes.

- 3-3 Client Intake. A housing counselor or other agency staff who are trained in requirements of the Privacy Act of 1974 (5 U.S.C. § 552a) may obtain basic information to determine if the agency can assist a potential client, schedule an appointment with a housing counselor or refer the potential client to other resources. Client intake *in and of itself* is not housing counseling and doesn't have to be performed by a HUD-certified housing counselor. This initial assessment is not housing counseling and should not be reported to HUD under housing counseling activities.
- 3-4 Information Dissemination and Correspondence. In accordance with 24 CFR § 8.6 and 24 CFR § 214.103(1)(3) participating agencies should provide clients instructions on how to access information through alternative means to ensure clients with mobility, visual or hearing impairment or other disability have equal access to enjoy the benefits of the program. These instructions can be provided in correspondence materials disseminated to clients and prospective clients or on the agency website, or both.
- 3-5 Counseling Services. In order for a client to be classified as counseled under HUD's Housing Counseling program, HUD certified housing counselors must deliver and document counseling in accordance with the requirements in 24 CFR § 214.300 (a) and (b). Any housing counseling required under or provided in connection with any program administered by HUD shall be provided only by HUD certified housing counselors.
- A. Housing counseling. The client must have received counseling on at least one of the topics described in Paragraph 3-6 below that enables them to make informed and reasonable decisions to achieve their housing goal.
- B. Discussion of Alternatives. Counseling must include a reasonable discussion of alternative services, programs, products and options available to the client.

For example, this type of discussion may occur if a recipient of pre-purchased counseling asks questions about a specific loan product or feature, or if the counselor feels that having information about a specific product, feature, property or program is in the best interest of the client. However, if a counselor discusses specific products, features, properties or programs, the counselor must also provide at least three other reasonable and comparable alternatives, if available, and document the client file.

Therefore, in the example provided the counselor should have given the client the opportunity to consider products from at least three different lenders.

Counselors must not steer clients to, or promote specific products, features or programs. Any discussion of alternative options must be documented in client files. Safeguards and disclosures must be used as described in Chapter 6, Paragraphs 6-1 (F), (G) and (H) of this Handbook to avoid conflict of interest. See Chapter 4, Paragraphs 4-1(I), (J) and 4-2 (H) of this Handbook for more information on discussing lenders with reverse mortgage clients.

- C. Action Plan. Except for reverse mortgage counseling, housing counselors and clients must establish an action plan as defined in Chapter 1, Paragraph 1-4 of this Handbook. The action plan outlines what the housing counseling agency and the client will do in order to meet the client's housing goals and, when appropriate, addresses the client's housing needs.
- D. Financial Analysis. Every housing counseling session requires a financial and housing affordability analysis of the client's financial situation. This includes but is not limited to:
  - 1. The establishment of a household budget customized to a client's current situation including any adjustments the client should make to achieve their housing goals;
  - 2. A review of the client's income, expenses, spending history, assets and use of credit; and
  - 3. The financial analysis and budget should include as much information as the counselor can obtain from the client. On a case-by-case basis or in limited situations, if a financial analysis and sustainable budget may not be possible, the counselor must provide a detailed justification in the client file. For example:
    - a. A financial analysis and budget may not be feasible for individuals experiencing homelessness who have no income sources.
    - b. A financial analysis and budget may not be feasible for rental counseling clients seeking advice about a landlord issue that does not involve a financial problem, for example, repairs.
- E. Referrals. Participating agencies should provide referrals to local, state, and federal resources, if needed. Referrals made by counselors must be documented in the client file. Any referrals for housing counseling must be made to a participating agency that has a HUD certified housing counselor(s).
- F. Follow-up. Participating agencies must make a reasonable effort to have follow up communication with the client, when possible, to ensure that the client is progressing toward his or her housing goal, to modify or terminate housing counseling, and to



learn and report outcomes in accordance with 24 CFR § 214.300(c). Client follow-up should be conducted by a certified housing counselor. The counselor should make reasonable efforts to follow-up within the first 60 days of no client contact. If unsuccessful, after two follow-up attempts, the counselor must write a letter or send an e-mail to the client stating that such efforts have been made and inform the client that there is a need for follow-up communication. The letter or email must request that the client contact the housing counseling agency no later than 30 days from the date of the letter. The follow-up communication enables the agency to assess if additional client services are necessary or if services should be terminated. Issuing surveys to assess housing outcomes does not fully meet the requirement for client follow-up. Hiring a third-party agency to conduct follow-up services is prohibited.

- G. Client File. The housing counseling agency must set up a confidential client file documenting the activities required by this section, and with the documentation required in Chapter 5 of this Handbook.
- H. Termination of Counseling. The housing counseling agency must document in the client's file when housing counseling services are terminated. The housing counselor must notate the client's file with the date and explain the reason(s) for termination of services. Client files must not remain open indefinitely. Housing counselors must make reasonable efforts to conduct a follow-up session as described in Paragraph 3-5(F) above. If the agency does not have any client contact and/or client file activity within a 90-day period, the agency must not bill or count that client as an active file against any future billing periods unless client contact is reinitiated.

Termination of counseling services can be for the following reasons:

1. The client meets his or her housing need or resolves the housing problem;
2. The agency determines that further housing counseling will not meet the client's housing need or resolve the client's housing problem;
3. The agency attempts to, but is unable to make contact with the client;
4. The client does not follow the agreed upon action plan;
5. The client otherwise terminates housing counseling;
6. The client fails to appear for housing counseling appointments or fails to respond to agency inquiries concerning the client's progress in resolving his or her housing need or problem; or
7. Other circumstances beyond the participating agency's or client's control such as a natural disaster that might prevent continuation of counseling.

- 3-6 Approved Housing Counseling, Education, and Outreach Topics. Participating agencies may provide (or discuss with clients) counseling or group education on the following topics:
- A. Homeownership Counseling. Homeownership Counseling is housing counseling related to homeownership and residential mortgage loans, must address the entire process of homeownership including the decision to purchase a home, the selection and purchase of a home, issues arising during or affecting the period of homeownership and the sale or other disposition of a home. Types of Homeownership Counseling include the following: pre-purchase/home buying, resolving or preventing forward or reverse mortgage delinquency or default, and non-delinquency post-purchase, reverse mortgage counseling, homeless assistance, rental housing counseling, and disaster or national emergency related assistance counseling.
  - B. Pre-Purchase/Home Buying. Includes but is not limited to advice regarding readiness and preparation for homeownership; Federal Housing Administration (FHA) insured financing; housing selection and mobility; search assistance; fair housing, fair lending and predatory lending; budgeting and credit; loan product and feature comparison; purchase procedures and closing costs; money management (does not include debt management plan programs); selecting a real estate agent; home inspection; alternative sources of mortgage credit; down payment assistance; locating housing that provides universal design and visibility; how to apply for programs available to potential homebuyers; how to purchase a home using the Housing Choice Voucher (HCV) Homeownership Program; and referrals to community services and regulatory agencies.
  - C. Resolving or Preventing Forward or Reverse Mortgage Delinquency or Default. Includes, but is not limited to counseling addressing the consequences of default and foreclosure; loss mitigation, budgeting and credit; restructuring debt; importance of paying property taxes; obtaining re-certification for a mortgage subsidy; and establishing repayment plans. It may also include assisting clients affected by predatory lending; foreclosure prevention strategies; national emergencies or disasters; explaining the foreclosure process; providing referrals to other sources; and assisting clients with locating alternative housing.
  - D. Non-Delinquency Post-Purchase Counseling. Home maintenance and financial management for homeowners, including escrow funds; budgeting; refinancing; home equity; home improvement; utility costs; energy efficiency improvements; property taxes, and rights and responsibilities of homeowners. loan and grant options; housing codes and housing enforcement procedures; accessibility codes and how to design features to provide accessibility for persons with disabilities; non-discriminatory lending and funding for persons who modify their dwellings to accommodate disabilities; visibility and universal design; how to specify and bid construction work; and how to enter into and manage construction contracts including actions to address the non-performance of contractors.

- E. Reverse Mortgage. Counseling related to reverse mortgage origination. The Federal Housing Administration's reverse mortgage product is the Home Equity Conversion Mortgage. See Chapter 4 of this Handbook.
- F. Homeless Assistance. Includes information regarding emergency shelter; other emergency services; and transitional housing.
- G. Rental housing counseling. Counseling related to the rental of residential property, which may include counseling regarding future homeownership opportunities when provided in connection with HUD's Housing Counseling Program or required under or provided in connection with HUD Programs as defined in 24 CFR § 5.111. Rental housing counseling may also include the decision to rent, the benefits of moving to well-resourced areas of opportunity, responsibilities of tenancy, affordability of renting, and eviction prevention. Rental topics may include HUD rental and rent subsidy programs; other federal, state, or local rental assistance; fair housing; housing search assistance; landlord tenant laws; lease terms; rent delinquency; budgeting for rent payments; and assistance with locating alternative housing. The payment of rental assistance on behalf of a client, and the collection of rent or loans, in and of themselves, have never been categorized as housing counseling.
- H. Disaster or National Emergency Related Assistance Counseling. Education and counseling services, where the need for services is created by a disaster or national emergency, either pending or occurred. A disaster may be a natural or man-made event that is local, regional, or national in scope. These services may be preparedness (pre-disaster) or recovery (post-disaster). Participating agencies can offer these services through group workshops or one-on-one counseling, or both. The duration of such housing counseling may be short- or long-term.
  - 1. Preparedness Assistance Housing Counseling and Education. Includes preparedness education and housing counseling that occurs before a disaster. It can be group education or one-on-one counseling, or both. This education and housing counseling provides clients the tools and information necessary to prepare and implement a home and family emergency preparedness plan.
  - 2. Recovery Assistance Housing Counseling. Includes recovery assistance housing counseling and education that occurs post disaster. It can be group education or one-on-one counseling. Recovery assistance housing counseling will focus on the relocation, re-housing, and rebuilding process for those clients impacted by a disaster.

### 3-7 Fair Housing and Civil Rights Requirements

- A. Nondiscrimination under 24 CFR §§ 5.105 and 214.503  
All participating agencies must comply with federal civil rights and fair housing statutes and HUD's implementing regulations which protect against discrimination on the basis of race, color, religion, sex (including sexual orientation and gender

identity), national origin, familial status, age, and disability. 24 CFR § 5.105. Additionally, agencies should be aware that the Violence Against Women Act (“VAWA”) protects survivors of domestic violence, dating violence, sexual assault and stalking in covered housing programs in which the agency’s clients may participate or to which they may apply. 34 U.S.C. § 12491(a)(3).

**B. Promoting Fair Housing and Protecting Civil Rights.** All participating agencies must affirmatively further fair housing.

Participating agencies’ endeavors to affirmatively further fair housing must include marketing and outreach activities directed at those populations least likely to seek counseling services. Affirmative marketing and outreach activities include but are not limited to the following: public service advertising, conducting informational sessions with community-based organizations and in public facilities (such as libraries or town halls) and direct marketing to persons least likely to know about the existence and availability of housing and housing related services in particular housing markets. The persons least likely to be aware of or pursue housing opportunities within a particular housing market area are likely the ones who need housing counseling services the most.

Examples of the components of an affirmative marketing and outreach plan include: advertising the availability of services with an emphasis on certain populations (including translating ads into various languages) through internet, social media, radio stations, flyers, newspapers, public television, message boards, and seminars that are known to be used by those populations within a market area; outreach to local organizations across the market area with ties to a wide range of people, such as community gathering places (e.g., libraries, schools, recreation centers, senior centers, places of worship), employers, faith-based communities, social service providers, and other advocacy and community-based organizations advertising and outreach in non-English languages to ensure meaningful access for limited English proficient (LEP) individuals; advertising and outreach using alternative formats and auxiliary aids and services to ensure effective communication with individuals with disabilities; and marketing housing opportunities and housing related services to advocacy groups such as fair housing organizations and disability or veterans groups on the availability of housing or housing services.

In addition to marketing and outreach, reasonable steps to affirmatively further fair housing may include housing counseling to make persons aware of discriminatory practices, education about housing design or construction to increase access for persons with disabilities, language assistance services to persons with limited English proficiency (on the basis of national origin), affirmative fair housing marketing, or encouraging and assisting clients to seek housing in locations that afford greater housing choice or access to educational, service, or employment opportunities. For more examples of housing counseling services that may affirmatively further fair housing, see Paragraph 3-7(C) below.

1. Reporting--Participating agencies should maintain records of their activities to affirmatively further fair housing. Such records should describe the activities that took place, and, to the extent possible, describe the impact of the activities. Participating agencies are obliged to maintain records on the race, ethnicity, disability status and familial status of the beneficiaries of HCS programs.
- C. Fair Housing Counseling, Education and Outreach Activities. The following are examples of fair housing counseling, education, and outreach topics that participating agencies may provide to, and discuss with, clients in accordance with HUD's regulations at 24 CFR § 214.300 – especially clients in groups that have experienced systematic discrimination or other impediments to fair housing choice:
1. Pre-purchase/Home buying--including, but not limited to: advice regarding readiness and preparation, fair housing rights of applicants and clients, identifying housing and lending discrimination and predatory lending;
  2. Resolving or preventing mortgage delinquency--including, but not limited to: preventing default and foreclosure; borrower rights; identifying discriminatory or predatory loan terms or modification programs; loss mitigation; assistance with budgeting; and credit;
  3. Home maintenance and financial management for homeowners--including but not limited to, the preservation of accessible housing features; and federal, state, or local resources available to improve the environmental conditions (e.g., air quality, mold, lead paint, energy efficiency) or disaster resilience of a home; and
  4. Rental topics--including, but not limited to, HUD rental and rent subsidy programs; other federal, state or local assistance; the benefits of and tips for finding housing in well-resourced areas of opportunity; how to appeal denials of rental applications, including those based on credit, eviction, or criminal records; fair housing and civil rights laws; housing search assistance; landlord tenant laws; the housing rights of survivors of domestic violence, dating violence, sexual assault, or stalking; lease terms; rights of applicants and clients, rent delinquency; reasonable accommodations and modifications for individuals with disabilities.
- D. Responsibilities of intermediaries and sub grantees. HUD-funded grant recipients, including subgrantees, are obligated under various laws not to discriminate in the administration of any housing, services, or other program or activity directly or indirectly based on race, color, religion, sex (including sexual orientation and gender identity), age, national origin, familial status, or disability. HUD regulations further require that recipients of Federal financial assistance comply with Civil Rights-Related Program Requirements (CRRPRs) that affect nearly every aspect of each program. (In the case of participating housing counseling agencies, such agencies must adhere to these CRRPRs whether they receive Federal financial assistance or not as a condition of their participation in HUD's Housing Counseling Program. 24 CFR § 5.105.) All intermediaries and sub grantees are held to the same nondiscrimination

and equal opportunity responsibilities of direct recipients of Housing Counseling Services program funds or resources, including but not limited to:

1. Maintaining records and actions taken. Refer to Chapter 5, Paragraph 5-13 of this Handbook.
2. Training of staff with applicable civil rights laws and their applications. Refer to Paragraph 3-7(A) above, and
3. Education and Outreach Activities. Refer to Paragraph 3-7(C) above.

Contracts and agreements between participating agencies and their affiliates or sub grantees must include terms to this effect.

- E. How to File a Discrimination Complaint with HUD. For complaints under the Fair Housing Act (42 U.S.C. § 3601, *et seq.*) (nondiscrimination because of race, color, national origin, sex (including sexual orientation or gender identity), religion, disability, or familial status) clients of participating agencies may file a discrimination complaint if they believe that they have been subjected to unlawful discrimination. Participating agencies or a client's representative may file a complaint on the client's behalf. For complaints filed with HUD, the complaint must be filed no later than one year after the last alleged discriminatory act occurred.

If a participating agency has a client that needs fair housing assistance, the agency should refer the client to HUD or a state, county, or municipal fair housing agency. Discrimination complaints that arise in a jurisdiction that administers a law that HUD has certified as substantially equivalent to the Fair Housing Act will be referred by HUD to the respective state or local government agency. For these certified agencies, the statute of limitations for filing a complaint may vary.

For other civil rights complaints such as those under: Title VI of the Civil Rights Act, 42 U.S.C. 2000d *et seq.*; 24 CFR part 1, (prohibits discrimination on the basis of race, color, and national origin); Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794; 24 CFR part 8, or the Americans with Disabilities Act, 42 U.S.C. 12131 *et seq.*; 28 CFR part 35 (both prohibit discrimination based on disability); and the Violence Against Women Act of 2022 (VAWA), 34 U.S.C. 12291 *et seq.*; 24 CFR part 5, Subpart L (prohibits discrimination based on domestic violence, dating violence, sexual assault and stalking); the Age Discrimination Act, 42 U.S.C. 6101 – 6107 (prohibits age discrimination); Title IX of the Education Amendments Act of 1972 20 U.S.C. 1681-83, 1685-88 (prohibits sex, sexual orientation, and gender identity discrimination in education programs and activities) clients of participating agencies may file a discrimination complaint if they believe that they have been subjected to unlawful discrimination. Participating agencies or a client's representative may file a complaint on the client's behalf.

While complaints filed pursuant to Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination Act, and Title IX must be filed within 180 days of the alleged act of discrimination, HUD may extend the time for filing and accept a complaint after the 180 days.

HUD offers multiple ways to file a complaint. The client, agency or a representative may: (1) file a written complaint with the nearest HUD office; or (2) call the nearest HUD office; or (3) use the following link to access HUD's Fair Housing complaint form to file online: [File a Complaint](#).

Please contact HUD's Office of Fair Housing and Equal Opportunity for additional information. A list of HUD local offices and their contact information is available at [Contact FHEO](#).

- 3-8 Marketing and Outreach Initiatives. Participating agencies may conduct marketing and outreach, including, providing general information about housing opportunities, conducting information campaigns, and raising awareness about critical housing topics such as predatory lending and fair housing topics.
- 3-9 Affirmative Fair Housing Outreach. Outreach must be directed at those populations least likely to have access to counseling services. To do so, it may be necessary to broaden the target areas. Agencies must ensure meaningful access for individuals with Limited English Proficiency by providing translation and interpretive services in languages other than English in order to reach a greater variety of racial and ethnic groups. See Paragraph 3-2 and 3-7 above for more information. Outreach must ensure effective communication with individuals with disabilities, including through the provision of appropriate auxiliary aids and services. See 24 CFR § 214.103(1)(3) and 24 CFR § 8.6.
- 3-10 Debt Management or Liquidation. HUD considers debt management or liquidation service as an activity apart from the housing counseling process. HUD recognizes that a client may enter a debt management plan as a result of housing counseling. Administration of client debt management plans is not housing counseling and must not be included in an agency's housing counseling work plan or counseling activity reporting.
- 3-11 Knowledge of HUD Programs. The agency's housing counselors must have working knowledge of HUD housing and fair housing programs including FHA Single Family mortgage programs, other State and local programs available in the community, Consolidated Plans and the local housing market. The staff should be familiar with housing programs offered by conventional mortgage lenders and other housing or related programs that may assist their clients in accordance with 24 CFR § 214.103(h). HUD staff may briefly assess an agency's staff knowledge of HUD programs when conducting on-site performance reviews.

- 3-12 Referrals to Community Resources. Agencies must demonstrate that they have established working relationships with private and public service agencies to assist clients when additional services not offered by the agency are needed. Additionally, an agency's community referral network will be assessed through the review of client files and client surveys, if issued by HUD.
- 3-13 Discussion of For-Profit Entities. Helping clients resolve their housing problems may include a discussion about certain for-profit entities such as lenders or real estate professionals. If a client requests information about for-profit housing-related entities or asks questions about a particular for-profit entity, or if the counselor feels that having information about a specific for-profit entity is in the best interest of the client, the agency may discuss the entity, but must also identify and discuss a minimum of three reasonable alternative for-profit entities, if available.

Counselors must not advise or steer clients to any specific for-profit entities. Their role is to simply make clients aware of their options. Safeguards and disclosures must be used as described in Chapter 6, Paragraphs 6-1(F), (G) and (H) of this Handbook, to avoid a conflict of interest. See Chapter 4, Paragraphs 4-1(I), 4-1(J) and 4-2(H) of this Handbook, for more information on discussing lenders with reverse mortgage clients.



## CHAPTER 4. REVERSE MORTGAGE HOUSING COUNSELING

- 4-1 Reverse Mortgages. A reverse mortgage is a mortgage that pays a homeowner loan proceeds drawn from accumulated home equity and that requires no repayment until a future time.

Reverse mortgage counseling assists clients who seek to convert equity in their homes into income that can be used for any purpose such as, but not limited to, ongoing property taxes, property insurance, home repairs and improvements, medical costs, and living expenses.

The requirements in this section apply to housing counseling for reverse mortgages generally. Additional specific requirements relating to FHA-insured Home Equity Conversion Mortgages (HECM) counseling are introduced in Section 4-2 below and covered in detail in Appendix 1: HECM Protocol.

- A. Types of Reverse Mortgages. There are three types of reverse mortgages shown in the chart below.

Single purpose reverse mortgage	Typically offered by state and local government agencies to be used in only one specific way, for example, home repairs.
Proprietary reverse mortgage	A reverse mortgage that is not insured by the Federal Housing Administration.
Home Equity Conversion Mortgage (HECM)	A reverse mortgage insured by the Federal Housing Administration.

- B. Reverse Mortgage Counseling Providers. All housing counseling, including reverse mortgage counseling, provided by participating agencies must be performed by a HUD certified housing counselor. While HUD certified counselors may provide information to clients about proprietary reverse mortgages and provide counseling on reverse mortgage default, only counselors who are HUD certified and on the HECM Roster can provide HECM counseling and issue a [form HUD-92902, Certificate of HECM Counseling](#).
- C. Group Education or Marketing and Outreach. Participating agencies may provide general group education on reverse mortgage financing programs. Agencies are encouraged to conduct marketing and outreach to educate clients on various housing options.

The participating agency shall not use group education to address individual client needs that require confidentiality and prudent use of private information.

HECM Counselors may not issue a Certificate of HECM Counseling to a client for participation solely in a group education session but may only issue following the completion of one-on-one Counseling, as provided in Paragraph 4-2(J) and (K), below.

- D. Reverse Mortgage Counseling Methods. All participating agencies that provide reverse mortgage counseling must have the capacity to conduct in-person counseling. Counselors must be familiar with state and local requirements for reverse mortgage counseling. All agencies are required to provide a thorough and complete session that covers all the requirements outlined in this Handbook.

The agency must indicate the service methodologies that it will provide in its approved housing counseling work plan as outlined in Chapter 3, Paragraph 3-2 of this Handbook.

Agencies are required to make reasonable accommodations that may be necessary for individuals with disabilities, including with respect to the method of counseling. For example, an individual may have a disability-related need for a specific type of virtual meeting if in-person counseling is not available, such as a video meeting.

Additionally, agencies must take appropriate steps to ensure effective communication with individuals with disabilities, which means taking appropriate steps that may be necessary to ensure that communications with individuals with disabilities are as effective as communication with individuals without disabilities. This is often provided through the use of appropriate auxiliary aids and services.

Agencies are also must take reasonable steps to ensure meaningful access to assisted programs for persons with limited English proficiency (LEP). Reasonable steps include the provision of meaningful language assistance, which may include translation of documents and interpretation services.

1. In-Person Face to Face. Clients may choose to meet at:
  - a. The agency's office;
  - b. The client's residence if service is available from the agency; or
  - c. A mutually agreed upon alternative site, e.g. area offices on aging, municipal offices, etc.

If the agency is unable to accommodate a request for in-person counseling, the counselor should refer the client to a local agency providing in-person reverse mortgage counseling.

Counselors should document the client's location choice in the client's case file.

2. Telephone Counseling, including Use of Virtual Meeting Providers. Participating agencies must also define within its work plan the geographic area in which they will conduct counseling. HUD permits nationwide counseling if it is defined in the agency's approved work plan.

Participating agencies must ensure that any virtual or remote method used allows for the session to be conducted in privacy.

Counselors should document the client's preferred method of communication in the client's case file, including any reasonable accommodations requested such as auxiliary aids, closed captioning, translation services, etc.

- E. Content of Reverse Mortgage Origination Counseling. Counselors providing one-on-one reverse mortgage counseling must meet the requirements of Chapter 3, Paragraph 3-1 (Basic Requirements), Chapter 3, Paragraph 3-5 (Counseling Services), and this section of this Handbook, with the exception of the creation of a written action plan, which is not required for reverse mortgage counseling.

HUD encourages counselors to ensure that all one-on-one reverse mortgage counseling complies with HECM-related policies in this chapter and in Appendix 1: HECM Protocol. This ensures that, though the client is provided with options on a variety of reverse mortgage products, the client will receive form HUD-92902, Certificate of HECM Counseling as proof that HECM counseling was completed, should the client decide to apply for a HECM.

1. **Information Packet before Reverse Mortgage Counseling.** Agencies must provide clients with an information packet prior to the reverse mortgage counseling session. The client should have at least one day to review the materials and prepare questions before the counseling session. In cases where emergency counseling is necessary (see 4-1(G) below), the counselor must send the information to the client immediately after completing the counseling session and document in the file the reason for the emergency session. The counselor must document when they provided the information packet to the client. Counselors must confirm the client's receipt and review of the advance information.

All communications should include instructions on how to contact the agency via TTY, relay, or other assistive means for persons with hearing impairments. All communications should also inform clients and prospective clients about translation or interpreter services. In addition, all communications should ask clients and prospective clients whether they need assistance for mobility impairments, visual or hearing impairments, or other disabilities. In situations where a client requires an interpreter or translator, the agencies must utilize one that is under direct control of the agency.

The information packet can be sent via regular mail, priority mail, fax, or email.

The following information must be in the information packet:

- a. Agency disclosure form and fee schedule for reverse mortgage counseling;

- b. “Preparing for Your Counseling Session”- See HECM Protocol Attachments;
- c. Printout of loan comparisons relevant to the client’s situation, to facilitate the counseling session;
- d. Printout of Total Annual Loan Cost (TALC) available on the HUD designated calculation software that counselors use to prepare loan printouts and TALC printouts;
- e. Reverse mortgage amortization schedule; and
- f. Reverse mortgage booklet designated by HUD, in hard-copy form or online. Access to the current booklet must be provided to the client on the HUD Exchange.

These items must be provided by the counselor, independent of the lenders’ documents.

2. Required Information during Counseling. Counselors must provide clients with all the information outlined below. It is the role of the counselor to explain the concepts of a reverse mortgage and answer any questions the client may have and discuss other options.

Unless the housing counseling agency is a non-profit legal service or legal aid provider and the counselor is licensed to practice law in the subject jurisdiction, they must not provide legal advice on any issues during the course of providing counseling. In such circumstances, the counselor should refer the client to other assistance as appropriate under Chapter 3, Paragraph 3-5, Counseling Services.

Agencies should make sure their disclosure addresses limitations on legal and financial advice.

### **Alternatives and Options**

The counselor shall review information on the client’s other options as available and appropriate based both on the client’s short and long-term needs.

### **Reverse Mortgage Information**

The counselor shall review the following basic information on reverse mortgages with each client as applicable to the client’s unique situation:

- a. This is a loan that must be repaid;
- b. Rising debt, falling equity;

- c. Repayment requirements, including when and how much;
- d. Obligations, especially property taxes and insurance (Provide a copy of the “Reverse Mortgage Borrower Obligations” in Appendix 1);
- e. Eligible Non-Borrowing Spouse obligations and deferral period (if applicable);
- f. Ineligible Non-Borrowing Spouses (if applicable);
- g. Mortgage insurance premiums, fees, and fee financing;
- h. Nonrecourse limits (the ability of a lender to take legal action against the borrower for default on the loan);
- i. Remaining equity (implications for Borrower, and Non-Borrowing spouse, if applicable, and their heirs);
- j. Factors that determine loan amounts and loan limits;
- k. Retention of title and other title issues;
- l. Impact on public benefits, using HUD’s designated web-based software;
- m. Refinancing a reverse mortgage (if applicable);
- n. Using reverse mortgages for purchase (if applicable); and
- o. Relevant homeownership counseling topics, including the providing of home inspection materials, if applicable.

### **Financial Implications**

The counselor shall review the financial implications of reverse mortgages to help clients assess whether the reverse mortgage proceeds will be sufficient to meet their financial obligations, including taxes and any required insurance.

The counselor may reference printouts, which can include proprietary loan comparisons if such products are available, as appropriate. Financial overview and printout topics may include:

- a. Cash advances including limitation of initial disbursements and itemized costs;
- b. Individual loan amortization schedule(s);

- c. Potential impact due to financial assessment requirements;
- d. Future projections and comparisons (including total cash advances, total dollar costs, leftover equity, and total annual average rates); and
- e. Loan and annuity combinations (counselors may give clients the brochure entitled “Using a Reverse Mortgage to Buy an Annuity” in Appendix 1 and advise them that they are not required to purchase an insurance, annuity, or other similar product).

## **Client Concerns and Questions**

### ***Next Steps and Follow-Up after the Reverse Mortgage Counseling Session***

Counselors must make a reasonable effort to have follow-up communication with the client, when possible, to assure that the client is progressing toward their housing goal, to modify or terminate housing counseling, and to learn and report outcomes. For all reverse mortgage counseling clients, the counselor must ensure that the follow-up meets the requirements of Chapter 3 and is documented to reflect whether the client needs additional assistance, obtained a reverse mortgage, or utilized other options discussed during the counseling session.

The counselor must explain to the client follow-up process and next steps, including:

- a. Ongoing access to counselor and other resources;
  - b. Instructions to client to make and keep copies of all documents,
  - c. Loan processing and expected timelines; and
  - d. The counselor-signed copy of the Certificate of HECM Counseling, form HUD-92902, if HECM counseling was provided.
3. Reverse Mortgage Printouts. In addition to any lender-provided printouts, counselors must utilize and provide to the client computer printouts generated by HUD-designated online tools available to all HECM counselors. HUD-designated calculation software, as described in Appendix 1, provide independent and unbiased calculations on the maximum funds available to borrowers, provides payment plan options, amortization schedules, and Total Annual Loan Cost Calculations (TALC).

Using the HUD-designated calculation software, counselors will be able to show clients how variations in different reverse mortgage products may affect clients’ access to equity, amortization schedules, loan balances, and/or loan costs. The HUD-designated calculation software will not generate the principal limits for any specific proprietary reverse mortgage product.

Counselors may discuss loan printouts and amortization schedules given by lenders to clients. Counselors should answer questions about the loan printouts and product features. Counselors should provide a balanced view by only providing individually customized loan printouts to clients on:

- a. HECM loans that are widely available from a majority of HECM lenders;
- b. Proprietary reverse mortgage products, if available, that are broadly offered by reverse mortgage lenders; and
- c. Proprietary reverse mortgage or HECM products that have been offered to that client by a reverse mortgage lender.

The printouts should include:

- a. Future remaining credit line projections based on credit line draws specified by the client (if the client selects a credit line);
- b. A comparison of estimated loan details at closing;
- c. Projected loan comparisons at various future times, including projected figures for total cash received, cash remaining, and total cost expressed in terms of total dollars and a total annual average rate; and
- d. Amortization projections for selected products with year-by-year details (the loans negatively amortize as the loan balance increases, equity decreases).

When sending documents to the client, the counselor may send these documents by regular mail, priority mail, fax, or email, taking care to protect sensitive client information and making reasonable accommodations as necessary for individuals with disabilities.

F. Fraud Prevention and Elder Abuse. Counselors must educate prospective reverse mortgage borrowers about how to avoid becoming victims of fraud. Counselors must cover the following with their reverse mortgage clients:

1. The potential of mortgage fraud with the borrowers;
2. The standard ways in which borrowers can access their loan proceeds;
3. Warnings against signing over their funds to loan officers or other parties involved in the mortgage transaction;

4. Recognizing and reporting predatory lending practices; and
5. Recognizing and reporting potential elder abuse to appropriate authorities.

HUD may monitor compliance through performance reviews and may utilize client surveys, mystery shoppers, and other customer surveying tools.

- G. Emergency Counseling. Emergency counseling is reverse mortgage counseling that occurs without the client scheduling an appointment or receiving the reverse mortgage information packet in advance.

The counselor must document the client file regarding the meeting of the requirements for emergency counseling noted below. The circumstances listed below are the only emergency counseling situations permitted. The client may receive emergency counseling by any approved counseling method if:

- The client is in imminent danger of losing his or her home and can provide supporting documentation; or
- The client requires impending medical treatment or emergency in home care, and they are not able to obtain treatment or care without obtaining loan proceeds from a reverse mortgage.

- H. Prohibition on Dissemination of Specific Loan Product Cost Information. A counselor must not provide information on the specific costs charged by any individual lender on reverse mortgages. Costs may vary due to variables like market conditions and individual client circumstances.

The counselor should tell the client that the lender is the best source of information about the origination and servicing fees and third-party closing costs they charge. If a client presents a counselor with detailed information on a variety of loans offered by multiple lenders, the counselor may help the client compare the costs but must remain impartial and make no product recommendations.

HUD does have limitations on third-party charges for HECMs. See Appendix 1, Section V.C: HECM Protocol, Loan Features for information on limitations on charges on HECMs.

- I. Lender Steering and Disclosure. Housing counseling agencies must provide unbiased and impartial advice based on an evaluation of the client's individual circumstances. Housing counselors must not promote, represent, recommend, or speak for any specific lender, or presume that the client wants to contact a lender.

Upon the client's request, the counselor may provide a list of HUD-approved Reverse Mortgage Lenders that is adjusted geographically for the client. The counselor may



also include in the list alternative or proprietary reverse mortgage products, subject to the requirements of Chapter 3, Paragraph 3-2. Counselors should not provide any information on which lenders are offering specific HECM variations or proprietary products.

The agency must provide reverse mortgage clients a disclosure form acknowledging any relationship or agreements between the agency and any lending institutions and retain in client files. This disclosure must meet all the requirements for disclosure outlined in Chapter 6 of this Handbook.

- J. Counselor Steering by Lenders. Counselors should be aware that reverse mortgage lenders may not steer, direct, recommend or otherwise encourage a client to seek the services of any one particular counselor or counseling agency.
- K. Reverse Mortgage Client File Record Retention. Chapter 5 of this Handbook lists all information that must be maintained for the reverse mortgage client's file and the duration of record retention. HUD recommends that where the counselor is aware of a client case that is involved in litigation, the file should be maintained until litigation is concluded.
- L. Concerns or Complaints Regarding a Reverse Mortgage Lender or Counselors. If a consumer, lender, counselor, or representative from the housing industry has a concern regarding housing counseling, they should contact HUD's Office of Housing counseling at [Housing.Counseling@hud.gov](mailto:Housing.Counseling@hud.gov).

Complaints about HECM lenders (origination or servicing) should be sent to [Answers@hud.gov](mailto:Answers@hud.gov) or 1-800-225-5432. In addition, complaints should be filed with CFPB at [consumerfinance.gov/complaint](http://consumerfinance.gov/complaint) or call 855-411-2372.

4-2 Home Equity Conversion Mortgages (HECM). This section provides general guidance on HECMs. In addition to the requirements for reverse mortgage counseling detailed in Section 4-1, counselors providing HECM counseling must comply with HECM-related policies in this chapter and in Appendix 1: HECM Protocol and any updated guidance published by FHA and/or HUD's Office of Housing Counseling.

- A. HECM Features. FHA insures a type of reverse mortgage known as a Home Equity Conversion Mortgage (HECM). Section 255(d) of the National Housing Act states that all prospective HECM Borrowers and Non-Borrowing Spouses must receive reverse mortgage counseling consistent with the information required under NHA § 255(f) as implemented at 24 CFR § 206.41 before the Borrowers obtains a HECM.

This counseling must be provided by counselors who are on the HUD-approved HECM Counselor roster and working for a participating agency. Only counselors active on the HECM Counselor Roster may issue a [form HUD-92902, Certificate of HECM Counseling](#).

## B. HECM Counseling Providers

1. Housing Counseling Agencies. For an agency to provide HECM Counseling, that agency must employ a HECM counselor and include HECM counseling in its HUD-approved housing counseling work plan, including the specific geographic areas the agency will provide such counseling. HECM counselors must also comply with the certification requirements in 24 CFR 214.103(n).

An agency may provide telephone counseling nationwide provided this is included in the housing counseling work plan but must meet the requirements of Paragraph 4-1(C) of this Chapter. All agencies must meet applicable state and local requirements. For example, some states require that counseling be conducted in-person or that the counseling agency be domiciled within the state.

HUD may include, as part of its agency quality control measures, “mystery shopping” and other methods of assessing the quality of housing counseling services in which trained personnel act as prospective clients, and other actions as determined by HUD.

2. HUD HECM Counselors. Only counselors active on HUD’S HECM Counselor Roster may provide HECM counseling and issue [form HUD-92902, Certificate of HECM Counseling](#).

To be placed on the HECM Counselor Roster, a counselor must meet the following regulatory criteria:

- a. Is employed by a HUD-approved housing counseling agency or an affiliate of a HUD-approved intermediary or State housing finance agency,
- b. Successfully passed the standardized HECM Counselor exam administered by HUD or a party selected by HUD within the prior three years;
- c. Received training and education related to HECM within the prior two years;
- d. Have access to technology that enables HUD to track the results of the counseling offered to each HECM client;
- e. Is not listed on:
  1. The General Service Administration's Suspension or Debarment List or Excluded Parties List,
  2. HUD's Limited Denial of Participation List, or
  3. HUD's Credit Alert Interactive Response System;
- f. Successfully pass the HUD housing counseling certification exam; and,

- g. Complies with registration, license, or certification requirements of the state or local authority, as applicable.

C. HECM Counselor Continuing Education and Training. To remain on the HUD-approved HECM Roster, a counselor must:

- a. Be employed by a HUD-approved housing counseling agency or an affiliate of a HUD-approved intermediary or State housing finance agency,
- b. Provide to HUD proof of HECM-related training or continuing education every two years; and
- c. Pass the HECM exam every three years.

These timeframes are effective from the date the counselor is approved and accepted for the HECM roster. It is the counselor's responsibility to be aware of their roster approval date.

HECM counselors are not required to retake the HUD Housing Counselor certification exam required by 24 CFR § 203.214(n).

For a continuing education course to be acceptable for the purpose of meeting the regulatory training and education requirement, the course should meet the following criteria:

- a. Cover HECM-related topics in the areas of counseling, loan origination, servicing or HECM default;
- b. Have a method to track course attendance and completion;
- c. Issue a certificate of completion for attendees;
- d. May be conducted in a classroom or alternative online format; and
- e. May include a course final exam.

D. Use of FHA Connection to Manage Roster. Participating agencies and counselors must use FHA Connection to manage their HUD Certification and HECM roster status.

E. Applying for the HECM Counselor Roster. Detailed instructions on how to apply for the HECM Counselor Roster are available on the [Office of Housing Counseling's HECM website](#).

F. Maintaining the HECM Counselor Roster Profile. All counselors must maintain their profiles on the HUD HECM Counselor Roster. This includes the responsibility to make updates to the following within the timeframes set in Chapter 5, where applicable:

- completed continuing education courses;
- the HUD-Approved Counseling Agency where they are employed; and
- contact information including the most current email address.

Detailed instructions on how to update counselor profiles are available on the [Office of Housing Counseling's HECM website](#).

G. Removal from the HECM Counselor Roster. HUD can remove counselors from the Roster for cause, which may include:

1. Providing misrepresentations or fraudulent statements;,
2. Misconduct during the HECM exam;
3. Promoting, representing, or recommending a specific lender;
4. Failure to pass the HUD Housing Counselors Certification Exam;
5. Failure to comply with education and training requirements;
6. Failure to respond to HUD inquiries and requests for documentation within a reasonable time;
7. Failure to comply with applicable fair housing and civil rights requirements;
8. Failure to comply with applicable statutes, regulations, or HUD requirements;
9. Failure to provide information to clients on:
  - a. options other than HECMs,
  - b. the financial implications of a HECM,
  - c. the tax consequences of a HECM, and
  - d. any other information required by HUD or requested by the applicant;
10. Failure to maintain registration, license, or certification requirements of the applicable state or local authority;
11. Failure to provide satisfactory counseling to HECM applicants; or
12. Any other reason HUD determines serious enough to justify an administrative action.

HUD will provide the HECM counselor with written notice of the proposed removal with the reason for and the duration of the proposed removal. The counselor has 30 days from the date of receipt of the notice to submit a written appeal and, if desired, a request for a conference.

HUD will review the appeal and respond within 30 days after receiving the appeal, or if the HECM counselor has requested a conference, within 30 days after the conference.

If the counselor does not submit a timely written response to HUD's notice of proposed removal, the removal will be effective 31 days after the date of HUD's initial removal notice. If the counselor submits a written response, and the removal decision is affirmed or modified as a result, the removal will be effective on the date of HUD's notice affirming or modifying the initial removal decision.

The maximum time period for removal from the roster is twelve months from the effective date of removal. A counselor who has been removed must apply for reinstatement to the HECM Roster after the period of removal has expired. HUD may require the counselor to retake and pass the HECM exam.

- H. HECM Counselor Steering by Lenders. HECM counselors should be aware that lenders may not steer, direct, recommend, or otherwise encourage a client to seek the services of any one particular counselor or counseling agency.

HECM lenders are required to provide a list that meets certain requirements stated in HUD Handbook 4000.1, II.B.1.a. Required Referral for HECM Counseling.

Should the counselor determine that a lender is steering, directing, recommending, or encouraging a client to seek their or their agencies' services, the counselor must notify the Office of Housing Counseling.

- I. Group Education or Marketing and Outreach. Agencies may provide general reverse mortgage, including HECM, program information to clients through group education or marketing and outreach.

The agency shall not issue the Certificate of HECM Counseling, form HUD-92902, to a client who attends only a group education or marketing and outreach session but may only issue following the required one-on-one counselling, as provided in Paragraph 4-2(J) and (K), below.

- J. In-Person One-on-One Counseling. To meet the statutory requirements for obtaining a HECM, the prospective borrower and other parties requiring counseling must receive one-on-one HECM counseling and be issued the form HUD-92902, Certificate of HECM Counseling. The counselor issuing the Certificate of HECM Counseling must be on the FHA HECM roster.

Counselors are permitted and encouraged to provide the HECM counseling to a prospective borrower's heirs. While FHA prefers that all prospective HECM Borrowers and Non-Borrowing spouses participate in face-to-face interviews with a HECM counselor, this procedure may create a hardship for some prospective borrowers, particularly those living in rural areas or with limited mobility.

HUD will allow prospective HECM borrowers the option of utilizing the methods described in 4-1D, Reverse Mortgage Counseling Methods, to complete mandatory counseling.

Counselors should check state and local requirements regarding acceptable methods of HECM counseling. Similarly, HUD will allow prospective HECM borrowers alternative HUD-approved options of communication when working with HUD-approved HECM lenders to complete loan origination activities.

- K. Content of One-on-One Counseling. HECM counselors must meet the requirements of Chapter 3, Paragraph 3-1 (Basic Requirements), and Chapter 3, Paragraph 3-5 (Counseling Services). Additionally, HECM counselors must meet the requirements of Appendix 1, HECM Protocol.
- L. HECM Counseling Certificate. Form HUD-92902, Certificate of HECM Counseling, is used for the HECM Counseling Certificate. A HECM Counseling Certificate is issued through a system designated by HUD, to demonstrate to the lender that the statutorily required counseling was provided. No alterations to this form are authorized.

Issuing a certificate does not indicate whether the counseling agency recommends or does not recommend the client for a HECM or proprietary reverse mortgage.

Other reverse mortgage products and programs may also require a certification of reverse mortgage counseling. The counseling agency's issuing of a Certificate of HECM Counseling attests only to the fact that the client attended and participated in the required HECM counseling, that the HECM counselor provided statutorily required counseling for a HECM, and is not intended to satisfy the counseling requirements for other proprietary reverse mortgages.

- 4-3 Fees for HECM and Reverse Mortgage Counseling. HUD-approved housing counseling agency or an affiliate of a HUD-approved intermediary or State housing finance agency providing HECM and reverse mortgage counseling may charge a fee for these counseling services as long as the cost:

- is reasonable and customary;
- is commensurate with services provided;
- does not create a financial hardship for the client;

- if for default or homeless counseling services, meets the requirements of Chapter 7, Paragraph 7-5, Fees for Housing Counseling and Related Services; and
- if for HECM counseling, meets the other requirements of HECM regulations.

## CHAPTER 5. RECORDKEEPING AND REPORTING

- 5-1 Introduction. All participating agencies must comply with applicable recordkeeping and reporting requirements including, 24 CFR §214.315, §214.317, and 2 CFR Part 200, as well as those reporting requirements contained in applicable NOFOs, grant agreements and HUD Housing Notices to participating agencies. All client files must be easily accessible to HUD for monitoring and auditing purposes.
- 5-2 Recordkeeping System. Each participating agency must maintain a recordkeeping system so that client files (electronic or a combination of electronic and paper) can be reviewed and annual activity data for the agency can be verified, reported and analyzed. The system must permit HUD to easily access all necessary information for a complete performance review. This system must meet the requirements of 2 CFR part 200, 24 CFR § 1.6 (Compliance Information), and 24 CFR part 121 (Collection of Data).
- 5-3 Client Management System (CMS). A CMS is an existing online tool that automates much of the housing counseling process, including client intake, file maintenance, financial and credit analysis, outreach, client notification, and reporting. See Chapter 1, Paragraph 1-4 (D) of this Handbook. All Participating Agencies are required to use a CMS that interfaces with HUD's databases for the collection and reporting of agency and client-level data.

To interface with HUD's database, each participating agency must use a CMS with the following capabilities:

- A. Required Data. Capture all mandatory data elements listed on the HUD Housing Counseling website for one or more unique types of counseling and education. This data listing can be found in the latest [Interface Control Document](#).
  - B. Text Fields. Include text fields in which counselors can input an activity log and client action plan; and
  - C. File Access. Allow HUD on-site, read-only access, in coordination with Participating Agencies, to review entire electronic client files for the purpose of conducting agency monitoring.
- 5-4 File Retention Requirements. Financial records, supporting documents, statistical records and all other pertinent records, in both electronic and paper form, must be retained for a period of three years from the date the case file was terminated for housing counseling.

If the participating agency is a recipient of a HUD housing counseling grant award, then the client files attributed to the housing counseling grant must be retained for a period of three years from the date the final grant invoice was paid by HUD.

HUD reserves the right to request documentation relating to compliance with the requirements of this Handbook.



- 5-5 Client Data Collection. Race, Ethnicity, Religion, Sex, Familial Status, Income, Disability Data. The Fair Housing act, at 42 U.S.C. § 3608(e)(6), in relevant part, states that the Secretary of HUD shall annually “report to the Congress, and make available to the public, data on the race, color, religion, sex (including sexual orientation and gender identity), national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department.

To enable the Secretary to fulfill this requirement

- A. Race, Ethnicity and Income Data. Participating Agencies must report race, ethnicity and income data to HUD for recipients of counseling and education, regardless of funding source for the service provided. Participating Agencies must maintain current and accurate databases on the race, ethnicity and income of their counseling clients and education participants, unless otherwise not required by law.
- B. Limited English Proficiency (LEP): Individuals who are Limited English Proficient are persons who, as a result of national origin, do not speak English as their primary language and who have a limited ability to speak, read, write, or understand English. Participating Agencies must report to HUD the LEP status for all recipients of counseling and education, regardless of funding source.
- C. Rural Area Status. Participating agencies that serve rural clientele, as defined by the U.S. Department of Agriculture (USDA) at 7 CFR. § 3550.10, are required to report this data to HUD for all recipients of counseling and education, regardless of funding source.

5-6 Confidentiality of Records and Credit Reports.

- A. Confidentiality. Participating agencies must take affirmative measures to protect the confidentiality of their clients’ personal and financial information, including electronic and paper records, CMS or other electronic system data, and credit reports, whether the information is received from the client or from another source. Hard copies of client files must be kept in locked filing cabinets and electronic files must be kept secure and accessed only by authorized individuals.

Each participating agency must ensure that neither the agency nor their CMS vendor discloses any confidential client information to anyone, except authorized agency personnel and HUD, or unless otherwise required by law. Participating Agencies must also ensure that their CMS maintains the confidentiality of this information as well. Note that recipients of housing counseling services may expressly grant permission to disclose of otherwise confidential and protected information.

HUD staff may not disclose to anyone, except to authorized HUD personnel, the information contained in individual case files that may be sampled as part of monitoring or received as part of reporting.

Failure to maintain the confidentiality of, or improper use of, credit reports may subject the agency to penalties pursuant to 24 CFR Part 16.

- B. Use of Credit Report Information. If a Participating Agency contracts with a credit bureau for credit reports, whether or not disclosure can be made depends on the terms of the contract between the Participating Agency and the credit-reporting bureau.

Counselors must secure a client's authorization prior to ordering a credit report.

- C. Breach of Confidentiality. Participating agencies must comply with all applicable privacy laws, and, if needed, seek legal counsel on the pertinent laws. Participating Agencies must also provide assurances that confidential data will not be shared with any entities other than HUD, the participating agency, or other federal agencies as required by law, unless explicitly instructed to do so by the client themselves, and in the case of agency information, the housing counseling agency.

1. Personally Identifiable Information. Participating Agencies may not release Personally Identifiable Information to unauthorized recipients.

- a. Personally Identifiable Information (PII) means information which can be used to distinguish or trace an individual's identity, for example, name, social security number, etc., alone or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.
- b. Sensitive Personally Identifiable Information (SPII) means PII that when lost, compromised or disclosed could substantially harm an individual, for example, Social Security or driver's license numbers and bank account or credit card numbers.

2. Compliance. Participating Agencies should take the following steps to help ensure compliance with the Privacy Act requirements and other applicable privacy-related laws:

- a. Limit collection and use of PII. Do not create, use, collect or maintain sensitive PII without proper authorization. Collect only the PII that is needed for the purposes for which it is collected. PII must only be maintained for as long as is necessary to accomplish the purpose;
- b. Manage access to Sensitive PII;

- c. Only share or discuss SPII with those who have a need to know to perform their official duties;
  - d. Do not distribute or release SPII to others except where there is authorization to release to specific individuals;
  - e. For client files where multiple parties are involved, redact SPII/PII before sharing file with client(s);
  - f. Before discussing SPII on the telephone, confirm the identity of the individual or authorized person specified by the client and inform them that the discussion will include SPII. Do not leave messages containing SPII on voicemail;
  - g. Avoid discussing SPII if there are unauthorized persons in adjacent areas who may overhear the conversation;
  - h. Hold meetings in secure spaces if SPII will be discussed;
  - i. Ensure confidentiality of hard copy and electronic files containing Sensitive PII. Clearly label all files containing SPII and lock hard copy files containing SPII in secured file cabinets. Do not leave SPII in open areas unattended. Destroy hard-copy PII by shredding. Protection of electronic files includes encryption, implementing of enhanced authentication mechanisms such as two-factor authentication, limiting the number of people allowed access to the files; and deleting electronic PII by the emptying computer “recycle bin”; and
  - j. Ensure confidentiality of electronic transmission of Sensitive PII via fax, email, etc. When sending by fax, verify that the intended recipient is available. When sending SPII by email or other unsecured information system, ensure the information and attachments are encrypted. Encryption is mandatory for e-mail transmission of SPII to HUD personnel.
3. Notification and Incident Response. Participating Agencies must promptly report all suspected compromises of PII or SPII to their HUD Point of Contact (POC) and HUD’s National Help Desk at 1-888-297-8689

5-7 Counseling File. The housing counseling agency must maintain a separate confidential file documenting each unique, distinct provision of counseling services provided to a client, as described in 24 CFR §214.300 and Chapter 3 of this Handbook. The client file may be for an individual or household or for a group of clients with the same housing need, such as tenants of an apartment complex with the same complaint against their landlord. In the event a client seeks counseling services, at a later date, a new client file should be created. The file may be paper or electronic, or a combination of both. The file must include the following items:

- A. Required Data. All required fields are listed on the Housing Counseling website. The CMS website contains the Agency Reporting Module (ARM) Requirements listing of all required data fields;
- B. File Number. A file number for the unique specific counseling service provided.
- C. Financial Analysis and Budget. Evidence of analysis of client's unique financial and credit circumstances, including the following and as described in Chapter 3 of this Handbook. At a minimum, the following items must be documented:
  - 1. Establishing a budget customized to a client's current situation, including any adjustments the client should make to achieve their housing goals, for example, establish an emergency fund, arrears, and homeownership, if applicable;
  - 2. Review of client's income, assets, expenses, debt, spending habits, and documentation of the review by the counselor; and
  - 3. In limited situations, a financial analysis for a client may be minimal, and a sustainable budget not possible. Still, the client file should include documentation stating why the financial analysis is minimal and a sustainable budget is not feasible.
- D. Activity Log/Client History Log. A recording of the date, time, duration, and description of each interaction or activity performed on behalf of, and by, the client.
- E. Action Plan. For all counseling, except for reverse mortgage counseling, the client file must include an action plan. The housing counselor prepares an individual housing counseling action plan. The plan clearly identifies the client's need or problem, and outlines what the agency and the client will do in order to meet the client's housing goal(s). A copy of the action plan must be given to the client and maintained in the client's file.
- F. Follow-up. A record of all follow-up communication efforts, as outlined in Chapter 3, Paragraph 3-5(F) of this Handbook, with the client must be documented. This documentation should also include an account of all written and verbal attempts made to contact clients, when possible, in order to conduct follow-up sessions. In certain cases, if follow-up with a client is not possible, the client file should include documentation stating why the follow-up was not possible.
- G. Pertinent Documents. Pertinent documents refers to copies (electronic or paper) of records or correspondence received from the client or created on their behalf and related to the housing counseling services provided.
- H. Agency Disclosure to Clients. A copy of the disclosure statement provided to each individual client or a notation of the date that the disclosure statement was verbally

- provided during live video or telephone counseling. The wording of the disclosure statement must comply with see Chapter 6, Paragraph 6-1(G) of this Handbook.
- I. Termination. The Participating Agency must document in the client's file when housing counseling services are terminated. The housing counselor must notate the client's file with the date and cause or explanation of termination. Client files must not remain open indefinitely. (See Chapter 3, Paragraph 3-5(H) of this Handbook for additional information on client termination)
  - J. Results. Documentation of the results of counseling.
  - K. Fees. If applicable, Participating Agencies must document the amount and source of fees paid by clients or other parties such as lenders, except in the case of HECM lenders. See NHA section 255(d)(2). The counseling file of each client charged fees must document that the client was advised of the amount of the housing counseling fee and the agency's policy for a reduction or waiver of fees prior to the provision of counseling services. The file must also demonstrate that the counseling agency assessed the client's ability to pay and reduced or waived the fee if necessary, in accordance with the written procedures established in the agency's HUD-approved Housing Counseling Work Plan. If the client is unwilling to provide the information necessary to assess their ability to pay, the counselor must document the client file to reflect the client's refusal to provide the requested information. For more information on fees for housing counseling and related services, see Chapter 7, Paragraph 7-5.
  - L. HUD Housing Counseling Grant Activity. If the client's housing counseling services were partially or fully funded by a HUD housing counseling grant funding, document the funding source(s), time spent counseling, and the amounts to which the counseling activity is attributed. Grantees are prohibited from receiving duplicate payments for the same counseling activity. If a client is charged a fee, the file must also state the amount charged in addition to the amount charged to the HUD grant, and other funding sources, when applicable.
  - M. Discussion of Alternatives. A list of any service providers, product vendors, products, features, services or properties about which information was discussed with the client. (See Chapter 6, Paragraph 6-1(I))
  - N. Client Authorization to Order Credit Reports. Documentation indicating client authorization to order a credit report, if applicable.
  - O. Miscellaneous. Other information obtained during the intake and subsequent housing counseling session(s) not mentioned above, which is relevant to the housing counseling services provided to the client.
  - P. Reverse Mortgage Counseling. Additional documentation required for reverse mortgage client files:

1. List of people other than the borrower(s) that attended the reverse mortgage counseling session and a description of their relationship to the client(s);
  2. Signed and dated HECM counseling certificate, if applicable;
  3. Client Authorization. If applicable, the file should include documentation of the client's authorization to send a copy of the counseling certificate to a third party, such as a lender. The counselor must not directly or indirectly steer or appear to steer the client to a particular lender;
  4. Power of Attorney or other documents relating to legal competency, if applicable; and
  5. Total Annual Loan Cost Analysis
    - a. Amortization schedules for reverse mortgage loan options;
    - b. Notation of any brochures or handouts on the reverse mortgage lending process, procedures, timelines, reverse mortgage lenders, and/or alternatives to a reverse mortgage provided to client, and
    - c. Documentation demonstrating that all required counseling content and information (see Chapter 4) was provided.
- Q. HUD Certification. The client file must include the name and certification ID number of the HUD Certified Housing Counselor. Additionally, HUD Certified Housing Counselors who provide HECM counseling must also meet the HECM Roster certification requirements at 24 CFR 206, subpart E and as outlined in Chapter 4 of this Handbook.
- 5-8 Group Education File. The participating agency must maintain a separate confidential file for each course provided. The file may be electronic or paper, or both. The file must include the items identified below. An individual file does not need to be established for each group education attendee. However, if a client has an existing individual file and attends a group education workshop, the client's participation in the workshop must be documented in his/her counseling file.
- A. Group File Number. A file number identifying the group education workshop session.
  - B. Data. All required fields which may be found on HUD's website in the latest Interface Control Document.
  - C. HUD Housing Counseling Grant Activity. A record of the activity and amount that was funded by a HUD Housing Counseling Program grant funds, when applicable. If any costs were paid for with such funds, document the funding source or sources and amounts to which the group activity is attributed. If the Grantee charges both the

- HUD Housing Counseling Program grant and another funding source for the group education, the group file must clearly demonstrate the total cost of the activity and the amounts charged to each source of funding.
- D. Course Description. Course title, course outline or established curriculum; and instructional goals.
  - E. Instructors. Name of each housing counselor, instructor, or presenter.
  - F. Course Logistics. The date, place, and duration of each session.
  - G. Participant Information. List of participating households and the race, ethnicity, income data, Limited English Proficiency status (LEP), and Rural Area Status, for each household.
  - H. Agency Disclosure to Client. The disclosure statement provided to each household that is relevant to the subject of the session. (See Chapter 6, Paragraph 6-1 (G)).
  - I. Fees. Participating Agencies may charge reasonable and customary fees for group education, as long as the cost does not create a financial hardship for the client. A Participating Agency's fee schedule must be posted in a prominent place that is easily viewed by clients and be available to HUD for review. If applicable, the amount paid through group education fees and a copy of the receipt provided to the clients. Additionally, document the amount and source of funding from other parties to cover the expense of fees. (e.g., lenders).
- 5-9 Financial Records. Participating agencies must maintain and make available to HUD upon request evidence that leveraged funds cited in the participating agency's grant application were actually provided to the agency. Participating agencies must also provide evidence that the total housing counseling budget reported by the agency was accurate and used for housing counseling purposes.
- 5-10 Supporting Documentation. Participating agencies must maintain and make available to HUD upon request operational expense documentation such as time sheets, paid invoices, and payroll records in support of expenses assessed to a HUD housing counseling grant. Housing counseling grant or sub-grant recipients must maintain additional documentation and must comply with requirements identified in the applicable Notice of Funding Opportunity (NOFO) and grant agreement.
- 5-11 Reports to HUD. Participating agencies must submit complete, accurate and timely activity reports. The reports must be submitted through the participating agency's CMS in the format, by the date, and in a manner prescribed by HUD. Participating agencies that are also recipients of HUD grant funding are required to submit additional reports as described in their grant agreements.

Participating agencies must comply with the reporting requirements of this Handbook. If a Participating Agency fails to comply with the reporting requirements, the noncompliance will be documented as a finding in the agency's performance review report or in the agency's official file maintained by HUD. If the agency fails to submit the required reports, the agency may be terminated or placed on an inactive status. HUD may take other corrective action as deemed appropriate when agencies are noncompliant with reporting requirements.

A. Required Reports. Participating Agencies must make the following reports:

1. Housing Counseling Agency Activity Report. This [form HUD-9902](#) report collects client-level and program-activity data. All Participating Agencies must submit this report quarterly as directed by HUD. See also the Housing Counseling 9902 Online Toolkit for assistance completing the form HUD-9902.
2. Client-Level Data. Reflects counseling and group education activity with all sources of funding, that must be transmitted to HUD quarterly through the participating agency's Client Management System (CMS). Client-level data transmitted by the participating agency through its CMS will be compiled and aggregated in HUD's Housing Counseling System (HCS), where it must be verified by the participating agency.
3. Independent Audit. The most recent independent audit of the Participating Agency's financial records must be made available to HUD during a performance review. Recipients of housing counseling grant funding shall be subject to the audit requirements contained in 2 CFR § 200.501, and must submit to HUD a copy of the independent audit report within 30 days of completion.
4. Other Reports. HUD may require that participating agencies submit additional reports as clarified in this Handbook.

B. Additional Reports Required for Housing Counseling Grantees.

Grantee Activity Reports. Recipients of HUD Housing Counseling Grants are required to report activities under the grant award in a format prescribed by HUD and within the designated time frames required by the applicable NOFO and grant agreement.

5-12 Notification of Agency Updates, Actions Requiring Prior Approval and Required Disclosures. Participating Agencies must notify HUD in writing of any required disclosures, program or organizational profile changes or changes that impact the agency's purpose or function. These notifications must be in writing and from the participating agency's Authorizing Official or designated agent.

A. Certified Counselor Employment Status. Participating Agencies must report to HUD whenever a HUD Certified Housing Counselor is either hired, terminated, or has



otherwise left their employment within 15 days. Participating Agencies must also update FHA Connection to reflect this staff change within the same 15-day period.

B. Agency Profile Changes. Participating Agencies must ensure that their current contact and profile information is included in the HCS database. Any changes to such information must be submitted to the HCS database through the agency's CMS. In addition to reporting changes in contact and profile information through their CMS, Participating Agencies must also notify their HUD Point of Contact (POC) of the changes through a written communication signed by an authorized officer or agent of the agency within 15 days of the occurrence of change. Participating Agencies must report any of the following:

1. The agency loses or changes its either its nonprofit or tax-exempt status.
2. The agency no longer complies with Housing Counseling Program requirements or any other Federal, state, or local laws.
3. Changes to any of the items below:
  - a. Physical and mailing address(es) of the Participating Agency's main office, and/or the address(es) of its Branches or Affiliates. This includes office closures or relocations,
  - b. Telephone numbers of the main office, Affiliates, and/or Branches, or
  - c. Staff personnel responsible for the administration of housing counseling services such as the housing counselors, management staff, new employees, resignations, or terminations of housing counselors. The participating agency must update FHA Connection when a HUD certified housing counselor is no longer employed by the agency and notify the HUD POC.
4. Any other aspect of the participating agency's purpose or functions that may impair its ability to comply with HUD Housing Counseling Program requirements, or any applicable terms or conditions of a NOFO or grant agreement.

C. Agency Changes That Require Notification to HUD or HUD's Prior Approval. All Participating Agencies must notify HUD in advance of any of the following changes:

1. Mergers, acquisitions, or other changes in form or organizational structure must be reported no later than sixty (60) days prior to the implementation of such changes to the HUD POC.

In the case of a merger, the new or merged entity may be eligible to receive Grant Funds made to the original Grantee, provided they meet Housing

Counseling Grant NOFO requirements, and are able to receive HUD approval as a housing counseling agency.

- a. The new or merged entity demonstrates that its application, Housing Counseling Work Plan, target community, and personnel provide the services for which the grant was given, to the population identified and must meet the regulatory and NOFO standards for a Participating Agency.

Note to grant recipients: If a grantee changes their name or files for a “doing-business-as” designation but does not change any other aspect of the business structure or organizational documents, HUD may modify the grant to reflect the organization’s new name.

2. Any potential conflicts of interest by a person listed in 24 CFR § 214.303(f) (e.g., director, employee, officer, volunteer) that might result in, or create the appearance of, administering the housing counseling operation for personal or private gain, as described in Chapter 6, Paragraph 6-2 within fifteen (15) days of the occurrence.
3. Housing Counseling Work Plan. Changes to a participating agency’s Housing Counseling Work Plan must be in accordance with Chapter 3, Paragraph 3-2(B). For Intermediaries and State Housing Finance Agencies (SHFAs), any changes to the agency’s housing counseling network, Branches and Affiliates, whether or not funded by a HUD housing counseling grant, must be reported to the HUD POC.

SHFAs that do not apply for HUD housing counseling funding or do not receive a HUD housing counseling grant funds must notify the HUD Point of Contact (POC) of their intent to continue participation in HUD’s Housing Counseling Program and submit a form HUD-9900 Housing Counseling Program Application to the Office of Housing Counseling by email to [housing.counseling@hud.gov](mailto:housing.counseling@hud.gov).

- 5-13 Failure to Comply with Recordkeeping and Reporting Requirements. Failure to comply with any of HUD’s housing counseling recordkeeping and reporting requirements could result in delayed payment of vouchers under a HUD housing counseling grant; the grantee’s forfeiture of all remaining funds in the grant account; the grantee’s future housing counseling grant applications being adversely rated because of this failure; placement in inactive status, or termination of the agency’s approved or participating status and deletion from the list of HUD-approved and participating agencies. For further guidance, please see Chapter 2, Paragraphs 2-2.
- 5-14 HUD Review and Analysis of Agency Reports. HUD’s Office of Housing Counseling will use the agencies' reports as follows:

- A. Monitoring. HUD's Office of Housing Counseling retains all reports for reviewing and monitoring the agency's program participation and compliance under a HUD housing counseling grant program, if applicable.
- B. Performance Indicators and Program Appropriations. Annually, HUD's Office of Housing Counseling may make available to the public, through HUD's website, data regarding program activity.

Data obtained from agency reports will be used to demonstrate the impact of the housing counseling program; to justify annual appropriations; and to develop and report on performance indicators and efficiency measures.

- C. Grant Application Scoring. Agency reports will be used in the scoring of HUD housing counseling grant applications.

## CHAPTER 6. PERFORMANCE CRITERIA AND MONITORING

6-1 Performance Criteria. In addition to continuing to meet the application approval criteria set forth in 24 CFR § 214.103 and Chapter 2, Paragraph 2-2, a participating agency that provides housing counseling and education services directly must meet the following performance criteria. If an agency fails to comply with the performance criteria set forth in this handbook, the noncompliance issue will be documented in the agency's file or documented as a finding on the agency's performance review report. Additionally, if the agency fails to correct the noncompliance issue the agency can be terminated from the Housing Counseling Program or placed on an inactive status.

- A. Workload. During each 12-month period, the participating agency must provide housing counseling in accordance with 24 CFR part 214. Agencies that offer only housing counseling services limited to reverse mortgages, including home equity conversion mortgages (HECMs), are exempt from the annual 30-client minimum client requirement.
- B. Agency's Housing Counseling Work Plan. The participating agency must implement its housing counseling work plan as outlined in Chapter 3, Paragraph 3-2(A) and demonstrate reasonable achievement of the outcome objectives approved by HUD. If the agency has modified its activities since HUD approved the work plan, or did not implement the work plan fully HUD will not issue an unconditional re-approval (provided all other aspects of the review are acceptable) or continued participation, until the agency complies with one of the two options identified below:
  - 1. Agency commences full implementation of the work plan within sixty (60) days of HUD's written notice to the agency to that effect and notifies HUD in writing that it has complied, or
  - 2. Agency prepares and deliver to HUD a revised work plan no later than fifteen (15) days after the reviewer's written notice to the agency to that effect. HUD expects that, over time, work plans will be modified to accommodate changes in housing market conditions within an agency's targeted area or geographic area where its housing counseling services are provided. The agency may begin operating under its revised plan immediately after the agency receives a letter stating that the corrective action plan has been accepted.

Any aspect of the work plan can be amended as outlined in Chapter 3, Paragraph 3-2(B). This includes proposed changes in how the agency will address the needs and problems of the target population; services to be offered; fee structure; and geographic boundaries.

- C. Nondiscriminatory Practices. The agency must administer its housing counseling activities pursuant to Title VI of the Civil Rights Act of 1964, the Fair Housing Act,

Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, Title IX of the Education Amendments Act of 1972, and the Age Discrimination Act of 1975. These laws prohibit discrimination because of race, color, religion, sex (including sexual orientation or gender identity, national origin, disability, familial status or age.

All housing counseling agencies are required to affirmatively further fair housing in accordance with HUD regulation” as specified in Chapter 3, Paragraph 3-7 of this Handbook.

- D. Client Referrals from HUD and Other Participating Agencies. Except as described in this paragraph, all clients who contact the agency as a result of these referrals must be served. In cases where the agency does not offer the unique services requested by the client, is unable to effectively communicate with the client, does not have sufficient resources, is required to serve certain clients only per other HUD program requirements or if the client is outside the geographic jurisdiction of the agency, the agency must refer the client to another participating agency, preferably an agency in the client’s area. If there is not a participating agency available, the agency must make a reasonable effort to refer the client to another agency that can help them meet their needs.
- E. Real Estate Settlement Procedures Act. A participating agency must be in full compliance with the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. §§ 2601, et seq.) or RESPA.
- F. Conflicts of Interest. The participating agency must comply with the conflict of interest provisions in Chapter 6, Paragraph 6-2 and is responsible for ensuring that its directors, employees, officers, contractors and agents understand and comply with these requirements.
- G. Disclosure to Clients. A participating agency must provide to clients a disclosure statement that identifies the agency and explicitly describes the various types of services provided by the agency, as well as any exclusive, financial or other relationships between this agency and any other industry partners, that are relevant to the client. The counselor shall initially determine what disclosures are relevant to the client's service plan. However, while conducting performance reviews, HUD staff will assess files to determine if proper disclosures were made. If HUD elects to issue client survey, HUD may also review responses to client surveys to assess if appropriate disclosures were issued to clients.

Disclosures must clearly state that the client is not obligated to receive, purchase or utilize any other services offered by the organization, or its exclusive partners to receive housing counseling services. For clients with whom the agency meets face-to-face, a written disclosure must be provided. For clients receiving counseling via another format, for example telephone or video counseling, the agency must verbally or electronically provide a disclosure that meets the requirements in this paragraph.

Disclosure statements must be retained in the counseling or group education file. A note indicating the date of verbal disclosure, or documentation of electronic disclosure, must be retained in the files of all those counseled.

- H. Fee Schedule. Participating agencies must inform counseling and education clients of any fee schedule/structure and the agency's policy for reducing or waiving fees in advance of providing housing counseling services. Additionally, an agency's fee schedule must be posted in a prominent place in the agency's office or on the agency's website that is easily viewed by clients; however, participating agencies should also verbally communicate the fee schedule directly to the clients. Agencies must not refuse to provide counseling services if a client cannot afford to pay fees.

Document this communication in the counseling or education file, for example with a copy of the written fee schedule and a note indicating communication including that the agency assessed the client's ability to pay and reduced or waived the fee, if necessary. A note indicating the date of verbal fee schedule disclosure, or documentation of electronic fee schedule disclosure, must also be retained in the files of all those counseled. HUD may review the agency's fee structure to ensure compliance with all program requirements outlined within this handbook and 24 CFR part 214.

- I. Alternative Information about Services or Products. If the counselor provides information about a specific service, program, feature or product, the counselor must also provide information on relevant alternatives as described in Chapter 3, Paragraph 3-5(B). The counselor must document in the client file the information provided to the client on additional products available.
- J. Staff Experience and Certification. The agency must have one or more HUD-Certified housing counselors on staff to provide housing counseling services. Agency staff must be trained in housing counseling, and at least half of the counselors must have at least six months experience in the position they hold in the agency's Housing Counseling program. In addition, if HUD discovers during a performance review that less than one half of the agency's counselors have the required experience, this will be documented on the agency's performance review report as a finding and documented in the agency's official file maintained by HUD. If the agency fails to maintain certified and experienced staff, the agency can be terminated or placed on an inactive status until required staffing levels are met.
- K. Staff Supervision. Supervisors of housing counselors must monitor the work of the housing counselors by reviewing client files with the housing counselor to determine the adequacy and effectiveness of the housing counseling. Supervisors must also verify HUD Housing Counseling Program regulations and requirements are being met by the counselor including delivery of counseling as required under Chapter 3, Paragraph 3-5 and maintaining client files in accordance with program requirements as outlined in Chapter 5, Paragraph 5-7 of this Handbook. The agency must document

these monitoring activities and make the documentation available to HUD upon request.

- L. Funding. The agency must maintain a level of funds that enables it to provide housing counseling to at least the required workload of clients every year whether or not the agency receives HUD funding.
- M. Audit. In accordance with 2 CFR part 200, Subpart F, grant recipients and sub-grant recipients that expend \$750,000 or more in a year in Federal awards must have a single or program-specific financial audit conducted for that year. Participating housing counseling agencies that are subject to this requirement must submit for such fiscal year a financial audit conducted by the agency's Independent Public Accountant, certifying that the agency maintains internal controls over Federal awards; complies with applicable laws, regulations and contract or grant provisions; and prepares appropriate financial statements. The audit must be conducted in accordance with the provisions provided in 2 CFR part 200, subpart F. Agencies should reference 2 CFR part 200 for additional requirements.

Housing Counseling agencies that expend federal grant funds but less than \$750,000 in federal grants per year can submit a single or program specific audit or can send their OHC POC other audited financial statements. Housing counseling agencies must meet the ongoing requirement to have funds immediately available, or provide a written commitment of funds, to cover the cost of carrying out their workplan for 12 months. See 24 CFR § 214.103(g)(1). Grantees may be subject to additional requirements outlined in the grant agreement. Housing counseling agencies that expend less than \$750,000 per year in federal grant funds cannot use housing counseling grant funds to pay for a single or program specific financial audit.

Housing counseling agencies that do not expend federal grant funds must still meet the ongoing requirement to have funds immediately available, or provide a written commitment of funds, to cover the cost of carrying out their workplan for 12 months. See 24 CFR § 214.103(g)(1). To demonstrate compliance with this requirement, examples of documentation agencies may submit may include, but are not limited to, a single or program specific audit, other audited financial statements, and/or letters of funding showing written commitments.

HUD must be provided a copy of all audit reports within 30 days of completion.

- N. Training. Participating agencies are encouraged to send their housing counselors to formal training courses. Information on training is available at the Housing Counseling webpage.
- O. Reporting. The agency must submit to HUD complete, accurate, and timely activity reports as described in 24 CFR § 214.317 and Chapter 5, Paragraph 5-11 of this Handbook.

- 6-2 Conflicts of Interest. In accordance with 24 CFR § 214.303(f) A director, employee, officer, contractor, or agent of a participating agency shall not engage in activities that create a real or apparent conflict of interest.

Conflict of Interest means a real or seeming incompatibility between the private or personal interests of an agency director, employee, officer, contractor, or agent, and their fiduciary duties and responsibilities to the counseling agency and its clients.

- A. A person in a Position of Trust including a director, employee, officer, contractor, or an agent of a participating agency, must avoid any action that might result in, or create the appearance of, administering the housing counseling operation for personal or private gain.

It is a conflict of interest for any of the above parties to provide preferential treatment to any organization or person, or to undertake any action that might compromise the agency's ability to ensure compliance with the Conflict of Interest requirements stated herein and to serve the best interests of its clients.

- B. Direct Interest. For the purposes of this section, a direct interest shall be defined as administering the housing counseling operation for personal or private gain. This would include receiving anything of value, including compensation on a commission basis, for any of the above-referenced services to the client related to the matter on which the client is being counseled.

However, it shall not preclude a director, employee or officer, who provides multiple affordable housing services on behalf of the participating agency, being compensated in the form of a reasonable salary from that participating agency.

A conflict of interest would arise if the director, employee, officer, contractor, or agent of a participating agency, or the spouse, child or business partner of any individual holding these positions of trust or any organization in which these persons serves as an employee (other than with the participating counseling agency), or with whom he or she is negotiating future employment, has a direct interest in the client by virtue of their role:

1. As the client's landlord;
2. As the client's real estate agent or broker;
3. As the client's creditor;
4. As the client's mortgage broker;



5. Loan originator; having a financial interest in, servicing, or underwriting a mortgage on the client's property;
6. Owning or purchasing a property that the client seeks to rent or purchase;
7. Serving as a collection agent for the client's mortgage lender, landlord or creditor.

Participating agencies or their counselors are prohibited from providing HECM counseling services to a prospective borrower if the participating agency or counselor is, either directly or indirectly involved in origination or servicing of the HECM, funding the HECM loan, or the sale of annuities, investments, long-term care insurance, or any other type of financial or insurance product.

C. Referrals. It is a conflict of interest for a director, employee, officer, contractor, or agent of a Participating Agency to refer clients to entities that provide a service to the client related to the matter that the client is being counseled about in which they, or their spouse, child, or general partners, have a financial interest, including but not limited to:

1. Landlords;
2. Real estate agents or brokers;
3. Creditors;
4. Mortgage brokers;
5. Loan originators;
6. Property owners—seeking to sell or rent to clients; or
7. Collection agents for the client's mortgage lender, landlord, or creditor

It is also a conflict of interest for the director, employee, officer, contractor, or agent of a participating agency to accept a fee or any other consideration for personal or private gain for referring their housing counseling client(s) to any of those parties, or to acquire the client's property from the trustee in bankruptcy, or to accept a fee or any other consideration for referring a client to the parties listed above.

- D. HUD may investigate agency practices and may take action to inactivate or terminate the agency's approval or participation in the Housing Counseling program.
- E. Participating agencies must notify HUD of conflicts of interest not later than 15 calendar days after the conflict is discovered and report to HUD on the corrective

action taken to cure the conflict. The report of the conflict of interest discovered must be submitted in writing by letter or e-mail to the participating agency's HUD POC. If the participating agency fails to comply with this program requirement, the agency may be terminated or placed on an inactive status until the agency implements a corrective action to address the conflict of interest.

- 6-3 Performance Reviews. HUD may conduct periodic on-site or desk performance reviews of all participating agencies. The performance review consists of a review of the participating agency's compliance with program requirements, including applicable civil rights requirements, and the agency's ability to deliver quality counseling services. HUD may assess a participating agency's compliance with such requirements by utilizing the responses provided on the form HUD-9910 or other electronic medium. Agencies scheduled to undergo a performance review may receive advance notification regarding the scope of the review. Review of the agency may consist of but is not limited to the requirements set forth in Chapter 6, Paragraphs 6-1 and 6-2.
- A. Access to Information. The participating agency must allow HUD staff to obtain the necessary information to complete performance reviews and provide any information that HUD requests. When information is needed for those purposes, the POC will generally request the information via official correspondence with required dates and times for submission. HUD staff assigned to review the housing counseling activities of a participating agency may request from the agency specific client files and group education files for review. These files, in paper or electronic format, or a combination, must be provided to the HUD reviewer. Other documentation that may be requested includes, but is not limited to, the most recent housing counseling work plan; evidence of leveraging; financial statements; documentation supporting draws or allocations on grants or sub-grants; and audit reports. Participating agencies must also provide the names, addresses and other uniquely identifying information of clients when requested to do so by the HUD office conducting the review. Most information and files will be viewed by HUD staff while on-site conducting performance reviews. However, on occasion HUD staff may ask an agency to send required information or files to the HUD POC prior to an on-site review or as preparation for a desk review.
- B. Client Counseling Session Evaluation (Survey). HUD may conduct a client survey. Clients may anonymously respond to questions regarding the service received from the agency.
- C. Confidentiality of Client Records. HUD staff conducting the review will protect the confidentiality of all client records maintained by the agency. HUD staff will not disclose information to any person or entity outside of HUD or to anyone that is not an agent of HUD, unless directed to do so by a duly constituted legal authority such as a court of law or if an official investigation is being conducted with HUD's Office of Inspector General or similar law enforcement agency. The only exception is noted in Paragraph 6-3 (D) below.

D. Falsified Records or Fraud. Derogatory findings indicating the possibility of falsified records or fraud may be reported by the reviewing HUD office to the appropriate Office of the Inspector General and the Deputy Assistant Secretary for Housing Counseling.

6-4 Results of a Performance Review. Based on the performance review, HUD may determine whether to renew the approval or continue participation unconditionally, conditionally, temporarily change status to inactive, or terminate approval or participation of the agency. Additionally, the findings of a performance review may also serve as a basis for determining the eligibility of the agency for future grant funding for the Housing Counseling Program.

A. Unconditional Re-approval or Continued Participation for affiliate organizations. If the agency is in full compliance with programmatic requirements, HUD may re-approve the agency unconditionally for up to three years or allow continued participation of the affiliate organization. HUD will notify the agency of its re-approval or continued participation.

B. Conditional Re-approval or Continued Participation for affiliate organizations. If the agency fails to comply with programmatic requirements, but the failure does not seriously impair the agency's counseling capability as required in this handbook and applicable regulations, HUD may extend the agency's approval or allow continued participation for up to one hundred and twenty (120) calendar days. HUD will notify the agency of its conditional approval or participation.

1. HUD may grant this conditional extension only if the agency agrees to attempt to correct its program deficiencies within the period of the extension. Otherwise, HUD may terminate the approval or the continued participation of the agency. HUD will notify the agency and again specify the deficiencies.
2. Once HUD receives what it considers an acceptable letter documenting the required corrections of deficiencies, HUD may conduct a follow-up review to determine if the deficiencies have been corrected. HUD may grant unconditional approval or continued participation if the deficiencies have been corrected. HUD will make a determination as to whether the deficiencies have been corrected by either: a review of the agency response; documents submitted; an on-site follow-up review, or a combination of any of these. If HUD determines that the deficiencies have been corrected, HUD will then send a re-approval letter and a new certificate of approval to the agency or a communication granting continued participation.
3. If the agency fails to reply within the deadline or if HUD determines that the response is inadequate, HUD may terminate approval or participation of the agency, notify the agency and again specify the deficiencies.

- C. Inactive status. HUD may temporarily change an agency's status to inactive. See Paragraph 6-5 below for more information on this status.
- D. Termination of HUD-approved or participation status and grant agreements. HUD may terminate approval or participation of the agency. See Paragraph 6-6 below for more information on this status.

6-5 Inactive Status. Under 24 CFR § 214.200, HUD may change a Participating Agency's status to inactive, in lieu of terminations of HUD-approved status or removals from the list of HUD-approved agencies, if an agency is experiencing certain circumstances that may temporarily impair an agency from complying with its housing counseling work plan. An agency's status may be changed to inactive on a case-by-case basis for a period not to exceed six months unless an extension is provided by HUD. HUD may change any agency's status through either a request submitted to HUD or as a result of information obtained by the Department.

- A. Conditions For This Action. Some of the conditions under which inactive status may be considered include but are not limited to:
  - 1. Agency lacks certified counselor(s);
  - 2. Damage to facilities by natural disasters that renders the agency unable to function properly;
  - 3. Significant, unexpected loss of funding;
  - 4. Relocation of the agency;
  - 5. Other circumstances caused by reasons beyond the agency's control;
  - 6. Results of performance review;
  - 7. Unresponsive agencies;
  - 8. HUD detects any questionable business practices or conflict of interest; or
  - 9. Fair Housing violations
- B. Process for Requesting Inactive Status. Agencies that seek inactive status must submit a request to HUD in writing. Documentation of evidence of the condition(s) that rendered the agency incapable of carrying out its housing counseling work plan must be submitted along with the request, if possible.
- C. HUD Response. Upon receipt of the request, HUD will review and notify the agency of approval or rejection. If approved, the agency's name and contact information will

be temporarily removed from the HUD-approved web list of agencies and participating agencies and the telephone referral system.

- D. Temporary Conditions Remedied. The agency must notify HUD in writing and provide supporting documentation or evidence when it is ready to resume operation or no later than the end of the inactive period. After review and acceptance by HUD, the agency's contact information may be restored to the web list of HUD-approved and Participating Agencies and the toll-free telephone referral system.
- E. Extensions. At HUD's discretion, if the condition(s) still exists after six months, an extension of the inactive period may be considered, or the agency may be terminated or removed from the Housing Counseling program. HUD will notify the agency in writing of its decision.
- F. Action Not at Agency's Request. If HUD obtains information of circumstances that may temporarily impair an agency from complying with its housing counseling plan, or if HUD is made aware of questionable business practices, HUD may initiate an agency status change to inactive until a full investigation can be completed. Notification to the agency will be in writing and will provide the manner in which the agency may respond. See Chapter 8 for information regarding an agency's appeal rights.

6-6 Terminated Status. When HUD determines that the agency's program deficiencies seriously impair the agency's ability to comply with this handbook or applicable regulations including any non-discrimination or Fair Housing requirements, HUD may terminate approval or participation of the agency. HUD may also terminate approval or participation when the agency fails to correct the deficiencies identified during the review. HUD sends a notice to the agency of the determination to terminate approval or participation. If HUD does not reinstate the approval, or terminates participation, the agency may file an appeal, as discussed in Chapter 8.

HUD may terminate an agency's approval, remove an SHFA or other units of local, county or state government, remove one or more branches or affiliates from the HUD portion of an intermediary's, Multi-State Organization's (MSO), or SHFA's housing counseling program, and terminate any grant agreements (if applicable) upon confirmation of any of the following reasons:

1. Non-compliance with all program and regulatory requirements; including noncompliance with housing counselor certification requirements;
2. Noncompliance with Federal fair housing and civil rights requirements;
3. Failure to implement in whole or in part the agency's approved housing counseling work plan; failure to notify HUD of changes in the agency's housing counseling work plan; or failure to accept HUD decisions regarding work plan;

4. Lack of the capacity to deliver the housing counseling activities described in its approved housing counseling work plan;
5. Failure to achieve outcomes described in the work plan;
6. Misuse of grant funds;
7. Providing grant funds to an organization that has been convicted for a violation under Federal law relating to an election for Federal office, or any organization that contracts with or employs individuals convicted of such crimes; or
8. HUD determines that there is other good cause.

If a determination is made that the agency did violate the requirements of the housing counseling program in any way, HUD may terminate the agency's approval or participation and may impose sanctions in accordance with 2 CFR parts 180 and 2424.

- 6-7 Suspension, Termination, Debarment and Limited Denial of Participation. In cases where HUD has found fraud, misuse of funds constituting a material violation, election law violations, misrepresentation or any other act or activity that HUD determines to be unsatisfactory, HUD may exercise its ability under 2 CFR parts 180 and 2424 to suspend, debar, terminate or impose a limited denial of participation of a program participant.
- 6-8 Agency Withdrawal. The participating agency may withdraw from the Housing Counseling program at any time. The agency must notify HUD in writing of its intent to withdraw. Unexpired agency certificates of approval must be returned and cannot continue to be displayed, if applicable.
- 6-9 Post-Termination, Post-Withdrawal Requirements. All terminations by HUD, or an agency's withdrawal, must be communicated in writing. When a termination or withdrawal occurs, the agency must return its "Certificate of Approval" to the HUD POC. A terminated or inactive agency cannot continue to display the certificate. HUD will also discontinue displaying the agency as a HUD-approved housing counseling agency on HUD's website and update its status in HCS. If HUD has determined that an agency will be terminated from participating in the Housing Counseling program, and an agency does not voluntarily withdraw, then HUD may follow the provisions found in 2 CFR parts 180 and 2424.

## CHAPTER 7. FUNDING

### 7-1 HUD Housing Counseling Grants.

- A. Housing Counseling Grant Program Notice of Funding Opportunity (NOFO). If funds become available that are to be competitively awarded, HUD will notify the public through a Notice of Funding Opportunity (NOFO) in the [Federal Register](#) and by means of the Internet or other electronic media. The NOFO will set forth application instructions. It is the housing counseling agency's responsibility to ascertain when publication of the NOFO occurs.
- B. Who May Apply:
- HUD-approved Local Housing Counseling Agencies (LHCAs);
  - HUD-approved national and regional intermediaries (Intermediaries);
  - HUD-approved Multi-State Organizations (MSOs); and
  - State Housing Finance Agencies (SHFAs).
- C. How to Apply
1. Grants.gov. HUD requires its housing counseling grant applicants to submit their applications electronically through [grants.gov](#).
  2. SAM.gov. Grant applicants must have a current registration in the System for Award Management, SAM.gov, in order to apply for grants with the Federal government. Applicants must verify that the agency is authorized to submit and that its SAM.gov registration will not expire before the application deadline.
- D. HUD Approval or Program Participation Does NOT Guarantee Funding from HUD. Funding for the Housing Counseling program is contingent upon receipt of appropriations from Congress, and is awarded competitively under Federal law and HUD regulations and policies governing assistance programs, including Sections 102 and 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(d), 3537a, and 3545).
- E. Agency Program Funds. HUD housing counseling funds awarded under a NOFO are NOT intended to cover all expenses incurred by an agency to deliver housing counseling services. All agencies that receive HUD housing counseling grant funds are expected to use other sources of funding, both private and public, to supplement HUD grant funding. Grantees are required to demonstrate that leveraged funds were provided to the agency.
- F. Duplicate Billing. Grantees must not request reimbursement from HUD for full or partial housing counseling service costs under a HUD housing counseling grant and charge other funding sources for the same full or partial service to the same client.

Additional guidance can be obtained in the applicable NOFOs and grant agreements. Examples of billing include but are not limited to:

1. The agency may use multiple sources of funding to pay for a specific counselor or specific counseling activities, provided the combined funding does not exceed the actual cost. For example, if a non-HUD grant program reimburses at a fixed rate on a per household counseled basis, and the reimbursement does not cover the true cost of counseling the agency may bill HUD for the balance of the cost.
2. If an agency charges a client a fee for a housing counseling service and the fee charged does not cover the full cost of the session, only the portion of the session not covered by the fee can be billed to the HUD Housing Counseling grant.

G. Limitation on distribution of funds due to [Election Law Violations](#). Participating agencies shall not employ an individual who has been convicted of a violation under Federal law relating to an election for Federal office. In addition, no funds shall be distributed to:

1. Any organization that has been convicted for a violation under Federal law relating to an Election for Federal office or any organization that employs applicable individuals. For the purposes of this section, applicable individual means an individual who is:
  - a. Employed by the organization in a permanent or temporary capacity;
  - b. Contracted or retained by the organization; or
  - c. Acting on behalf of, or with the express or apparent authority of, the organization; and
  - d. Has been convicted for a violation under Federal law relating to an election for Federal office.
  - e. For the purposes of this Paragraph (G)(1), a violation under Federal law relating to an election for Federal office includes, but is not limited to, a violation of one or more of the following statutory provisions related to Federal election fraud, voter intimidation, and voter suppression: 18 U.S.C. §§ 241-242, § 245(b)(1)(A), 18 U.S.C. §§ 592-611, and 42 U.S.C. § 1973.
  - f. For more information on [Election laws, visit the Federal Election Commission's website](#).

H. Limitation on distribution of funds due to lack of HUD certification. No Housing Counseling Grant Funds shall be distributed to a participating agency that provides



housing counseling services, through counselors who are not HUD certified housing counselors in accordance with 24 CFR § 214.103(n).

- I. Misuse of Funds. If any participating agency that receives funds under the Housing Counseling Program is determined by HUD to have used funds in a manner that constitutes a material violation of applicable statutes and regulations, or any requirements or conditions under which such funds were provided:
1. HUD shall require that, within 12 months after the date of the determination of such misuse, the agency shall reimburse HUD for such misused amounts and return to HUD any such amounts that remain unused or unobligated for use; and
  2. Such agency shall be ineligible, at any time after the date of such determination of material misuse, to apply for or receive further funds under the Housing Counseling Program.
  3. The remedies listed in (1) and (2) above are in addition to any other remedies that may be available under law.

Whether a misuse of Housing Counseling Program grant funds is considered by HUD to constitute a material violation will depend on the facts along with the applicable statutes, Notice of Funding Opportunity (NOFO), HUD Handbooks and other policy guidance, and the HUD housing Counseling Program grant agreement.

7-2 Grant Administration. HUD's Office of Housing Counseling administers housing counseling grants awarded to the following types of agencies: Local Housing Counseling Agencies (LHCAs), Multi-State Organizations (MSOs), State Housing Finance Agencies (SHFAs), as well as national and regional Intermediaries. Agencies awarded grant funds under the Department's Housing Counseling program must comply with all funding requirements provided in this handbook, the applicable grant agreement, 24 CFR part 214, 2 CFR part 200, and the applicable Notice of Funding Opportunity (NOFO).

- A. Appointment of Point of Contacts (POC). Points of Contact (POC) are responsible for grant administration. For the definition of POC see Chapter 1, Paragraph 1-4.
- B. Requesting Reimbursement from HUD Under A Housing Counseling Grant. The housing counseling grant agreement provides specific instructions on how to request reimbursement from HUD for payment under a housing counseling grant award through a payment system administered by HUD.
- C. Point of Contact (POC) Approval of Vouchers. Only the POC or their designee may approve payment request vouchers submitted by grantees.
- D. Voucher Request Approval. The POC or their designee may approve the grant voucher payment request only if the agency is in compliance with the grant

agreement. Refer to the applicable grant agreement for specific requirements concerning drawing down funds.

- E. Non-Approval. Pursuant to the applicable grant agreement, if there are outstanding reports due, or if a voucher is incorrect, it is grounds for the POC or their designee to not approve the voucher.
- F. Grantees seeking information about the status of a voucher must contact the POC or their designee.
- G. Payments by HUD to Grantees. HUD makes direct-deposit payments to the grantee's financial institution. Part of the grant-award process includes the grantee's completion of Standard Form 1199A (SF-1199A), Direct Deposit Sign-up Form. This form can be accessed at this [link](#). The SF-1199A is also available at local banking institutions.
- H. Documentation of Expenses. Grantees must maintain source documentation of costs (invoices, cancelled checks, salary reports, etc.) to support all requests for payment. This information must be made available to HUD upon request. Financial records, supporting documents, statistical records and all other pertinent records, both electronic and on paper, shall be retained for a period of three (3) years from the date the case file was terminated for housing counseling. Housing Counseling Grant recipients must retain files (financial records, supporting documents, statistical records and other pertinent records) for three (3) years from the date the final grant invoice was paid by HUD.
- I. Specific Conditions. In addition to criteria provided in 24 CFR part 214, HUD may impose additional requirements or special conditions on a Grantee, subject to 2 CFR part 200, which demonstrates the characteristics or behavior specified in 2 CFR § 200.208. If applicable, such specific conditions would be documented in the grant agreement.
- J. Noncompliance and Remedies. Refer to Grant Agreement on specifics on noncompliance and remedies.
- K. Audit. Housing counseling grant recipients and sub-recipients shall be subject to the audit requirements contained in 2 CFR part 200. HUD must be provided a copy of the audit report within 30 days of completion.
- L. The Drug-Free Workplace Act of 1988. The Act requires grantees of federal agencies to clarify that they will provide drug-free workplaces. Each potential grantee must certify that it will comply with drug-free workplace requirements in accordance with 24 CFR part 21. See the CFR for specific requirements.

7-3 Alternative Funding Sources. HUD recommends approved agencies and participating agencies seek and secure funding from various other potential funding sources that may include local and state governments, private foundations, lending or real estate

organizations, and individual donations. Agencies must also assure that such arrangements do not violate the provisions regarding conflicts of interest described in 24 CFR § 214.303(f) and in Chapter 6, Paragraph 6-2.

#### 7-4 Lender Funded Counseling Services.

With the exception of reverse mortgage counseling, lenders may pay agencies for counseling services, through a lump sum or on a case-by-case basis, provided the level of payment does not exceed a level that is commensurate with the services provided, is reasonable and customary for the area, and does not violate requirements under Federal Law, including the National Housing Act and the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601 et seq). These transactions and relationships must be disclosed to the client as required in 24 CFR § 214.303(g) and in Chapter 6, Paragraph 6-1(G). Agencies must also assure that such arrangements do not violate the provisions regarding conflicts of interest described in 24 CFR § 214.303(e) and in Chapter 6, Paragraph 6-2.

The Real Estate Settlements Procedure Act (RESPA) provides for disclosures and protections for consumers during the process of closing a mortgage loan. For additional information visit the [Consumer Financial Protection Bureau \(CFPB\)](#).

If a housing counseling agency has decided to enter into a relationship with a particular lender, HUD requires that the housing counseling agency enter into an agreement, signed by both parties, to formalize the relationship. (An example of an agreement can be found on [HUD's website](#)). The purpose of the document is to outline the expectations of both parties. The terms of the agreement should be outlined to ensure compliance with RESPA requirements. In addition, the agency's agreement should specify that the counselor will provide information on three comparable products and the fee income is based on services rendered, not on the amount of the loan.

#### 7-5 Fees for Housing Counseling and Related Services.

Participating agencies may charge reasonable and customary fees for housing education and counseling services (including HECM counseling, see additional guidance below) as long as the cost does not create a financial hardship for the client. Participating agencies must assess a client's household income and monthly expenses to determine if charging the client a fee for service will create a financial hardship. The agency should examine factors including, but not limited to, household income and debt obligations to determine a client's ability to pay for counseling services including when additional services are required to fulfill reasonable accommodation requests. If the client is unwilling to provide this information, the agency is not obligated to provide a reduced counseling fee.

If an agency serves a client with an annual household income at or below 200 percent of the Federal Poverty Level, the agency should consider waiving the fee in its entirety or reduce the fee to an amount the client can afford to pay.

Additionally, fees must not be charged for education or counseling provided in the following services areas: mortgage delinquency, default or homelessness.

An agency's fee schedule must be posted in a prominent place, easily viewed by clients, and must be available to HUD for review. Agencies must inform clients of the fee structure in advance of providing services. Agencies may request reimbursement from a client for the cost of obtaining a copy of the client's credit report if this does not cause a hardship for the client. If an agency receives a discount for the cost of credit reports, this discount must be passed on to the client. If an agency charges fees for credit reports those fees must be clearly documented on the fee schedule. In addition, the fee schedule must be communicated verbally to all potential counseling and education recipients prior to the provision of services.

Agencies that have fee schedules must document communication regarding the fee schedule in the counseling or education file.

Only the portion of the counseling or education session not covered by fees can be charged to the HUD Housing Counseling NOFO grant if fees charged to the client do not cover the full cost of the session. Clients cannot be charged for the initial client intake (See Chapter 3, Paragraph 3-3). Clients can only be charged a fee for housing counseling and education services provided as described in Chapter 3.

A. If an agency chooses to charge fees, the agency must conform to the following guidelines:

1. Provide counseling without charge to persons who cannot afford the fees,
2. Fees must be commensurate with the level of services provided and be reasonable and customary for the area,
3. Agencies may not impose fees upon clients for the same portion of or for an entire service that is already funded with HUD grant funds; and
4. The agency must verbally disclose all fees that will or may be charged to the client, prior to the beginning of counseling services.

B. Additional guidance on fees for HECM clients - In accordance with the regulations at 24 CFR § 214.313, the Federal Housing Administration (FHA) has determined that agencies participating in HUD's Housing Counseling program may charge a fee for HECM counseling services as long as the cost is reasonable and customary, does not create a financial hardship for the client, and meets the other requirements of the regulation. The housing counseling agency must make a determination about a client's ability to pay, which should include factors, including, but not limited to, income and debt obligations. The housing counseling agency must have written procedures in place for determining ability to pay. Such procedures should support that a determination is based on objective criteria, and not a subjective determination. The counseling file of each client charged fees

should include documentation demonstrating that the cost does not create a financial hardship.

A client must not be turned away because of an inability to pay. Moreover, the housing counseling agency may not withhold counseling or the Certificate of HECM Counseling based on failure to pay. See HECM Protocol, Section 1.4.

- 7-6 Debt Management Service Fees. HUD considers debt management service as an activity related to, but apart from, the housing counseling process. It involves the client turning funds over to the agency that then distributes the funds to creditors via agency checks. Paragraph 7-3 of this Chapter does not apply to charges for debt management services even if the clients are also housing counseling clients. If both debt management fees and housing counseling fees are charged to the same client, the agency must clearly differentiate between the two.

## CHAPTER 8. APPEALS

- 8-1 Right to Appeal. If HUD renders any adverse decisions pursuant to an agency making an application for approval, an approved or participating agency seeking re-approval or continued participation, an agency issued a letter terminating HUD approval or participation, or an agency placed in inactive status involuntarily, the agency shall have the right under 24 CFR § 214.205 to appeal that adverse decision.
- 8-2 Appeal Process. An appeal must be in writing unless a reasonable accommodation is granted for a disability related need. An applicant or participating agency may make a formal written appeal by following the instructions in the adverse decision letter. The appeal may include a request for a meeting with the appropriate HUD personnel.
- 8-3 Timeliness of Appeals. HUD must receive notice of an appeal within 30 calendar days of the date of the HUD decision letter to the applicant agency. If the due date falls on a Saturday, Sunday, or Federal holiday, the notice will be accepted if received the following business day. HUD is not bound to review appeals received after this period.
- 8-4 Other Action. Nothing in this section prohibits HUD from taking such other action against an agency as provided in 24 CFR part 24 Governmentwide Debarment and Suspension (Nonprocurement) or from seeking any other remedy against an agency available to HUD by statute or otherwise.

## APPENDIX 1: HECM Counseling Protocol

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## **I. Objectives of HECM Counseling**

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The purpose of this protocol is to provide standardized guidance for HECM counselors providing counseling on FHA Home Equity Conversion Mortgages (HECM), as required by National Housing Act Section 255(f) (12 U.S.C. 1715z-20). Counselors must comply with this guidance to issue a Certificate of HECM Counseling.

References to counselors in this protocol are for counselors on the HECM Roster, unless otherwise noted. This protocol provides limited guidance on discussion of reverse mortgages other than HECMs.

The objective of HECM counseling is to educate clients on:

- how HECMs and other proprietary reverse mortgages work;
- the implications of and alternatives to a HECM or other reverse mortgage; and
- the appropriateness of a HECM or other reverse mortgage for the clients being counseled considering their unique personal and financial situation.

Generally, in every HECM counseling session, counselors must thoroughly cover the following topics:

1. Client needs and circumstances;
2. Features of reverse mortgages;
3. Borrower and property eligibility for HECMs and other reverse mortgages;
4. Options available to the homeowner other than a HECM or other reverse mortgage, including housing, social service, and health and financial options;
5. Home equity conversion options that are or may become available to the homeowner, such as other reverse mortgages, HECM for Purchase, sale-leaseback financing, deferred payment loans, and property tax deferral;
6. Borrower and Non-Borrowing Spouse responsibilities under a HECM,
7. Costs to obtain a HECM or other reverse mortgage;
8. Financial implications of entering into a HECM or other reverse mortgage;
9. A disclosure that HECMs and other reverse mortgages may have tax consequences, affect eligibility for assistance under federal and state programs, and impact the estate and heirs of homeowners;
10. Whether the homeowner has signed a contract or agreement with an estate planning service firm that requires, or purports to require, the borrower to pay a fee on or after closing that may exceed amounts permitted by the Secretary or in Part 206 of the HUD regulations at 24 CFR;
11. The extent to which services provided under an estate planning contract or agreement may not be needed or may be available at nominal or no cost from other sources, including the lender;
12. Warnings about potential HECM and reverse mortgage or insurance fraud schemes and elder abuse; and
13. End of loan issues and required timing of repayment.

Additional resources for counselors are in Attachment A.

Required handouts for clients are in Attachment B.

## **II. HECM Counselor Roles and Responsibilities**

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### **II.A. Role of the HECM Counselor**

A HECM counselor is a HUD certified housing counselor who meets and maintains the regulatory requirements for placement on HUD’s HECM Counselor Roster (see Chapter 4 of HUD Handbook 7610.1).

The HECM counselor’s role is to educate the client about the features of HECMs and reverse mortgages and the appropriateness of a HECM, reverse mortgage, or other financial options to meet the client’s needs. The counselor should not tell the client whether to proceed with a HECM or reverse mortgage or which reverse mortgage product to use but should provide guidance and resources to enable the client to make an informed decision. The counselor must provide ongoing support to the client and follow-up throughout the process.

### **II.B. Responsibilities of the HECM Counselor**

#### **II.B.1 Compliance with the HECM Protocol and HUD Guidance**

Counselors must follow this Protocol when counseling their clients. Counselors must ensure that clients receive HUD’s required handouts (listed in Attachment B, Required Handouts for Clients) and any additional information the clients need to assist in their decision-making. The agency must also agree in its housing counseling plan to HUD’s quality control measures, which may include mystery shopping, performance reviews, or other actions as determined by HUD.

Counselors are also responsible for understanding and complying with relevant HECM program requirements, including regulations at 24 CFR part 206, HUD Handbooks, and Mortgagee Letters.

#### **II.B.2 Client Education on HECMs, Reverse Mortgages, and Relevant Financial and Housing Options**

To provide the most appropriate housing options, the counselor must assess the client’s financial situation by following the requirements of Attachment A.5: Using Client Budget and Resource Identity Tool (CBRIT).

The counselor must discuss with the client HECMs, reverse mortgage products, and other financial, social services, and housing options within the context of the client’s financial situation. The counselor must counsel the client on reverse mortgage features covered in the section “Features of Reverse Mortgages” and provide an overview of financial and/or housing alternatives provided in “Financial Alternatives and Supplements.”

Clients who demonstrate a detailed knowledge of HECM and reverse mortgage features may receive a summary overview of the required topics. The counselor must ensure that the client understands the features of the specific HECM or reverse mortgage in which he or she is interested.

### **II.B.3 Objectivity, with No Conflicts of Interest**

The counselor must consider each client's unique needs and circumstances when discussing the appropriate options for the client. The counselor must remain objective when discussing these products and options and must not steer the client in a particular direction.

Counselors must not participate in sales or lending transactions as real estate agents, loan officers or appraisers, or as agents who sell long-term health insurance policies or annuities. National Housing Act section 255(o) (12 U.S.C. 1715z-20(o)) prohibits lenders or any other party from requiring HECM borrowers to purchase insurance, annuities or any other similar products as a requirement or condition of eligibility for a HECM loan except for title insurance, hazard, flood, or other peril insurance, or other such products that are customary and normal under subsection (c), as determined by the Secretary. Counselors must not perform, or offer to perform, any services that conflicts, or appear to conflict, with the best financial interests of the client.

### **II.B.4 Sensitivity to Clients' Circumstances**

Counselors must be sensitive to a client's engagement in the counseling session. If the counselor believes that the client is not benefiting from the counseling session because of hearing deficiencies, lack of language comprehension, or other significant impairment, the counselor must recommend that the session be re-scheduled with an accompanying family member, trusted friend, or advisor or until the agency can provide auxiliary aids or another needed accommodation (interpreter, translation services, etc.). Counselors should also be sensitive to any cultural issues that interfere with the client's understanding of the counseling session and ensure adequate language assistance to clients with limited English proficiency. The counselor must not issue a certificate when these issues prevent the client from benefiting from the counseling.

All communications should include instructions on how to contact the agency via TTY, relay, or other assistive means for persons with hearing impairments. All communications should also inform clients and prospective clients about translation or interpreter services. In addition, all communications should ask clients and prospective clients whether they need assistance for mobility impairments, visual or hearing impairments, or other disabilities. In situations where a client requires an interpreter or translator, HUD encourages agencies to utilize one who is under direct control of the agency.

### **II.B.5 Issuance of the Certificate of HECM Counseling**

Counselors may issue the form HUD-92902, Certificate of HECM Counseling, to clients who satisfactorily complete HECM counseling. See Article III of this Appendix -for certificate information and processes.

Counselors must withhold the Certificate of HECM Counseling if they reasonably believe that the client:

1. does not have an adequate understanding of a HECM, its implications for the client's unique situation, and their responsibilities as a HECM borrower, as evidenced by the client's failure to answer five of the ten questions correctly in the first counseling session;
2. is being coerced into obtaining a HECM; or
3. is a potential victim of fraud.

### **II.B.6 Reviewing the Client's Level of Understanding**

To review a client's understanding of HECMs, counselors must ask ten questions interspersed throughout the session, in accordance with the guidance in Section III.C.2, Step 2: Conducting the Counseling Session, of this HECM Protocol. These questions must be relevant to the client's situation and will cover:

1. The basic mechanics, requirements, and implications of a HECM and other reverse mortgages;
2. The impact on the client's personal financial situation of the particular loan in which they are interested;
3. The client's responsibilities and requirements for residency under the mortgage;
4. The client's responsibilities for payment of all property charges consisting of taxes, ground rent, flood and hazard insurance premiums, and special assessments; and
5. If applicable, the responsibilities of the client's Non-Borrowing Spouse.

If the client cannot answer five of the ten questions correctly in the first session, the counselor should withhold the certificate and note in the client file that the certificate was withheld and why. The counselor must then provide one of the alternatives below to the client:

1. Offer to call the client back at another time, e.g. the next day at a different time of day,
2. Ask if there is someone else the client could bring with them that they trust or who could join them in a live video or phone conversation, or
3. Suggest that the client meet face-to-face with another counselor and assist the client with finding another HECM counselor.

After all options are exhausted and the client is still not able to answer five out of ten questions correctly, the counselor will offer them additional time to further understand HECMs. A Certificate of HECM Counseling should not be issued until the client correctly answers five out of the ten questions in one session.

### **II.B.7 Following Up with Clients**

The counselor must follow up with clients to answer any additional questions and to determine the outcome of the counseling session. Counselors must make a reasonable effort to follow up with the clients to ensure that they are progressing toward their housing goals and meeting their financial needs, to modify or terminate housing counseling, and to learn and report outcomes to HUD. Section III, The Counseling Session, of this HECM Protocol provides further details and timeframes for following up with the client.

### **II.B.8 Detection and Prevention of Fraud and Elder Abuse**

#### **Identifying Elder Abuse**

Signs of elder abuse may include abuse that is physical, emotional, sexual or financially exploitive and also involve situations involving neglect or abandonment.

Financial exploitation may include the illegal or improper use of a person's funds, property, or assets, and can include the illegal or improper use of conservatorship, guardianship, or power of attorney.

### **Counselor Action**

Many states require certain parties, including human services professionals, to report suspected abuse, including financial exploitation, of older people. All states provide statutory immunity to those who report a problem in good faith.

The counselor must be sensitive to the client's intentions for obtaining a reverse mortgage and the client's particular needs and circumstances. Counselors should caution clients against signing over their funds to loan officers or other parties involved in the mortgage transaction and ensure that clients understand the standard ways in which they can access their loan proceeds.

If the counselor believes that the client is being pressured by a family member, a lender, an investment or financial consultant, an insurance agent, or any other party, the counselor may request that other individuals who have no financial interest in the HECM or reverse mortgage be present during the counseling session (e.g. family members, attorney, trusted advisor, etc.) to help protect the client's best interests. The counselor must remind the client that it is their decision to go forward with a HECM or reverse mortgage and not the decision of others.

If a counselor suspects that a conservatorship, guardianship, or power of attorney may be invalid or that fraud, elder abuse, exploitation, or coercion is occurring, the counselor must contact the HUD Office of Housing Counseling or HUD's Office of Inspector General as listed in HECM Protocol II.B.9, Reporting Questionable HECM Counseling Practices, and other authorities as required by state or local law.

The counselor should provide clients with the elder abuse hotline in that client's state. Hotline numbers can be found at the National Center for Elder Abuse at: [ncea.acl.gov](https://ncea.acl.gov)

### **II.B.9 Reporting Questionable HECM Counseling Practices**

The Protocol provides specific instances, including suspected fraud, elder abuse, exploitation, or coercion that must be reported to either HUD or HUD's Office of Inspector General. Counselors should contact HUD for required further policy guidance and local authorities as appropriate.

Contact: Office of Housing Counseling at [housing.counseling@hud.gov](mailto:housing.counseling@hud.gov)

For more about HUD's Office of Inspector General please go to the website at [Hotline | Office of Inspector General, Department of Housing and Urban Development \(hudoig.gov\)](https://www.hudoig.gov)

Reports can be made through [Hotline Form | Office of Inspector General, Department of Housing and Urban Development \(hudoig.gov\)](https://www.hudoig.gov)

To contact the HUD Office of Inspector General Hotline call toll free (800) 347-3735  
Persons with hearing or speech impairments may access this number via TDD/TTY at (800) 877-8339 TTY/ASCII (American Standard Code for Information Interchange).

### **III. The HECM Counseling Session**

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Counselors must understand HECMs and reverse mortgage products and remain aware of market trends. They must also be able to work with a diverse group of potential borrowers with varying levels of education and financial literacy. *Each counseling session must consist of a discussion of HECM and reverse mortgage features that is tailored to the client's specific abilities, needs and financial goals.*

This section provides:

- A. Establishing HECM Counseling Processes
- B. Steps in the HECM Counseling Process
- C. HECM Counseling Session Protocol (Procedures that counselors must follow to set up, conduct, and follow up on the reverse mortgage counseling session)

#### **III.A. Establishing HECM Counseling Processes**

##### **III.A.1 Paying for Counseling**

###### **Establishing Fees**

Counseling agencies may establish a fee structure for HECM counseling as long as the fee:

1. is reasonable and customary,
2. does not create a financial hardship for the client,
3. is commensurate with the counseling services that are provided, and
4. is not being charged to pay for the same portion of or for an entire service that is already funded with HUD housing counseling grant funds or any other funds received for HECM or delinquency counseling.

The housing counseling agency must establish written procedures for determining the client's ability to pay. These procedures must be applied consistently and in a nondiscriminatory manner to every client including when additional services are required to fulfill reasonable accommodation requests. Counseling agencies charging a fee must:

1. Use objective criteria to develop a written policy for determining a client's ability to pay based on client's:
  - a. income
  - b. debt obligations, and
  - c. other expenses
2. Describe how this hardship policy will be implemented and monitored in its housing counseling work plan and,
3. In the client's file, document:
  - a. determination of ability to pay in the client's file,
  - b. that the client was advised of the amount of the counseling fee the client may be charged at loan closing;
  - c. disclosure of its hardship policy to the client, and
  - d. if the client requested a hardship-based fee waiver, the information the agency reviewed to make the decision.



The maximum amount an agency may charge is the actual cost of counseling. HECM counseling agencies may adjust counseling fees based on actual costs as long as the fees are reasonable and customary. Agencies may charge a higher fee for clients needing multiple, prolonged, or in-home counseling sessions, if commensurate with services provided. However, this higher fee may only cover the actual cost of the services provided. If a client has a disability-related need for multiple, prolonged, or in-home counseling sessions to have meaningful access to HECM counseling, Agencies must provide necessary reasonable accommodations.

All agencies charging fees for HECM counseling must document the actual cost of providing the counseling session in the client file.

### **Fees for Other Individuals Participating in a HECM Counseling Session**

Agencies may charge a reasonable and customary fee for each HECM counseling session provided to all other parties related to the client including spouses, children, trustees, and trust beneficiaries who either choose to participate or are required to participate in the counseling session.

If counseling for related parties takes place during the same session as that of the client, the agency may only charge a one-time counseling fee. At the client's request, Agencies must provide a single session for clients and other parties.

If counseling for related parties occurs in sessions that are separate from the client's session, the fee charged must be considered reasonable and may be charged for each of these separate sessions.

### **Collection of Fees**

Agencies must inform clients of the fee structure in advance of providing services. The housing counseling agency must make a determination about a client's ability to pay based on factors including, but not limited to, income and debt obligations. Counseling agencies must not turn away clients because of an actual or prospective inability to pay.

Counseling agencies choosing to charge HECM fees may collect the counseling fees in advance of the scheduled session. However, agencies must not offer a discount on counseling charges based on the client's ability to pay for the counseling services upfront. Clients who pay for counseling services out of the proceeds must not be penalized for doing so.

Agencies should not collect a fee at the time of the counseling session from a client whose income is below 200 percent of the federal poverty level. Clients are responsible for proving their income is less than 200 percent of the federal poverty level by providing proof of income such as Social Security payment stubs, income tax returns, or other forms of income verification. Agencies may charge these clients a HECM counseling fee at closing if the client has been advised during the counseling session of the amount of the fee.

The HECM counseling charges may be paid in two ways:

1. The HECM counseling client or related parties can pay counseling fees directly to the agency. The fee may be collected at the outset or at the conclusion of the session.

2. The clients can pay the counseling fee out of a HECM loan proceeds. In this case, the lender, the borrower, and the counseling agency must agree that the closing agent assumes responsibility for remitting payment to the counseling agency at closing. This payment must be reflected on the Closing Disclosure.

### **Provision of Counseling and Certificate of HECM Counseling and Payment of Fees**

Participating agencies may not delay or otherwise negatively impact the availability of counseling or withhold a Certificate of HECM Counseling based on the client's inability to pay.

### **Lender Payment of Fees**

A HECM lender's funding or servicing the HECM loan may not pay for HECM origination counseling either directly or indirectly.

### **III.A.2 Client Privacy and Communication**

The counseling agency must hold in strict confidence all client information regardless of the source or sources from which it is received.

To safeguard further the privacy of their clients, counselors must not:

1. accept counseling requests by anyone "on behalf of" consumers, except for persons who are legally authorized to represent the counseling client; and
2. provide information on the scheduling, progress, or outcome of any counseling case to anyone without the client's express prior signed permission as documented by the counselor in the client's record.

When sending documents to the client, the counselor may send these documents by regular mail, priority mail, fax, or email, taking care to protect sensitive client information.

### **III.A.3 Working with Lenders**

HUD policy and regulations restrict lender activities regarding HECM borrowers. Counselors must have an understanding of appropriate and inappropriate lender activities prior to counseling so that they may inform clients on how to avoid predatory practices.

### **Lender Responsibilities**

No lender or party associated with or acting on behalf of the lender may contact a counseling agency on a client's behalf.

Lenders and their representatives, including brokers and their agents may not be present or participate in counseling sessions. Lenders may not provide clients with advance copies of answers to borrower review questions used to assess whether the client fully understands the HECM loan.

Lenders may perform the following activities prior to HECM counseling:

1. Explain the HECM program or proprietary products,
2. Discuss whether the prospective borrower is eligible for HECM financing,

3. Provide information regarding fees and charges associated with HECMs and reverse mortgages,
4. Describe the potential financial implications of a HECM or reverse mortgage,
5. Provide the prospective borrower with copies of the HECM security instrument, note, and loan agreement,
6. Order a limited (but not a full) title search, which is performed from the date of the search
7. back to the most recent deed on record,
8. Use automated valuation models (AVMs) to perform a preliminary estimation of the value of the property that will serve as security for the reverse mortgage. The AVM, however, does not take the place of an appraisal. Regardless of whether or not a prospective borrower closes on a HECM, the prospective borrower must not be charged a fee for the AVM, and/or
9. Order a credit report.

Lenders are prohibited from performing the following activities prior to completion of counseling:

1. Begin to process a loan application,
2. Order an appraisal,
3. Request a full title search from the date of search back to the original deed,
4. Obtain an FHA case number, and/or
5. Collect any application fees or any other HECM-related service charges.

Once the counseling session is completed and the counselor has provided the client a HECM Counseling Certificate, the lender may communicate with the counselor if it receives either verbal or written permission from the client. This communication must be restricted to the following:

1. The name and property address that will be utilized for the FHA Connection case number origination field;
2. Fax number for transmitting the signed HECM Certificate of Counseling; or
3. Any concerns regarding elder abuse not revealed at initial intake, for possible referral to local authorities, HUD, or the National Center for Elder Abuse as appropriate.

Additionally, a lender should not pressure the borrower to move forward with HECM financing or other reverse mortgage or discourage the participation of family or trusted advisors. Lenders also may not cross-sell other financial products to borrowers. Specifically, lenders cannot steer clients toward specific products and cannot encourage clients to purchase specific investment products such as annuities with the loan proceeds.

### **Counselor Responsibilities When a Client is Referred by a Lender**

Clients must contact a counseling agency directly and personally to initiate the counseling process and schedule an appointment.

Counselors must make clear that:

1. they have a relationship with the client not the lender and discussions between the client and counselors are confidential;
2. that the role of the counselor is separate from that of the lender; and

3. that the counselor's job is to provide information without bias.

Counselors must not accept counseling requests directly from lenders on behalf of clients or provide information to lenders about the scheduling, progress, or outcome of any counseling session without the client's permission.

If a client has already been in contact with a lender, the counselor must respect that established relationship by neither encouraging nor discouraging the continuance of the relationship. Counselors should note the client is not obligated to pursue a HECM loan from a lender who takes the initial application or discusses the HECM program with them prior to the completion of counseling. It is appropriate for counselors to discuss the features presented as they apply to the client. The counselor must continue to focus on the client's unique financial circumstances. Counselors must use a reverse mortgage loan comparison tool to compare proposed products with other available mortgages. Counselors must discuss the results of the comparison with clients and must not steer clients toward or away from specific lenders or reverse mortgage products.

Counselors must confirm that clients understand that lenders may take, but not process a loan application, or charge for any application-related services until the lender receives a signed copy of the counseling certificate from the client.

### **Communication between Lender and Counselor**

The lenders are prohibited from promoting, encouraging, or otherwise pressuring the counselor in recommending a HECM or other reverse mortgage loan. Lenders shall only provide information requested by the counselor.

The lender may not contact a counselor or counseling agency to:

1. Schedule a counseling session for a potential client(s);
2. Discuss a client's personal information, including the timing or scheduling of the counseling, without the client's permission;
3. Request information regarding the topics covered in a counseling session;
4. Check on the progress of the counseling session; or
5. Advocate or encourage counselors to support or recommend the client obtain HECM financing.

If a lender directly contacts a counseling agency to schedule an appointment on behalf of a client, the counselor must advise the lender of the prohibition against this activity and if it continues, the counselor should contact the Office of Housing Counseling.

To report instances where the lender is attempting to influence the outcome of the counseling session, the counselor should contact HUD's Office of Inspector General as listed in Section II.B.9, Reporting Questionable Practices, of this HECM Protocol.

A counselor may initiate contact with the lender, provided that:

1. authorization from the client to communicate with a lender and access the borrower's records is obtained and accepted by the lender;

2. only the lender specifically identified by the client may be contacted;
3. The counselor must document the reason for lender contact. Permission to contact lenders must not be routinely requested from all clients; and
4. There must be a valid reason for the contact.

The counselor should ensure that all communication, as well as any signed authorizations, between counselor and lender is documented in the client file.

### **Counselor Communication with the Lender After Intake**

A counselor may contact the lender to obtain additional information after completion of client intake. The HECM counselor must limit any discussion with the lender to obtaining the specific information deemed necessary to conduct the HECM counseling session. This information may include, but is not limited to:

1. Name and property address to be used on the Certificate of HECM Counseling as required to match the FHA Connection case number request;
2. Initial estimated property value the lender is using at client intake, if not available from other sources;
3. Identity of any other individual(s) who may need to be counseled such as a Non-borrowing spouse, Attorney-in-Fact, trust beneficiaries or remaindermen;
4. Potential credit issue that may impact the financial assessment by the lender;
5. The potential need for a full or partially funded set-aside or repair escrow.

Counselors shall not provide the following information to lenders during any pre-counseling discussions without the permission of the client:

1. The date and time of the HECM counseling session;
2. The name(s) of other parties scheduled to attend the counseling session with the client;
3. Information concerning fees to be charged the client or whether the counseling fee will be waived; or
4. Client personal information.

### **Counselor Communication with the Lender after Counseling**

After the date of the counseling session and before loan closing, counselors may contact the lender designated by the client during the post-counseling stage to obtain additional information either not provided during a pre-counseling call, if one was made, or to clarify information provided during the counseling session.

Counselors shall not reveal any information discussed during the counseling session, without the permission of the client and unless it is relevant to the request for additional information or clarification. Counselors may contact the lender if requested by the client should questions arise after loan origination.

### **Prohibition on Lender Steering**

Lender steering means inducing a client to contact, select or to avoid a specific lender or lenders. Lender steering results in a real or apparent conflict of interest on the part of a counseling agency or counselor.

Counselors must provide their clients with the handout in Attachment B.2: Important Information about Home Equity Conversion Mortgage (HECM) and Other Reverse Mortgage Counselors, in addition to adhering to the following guidelines:

Counselors must not:

1. Promote, represent or recommend any specific lender or lenders;
2. Speak for any lender or lenders about what they charge clients for origination or servicing fees or third-party closing costs;
  - a. by providing information on the specific origination or servicing fees being charged by any specific lender or lenders;
  - b. by suggesting that a client not agree to pay more than any specific amount (other than the maximums established by HUD) for origination or servicing fees or third-party closing costs; or
  - c. by providing loan printouts based on the specific origination or servicing fees or third-party closing costs that a counselor identifies as being the amounts currently being charged by any specifically named lender or lenders, unless the client has independently obtained this information and requested its inclusion.
3. Presume that a client wants to contact specific lenders.
4. Induce a client to contact a specific lender or lenders. For example, counseling agencies must not provide a lender name or list to a client who has not asked for help in finding a lender or lenders or discuss with clients any prior experience with specific lenders.

Counselors must explain to their clients that:

1. Counselors do not promote, represent, or recommend any specific lender or lenders.
2. Counselors do not speak for any lender or lenders regarding what they charge clients for origination or servicing or third-party closing costs and do not provide information on the specific origination or servicing fees or third-party closing costs being charged by lenders. Lenders are the best source of information about the origination and servicing fees and third-party closing costs they charge.
3. All lenders may charge the same mortgage insurance premium (MIP) on HECM loans.
4. HECM and other reverse mortgage product interest rates, origination and servicing fees, and third-party closing costs can vary from lender to lender. They may also vary from one borrower to another and may be negotiable.
5. HECM origination and servicing fees may not exceed the maximum amounts established by HUD, which the counselor will also provide.
6. HUD limits third-party closing costs to what is “usual and customary” in a given area. The client must receive a current estimated total of all such costs, noting that the total actually charged by any given lender is likely to be “in the general vicinity of the estimate, but may be more or less than that amount.”

HUD HECM lenders can be found on HUD’s website available at [HUD Lender List | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

### **Impact of Lender Referrals and Market Conditions**

Counselors must be aware of the client's level of knowledge about HECMs and other reverse mortgages, as well as any biases or concerns the client may have concerning reverse mortgages in general or to any specific product.

#### **III.A.4 Face-to-face Counseling**

HUD encourages face-to-face counseling, and certain states require face-to-face counseling for all borrowers considering a HECM or other reverse mortgage. Counselors who meet with clients face-to-face may be better able to assess client needs and comprehension. Counselors who are unable to meet with clients face-to-face and who instead engage in live video or telephone counseling must be particularly aware of the client's engagement in the session and understanding of the topics covered.

#### **III.A.5 Telephone Counseling**

Clients may receive telephone and live video counseling unless such counseling is prohibited in their state. Telephone and live video counseling must not commence until the client has received HUD's required handouts (Attachment B) and has had adequate time to review the documents. Because the counselor may have difficulty gauging the client's engagement in the counseling session, the counselor must be particularly sensitive to a client's level of understanding. The counselor must prompt the client for questions, concerns or points of confusion during and after the counseling session.

Counselors must assess whether a client has adequate ability to participate in the counseling session, to make reasonable decisions based on the information provided by the counselor, and to understand the risks and consequences of their decisions regarding a HECM. Counselors must make clients aware of the various auxiliary aids and services available to them to make a telephone call accessible.

#### **III.A.6 Emergency Counseling**

HUD permits emergency counseling without a prior appointment. Emergency counseling is HECM counseling that occurs without the client scheduling an appointment in advance. The client may receive emergency counseling by phone, live video, or in person only if:

- The client is in imminent danger of losing their home or
- The client requires access to funds for impending medical treatment, and they are not able to access these funds without obtaining proceeds from a HECM.

HUD requires that the borrowers provide documentation that the emergency counseling is necessary. The documentation should indicate that the client's home is in imminent danger of being foreclosed or that the client needs impending medical treatment.

HUD recognizes that, in emergency circumstances, it is unlikely that the client has received HUD's required handouts. Therefore, unlike scheduled face-to-face, live video or telephone counseling, counselors who are offering emergency counseling are not required to provide required materials to clients prior to the counseling session. Although counselors may be able to

describe product features to clients throughout the session, clients will not have HECM or other reverse mortgage materials unless a lender has provided them previously. Accordingly, counselors must provide all clients who receive emergency counseling with HUD's required handouts and other resource material during or immediately after the session. Required handouts for clients are in Attachment B of this HECM protocol.

### **III.B.Steps in the HECM Counseling Process**

There are four required steps in the counseling process:

- I. Intake
- II. Counseling session
- III. Client file update
- IV. Follow up

### **III.C.Counseling Session Protocol**

#### **III.C.1 Step 1: Client Intake**

The first step in the counseling process is an initial client screening and intake of client information. Intake may be completed by a trained assistant or the counselor and must include the following topics:

#### **Client information**

1. Client Name(s), address, date(s) of birth
2. Estimated home value, location, type
3. Existing debt on home
4. Any unpaid federal debt

#### **Client objectives**

1. Determine the client's main reason(s) for researching reverse mortgages
2. Discuss the client's personal and financial goals

#### **Disclosures by counselor**

1. Counselors must disclose the fee structure for the counseling session at the beginning of the session, or at intake.
2. Counselors must determine if paying the HECM fees will cause the client financial hardship and advise the client that agencies cannot withhold counseling or the Certificate of HECM Counseling based on inability to pay at time of counseling.

#### **Client assistance discussion**

1. Hearing, vision or other disability that may require accommodation
2. Limited English Proficiency
3. Legal capacity
4. Power of attorney

#### **Counseling process overview**

The counselor must inform the client of the counselor's role and of the topics to be covered in reverse mortgage counseling. The counselor must advise the client that they have a choice to



have a face-to-face counseling session, live video or a telephone session. This choice should be documented in the client's case file.

### **Individualized information**

At intake, the counselor must stress the benefits of having the client receive and review the materials in the "Required Handouts for Clients" section below thoroughly before the counseling session.

Loan printouts must be relevant to the client's situation to facilitate the counseling session. Counselor may also provide links to HUD's HECM site at [HECM | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](https://www.hud.gov/HECM)

The counselor must establish that the client has received and reviewed the educational materials before the counseling session and note in the client file.

Except in situations where emergency counseling is necessary, clients may not proceed with the counseling session until they have received the required informational packet (from either the counselor or a reverse mortgage lender) and have had sufficient time to review it. If the client received emergency counseling, the counselor must send out the materials immediately after completing the session.

### **Participants in HECM Counseling Sessions**

The following are guidelines on **who is required to attend** and **who may benefit from attending** a HECM counseling session. It is important that counselors convey this information to every client so that the client can seek additional assistance from friends or family when appropriate.

Who Must Receive HECM Counseling and sign the HECM certificate:

1. Prospective Borrowers, including Non-Borrowing Spouses and Non-Borrowing Owners: The borrower, any Non-Borrowing Spouse, and any non-borrowing owner must receive counseling.
2. Current Trust Beneficiaries: Current trust beneficiaries or individuals who are eligible HECM borrowers and seeking a HECM loan must attend reverse mortgage counseling and sign the HECM certificate.
3. Borrower's Legal Representative (Incompetent Borrower): For any prospective borrower who is not legally capable of decision-making (as determined by a court of law), the counseling session must be conducted with a person holding a power of attorney or with a court-appointed conservator or guardian on behalf of the homeowner.
4. Durable Power of Attorney: The counseling session may be conducted with a person holding a durable power of attorney specifically designed to survive incapacity.
5. Conservatorship If a court has judged the homeowner to be legally incompetent, the loan documents may be executed by a court-appointed guardian/conservator and the reverse mortgage counseling may be conducted with the guardian/conservator present.
6. The counselor must obtain a copy of the durable power of attorney or court order as part of the client file. Counseling should not take place until the power of attorney is received by the housing counseling agency.

7. If the counselor suspects that the power of attorney is fraudulent or that the agent is abusing the use of the power of attorney, the counselor must refer the matter as appropriate under Section II.B.8. Detection and Prevention of Fraud and Elder Abuse.

**Who May Receive HECM Counseling:**

The Borrower has the option to allow or disallow optional participants in the counseling session.

**Optional participants include:**

1. **Persons with a future interest in the property, or Trustees and Trust Beneficiaries:**  
Counseling is not required for persons with a future interest in the property, or trustees and trust beneficiaries that are not HECM borrowers. FHA strongly encourages these individuals to seek reverse mortgage counseling. The following provisions apply:
  - a. Counselors should provide counseling if requested by persons with a future interest in the property or are trustees and trust beneficiaries.
  - b. Persons with a future interest in the property, or trustees and trust beneficiaries may go to a HUD-approved housing counseling agency of their choice.
  - c. Counseling for these individuals does not have to take place at the same agency that provided reverse mortgage counseling to the original client.
  - d. When counseling services are rendered to persons with a future interest in the property, or to trustees and trust beneficiaries that are not HECM borrowers, they do not need to sign the HECM certificate.
  - e. Persons with a future interest in the property, or trustees and trust beneficiaries who do not attend reverse mortgage counseling, should nonetheless be familiar with the program requirements for the FHA-insured HECM.
2. Children of the homeowner
3. Children of a prospective HECM borrower who do not qualify for a HECM but who currently reside on the property, or who are on the deed for the property under the reverse mortgage, but will be removed from the deed prior to closing, are not required to receive reverse mortgage counseling but are permitted and strongly encouraged to attend counseling. Counselors should note family member attendance in the client file. If requested, HECM counseling will be made available by a HUD-approved housing counseling agency. Counseling for the children of a prospective borrower does not have to take place at the same agency that provided reverse mortgage counseling to the borrower.
4. Persons whose attendance is requested by the homeowner: Members of the homeowner's family, the homeowner's attorney, friends of the homeowner, and other staff from the HUD-approved housing counseling agency may attend the housing counseling session, if requested by the homeowner and not otherwise prohibited.

**Prohibited Participants:**

Lenders are prohibited from participating in the HECM counseling session. Any representatives of the lending entity or any third party involved in the origination and processing of the HECM loan may NOT participate directly or indirectly in a borrower's counseling session. Counselors shall not contact the lender once the counseling session has commenced.

### **Required Handouts for Clients before Counseling**

Except in cases of emergency counseling or as otherwise provided under this Protocol, agencies must provide clients with an information packet **prior** to the HECM counseling session so that the client has at least one day to review the materials and prepare questions before the counseling session. In cases where emergency counseling is necessary, the counselor must send the information to the client immediately after completing the counseling session and document in the file the reason for the emergency session. The counselor must document when they provided the information packet to the client. Counselors must confirm the client's receipt and review of the advance information.

### **Mandatory Information**

The following information must be in the information packet:

1. Agency disclosure form and fee schedule for reverse mortgage counseling
2. "Preparing for Your Counseling Session" and the other required handouts in Attachment B of this HECM Protocol
3. Printout of loan comparisons. Loan printouts must be relevant to the client's situation to facilitate the counseling session
4. Printout of Total Annual Loan Cost (TALC) – This calculation is available on the HUD designated calculation tool that counselors use to prepare loan printouts and TALC printouts.
5. Loan amortization schedule
6. Booklet designated by HUD, in hard-copy form or online. Access the current booklet to be provided to the client on the HUD Exchange.

These items must be provided by the counselor, independent of the lenders' documents.

### **Optional Information**

In addition to required handouts for clients, HUD encourages counselors to provide any of the following handouts to clients as supplements to the required handout. This information may be provided to clients before, during or after counseling. These handouts for clients are provided in Attachment B and include:

1. Important Information about Home Equity Conversion Mortgage (HECM) and Other Reverse Mortgage Counselors
2. Reverse Mortgage Eligibility Requirements
3. Steps in the HECM Lending Process
4. Reverse Mortgage Considerations for Consumers
5. Questions to Ask Your Lender about HECMs and Other Reverse Mortgages
6. HECM Borrower Obligations
7. Reverse Mortgage Borrower Obligations: A Checklist for Borrowers
8. Using a Reverse Mortgage to Buy an Annuity
9. Reverse Mortgage Counseling Frequently Asked Questions
10. How You Can Access Your Home's Equity with a Reverse Mortgage: Payment Options

### **III.C.2 Step 2: Conducting the Counseling Session**

The counselor is required to discuss each of the protocol elements, with attention to the relevance of each element to the client's specific situation. The counselor must ensure that the client understands each element and its implications.

### **Confirm client data**

Gather any additional client data not recorded in initial client intake and confirm any previously recorded client data.

### **Find out client concerns and interest in HECMs and other reverse mortgages**

1. Determine the main reason(s) for investigating reverse mortgages.
2. Discuss personal and financial goals that may affect decisions about applying for a reverse mortgage.
3. Help the client understand how a HECM or other reverse mortgage may affect his or her financial situation, including income, assets, liabilities and debts, and current or potential expenditures. Some clients may be uncomfortable discussing their financial situation. If so, the counselor should explain to the client that some financial information is necessary to discuss reverse mortgages and other alternatives.
4. Address concerns about preserving assets.
5. Discuss the length of time the client plans to remain in his or her home.
6. Discuss the condition of the home and whether repairs or modifications to address.
7. Discuss mobility/health-related issues, as well as future maintenance, which are likely to be necessary.
8. Determine whether the client intends to secure an investment or annuity with the reverse mortgage loan.
9. Notify the client that lenders and HUD do not require estate planning services to obtain a HECM.
10. Create a budget based on the client's income, assets, debt and expenses.
11. Discuss potential effect on eligibility for public benefits and suggest the client seek additional financial or tax advice as needed.

### **Discuss client needs and circumstances**

1. This section presents many of the most common client situations. All counselors should become familiar with these common issues and potential solutions. It is not necessary to review this entire section with a client.
2. Counselors should use printouts from HUD's online tools (See Attachment A.4: HECM Calculation Software and Attachment A.5: Using Client Budget and Resource Identity Tool (CBRIT)) to walk their clients through their preferred loan examples. They should help clients understand what a reverse mortgage requires; the timing of payments in a reverse mortgage; and the purposes and benefits of the loan, as well as discuss other relevant examples. If the client is seeking general information only, then the counselor should use loan examples. If the client is interested in a particular loan or loan feature, the counselor should use this information in addition to providing examples of loans with different features for comparison.

### **Discuss client and property eligibility**

While the counselor can generally describe basic borrower, eligible Non-Borrowing Spouse, and property eligibility requirements for a HECM or other reverse mortgage, only an eligible lender is authorized to make eligibility determinations.

1. Borrower-related requirements, including age and property restrictions;

2. Power of Attorney and Conservator or Guardian (if applicable);
3. Property eligibility requirements for a HECM or other reverse mortgage
  - a. Property charges including, but not limited to property taxes, hazard insurance, homeownership fees, and other property assessments. It is the responsibility of the borrower to review statements and monitor disbursements for property charges.
  - b. Counselors must address the responsibility of the borrower, and if applicable, the Non-Borrowing Spouse, for payment of property charges, including the availability of a partial or fully funded life expectancy set aside.
  - c. The counselor must cover the borrower's responsibility to ensure lender has paid the assessment, as well as the obligation to continue payment after the set aside is fully expended.
4. Residency and allowed time away for health reasons and time spent at a vacation home.
5. Required repairs including, if applicable, the 15% rule;
6. Properties held in trust (if applicable);
7. Eligible Non-Borrowing Spouse's obligations and deferral period for HECMs (if applicable); and
8. Lender requirements to comply with financial assessment and an explanation of the purpose of the partial and full life expectancy set aside when client's circumstances indicate it may be required:
  - a. Partially funded life expectancy set-asides are to assist the borrower in paying property charges themselves.
  - b. Fully funded life expectancy set-asides are for the lender to pay property charges on behalf of the client.

### **Introduce general reverse mortgage features**

1. Rising debt/falling equity
2. Retention of title
3. Obligations that could result in the HECM being due and payable, including when the borrower no longer occupies the home as a principal residence or when there is no longer an eligible borrower or Non-Borrower Spouse in property
4. Closed or open-ended funding
5. Factors that determine principal limit
6. Payment plan options, including the ability for the borrower to request a change at any time during the life of the loan with the exception of initial limitations in the first 12 months. (Only applies to adjustable rate mortgages)
7. Leftover equity (implications for Borrower and Non-Borrowing Spouse and heirs (if applicable))
8. Loan balance
9. Growth rate of payment plans
10. Individual loan negative amortization schedule(s)
11. Future projections and comparisons
12. Non-recourse financing

### **Discuss HECM and other reverse mortgage loan costs**

1. Origination fees
2. Mortgage Insurance Premium

3. Third party closing costs including appraisal fee, credit report, and title search
4. Servicing fee and set aside
5. Interest rate
6. Loan costs
7. Counseling fees and the option to pay up-front or to pay from loan proceeds.

**Discuss ongoing responsibilities and reverse mortgage implications after closing**  
**Repairs**

1. Taxes and insurance and if applicable, the requirement that eligible Non-Borrowing Spouses continue to pay taxes and insurance during a deferral period.
2. Financial implications
3. Changes in borrower relationships, including those with Non-Borrowing Spouses

**Provide information about financial alternatives**

1. Selling and moving
2. Deferred payment and home repair loans
3. Home equity loans
4. Social service alternatives
5. Property tax deferral and relief
6. Supplemental Security Income and Medicaid
7. Medicare (QMB/SLMB, Part D, etc.)
8. Other housing options (congregate housing, assisted living, etc.)
9. If applicable to the client's individual circumstances and needs, the entire process of homeownership

**Provide information on reverse mortgage refinancing**

1. Refinance for a lower interest rate
2. Refinance to take advantage of home value appreciation and access to a greater amount of equity
3. More information regarding refinancing can be found in Section IX, Refinancing a HECM.

**Provide information on HECM for Purchase, if applicable**

1. Counselors conducting sessions with clients who are interested in purchasing a residence with a HECM should refer to:
2. the borrower and property requirements provided in HUD Handbook 4000.1; and
3. the required topics for counseling in VI. HECM for Purchase of this HECM Protocol.

**Discuss purchasing an annuity with a HECM or other reverse mortgage**

**Annuities**

Generally, an annuity is a contract between a buyer and an insurance company.

**Counselor action regarding annuities**

This step is optional if all HECM or other reverse mortgage proceeds will be used to pay off the forward mortgage.

The counselor must ask the client if he or she is considering using the loan proceeds to purchase an annuity and should be prepared to explain these products.

If the client is considering an annuity, the counselor must discuss with the client:

1. The features and purpose of an annuity
2. Other methods of obtaining an annuity other than through a reverse mortgage.
3. the costs and implications of purchasing an annuity with the proceeds from a reverse mortgage.
4. Resisting pressure from insurance agents, financial advisors or other individuals concerning the use of loan proceeds to purchase an annuity or to invest in a risky venture; only reverse mortgage borrowers themselves can determine how to use the loan proceeds.

If the client still expresses an interest in purchasing an annuity with the loan proceeds, the counselor must give the client a copy of Attachment B.9, Using a Reverse Mortgage to Buy an Annuity.

#### Required Documentation

The Federal Truth-in-Lending Act (TILA) recognizes the unique difficulty of evaluating the total cost of a reverse mortgage that is used to purchase an annuity. Counselors must supplement specialized TILA cost disclosures for these two-part transactions by giving clients who are considering annuities the document in Attachment B.9 of this protocol.

#### Review client understanding of session contents

Part of the counselor's role is to review, during and at the end of every session, whether the client has been adequately informed and has a level of understanding indicating the client grasps the fundamental facts of a HECM. Understanding product features is critical. The counselor must disclose to the client that questions will be asked during the counseling session to determine if the client understands the information being discussed.

To assess client understanding, the counselor must review the topics of the session and ask the client open-ended questions listed below or chosen from HUD's 10 question feature using HUD designated software. These questions help ensure that the client understands the information and is able to make an informed decision.

HUD intends these questions to be interspersed throughout the session. Therefore, the counselor will ask questions as review throughout the counseling session, rather than an exam at the end of the session, in order to avoid intimidating or insulting the client.

When selecting and asking questions, the counselor must:

1. include those relative to a client's specific situation. For example, clients who maybe considering a HECM with an NBS must be asked questions from that list in addition to other general questions.
2. ask general questions regarding the use of a Life Expectancy Set-Aside.
3. Not ask the questions as a written test, unless the client requests this type of accommodation

4. not present the questions as something the client has to “pass” in order to get the loan. This means that counselors must be familiar with the set of questions provided, so that they can ask the questions conversationally, framed as a review of the most important concepts presented during the session. This also gives the counselor a way to emphasize some key aspects of a reverse mortgage. Here’s question number 1. When will you need to pay back your HECM?” If a client answers incorrectly, the counselor can discuss the concept further and ask the question again;
5. avoid yes/no questions, whenever possible.

Clients should answer no fewer than five of the ten questions correctly to receive the Certificate of HECM Counseling.

#### Tailoring Questions to Clients

Counselors must be aware of financially savvy clients when posing questions and adopt the appropriate tone and delivery of these questions.

For clients who seem to be having trouble remembering the information, the counselor may give prompts to assist the client in answering the questions. If the client gets a question wrong or only partially right, the counselor should try to prompt or rephrase the question to see if that helps, and then briefly review the right answer before going on to the next question.

#### Reviewing Understanding of Multiple Clients

If there are two or more borrowers, the counselor may request that each client alternate answering questions. In addition, if one client appears to be quieter and less involved during the session, the counselor may direct the questions entirely to that client, while asking the other client to allow the opportunity for the other to respond. If one of the clients can’t respond, then the counselor may allow the other one to answer the question. The counselor must avoid allowing one client to completely take over the question and answer exchange.

#### Reviewing Understanding When Non-Borrowers are Present

When counseling a client with an adult child or other non-borrowing advisor present, the counselor must direct questions to the homeowner and ask the other person to allow the homeowner to respond. It may be necessary in some cases to ask the other person to leave the session in order to get a good idea of whether the client has understood the essential features of the HECM.

If the client is accompanied by a legal representative (e.g., someone who has durable power of attorney), direct the questions to the client whenever possible, asking the agent to allow the client the opportunity to respond. If the client is unable to respond adequately, the certificate should be signed by the legal representative only and should include the notation that the client was unable to fully participate in counseling.

#### Question List

Counselors are permitted to ask additional question from the list if they feel it beneficial to the client(s):



### General questions about HECMs and other reverse mortgages

1. When you have a HECM, who owns your house (whose name is on the title/deed)? When does the loan have to be repaid?
2. There are several options for receiving your HECM proceeds. Of those, which option are you interested in and how does it work. What happens if you change your mind later and want to change your payment plan?
3. When you have a HECM, can the lender require you to make monthly payments?
4. When does the HECM have to be paid back?

### Questions about the financial implications of a HECM or other reverse mortgage

1. What responsibilities as a homeowner you have to continue after you get a HECM? What may happen if you do not keep up these responsibilities?
2. A HECM may require either a partial or full Life Expectancy Set-Aside (LESA) at the closing which is designed to cover hazard insurance, property taxes, and other property assessments. Where will the funds come from to establish the LESA and how will that impact overall HECM proceeds available? If you have a LESA and all the funds have been exhausted overtime, who is responsible for the continued payment of the property charges?
3. What happens if you use up all the money that is available from the HECM? (Utilize examples tailored to client's circumstances, e.g., "What if you no longer had any remaining HECM proceeds to access?" or "Can you share how you would pay the property charges, maintenance, and repairs necessary to make your house safe and livable?")
4. If you were to relocate to another house, what are your responsibilities on the HECM loan? When your house is sold and the HECM is paid off, will the net proceeds give you the ability to pay for your move.

### Questions to use for clients with a potential or known Non-Borrowing Spouse (NBS)

1. If your spouse is the Non-Borrowing Spouse on the HECM and deed, how will this affect their ability to stay in the house should the borrower leave for any reason?
2. Can the NBS access any remaining HECM proceed and will the LESA continue to pay property charges upon the passing of the borrower?
3. Upon the passing of the borrower or is under medical care, are there circumstances where the NBS can access any remaining HECM remaining loan balance? (Note that the HECM loan balance differs from net proceeds from the sale of the property).
4. What terms of the mortgage are surviving NBS responsible for maintaining upon the passing of the mortgagor?

### Questions for Refinances

1. If you refinance your current HECM, will you still have to pay the FHA mortgage insurance? What is your understanding of how this insurance will be calculated?
2. What are some of the additional costs you will incur should you decide to refinance?

### Questions for HECMs for Purchase

1. When you purchase a home with a HECM, will the HECM be on your existing home or your newly purchased home?
2. How are closing costs determined for a HECM for purchase? What sources of funds (money) are allowed when you purchase a home with a HECM and pay closing costs?
3. Why is it important to get a home inspection?

4. What are some questions that you would want to ask a real estate professional about a property (assessments, HOA) purchased with a HECM?

### Results of the Review

Counselors must make detailed notes of client responses to the questions by using HECM Loan Calculator and Underwriting Tool (HLCUT) 10-question function or note the section of the agency's CMS electronic file or in their paper file. Such notes should include information about any difficulties the client has in answering questions. This is particularly necessary when the client's answers are incomplete or incorrect, as this will help support any decision to withhold or delay issuing the certificate.

The review questions are meant to assess the most basic HECM concepts. The counselor should not issue a Certificate of HECM Counseling until the client correctly answers 5 out of 10 questions.

### Clients Unable to Demonstrate Product Understanding

If the client cannot provide complete or correct answers for at least five of ten questions, there may be concerns about his or her ability to make an adequately informed HECM decision. If that is the determination, the counselor should not issue the counseling certificate after the first counseling session but must propose additional ways to help the client gain the necessary knowledge, such as:

1. Schedule an additional session to allow more time to review important topics and possibly at a different time of day, or
2. Help the client to arrange a face-to-face counseling session with the original counselor or another counselor, or
3. Ask the client if there is someone else, he or she could bring with them to or could join in a phone or live video counseling session and schedule another session to include this person, or
4. Ask the client if there are any accommodations that could be made to support them during the counseling session.

These options must meet the client's specific needs.

The counselor may discontinue the session without issuing the Certificate of HECM Counseling if it is apparent that the client is not able to understand the material.

During any additional counseling sessions, the counselor will ask the review questions again. If the client again is not able to correctly answer 5 out of the 10 questions, the counselor will ask the client if they would like additional time and invite them to come back at a later date after they have had more time to study the materials.

### Discuss Next Steps

1. Referrals: Counselors may provide clients with information about approved lenders. A list of approved HECM lenders can be obtained by searching HUD's website at [HUD Lender List](#)

2. Resources: Counselors must provide clients with additional information or resources that may help clients decide whether to pursue a reverse mortgage or other alternatives. A list of these resources is in Attachment B.
3. Counselors cannot make any specific recommendations or referrals to a particular lender.

### **III.C.3 Step 3: Completing the Client File**

The counselor must complete the client file at the end of the session. The use of electronic files is acceptable. Counseling agencies must maintain a separate, confidential file for every client. The counselor must ensure that paper and electronic files are stored securely, and only accessible to authorized individuals. The counselor must ensure that the file contains all of the following contents:

1. File number: A file number for the unique counseling interaction;
2. Financial Analysis/Budget: Evidence of analysis of the client's unique financial and credit circumstances as they relate to the HECM or other reverse mortgage;
3. Required Data: All required fields listed in the Interface Control Document (ICD) of the Client Management System
4. Activity Log: A record of the date, time, duration, and description of each interaction or activity performed with, on behalf of, and by, the client;
5. Follow up: A record of all follow-up communication with the client must be documented. This documentation must also include an account of all attempts to contact clients to conduct follow-up sessions;
6. Counseling Participants: Listing of people other than the borrower that attended the HECM counseling session and a description of their relationship to the borrower;
7. Counseling Certificate: Signed and dated Certificate of HECM Counseling; if the certificate was not issued, the reason why it was withheld;
8. Agency Disclosure Statement: A copy of the disclosure statement must be provided to each client in a face-to-face setting or a notation of the date that the disclosure statement was verbally or electronically provided during a live video or telephone counseling. The disclosure statement identifies the agency and explicitly describes the various types of services that it provides. It must clearly state that the client is not obligated to receive, purchase, or use any other services offered by the organization or its exclusive partners, in order to receive counseling services. For clients receiving a live video or telephone counseling, the agency must verbally or electronically provide a disclosure that meets these requirements.
9. Power of Attorney or other documents relating to authority of a third party to act on behalf of the prospective borrower, if applicable;
10. Total Annual Loan Cost (TALC): Assessment of the total annual costs of a reverse mortgage including interest payments and other fees that require payment;
11. Amortization schedules for reverse mortgage loan options;
12. Loan Comparison Estimate for reverse mortgage: Client-specific loan comparisons of HECM products, and, as appropriate, proprietary reverse mortgage products, showing examples of loan details including interest rates, principal limits, fees, closing costs and available funds.
13. Notation/Documentation verifying that all required counseling content and information was provided;

14. Notation of other brochures or handouts provided to the client on the general reverse mortgage lending process, procedures, or timelines; reverse mortgage lenders; and/or alternatives to a reverse mortgage;
15. Documents including copies (electronic or paper) of records or correspondence received from the client or created on their behalf, including Miscellaneous Information obtained during the intake and subsequent housing counseling sessions not otherwise mentioned in this section;
16. Termination documentation detailing when the housing counseling agency terminated services. The housing counselor must notate the client's file with the date and cause/explanation of termination. Client files must not remain open indefinitely;
17. Documentation of results of counseling session(s);
18. Fees charged or whether a hardship waiver was requested and approved, if applicable; the amount paid through client fees and a copy of the receipt(s) provided to the client;
19. HUD Grant Activity, if applicable, noting whether the activity was partially or fully funded by a HUD housing counseling grant or sub-grant; and
20. Discussion of alternatives listing any service providers, product vendors, products, features, services, or properties about which information was discussed with the client.

#### **III.C.4 Step 4: Follow-up**

The housing counseling work plan must detail the agency's procedures for follow-up communication with the client to confirm that the client is progressing toward his or her housing goals, learn outcomes, and determine if the agency should modify or terminate counseling for the client.

The counselor must conduct client follow-up; hiring a third-party agency to conduct follow-up services is prohibited.

The counselor should make reasonable efforts to conduct a verbal follow-up within 60 days after the counseling session (in person, live video or telephone). If the counselor makes several verbal follow-up attempts without success, the counselor must write a letter or send an e-mail to the client stating that the counselor has attempted to follow up and inform the client of the need for follow-up communication. The letter or e-mail must request that the client contact the housing counseling agency no later than 30 days from the date sent, to help the agency assess if additional client services are necessary to assist the client in achieving their housing goals or if the agency should terminate counseling services. Refer to Attachment A.2 for a sample Follow-Up Letter. Issuing surveys to assess housing outcomes does not meet the requirement for client follow-up.

#### **Follow-up Phone Call**

If the counselor is successful in reaching the client by phone, the counselor must review the information discussed during the counseling session and the materials provided to the client. The counselor must emphasize that the client may contact the counselor after this initial phone call with questions or concerns.

#### **Follow-up to Emergency Counseling**

When the counselor performs emergency counseling and the client receives the information packet during or after the counseling session, counselors should wait 24 to 48 hours to contact

the client. This gives the client time to review the materials and consider their options. Again, the counselor must emphasize that the client may contact the counselor with additional questions or concerns.

### **Close-out or Outcome letter**

After enough time has passed for the client to close on a reverse mortgage loan, the counselor must send the client a letter to remind the client of borrower obligations. Generally, this should occur three to six months after the counseling session. The counselor must remind the client of the costs and implications of purchasing an annuity with the proceeds from a reverse mortgage and other uses for the loan proceeds that may not be in the client's best interests.

The letter must encourage the client to call the counselor with any additional questions or concerns and include a survey for the client to report the outcome of the session. An outcome letter is not necessary if the counselor has already called the client for follow-up and recorded the outcome (for example, the client has closed on the loan, the client has no additional questions or the client will not proceed with a reverse mortgage).

## **III.C.5 Step 5: Preparing and Sending the Certificate of HECM Counseling**

### **Overview of Requirements on Counseling Certificate**

All borrowers must have a Certificate of HECM Counseling to proceed with a HECM loan application.

Counselors issue the Certificate of HECM Counseling (HUD-92902) after the borrower successfully completes the counseling session. The certificate does not represent an opinion or decision by the counseling agency about the suitability of a reverse mortgage for the client.

Rather, it is a certification that the client has:

- Received HUD's required handouts;
- Received counseling;
- Discussed his or her needs and circumstances and the potential for a reverse mortgage to meet those needs; and
- Has a basic understanding about reverse mortgages.

The Certificate of HECM Counseling applies to HECM counseling only and is not intended to provide any guarantees about counseling for other reverse mortgage products.

The certificate includes a list of specific items that the counselor must discuss in detail with the client before issuing the certificate. This list includes:

1. Options other than a HECM that may be available to the homeowner(s) including other housing, social service, health and financial options;
2. Other home equity conversion options that are or may become available to the homeowner(s) such as other types of reverse mortgages, sale-leaseback financing, deferred payment loans, and property tax deferral;
3. The financial implications of entering into a Home Equity Conversion Mortgage;

4. A disclosure that a Home Equity Conversion Mortgage may: 1) have tax consequences; 2) affect eligibility for assistance under Federal and State programs; and 3) affect the estate and heirs of the homeowner(s);
5. A notice that the homeowner need not pay for the services of an estate planner in order to get a HECM loan; and
6. A notice that the HECM is due and payable when no remaining borrower lives in the mortgaged property, or when any other covenants of the mortgage have been violated. (Borrowers are those parties who have signed the Note and Mortgage or Deed of Trust).

### **Preparation of the Certificate of HECM Counseling**

Counselors generate the certificate only in FHA Connection and not from any other source. FHA will only accept Certificates of HECM Counseling generated from FHA Connection when the lender submits the loan for insuring.

The counselor must record on the certificate:

1. The name of the counselor;
2. The name of the counseling agency;
3. The employer HCS (Housing Counseling System) ID of the counseling entity;
4. The date and signature of both the counselor and all prospective borrowers;
5. The date that the client completed counseling;
6. The expiration date for the certificate provided by the counselor;
7. The type of counseling performed (face-to-face or telephone);
8. The duration of the counseling session(s); and
9. If applicable, the signature of the client's legal representative.

The counselor must ensure that the Certificate of HECM Counseling is signed by the client and that all the relevant information is completed.

The Certificate of HECM Counseling address must reflect the address of the client at the time of counseling. The certificate does not need to match the address of the property that will serve as the security for the FHA-insured HECM loan.

### **Required Signatories of Certificate of HECM Counseling**

Only those individuals who must attend the HECM counseling session are required to sign the Certificate of HECM Counseling.

When counseling is attended on behalf of the borrower by persons holding a durable power of attorney or a court-appointed conservator or guardian, the individual attending the HECM counseling session must sign the Certificate of HECM Counseling.

Where the borrower has a trustee, the trustee must sign the mortgage, as necessary to create a valid first mortgage and second mortgage, if applicable, but the trustee is not required to attend counseling unless the trustee is also the beneficiary of the loan or a HECM borrower.

Other individuals participating in the session (e.g. a Non-Borrower Spouse) are not required to sign the certificate. This includes, for example, children or other individuals not on the title.

However, it is permissible to have others sign the certificate in order to document their presence during the counseling session. Lenders may request this when the borrower's competency is in question and the borrower's legal representative is present for the counseling session.

### **Providing the Certificate of HECM Counseling to the Client and Lender**

The counselor may send the Certificate of HECM Counseling to the client and/or directly to the lender by mail, fax, or PDF by email, pursuant to the client's request **after** the counseling has concluded. This approach does not prejudice the outcome of the counseling or risk substituting a lender's wishes for those of the client.

Counselors must follow these steps if faxing the certificate:

1. If, at any time after the counseling has concluded, a client requests that the counselor fax a certificate to a lender, the counselor must comply with a client's request.
2. The request does not have to be in writing. If the client makes a verbal request, the counselor must note this in the client's record. The counselor should note the date of faxing and the number to which it was faxed in the client's record.
3. If a client makes such a request before counseling has been completed, the counselor must acknowledge the request, and then, once the counseling is complete, ask the client if they still want the counselor to fax the certificate to a lender.
4. Only the client or their legally authorized representative may request that the counselor fax the certificate to the lender.

In the case of live video or telephone counseling, the counselor must follow these steps:

1. The counselor must fax a copy of the certificate to the lender that has been signed by the counselor;
2. The counselor must then mail a copy of the certificate to the client;
3. The client must sign the certificate and then either fax or mail a signed copy to the lender;
4. Once the lender receives both copies, the lender can merge the two copies and consider them a complete HECM counseling certificate issued on behalf of the client.

### **Required Receipt of Certificate of HECM Counselor by Lender**

The lender may not charge any fees or proceed with processing the HECM loan application until it receives the certificate, signed by both the counselor and the client.

The counselor must inform the client of this requirement so that the client knows that the loan may not proceed in any way until the certificate is appropriately signed and transmitted.

### **Period of Validity of Certificate of HECM Counseling**

The Certificate of HECM Counseling is valid for 180 calendar days from the date counseling is completed.

## **IV. Client Needs and Circumstances**

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Counselors must consider clients' diverse needs and circumstances when conducting the counseling session. Counselors need to be able to discuss the following topics, with reference to the clients' specific circumstances.

### **IV.A. Property Value's Effect on Available Equity:**

The value of the client's property determines how much equity may be available through a reverse mortgage. Clients living in homes with high property values may be able to obtain higher proceeds through proprietary reverse mortgage products than through HECMs, since HECM loans are subject to an FHA loan limit. Further, older houses may have lower appraised values, and some houses may require certain repairs to qualify for a reverse mortgage. When counseling clients on a HECM, counselor must provide information about proprietary reverse mortgage products, if available in the current lending market, and provide a comparison of costs and benefits.

Proprietary reverse mortgages are not insured by the federal government.

Counselors should ensure that clients understand the benefits of FHA mortgage insurance.

### **IV.B. Borrower's Age**

#### **IV.B.1 Effect on Eligibility**

HECMs are available to seniors age 62 or older and to married couples with one individual at least age 62. Other reverse mortgage products may have different age requirements.

For HECM loans, all borrowers and Non-Borrowing Spouses must also be on the title and all borrowers must be age 62 or older.

#### **IV.B.2 Effect on Access to Equity**

For HECMs, FHA includes life expectancy in the formula to determine reverse mortgage proceeds. Older borrowers are usually eligible for higher initial limits on principal. If there is more than one borrower or a non-borrowing spouse, FHA requires the lender to use the age of the youngest borrower for the HECM loan calculations.

Other reverse mortgage products may use different calculations to determine proceeds based on the age of the borrower or multiple borrowers.

### **IV.C. Income Requirements: Effect on Reverse Mortgage**

The HECM Program does not have an income eligibility requirement. Under the requirements of financial assessment, lenders will review a client's resources to determine the capacity of the client to meet their financial obligations with their documented income and assets. The lender may ask clients for tax returns, pay stubs, evidence of Social Security income, bank statements, retirement accounts, or other verification sources to document income. The lender will deduct



the total monthly expenses from the total monthly income to determine the client's residual income.

If a client's residual income is not sufficient and they do not have acceptable compensating factors, a client may still qualify for the HECM with a Life Expectancy Set-Aside for property taxes, insurance, and other required property charges. Lenders are responsible for determining whether a client qualifies for a loan under financial assessment.

Counselors should review the requirements of the financial assessment and highlight potential areas that may impact the client, such as the need for a partial or fully funded life expectancy set aside or possible denial of a HECM. To do this, the counselor must use the HUD tool in Attachment A.4: HECM Calculation Software and Attachment A.5: Using Client Budget and Resource Identity Tool (CBRIT).

The counselor must make it clear that qualification for a HECM is determined by the lender.

Other reverse mortgage products may have other income requirements that impact the reverse mortgage.

#### **IV.D. Credit Requirements: Effect on Reverse Mortgage**

Lenders will review clients to determine willingness of clients to pay their financial obligations. The lender will review the client's credit report and prior tax and insurance payment history in making this determination. If the client has significant derogatory credit, the lender may request an explanation from the client. The client will be given the opportunity to provide documentation of any extenuating circumstances that contribute to the derogatory credit. Clients with derogatory credit, without acceptable extenuating circumstance, may qualify for a HECM with either a fully or partially funded Life Expectancy Set-Aside for required property charges.

Other reverse mortgage products may be available and have different guidelines for client credit.

#### **IV.E. Length of Time Remaining in the Home: Effect on Costs and Obligations**

The costs of a reverse mortgage are front-loaded. Unlike a forward mortgage in which costs are folded into the monthly mortgage payments and paid over time, the costs of a reverse mortgage are paid (and can be financed) as part of the origination. As a result, the total origination cost of the loan, relative to the loan amount, decreases over time. Therefore, the counselor and the client must discuss how long the client expects to remain in the home. Clients who are planning to move soon may find the costs of the reverse mortgage outweigh the costs of directly selling their home. By contrast, clients who plan to stay in their homes for a longer period are more likely to realize a long-term benefit from the HECM or other reverse mortgage loan.

Clients also must consider what the implications of a reverse mortgage are on their obligations and debts. For example, will they be able to pay taxes and insurance and still maintain the home? Will they be able to pay for in-home care if that becomes necessary?

#### **IV.F. Payment Plan Options and Their Effect on Current and Future Financial Obligations**

For HECMs, clients may choose from several payment plan options. Counselors are reminded that the HECM program limits the initial drawdowns to no more than 60% of the principal limit

or the sum of mandatory obligations plus ten percent of the principal limit. For all options other than the single lump sum payment option, the remaining loan balance cannot be withdrawn until 12 months after the loan closing date.

The following are payment plans available for HECMs. Proprietary reverse mortgages may have different payment plan options.

1. Line of Credit
2. Tenure
3. Term
4. Combination of a line of credit plan with either tenure or a term plan
5. Single Lump Sum Payment

See Section V. Features of a Reverse Mortgage for more information on the payment plans.

### **Paying Off the Existing Mortgage and All Other Liens**

The HECM proceeds must be sufficient at least to pay off all existing liens on the home. Some clients consider using a HECM to eliminate existing mortgages and other debt.

### **Recurring and Future Expenses**

The counselor must help the client consider the client's recurring and future expenses, and how the client's current income meets existing and future needs. The client may use the proceeds from a reverse mortgage for these expenses. Counselors should also consider inflation when reviewing clients recurring and future expenses.

Recurring expenses include, but not limited to:

1. Property taxes, assessments, Homeowners association and condominium fees
2. Hazard insurance
3. Home maintenance and repair

Future expenses may include but not limited to:

1. Interior and exterior accessibility modifications
2. In-home health care or assistance
3. Other health-related expenses

### **Availability of Public Benefits to the Client**

Counselors must determine whether the client receives public benefits (e.g. Supplemental Security Income, Medicare, and Medicaid). If not, counselors must inform clients about their potential eligibility for such benefits. Counselors will utilize the web-based software designated by HUD which allows users to check eligibility for frequently utilized public benefit programs. If the client has an income at or below 200% of the Federal Poverty Level or is a person with a disability, counselors must run the HUD designated web-based software to inform the client of programs for which he or she might be eligible and provide the client with appropriate forms or referrals.

A reverse mortgage may be a substantial supplement to public benefits for seniors; however, counselors must make clients aware that a reverse mortgage may affect their eligibility for some public benefits if they allow their loan proceeds to accumulate. Counselors should recommend

that the client(s) seek legal or financial advice with regards to the potential impact of various public benefits. See Attachment B.9 for more information on public benefits, financial alternatives and supplements.

#### **IV.G.Non-Borrowing Spouses**

HUD allows for the deferral of a due and payable status when the HECM borrower has an eligible Non-Borrowing Spouse who meets HUD requirements. Counselors must discuss the impact of and the obligations for Non-Borrowing Spouses to remain in the property when the HECM becomes due and payable.

The counselor must address the situation where a borrower remarries after taking out a HECM and its impact on the new spouse. In these situations, counselors must advise clients that the new spouse would be an “ineligible Non-Borrowing Spouse.”

The counselor must advise the client that the ineligible Non-Borrowing Spouse may be added to a new HECM loan when they have reached the age of 62 via a HECM refinance. The counselor must indicate that HECM refinancing where clients have remarried is not guaranteed: it will depend on the eligibility of the clients, the value and remaining equity in their property, and the lenders underwriting under the financial assessment requirement.

#### **IV.H.Borrower’s Heirs and Estate**

Some clients may be concerned about leaving an estate to their heirs. Reverse mortgage borrowers who remain in the home for many years may use a large part of their home equity, reducing the amount they can leave to their heirs. However, reverse mortgage borrowers do not have to use all of the equity made available through the reverse mortgage. The different payment options enable borrowers to preserve varying amounts of equity.

Counselors must advise clients that fluctuations in the value of their property over time may increase or decrease their equity. Further, the age of the youngest borrower or Eligible Non-Borrowing Spouse is a factor in calculating the allowable principal amount of a HECM loan

## **V. Features of a Reverse Mortgage**

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### **V.A. Overview of Reverse Mortgage Programs and Product Features**

Counselors must discuss the features of the HECM or reverse mortgage that are relevant to their client's situations or interests.

Clients also must consider what the implications of a HECM are on their obligations and debts. For example, will they be able to pay taxes and insurance and still maintain the home? Will they be able to pay for in-home care if that becomes necessary?

#### Eligibility

1. Borrower and Non-Borrowing Spouse Eligibility
2. Power of Attorney and Conservator/Guardian (if applicable)
3. Meeting requirements of Financial Assessment
4. Property Eligibility
5. Required Repairs
6. Properties Held in Trust (if applicable)
7. Financial Assessment Criteria

#### Loan Features

1. Loan Limit
2. Principal Limit
3. Impact of Loan Interest Rate Lock-In
4. Payment Options
5. Line of Credit
6. Tenure
7. Term
8. Combination Payment Plans
9. Single Lump Sum
10. Interest Rate
11. Annual Adjustable Interest Rates
12. Monthly Adjustable Interest Rates
13. Fixed Interest Rates
14. Interest Rate Cap for ARM
15. Margin/Index
16. Expected Rate
17. Note Rate
18. Leftover Equity
19. Mortgage Insurance
20. Retention of Title

#### Loan Costs

1. Mortgage Insurance Premium (Initial and annual)
2. Servicing Fee and Set Aside
3. Repair
4. Financial Assessment requirements

5. Full Life Expectancy Set-Aside
6. Partially Expectancy Set-Aside
7. Third Party Costs (Appraisal, Credit Report, and Processing Fees)
8. Origination Fee
9. Financing Closing Costs
10. Payment Plan Change Fees
11. Total Annual Loan Cost (TALC)

#### After Closing

1. Disbursement of Funds
2. Right of Rescission
3. Borrower Obligations and, if applicable, Non-Borrowing Spouse Obligations
4. Taxes and Hazard Insurance
5. Ongoing Repairs and/or maintenance
6. Continued Occupancy
7. Loan Payable Events/Repayment of Debt
8. Prepayments
9. Life Expectancy Set-Aside (“LESA”) (Full and Partial)
10. Impact on Public Benefits
11. Income Tax Implications
12. Ability to Change Payment Options
13. Required Repairs
14. Repayment of Debt

### **V.B. Eligibility for HECMs**

#### **V.B.1 Borrower Eligibility**

All HECM borrowers must be 62 or older.

A spouse who does not meet the minimum age requirement may be considered a Non-Borrowing Spouse.

All borrowers who are interested in a HECM must be counseled by a HUD HECM counselor working for a HUD participating agency before making formal application for a HECM.

Borrowers must maintain their principal residence in the property securing the HECM loan. The property must be the principal residence for at least one borrower. Borrowers may have only one principal residence. If the borrower is planning an absence from their principal residence that is expected to exceed two months, the borrower is required to notify their lender in advance.

Borrowers who have an existing mortgage on their home must either pay it off before getting a HECM or use the proceeds of the HECM at closing. If the closing proceeds from the HECM loan are not sufficient to pay off existing liens on the property, the borrower may not incur additional financial obligations, such as a credit card cash advance or an additional lien against the property from a home equity loan, to pay off the existing liens.

FHA regulations require that borrowers have no outstanding federal financial obligations or liens on their property to get a HECM loan.

To be eligible for a HECM for Purchase, clients must be able to make the required monetary investment at closing. This investment is the difference between the principal limit of the HECM loan and either the sales price of the property or its appraised value, whichever is less. Clients may use cash on hand or funds from the sale of their existing property or from the sale of personal assets such as retirement accounts and stocks to satisfy the monetary investment requirement. Clients may not use “gap financing” or other interim financing such as credit card cash advances, seller financing or any other financial obligation that cannot be satisfied at closing. Additionally, sellers may not provide any concessions, except to reduce the sales price.

Counselors must advise the client that lenders will verify the client’s sources of funds and conduct a credit check during the application process.

Eligibility requirements for other reverse mortgage products may vary from those for a HECM.

## **V.B.2 Property Eligibility**

For HECM loans, eligible property types include:

1. single-family homes (one to four-unit properties),
2. manufactured homes (built after June 1976),
3. condominiums,
4. properties in planned unit developments, and
5. townhouses.

Properties held in a living trust are also eligible to be used as security for a HECM loan.

In addition, properties must be one to four-unit properties held in fee simple, or on renewable leasehold lasting at least 99 years, or not less than 50 years beyond the date of the 100th birthday of the youngest borrower.

Newly constructed properties are eligible only if local authorities have issued a Certificate of Occupancy or its equivalent.

Counselors must be aware of HUD program changes concerning the eligibility of different property types, as these requirements may change over time. Clients must confirm the eligibility of their property with their lender.

Ineligible properties for HECMs include the following:

1. Cooperative units
2. Boarding houses
3. Bed and breakfast establishments
4. Condominium projects that are not approved by HUD
5. Manufactured homes built before June 15, 1976
6. Manufactured homes lacking HUD certification labels and a foundation which does not meet HUD’s permanent foundation requirement for manufactured homes.

Additionally, the following types of properties are ineligible for purchase with a HECM:

1. Properties being sold by anyone other than the owner of record
2. Properties being re-sold 90 or fewer days from the previous sale
3. Properties being re-sold between 91 and 180 days from the previous sale and the new sales price exceeds 100% of the previous sales price and there is no additional documentation to validate the property's value

Note: There are certain exceptions to the time restriction on sales. Potential borrowers must work with their lenders to determine whether these sales restrictions apply to their specific properties.

Under the HECM for Purchase program, borrowers must occupy the property within 60 days from the date of closing.

### **V.B.3 Modifications and Required Repairs**

Borrowers must consider what modifications may be necessary to ensure the home's habitability as they age. For example, it may be necessary to add ramps, stability bars in bathtubs, or wider doorways for wheelchair access. Clients must consider whether the proceeds of the reverse mortgage will cover the costs of these health-related modifications.

Certain repairs, which affect the home's habitability and safety, may be required for a property to be eligible for a HECM loan. The HECM may be closed before the required repairs are completed if the estimated cost of the repairs does not exceed 15 percent of the maximum claim amount.

Required repairs that are estimated to cost less than 15 percent of the maximum claim amount can be completed after loan closing using a Repair Set-Aside.

Under a Repair Set-Aside for a HECM, funds equal to 150 percent of the cost of the repairs, plus the administration fee, are set aside from the loan. The funds may not be drawn until the repairs are complete. If the costs exceed the funds that have been set aside, the borrower must pay for the repairs directly or with any funds available in a HECM line of credit. Repairs must be completed within the time stated on the loan documents at closing (usually 6 months). Otherwise, the lender must discontinue all payments on the loan until the repairs are complete.

### **V.B.4 Properties Held in Trust**

If a client's property is being held in a living trust for the benefit of the borrower or the future interest of other individuals (such as the borrower's heirs), the property may be eligible for a HECM if it meets all other eligibility criteria. The HECM application process is the same as for properties that are not held in trust. FHA does not require a trust to be revocable for the property to be eligible for a HECM. Lenders may impose additional restrictions on the trust over and above FHA guidelines for approving a reverse mortgage.

### **Financial Assessment**

To qualify for a HECM, the client's income, credit history and property charge payment history must meet certain criteria. If those criteria are not met, the client may be required to establish a fully or partially funded LESA from the proceeds of the loan to pay taxes and insurance for the life expectancy of the youngest borrower.

## **V.C. Loan Features**

### **V.C.1 Forward Mortgages and Reverse Mortgages**

In a forward mortgage, the borrower makes monthly payments to the lender, gradually building up their equity in the property. In a reverse mortgage, the lender makes payments to the borrower in the form of a monthly payment or line of credit, if funds are available, that the borrower can draw upon at their choosing. The borrower continues to hold title to the property, which is security for the loan.

There are two types of reverse mortgages:

1. Reverse mortgage insured by the Federal Housing Administration (FHA): The Home Equity Conversion Mortgage (HECM) is a reverse mortgage insured by the federal government through FHA. FHA insures participating lenders against losses on HECM loans, and designs and administers the guidelines governing lender and borrower eligibility and use of HECM loans. There are no restrictions for Borrowers on the use of loan proceeds.
2. Proprietary reverse mortgage products: Private lenders offer this type of reverse mortgage, which is not insured by the federal government. Borrowers may use the loan proceeds for a variety of purposes.

### **V.C.2 Loan Limits**

HECM loan limits are set by law. The maximum HECM loan amount is the lesser of the FHA mortgage loan limit or the home's appraised value.

The loan limit on a HECM for purchase is the lesser of the FHA mortgage loan limit, the appraised value, or the sales price.

Proprietary reverse mortgages may have higher loan limits than HECMs, or no limits at all. Clients could consider proprietary products if they have a home with a high property value. Counselors must inform clients aware that proprietary products may have higher costs or substantially lower loan-to-value ratios than HECMs.

### **V.C.3 Principal Limit**

For HECMs, the principal limit is the amount of money that a borrower may access through a HECM. The principal limit is determined by multiplying the maximum FHA insurance claim amount (which is the lesser of the appraised value of the property or the FHA loan limit) by a factor based on the age of the youngest borrower or non-borrowing spouse and the expected interest rate, which may be no lower than 5.5 percent. Where a HECM borrower has identified a Non-Borrowing Spouse, the lender must base the Principal Limit on the age of the youngest borrower or Non-Borrowing Spouse.

The net principal limit is calculated at closing and increases each month by one-twelfth of the sum of the note rate and the monthly mortgage insurance premium rate.



#### **V.C.4 Payment Options**

The lender disburses HECM loan proceeds to the borrower through the payment plan of the borrower's choice: term, tenure, line of credit, a combination of line of credit with term or tenure ("modified term" or "modified tenure," respectively), or single lump sum payment.

For payment plans other than the single lump sum payment, a HECM borrower may request to change their payment plan at any time during the life of the loan. The lender may charge a fee, subject to HUD program requirements, for changing the payment plan. A borrower may change the term of payments, receive an unscheduled payment, suspend payments, establish or terminate a line of credit, or receive the entire net principal limit (the difference between the current principal limit and the outstanding loan balance) in one payment. Counselor should advise client to verify any requirements or fees to change their payment plan.

For HECMs, the lender establishes plans with monthly payments to the borrower (term or tenure) by using the net principal limit, the length of the term in months (for the tenure option, 100 years minus the age of the current borrower), and the note rate. For either of these plans, borrowers may choose to receive less than the maximum monthly payment allowed under the plan, in which case the remaining funds are placed into a line of credit.

Counselors should suggest clients consult with a financial advisor if they are being urged by a lender to purchase an annuity or other investment. Counselors who suspect improper lender influence on use of HECM proceeds should report this to the Office of Housing Counseling and Office of Inspector General.

The following payment plans are available for HECMs.

##### **Line of Credit**

The line of credit allows the borrower to draw varying amounts of money at unscheduled intervals until the line of credit is exhausted. Clients may also choose to draw all available funds at closing, subject to the program limits of no more than 60 percent of the principal limit which include all mandatory obligations. Any remaining funds will be available 12 months after the loan closing.

The line of credit is exhausted when the loan balance equals the net principal limit. As with any HECM payment plan, a borrower with a line of credit who uses up the entire principal limit may remain in the home as long as they continue to pay homeowners insurance real estate taxes and makes any necessary home repairs. Counselors must caution clients against withdrawing all funds at closing if there is not an immediate need to do so. Clients who draw all proceeds at closing will accrue interest on the loan balance and will not benefit from the credit line growth feature.

The remaining available funds in the line of credit will grow at the note rate as it adjusts over time, providing the client access to a larger line of credit over time. Counselors must not tell clients that HECM credit lines "earn interest," because credit line growth is simply increased access to borrowing power, comparable to an increase in a credit limit on a credit card.

Open-ended HECM payment plan options have principal limit growth at the note rate and not just the line of credit.

Counselors should advise clients that proprietary reverse mortgages may have a lower credit line growth rate, or no credit line growth at all, which will affect the amount of cash available to the borrower over the life of the loan.

### **Term**

Under the term option, borrowers choose a fixed period of time during which they receive equal monthly payments. At the end of the term, the borrowers may remain in the home as long as they fulfill their obligations under the terms of the mortgage. This includes, but is not limited to, paying their property taxes and hazard insurance, paying property assessments, and maintaining the home.

This plan provides security of income to clients who know how long they will remain in their home. Because the available funds may be disbursed over a shorter period, clients may receive larger monthly payments than they would under a tenure plan.

### **Tenure**

Under the tenure option, the borrower receives equal monthly payments as long as the borrower maintains primary residence in the home. Even if the loan balance exceeds the principal limit of the loan, the borrower will continue to receive payments. The tenure payment is calculated by subtracting the age of the youngest borrower from 100 years, although the borrower will continue to receive payments if he or she lives past 100 years of age. This plan is particularly useful for clients who intend to remain in their homes for a long period.

### **Combination Payment Plans**

Borrowers may combine a line of credit option with term or tenure payment options. Modified Tenure combines a line of credit with monthly payments as long as the borrower remains in the home. Modified Term combines a line of credit with monthly payments for a fixed period determined by the borrower.

This option is beneficial for clients who need a fixed amount of money each month and who want to reserve funds for unforeseen expenses. Counselors should remind the clients that they are still subject to the **60 percent of available principal limit including mandatory obligations**.

### **Single Disbursement Lump Sum Payment**

This payment option will be limited to a single disbursement at loan closing which cannot exceed the greater of 60 percent of the Principal Limit or mandatory obligations plus 10 percent of the Principal Limit.

## **V.C.5 Note Rate**

Counselors must ensure that clients understand the interest rate being charged by the lender for the HECM or other reverse mortgages.

For either adjustable or fixed-rate loans, lower interest rates may be offset by higher origination costs. Counselors should advise clients that higher origination costs (subject to the maximum costs allowed by HUD, for HECMs) and the financing of closing costs may mean less cash available to the borrower.

1. **Adjustable Interest Rate:** The interest rates for adjustable loans are comprised of an index rate plus a margin. Rates that adjust monthly tend to reflect economic conditions on a timelier basis. As economic conditions change, the adjustable rate will rise or fall to its maximum cap or minimum floor.
2. With an adjustable rate mortgage, the net principal limit will grow at the current rate, which will fluctuate monthly or annually, whichever the borrower chooses.
3. HECM adjustable-rate mortgages are based on either the Treasury Rates (adjusted to a constant maturity of one month or one year; also called the Constant Maturity Treasury [CMT] index) or Secured Overnight Financing Rate (SOFR) index. The chart below displays the eligible index types for adjustable rate HECM loans.

<b>Eligible Index Types</b>		
<b>Adjustable Rate Types</b>	<b>Expected Average Mortgage Interest Rate</b>	<b>Note Rate and Periodic Adjustments</b>
Annually Adjustable	10-Year CMT	1-Year CMT
		30-Day Average SOFR
Monthly Adjustable	10-Year CMT	1-Year CMT
		1-Month CMT

4. **Margin:** The margin is an amount that a lender adds to the index to determine the note rate of the adjustable rate mortgage. The note rate, which is a combination of the index and margin, affects how much a borrower pays on the loan balance as well as the growth of the principal limit. The margin is also used to determine the expected rate, which affects the calculation of the initial principal limit.
5. The higher the rate, the lower the principal limit.
6. Margins may vary from lender to lender and from product to product.
7. **Interest Rate Cap:** For HECMs, the interest rate cap is the maximum amount set by HUD that the lender may add to the initial interest rate on an adjustable rate loan.
8. Caps may vary based on the adjustable product selected.
9. Annual adjustable rate HECM loans have a 2 percent annual cap and a 5 percent lifetime cap.
10. **Fixed Interest Rate:** Some lenders offer HECMs with a fixed interest rate.
11. With a fixed-rate HECM, the borrower must take a single lump sum payment, at loan closing. The principal limit and the loan balance will grow at the interest rate determined at closing, but the borrower will not be able to make additional draws in the future.
12. Counselors should advise clients that drawing the entire loan balance at closing may expose the borrower to risks including the lack of future availability of loan proceeds from credit line growth. Additionally, once the full amount is drawn, the borrower will

pay interest on that loan balance for the life of the loan. This may create a significant and unnecessary expense if the borrower does not need all the funds at closing.

13. In most cases, the interest rate on a fixed rate will be higher, initially, than an adjustable rate, because a fixed rate brings greater risk to the lender. Since an interest rate on an adjustable-rate loan may increase over time, an adjustable-rate loan may actually provide more available borrowing power for some borrowers.
14. Expected Average Mortgage Interest Rate: The expected average mortgage interest rate means the interest rate used to calculate the principal limit established at closing. The lender calculates this rate at origination and uses it to determine the principal limit and the servicing fee set-aside (if applicable).
15. For a fixed-rate HECM loan, the expected average mortgage interest rate is the same as the fixed rate and is the same as the note rate. The higher the expected average mortgage interest rate, the lower the principal limit will be once HUD approves the floor.
16. For an adjustable-rate loan, the expected average mortgage interest rate is the sum of the lender's margin plus the weekly average yield for U.S. Treasury securities adjusted to a constant maturity of ten years. HUD establishes an interest rate index floor by mortgagee letter.
17. Note Rate: The note rate is equal to the current interest rate (current index plus margin). The lender uses the note rate to calculate the loan balance, credit line growth, and the available loan funds at any given time.

#### **V.C.6 Leftover Equity Reserve**

When a borrower takes out a HECM, there is a portion of the equity in the home that is reserved to reduce the lender's and FHA's risk. The amount reserved is determined by the ratio of the loan's principal limit to the amount of equity in the home.

#### **V.C.7 Mortgage Insurance**

HECMs are insured by the federal government. The borrower pays a mortgage insurance premium at closing and on a monthly basis. FHA insures HECM loans to protect lenders against loss if the loan balance exceeds the property value when the loan is due and payable. If the sales proceeds are not sufficient to pay the amount owed, FHA will pay the lender the difference. Because lenders are protected by FHA insurance from losses, they may be able to provide better loan terms, including a higher principal limit and lower costs to borrowers.

FHA insurance also directly protects the borrower. If the lender fails to make payments due to the borrower, FHA will make the payments to the borrower.

#### **V.C.8 Retention of Title**

Throughout the term of a reverse mortgage, the borrower retains ownership of the home. The title will remain with the borrower or the borrower's estate until the home is sold.

### **V.C.9 Repayment of Debt**

A HECM loan becomes due and payable for any of the following reasons:

1. The last surviving borrower passes away and there is not a Non-Borrowing Spouse that meets the Qualifying Attributes and Requirements of HECM program;
2. The property is no longer the principal residence of the borrower. This is a dwelling that the borrower spends the majority of the calendar year.
3. For a period of more than 12 consecutive months, the last surviving borrower and/or eligible Non-Borrowing Spouse fails to physically occupy the principal residence because of physical or mental illness;
4. The borrower and/or eligible Non-Borrowing Spouse fails to perform an obligation under the mortgage, such as paying taxes and hazard insurance and maintaining the property.

If the borrower sells the home, the outstanding loan balance is due. If the proceeds from the sale of the home are not sufficient to pay the loan balance, the lender will accept the proceeds from the sale of the home as payment in full and file a claim with FHA to cover the difference. If the borrower chooses to prepay the loan by liquidating assets, while retaining ownership of the home, they must pay back the total outstanding loan balance.

“Open-end” credit loans allow for the repayment of some or the entire principal, which the borrower may re-borrow at some future date. “Closed-end” credit loans do not allow the borrower to re-borrow principal that is paid on the loan. Usually, fixed-rate HECMs are closed-end credit loans.

Other reverse mortgages may have different conditions for when the loan becomes due and payable.

### **V.C.10 Non-Recourse Feature**

“Non-recourse” means that if a lender takes legal action against the borrower for default on the loan, the borrower is not legally obligated to pay the lender more than the lender can get for the sale of the property. For HECMs, this repayment standard also applies to the borrower’s heirs or estate when the property is sold to repay the outstanding loan.

However, if the heirs or the estate wish to keep the property, heirs may purchase the property. Heirs must notify the lender of their intention to purchase the property at the lesser of:

1. The outstanding HECM balance or
2. 95% of the appraised value of the property, based on a timely, lender-ordered appraisal.

For a HECM, the lender is limited to six months it may provide to the heirs or the estate to pay off the loan. The lender can request HUD approval for up to two 90-day extensions if the heirs or estate can demonstrate they are actively marketing the property. Extension requests must be made before the initial six months or previously extended timeframe has expired. The lender must promptly confirm the intention of the heirs or the estate to either, sell the property to a third party or, to keep the home and pay the balance of the loan in full. Where no information has been provided, the lender will have no other option but to initiate foreclosure.

## **V.C.11 Loan Costs**

Counselors must be familiar with the costs of HECMs and reverse mortgages. They must be able to explain to clients how:

1. Reverse mortgages are most costly at the beginning of the loan term
2. The annual average cost of a reverse mortgage generally decreases over time
3. Generally, reverse mortgages are best for borrowers who intend to remain in their home over a long period of time, allowing the average cost of the loan to decrease over time.

Although the counselor can provide a general overview of reverse mortgage costs to a client, only a lender can provide the client with the actual costs of a specific product. Only the client can weigh the costs and benefits of a reverse mortgage for themselves to determine whether the loan would meet their needs and circumstances.

### **Itemized HECM and Reverse Mortgage Costs**

Lenders often present reverse mortgage products to consumers by emphasizing the itemized costs of the loan, which include:

1. Application fee and origination fee
2. Up-front Mortgage Insurance Premiums (MIP) for HECM loans
3. Monthly MIP (or HECM loans
4. Third-party closing costs
5. Third Party Property Tax Verification Fee
6. Servicing Fee and servicing fee set-asides
7. Life Expectancy Set-Asides
8. Interest

However, these costs do not always allow consumers to tell if one product is more or less expensive than another. In order to compare loan products, a consumer must gather more information beyond the itemized costs to assess the benefit and value of the product, both now and in the future.

### **Application Fee and Origination Fee**

These fees compensate the lender for processing, underwriting, and preparing the loan documents. For HECMs, lender origination fees are limited to the greater of \$2,500 or two percent of \$200,000, plus one percent of any portion of the maximum claim amount that is greater than \$200,000. The maximum origination fee for HECMs is \$6,000. These fees may be changed through notice by HUD.

### **Mortgage Insurance Premiums**

Borrowers must pay both an upfront and monthly premium for the insurance provided by FHA.

These premiums are calculated at closing. Mortgage insurance premiums are charged to the borrower throughout the life of the loan and are not refundable.

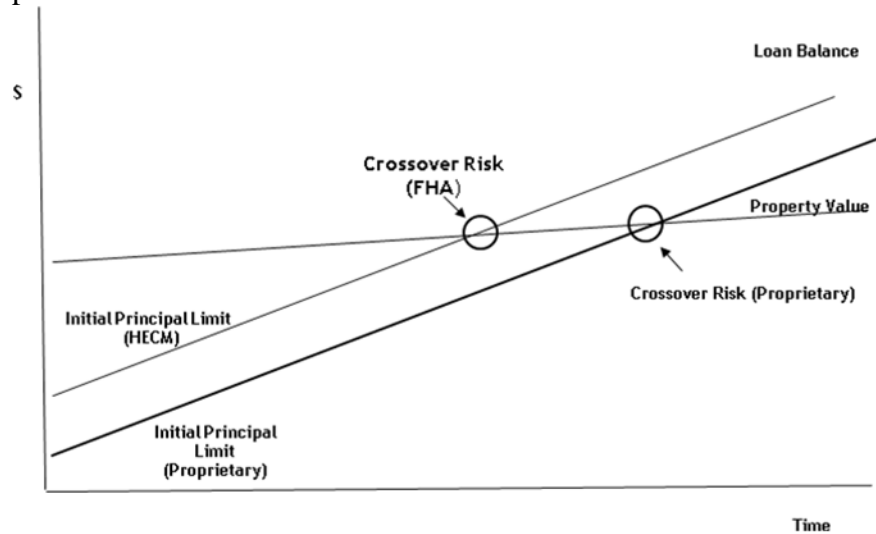
HECM borrowers who refinance into another HECM are eligible for a reduction in their upfront mortgage insurance premium. The premium paid on the new HECM is calculated by multiplying the difference between the old maximum claim by 2 percent and the new maximum claim.

HECM for purchase is not a refinance, and as such there is no initial reduction in premium even if the borrower previously held a HECM mortgage.

FHA charges an insurance premium as protection against crossover risk, which occurs when the loan balance exceeds the property value. With proprietary products for which the crossover exposure may be greater than with a HECM, lenders may protect themselves by setting the initial principal limit lower than they would on a HECM (as shown in the chart below).

HECM loans generally offer higher ratios of principal limit to equity in the home and lower costs as a result of the mortgage insurance program. They also provide lenders and borrowers with the security of full backing by the federal government.

Proprietary reverse mortgage products may be subject to other mortgage insurance premium policies.



### **Third-Party Closing Costs**

These costs include the usual and customary expenses associated with obtaining a mortgage, including the appraisal, credit report, title searches, and title insurance. The costs depend upon the third parties who perform the activity for the lender, not on the type of mortgage. Clients must obtain a list of estimated closing costs from their lender prior to closing. Counselors must not quote any specific closing costs but may discuss usual or customary ranges. The counselor must inform the client that none of the charges associated with these third-party origination activities may be paid before the counseling is completed. A client must not write a check or pay cash for the services until they complete a reverse mortgage application with the lender.

### **Third-Party Property Tax Verification Fee**

A Third Party Property Tax Verification Fee is a fee charged to the lender by a third party to verify the borrower's property tax payment history and the annual amount of property taxes due for a specific property. For HECMs, this fee may be paid by the borrower as long as it is a reasonable and customary amount and does not exceed the actual amount paid by the lender.

Lenders may not charge a Tax Service Fee, which is a fee for services related to obtaining and monitoring tax bills and tax payments after closing, for HECMs.

### **Servicing Fees and Servicing Fee Set-Aside**

Servicing fees are monthly fees paid to the lender for administering the loan, such as making monthly cash advances and processing payment plan changes. They are added to the cost of the loan and are set aside from the available equity at closing.

For annually adjusting and fixed rate HECM loans, these fees may not exceed \$30 a month. For monthly adjusting HECMs, the fee cap is \$35. Lenders may charge less than the maximum set by FHA. These fees may be changed by notice by HUD.

For HECMs, the servicing fee set-aside is the present amount of money that will be enough to pay all of the monthly servicing fees until the borrower reaches age 100. This calculation ensures that sufficient loan proceeds are set aside so that the servicer may collect the monthly servicing fee. This amount is subtracted from the principal limit to arrive at the net principal limit that is available at closing. The amount reserved for these future payments is not part of the loan balance, does not accrue interest, and is not a cost to the consumer until the fee is paid.

### **Payment Plan Change Fees**

The borrower has the option of changing the HECM payment plan type at any time for a fee not to exceed an amount established by HUD, (currently \$20). Borrowers should ask lenders about the procedures for changing the payment plan when applying for a reverse mortgage. No proposed payment plan change can exceed the HECM draw limits as established by HUD.

### **Life Expectancy Set-Asides**

All HECM borrowers are required to undergo a financial assessment (FA). This assessment is used to determine if they will have sufficient resources to pay for ongoing property charges including, but not limited to, property taxes, insurance, homeowner association fee, and applicable municipal, county or state property assessments. The use of HECM proceeds will be considered as a resource to cover these costs. The FA will determine if the loan requires a full or partial Life Expectancy Set-asides (LESA). The lender will make the final determination of whether a LESA is required as part of the loan underwriting.

### **Total Annual Loan Cost (TALC)**

Similar to an Annual Percentage Rate on a forward mortgage, the Total Annual Loan Cost is the interest rate that shows the true cost of a HECM by including all loan costs and taking into account the future loan balance, including all loan advances. It is a projection based on how long the borrower will have the loan, how the borrower draws the loan proceeds, and an assumed property appreciation rate. The TALC is what the interest rate would be if all loan costs had to be included in the interest rate. The TALC will decrease the longer the borrower has the HECM, as the costs associated with the loan are averaged out over a longer period of time.

TALC rates depend on:

1. The payment option and the timing and size of the loan advances,
2. The loan term, and



3. Home appreciation or depreciation.

**TALC Rates: Payment Options and Timing of Loan Advances**

TALC rates are high at the beginning of the loan because up-front costs are a large part of the total amount owed. Smaller loan advances in the early years generate higher TALC rates because up-front costs are a large percent of the loan balance. However, when these up-front costs are spread out over more years, they become a smaller percent of the loan balance. Larger loan advances create lower TALC rates because they reduce the impact of the up-front costs.

**TALC Rates Over Time: Comparing Payment Plans**

The following charts display how payment options and payment timing affect the TALC rates for a line of credit reverse mortgage and a tenure plan reverse mortgage.

The tenure loan had up-front costs of \$6,500 for the borrower to receive \$562 monthly. However, after 2 years, the borrower has paid \$9,751 to get \$13,488. The TALC rates decline over time as the borrower receives loan proceeds and the up-front costs become a smaller percentage of the loan balance.

<b>Loan Closing</b>	<b>Loan A: Line of Credit</b>	<b>Loan B: Tenure</b>
<b>Net Cash to Borrower</b>	<b>\$70,298</b>	<b>\$562/month</b>
<b>Total Financed Costs</b>	<b>\$6,500</b>	<b>\$6,500</b>
<b>Loan Balance</b>	<b>\$76,798</b>	<b>\$7,062</b>

<b>After 2 Years</b>	<b>Loan A: Line of Credit</b>	<b>Loan B: Tenure</b>
<b>Net Cash to Borrower</b>	<b>\$70,298</b>	<b>\$562/month</b>
<b>Total Costs</b>	<b>\$21,464</b>	<b>\$9,751</b>
<b>Loan Balance</b>	<b>\$91,762</b>	<b>\$23,239</b>
<b>TALC Rate</b>	<b>13.4%</b>	<b>49.5%</b>

<b>Time Lapsed</b>	<b>Loan A: Line of Credit</b>	<b>Loan B: Tenure</b>
<b>2 years</b>	<b>13.4%</b>	<b>49.5%</b>
<b>12 years</b>	<b>10.0%</b>	<b>10.8%</b>
<b>17 Years</b>	<b>8.3%</b>	<b>9.0%</b>
<b>22 Years</b>	<b>7.3%</b>	<b>6.5%</b>

**TALC Rates and Home Appreciation**

1. The loan balance reaches the principal limit over time.
2. With higher appreciation of the home's value over time, the rising loan balance is less likely to exceed the principal limit or property value.
3. As the home value appreciates over time, TALC rates become higher.

The chart below shows how different appreciation rates impact TALC rates.

Time Lapsed	0% Appreciation		4% Appreciation		8% Appreciation	
	Line of Credit	Tenure	Line of Credit	Tenure	Line of Credit	Tenure
2 Years	13.4%	49.5%	13.4%	49.5%	13.4%	49.5%
12 Years	5.9%	8.4%	10.0%	10.8%	10.0%	10.8%
17 Years	4.1%	2.2%	8.3%	9.0%	9.7%	11.0%

### **Financing Closing Costs**

Borrowers may finance the mortgage insurance premium, origination fees, and third-party costs, using a draw at closing from the loan to cover these initial costs. Borrowers may also pay closing costs with their own available funds.

## **V.D. After Closing**

### **V.D.1 HECM Right of Rescission**

After closing, borrowers have three business days to cancel the HECM loan. If a borrower decides not to take the HECM, they must notify the lender immediately of this decision. A borrower is entitled to a refund of all fees should they exercise the right of rescission. There is no right of rescission with a HECM for purchase in most cases, unless state law provides it.

### **V.D.2 Disbursement of HECM Funds**

Initial disbursements are limited to 60 percent of the available HECM proceeds including mandatory obligations. The lender disburses term and tenure payments on the first business day of each month. Lenders must disburse line-of-credit payments within five business days of receiving a written request for funds from a borrower. Lenders are subject to late charges equal to 10 percent of the disbursement amount (up to \$500) if they do not meet the payment timeframes. There is no minimum amount that the borrower must withdraw from a line of credit.

### **V.D.3 HECM Borrower Obligations**

The borrower must pay property taxes, hazard insurance and other property assessments. Under the financial assessment (FA), the lender will determine if a borrower requires a full or partial Life expectancy set-aside (LESA) with their HECM. The final decision on the use of LESA is the lender's, based on the FA underwriting. Should the LESA funds be exhausted, it's the borrowers and/or eligible non-borrower spouse's responsibility to ensure the payment of taxes, insurance, and other property assessment.

The borrower must maintain the condition of the property. If the borrower fails to maintain the property, the lender may notify the borrower of the deficient condition, indicating the necessary repairs. If the borrower does not begin repairs within 60 days, the lender may declare the loan due and payable.

The borrower must maintain the property as their principal residence.

#### **V.D.4 Life-Expectancy Set-Aside Funds**

When the HECM loan is due and payable, regardless of the mortgagor's payment plan, any funds that remain in a Life Expectancy Set-Aside shall not be disbursed to the mortgagor, estate, or non-borrowing spouse. Non-borrowing spouses eligible to remain in the home are not eligible to receive any money from the reverse mortgage, including any money remaining in a set-aside account established for the payment of property taxes and insurance. No LESA funds will be disbursed during any applicable deferral period for an eligible non-borrowing spouse.

#### **V.D.5 Impact on Public Benefits**

A HECM does not affect a borrower's basic Social Security and Medicare benefits because eligibility for these programs is not based on income and assets. However, a HECM may affect eligibility for benefits from needs-based government assistance programs (i.e. Supplemental Security Income, Medicaid and Food Stamps). Generally, these programs do not treat loan advances as income. However, if the borrower retains loan advances in a readily available form (i.e. a bank account) past the end of the month in which the borrower received them, then the proceeds count as a "liquid resource" and may disqualify the borrower from receiving need-based government benefits.

For the current limits for allowable liquid resources in the Supplemental Security program, go to [www.ssa.gov](http://www.ssa.gov). If the borrower resources exceed these limits, that benefit will be terminated.

#### **V.D.6 Income Tax Implications**

The Internal Revenue Service does not consider loan advances from a HECM to be taxable income; the IRS views HECM loan advances as debt. Interest on a HECM is not tax-deductible until it is actually paid through loan prepayment or payoff.

## **VI. HECM for Purchase**

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### **VI.A. HECM for Purchase Program Guidance**

Counselors conducting sessions with clients who are interested in purchasing a residence with a HECM should refer to the program guidance provided in Mortgage Letter 2009-11.

### **VI.B. Required Topics for Counseling**

HECM for Purchase requires counselors to not only cover the typical HECM counseling requirements with clients, but several unique features for this product.

Counselors must discuss with prospective HECM for Purchase borrowers the following topics:

1. Role of the real estate professional
2. The decision to purchase a home
3. The selection and purchase of a home
4. The sale or disposition of a home
5. Importance of legally binding sales contracts
6. Importance of home inspections in the buying process, with provision of “For your Protection Get a Home Inspection (FORM HUD 92564-CN)” and “10 important questions” documents
7. Ability to write an offer contingent on satisfactory home inspection and financing
8. Including repair expenses in the purchase agreement
9. Role of the appraisal in the buying process
10. Expenses associated with properties needing significant repairs
11. Future draws of HECM proceeds are unlikely in a HECM for purchase
12. Limited right to cancel transaction at any time prior to closing, and
13. Closing Disclosure Form

Counselors must also advise clients on the following topics:

1. Real estate professionals must provide clients with the FHA Amendatory Clause and Real Estate Certification in HUD Handbook 4000.1 II.A.1, Origination/Processing. There is no three-day right of rescission for HECM mortgages being used for a purchase, unless required by state law;
2. If the Appraisal Report states that the property value is “subject to”, or conditioned on, the repair of various deficiencies, these repairs must be completed before closing;
3. If the borrower pays for the repairs, payment must come from the borrower’s personal assets; and
4. Borrowers may not borrow funds to close – all funds to close must come from the borrower’s personal assets and must be available at closing.

Counselors must caution clients regarding the following:

1. Clients are not required to use a HECM to purchase property;
2. Foreclosed and short-sale properties may require substantial repairs to be habitable, and it may be necessary to perform these repairs prior to closing on the reverse mortgage. If so, and if the borrower is paying for the repairs, then payment must come from the borrower’s personal assets, and not HECM funds;
3. Clients must not be rushed into purchasing a property; and

4. Counselors must report suspected fraud to the Office of Housing Counseling, to the HUD Office of Inspector General, or both.

### **VI.C. Other Liens on Property**

If the client currently has a HECM on their property, that lien must be satisfied prior to FHA's endorsement of the new HECM for purchase. A borrower may not have two HECM mortgages at the same time.

### **VI.D. Investment Requirement: Effect on HECM for Purchase**

Clients interested in a HECM to purchase a new property should receive counseling about the monetary investment required at closing. At closing, HECM borrowers must provide a monetary investment, which is the difference between the HECM principal limit and the sales price of the property, plus any HECM loan-related fees that are not financed, minus the amount of the earnest deposit, down payment, or both. Borrowers may provide a larger investment amount to retain a portion of HECM proceeds for future payments or withdrawals.

Mortgagee Letter 2009-11 has information on what funding sources can and cannot be used to satisfy the monetary investment requirement.

## **VII. Financial Alternatives and Supplements**

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Counselors must assess the client's financial situation to provide the most appropriate housing options. Here are questions that counselors must ask clients to assess how well a HECM meets the client's needs:

1. What are your financial needs and how would a HECM help you? This may include large medical expenses or home repairs.
2. How long do you plan to stay in your home? A reverse mortgage may not make sense, for example, for someone planning to move two years in the future
3. When do you need the loan? Clients may be eligible for more money under a reverse mortgage as they get older and the value of their home increases.
4. Is downsizing a better option? Examining other housing options can help your clients weigh the costs and benefits of staying in their home versus moving to more affordable housing which may include rental options.
5. What are your financial needs and how would a HECM help you?
6. Are there any other potential borrowers including spouses, non-borrowing spouses or family members?

Further details and resources regarding these options are below.

### **VII.A. Selling and Moving**

For many clients, selling their homes and moving into a less expensive residence or one that better suits their physical needs may be the most appropriate option. Clients must consider the costs of the real estate transaction, which usually include real estate broker fees, moving expenses, and may include other costs as well. The process of investigating other living arrangements will help clients determine whether to purchase a different home or remain where they are, and ultimately, evaluate the advantages of a HECM or another type of reverse mortgage.

Counselors must discuss the following options:

1. Alternative Ownership Arrangements
2. Retirement communities
3. Retirement communities may offer several services such as meals, housekeeping services, transportation, and activities. Residents may retain their independence while eliminating most of the burdensome responsibilities of homeownership.
4. Home-sharing arrangements
5. Clients may be able to find another senior to share a home, either through informal networking or, in some communities, through an agency that screens and matches potential home-sharers.
6. Selling:
7. Taxes, insurance, or other property charges may become too costly
8. The home is too large, and the client wants to downsize.
9. The upkeep of the home is too burdensome or costly
10. The house needs repairs or upgrades that the client cannot afford.
11. The client believes he or she will save money by selling and renting.
12. Renting

13. Subsidized or affordable senior apartments—Subsidized housing is generally available to people 62 years or older and below a certain income level. Both state and federal programs offer this type of housing, which provides funding towards monthly rent. Typically, seniors would pay no more than 30% of their adjusted gross income. The subsidized portion would cover the rest, up to the established fair market rents. Seniors who qualify for subsidized housing are less subject to dramatic increases in rent over time if their income remains stable. The stabilization of housing costs is often attractive to seniors living in homes with low value or homes subject to large debt. Seniors must be aware that the proceeds from selling their home or any other large increase in income may affect their ability to qualify for subsidized housing.
14. Non-subsidized rentals—There are many communities that offer non-subsidized housing for seniors 55 years or older. When living in non-subsidized rental housing, residents have more flexibility with the amount of assets they maintain, as their assets do not affect their eligibility to live in the community. However, rents may increase over time, possibly on an annual basis. Seniors must plan for potential increases when considering long-term non-subsidized rental housing.
15. Other Financial Options
16. Home Equity Loans: A home equity loan uses the equity in the borrower's home as collateral. Because the home acts as collateral, one risks losing the home to foreclosure in the event of default. Home equity loans are sometimes useful to help pay for unexpected home repairs and medical bills and other purposes. A home equity loan creates a junior lien against the borrower's home. A major difference between a HECM and a home equity loan is that unlike a HECM, borrowers must make a scheduled term of payments to pay off the principal and interest as soon as the home equity loan is closed. Borrowers must have sufficient income and meet lender underwriting requirements to qualify for a home equity loan.
17. Individual Retirement Accounts: Many clients may have Individual Retirement Accounts (IRAs) that may serve as sources for extra income. There are several IRAs including, but not limited to, traditional IRAs, Roth IRAs, SIMPLE IRAs, and SEP IRAs. Combined with potential tax savings at the time of contribution, IRAs may be valuable tax management tools for individuals. Depending on income at the time of retirement, an individual may be able to fit into a lower tax bracket with tax-deductible contributions during his or her working years, while still enjoying a lower tax bracket during retirement. Seniors who have invested in IRAs should contact their financial institutions to learn more about their ability to draw on these accounts.
18. Refinance of Existing Forward Mortgage: If a client has an existing forward mortgage, they may be able to refinance the mortgage to obtain a loan with better terms, including a possible lower interest rate. In some cases, the client may be able to pay off the existing mortgage and obtain funds by borrowing against the additional equity in the property. Borrowers must have sufficient income and meet lender requirements to qualify for a refinancing mortgage.

#### **VII.B. Services provided through the Aging Network**

Federal funds support the provision of services in local communities through the Aging Network. Three areas benefit the most broadly from federal funding:

1. Information and Referral (I&R)—These programs exist to help older adults and their caregivers find specific information on programs that are available to the elderly. Many I&R programs also publish a directory of resources or maintain a website with information about community resources for the elderly.
2. Senior Centers—Many senior centers offer a variety of exercise programs, health screenings, socialization and recreation opportunities, counseling services, hot meals, and other services and activities.
3. Nutrition Services—A significant portion of funds under the Older Americans Act is targeted to provide hot noontime meals in senior centers, churches, and other convenient locations. Home-delivered meals may also be available.

### **VII.C. State and Local Programs**

A wide variety of additional services and programs may be offered by local public agencies or nonprofit groups at the state and local level, such as:

1. Home repair and adaptation services—Subsidized funds for minor home repairs, to build wheelchair ramps, and to install safety features for older adults;
2. In-home care, homemaker, and chore services—Public assistance available for those who need help with tasks like housekeeping, grocery shopping, or personal care;
3. Adult day care—Group care programs may serve as an alternative to expensive one-on-one home care for adults who need constant supervision;
4. Transportation—Assistance via public programs or volunteer groups;
5. Volunteer coordination programs—Assistance with yardwork, house painting, roof repairs, grocery shopping, transportation, social contact, and other needs;
6. Corporate Programs—Corporate eldercare programs may provide information and referrals for their employees, as well as more tangible support such as using a corporate van to deliver meals;
7. Local hospitals—Wellness events or health fairs that provide free blood pressure checks and materials on nutrition and fitness;
8. Churches—Support of "friendly visiting" of older people who are homebound by another member of the church; and
9. Civic groups—Charitable events to serve older adults.

### **VII.D. Public Benefits**

Many low- to moderate-income homeowners are not aware that they are eligible to receive benefits from major public programs, such as:

- Supplemental Security Income—Supplemental Security Income (SSI) provides monthly cash payments to qualifying low-income persons 65 and older.
- Medicaid—Medicaid is a health insurance program for people with low incomes, paid for by a combination of federal and state dollars. Medicaid eligibility guidelines vary from state to state.
- Medicare Prescription Drug Program—Medicare Prescription Drug Program (Medicare Part D) is an optional add-on to the regular Medicare health insurance program. In most cases, seniors can save on their drug costs (compared to full retail) by signing up for this program.
- Local Tax Deferral or Exemption Programs—Many communities offer local tax deferral programs for seniors who cannot make the payments. These programs are normally



designed to allow senior citizens to defer payment of part or all of the property taxes on their homes.

- The Aging Network—The Aging Network is the system of public and private nonprofit agencies and organizations responsible for implementing the Older Americans Act (OAA). Enacted in 1965, the OAA sets forth objectives for improving and maintaining quality of life for older Americans.
- State Units on Aging—State Units on Aging (SUAs) are the designated state agencies serving the elderly. They coordinate related state activities and administer federal funds at the state level. See [States Units on Aging \(acl.gov\)](https://acl.gov) for more information.
- Area Agencies on Aging—Area Agencies on Aging (AAAs) coordinate the delivery of a variety of services to meet the needs of the older population, including information and referral, outreach, transportation, in-home care, legal and protective services, counseling, socialization, recreation, and education.

HECM counselors and agencies are encouraged to utilize the Client Budget and Resources Identity Tool (CBRIT) for all clients as a resource to identify programs and agencies that can assist seniors. Counselors should encourage clients to utilize these state and local resources to meet their needs.

## **VIII. Reverse Mortgage Counseling Tools**

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### **VIII.A. Software**

Counselors must generate and discuss loan printouts, amortization schedules, and total annual loan cost (TALC) using HUD's calculation software (Attachment A.4: HECM Online Comparison Tool). Only counselors on the HECM Counselor roster may use this software.

HECM calculation software can provide the following:

1. Future remaining credit line projections based on credit line draws specified by the client (if the client selects a credit line)
2. A comparison of estimated loan details at closing
3. Projected loan comparisons at various points in the future including projected figures for total cash received, cash remaining, and total cost expressed in terms of total dollars and a total annual average rate
4. Amortization projections for selected products with year-by-year details (the loans negatively amortize: as the loan balance increases, equity decreases)
5. Required investment for HECM purchase loans

### **VIII.B. Product Printouts and Discussion**

Counselors should discuss loan printouts, product features, and amortization schedules given by lenders to clients. However, counselors must be sensitive when helping their clients analyze and compare the financial implications of the loan choices they are considering. Counselors must help clients understand which features are most appropriate, given the client's unique financial circumstances.

Counselors must explain to clients that the printouts are generalized because actual costs and pricing of the loan fluctuates and is dependent on the loan product. Due to the prohibition on steering, they should provide a balanced view by providing customized loan printouts, if available, to clients on:

HECM loans and proprietary products that are available from HECM lenders,  
Specific proprietary or HECM products that have been offered to that client by a HECM lender.

## **IX. Refinancing a HECM**

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### **IX.A. Cost Considerations in Refinancing a HECM**

Some clients may want to refinance an existing HECM loan to take advantage of lower interest rates, increased home value, or increased lending limits. The costs associated with this transaction must also be taken into consideration when making a final decision regarding a refinance.

When refinancing an existing HECM, the mortgage insurance premium is reduced to cover only 2 percent of the difference between the original maximum claim amount and the new maximum claim amount.

### **IX.B. Lender-provided Documents**

In the event of a HECM refinance, HECM borrowers should be aware that lenders must provide them with the following information:

1. HECM Anti-Churning Disclosure- HUD form 92901
2. The total cost of the HECM refinance
3. The increase in the principal limit as measured by the estimated initial principal limit on the mortgage to be insured less the current principal limit on the HECM that is being refinanced

The lender must provide a best estimate of funds available to the borrower minus any closing costs and other fees. This ensures that the borrower is provided with information to assist in understanding the amount of new funding that will be available after refinancing the existing HECM.

### **IX.C. Waiver of Housing Counseling for HECM Refinance**

For HECM refinance, HUD will waive the counseling requirement if all three of the following conditions are met:

1. The HECM borrower has received the required HUD Anti-Churning Disclosure form.
2. The increase in the borrower's principal limit (as estimated by the lender and provided to the borrower in the Anti-Churning Disclosure form) exceeds the total cost of the refinancing by an amount equal to five times the cost of the transaction.
3. The time between the closing on the original HECM that is to be refinanced and the application for refinancing does not exceed 5 years.

Information provided on refinancing a HECM is provided in Mortgagee Letter 2009-11.

## **X. Property Charge Default Counseling for HECM**

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### **X.A. Property Charge Default**

Under the terms of the HECM, the borrower must pay property taxes, hazard insurance, and other property assessments themselves or through a full or partial LESA. The use of LESA is the lender's decision alone, based on the FA underwriting.

Property charges include:

1. Real estate taxes (from taxing authorities like schools, cities, counties, states, etc.);
2. Property insurance (homeowners/hazard or flood insurance);
3. Other property charges or special assessments, such as condominium and planned unit development fees or homeowner's association dues;
4. Ground rents; and
5. Other assessments levied by municipalities or under state law.

### **X.B. Eligibility to provide Default Counseling**

#### **X.B.1 Agency Participation in HECM Default Counseling**

Counselors do not have to be on the HECM roster to provide HECM default counseling. The HECM roster placement is required statutorily for HECM origination.

To offer HECM default counseling, housing counseling agencies must perform the following:

1. Review their HUD work plans and reports to ensure they reflect their current process and future intentions to expand their operations
2. If needed, modify their work plans to identify:
  - a. The number of counselors providing HECM default services
  - b. Where the agency currently provides this service
  - c. Other geographic areas if they wish to expand their scope in the future
  - d. Obtain HUD approval on the revised work plan.

### **X.C. HECM Default Counseling Session Protocol**

The following details HECM-specific actions, to be performed in addition to the housing counselor's one-on-one default counseling practices.

Counselors providing HECM default counseling must be aware that the loss mitigation options available for HECMs and reverse mortgages may be different than those for forward mortgages. Fewer options may be available to reverse mortgage borrowers, and often, lenders are not required to provide certain options to all borrowers.

#### **X.C.1 Client Intake**

While gathering basic information about the potential client, agency staff should find out:

1. Status of all property taxes, amount past due, and estimated annual property tax amount
2. Status of homeowner insurance, including estimated annual premium

3. Estimated home value—If client does not know, counselor can use home valuation websites to get an estimate of the current home value.
4. Existing debt on home, HECM, and other debt or liens
5. Names, relationships, and phone numbers of other persons who reside with the borrower
6. The FHA case number of the HECM, if known

### **X.C.2 Counseling Session**

The counselor should determine if the client is a HECM borrower, non-borrowing spouse, or an agent with a Power of Attorney (POA).

1. Is the client a HECM borrower?
2. Does the client currently reside at the mortgaged property? To cure the default, the borrower must meet all HECM obligations, including maintaining the mortgaged property as their principal residence. Certain exceptions apply, depending on the date an FHA case number was assigned to the HECM, so the counselor should discuss with the borrower for reasons for and duration of the change of residence.
3. Does the borrower meet the definition of an “At Risk” borrower? Specific HUD home retention options may be available when:
  4. The youngest living borrower is at least 80 years of age; and
  5. The borrower has critical circumstances such as a supported terminal illness, substantiated long-term physical disability, or a “unique” occupancy need (e.g., terminal illness of family member receiving care at the residence)
6. Is the client a non-borrowing spouse? HUD home retention options are not available to non-borrowing spouses. The counselor should discuss available resources for transitioning out of the home.
7. Is the client an agent with a Power of Attorney (POA), wanting to act on behalf of a HECM borrower?
8. The POA must be durable (attorney specifically designed to survive client’s incapacity) and include financial matters.
9. If the agent contacts the counselor on the client’s behalf, counselor should contact the servicer to determine if the POA is currently on file with the servicer.
10. If yes, the counselor can proceed with the session.
11. If no, the counselor, agent, and servicer should work out best way to ensure the agent is able to act on behalf of the client for the HECM.

The counselor will explain the HECM foreclosure process and the consequences of not resolving the borrower’s delinquent property charges.

### **X.C.3 Financial Analysis**

As part of the Financial Analysis required for each client, the counselor should determine whether, based on the borrower’s financial information, there appears to be enough money to repay the servicer any advances and set aside money for future taxes and insurance payments and other property expenses.

1. Review with client:
  - a. Borrower’s income, expenses, unsecured and other debt, home repairs needed, medical expenses, and other property expenses (e.g. HOA dues, condo fees,

- assessments – NOTE: super lien states where property fees can take first position, any other large expenses)
- b. Additional household members—do the additional household members contribute to the household income? Does the borrower financially support anyone?
  - c. Reduced employment or unemployment
  - d. Borrower’s assets—savings and checking accounts, bonds, annuities, retirement accounts, life insurance (cash value), certificates of deposit, other real property, stocks and any other financial assets
  - e. A proposed household budget, identifying any budget deficits or other financial challenges the borrower is or may be facing in the future
2. Utilize CBRIT to perform an analysis of federal, state, and local programs that could be alternatives or supplements to a reverse mortgage and check borrowers’ eligibility
  3. If the CBRIT analysis indicates the borrower may qualify for benefits, the counselor should:
    - a. Assist the borrower in filling out all the appropriate benefit program application forms and sending the forms to the appropriate social service agencies; or
    - b. Refer and connect the borrower to a local Area Agency on Aging (AAA), if unable to assist with filling out the benefit program application forms.
  4. Advise borrower of other sources of income or assistance:
    - a. State or local funding for reverse mortgage property charge shortfalls and defaults
    - b. House mate match programs
    - c. Local property tax assistance
    - d. Options for homeowner’s insurance
    - e. Debt management plan
    - f. Other family members or friends who can provide financial assistance
    - g. Bankruptcy, as option to deal with unsecured debt, with information about local legal aid services
    - h. Other resources such as the AARP, the Partnership for Prescription Assistance, local food ministries, and other services (see [Eldercare Locator \(acl.gov\)](#))

#### **X.C.4 Communicate with the Servicer**

##### **If the borrower can afford to remain in the home**

The counselor should contact the servicer to discuss available home retention options, such as:

1. Refinancing the defaulted HECM into a new HECM;
2. A Repayment Plan to satisfy outstanding corporate advances made for property charge default;
3. The servicer requesting from HUD an extension of its foreclosure timeframes due to the borrower meeting “At Risk” requirements; or
4. Any other options the servicer provides.

The counselor will assist the borrower with home retention option documentation required by the servicer.

If the servicer offers a repayment plan, the counselor should find out and communicate to the borrower:

1. The minimum/maximum time for payoff;

2. How the funds will be remitted;
3. What paperwork is required;
4. How paperwork should be submitted to the servicer.

**If the borrower cannot or will not cure the default**

The counselor will work with borrower and servicer to identify appropriate strategies for the borrower to address the default, including selling the home.

Should the borrower need more extensive support, such as a hands-on case manager to assist in safe transitioning to other housing, the counselor should assist borrower in contacting the local AAA for assistance.

**X.C.5 After Counseling**

The counselor should provide the borrower with:

1. a written Action Plan, outlining the steps to achieve their goals, with a summary of the counseling session and advice given
2. a budget analysis with recommendations on how to free up income to pay for property charges;
3. if a CBRIT analysis for public benefit eligibility is performed, a printout with information on benefits for which the borrower may qualify
4. Contact information for the local AAA, and other state and local agencies found on the Eldercare Locator and Eldercare Locator phone number (800-677-1116).

If contact with the servicer was established with borrower's permission, counselor will advise servicer of the counseling session outcome and provide a copy of the borrower's action plan.

**X.C.6 Follow-Up**

The counselor should schedule a follow-up appointment with borrower within sixty days to determine if the borrower is working on the recommended tasks from the counseling session.

As needed by the client, the counselor should:

1. Assist client in filing out all appropriate benefit program application forms and in submitting them to the appropriate social service agencies;
2. Assist client in scheduling appointments with local agencies for assistance and transferring, with the client's permission, relevant information
3. Contact the borrower 30 days after counseling session, if no interim contact, to answer questions, provide additional services.

## **XI. HECM Protocol Attachments**

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Attachment A.1: Sample Appointment Confirmation Letter on Agency Letterhead

Attachment A.2 Sample Follow-up Letter

Attachment A.3 Reverse Mortgage Resources

Attachment A.4: HECM Online Comparison Tool

Attachment A.5: Using Client Budget and Resource Identity Tool (CBRIT)



## Attachment A: Resources for Counselors

### Attachment A.1: Sample Appointment Confirmation Letter on Agency Letterhead

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<Date>

<Homeowner's Name> <Homeowner's Address>  
<Homeowner's City, State, ZIP>

Dear Homeowner,

Thank you for requesting Home Equity Conversion Mortgage (HECM) counseling through <NAME OF AGENCY>. Our role is to provide you with the independent information you need to make your own best decisions about the various reverse mortgage loans and other alternatives that may be available to you. So that you are aware, this agency does not endorse or recommend any reverse mortgage loan or lender. The counseling process explains the key features of reverse mortgages in general by covering the costs, benefits, and financial implications of these loans. It also provides information on alternatives to reverse mortgages that may be more beneficial to you.

Your counseling session is scheduled for <DAY>, <DATE> at <TIME>. To prepare for this counseling session, please review the enclosed materials <Please specify the HUD required documents here and the optional documents that you choose to send to your client> and other relevant information that may be related to your situation. Please have these materials on hand for the counseling session. During your counseling session, you will discuss your current financial situation, i.e., income, assets and debts, with the counselor in order to review the alternatives to a reverse mortgage based on your unique situation. You will also want to have paper and pencils handy to take notes. The counseling session will last approximately one hour or longer if necessary.

When the counseling is completed successfully, you will receive a Certificate of HECM Counseling. When you sign this certificate, you will be verifying that you have been counseled by me. You will need a signed copy of the certificate for your lender if you decide to apply for a federally insured HECM within the next six months. I look forward to talking to you on <DATE> at <TIME>.

Sincerely,

<Counselor Name>  
Housing Counselor, <NAME OF AGENCY>

Enclosures

HUD's *Preparing for Your Counseling Session*  
Loan Comparison print-out  
TALC calculation print-out  
Loan Amortization Schedule

HUD Designated booklets, NCOA Booklet *Use Your Home to Stay at Home – A Guide for Homeowners Who Need Help Now*  
CFPB Reverse Mortgages, *A Discussion Guide*

## Attachment A.2: Sample Follow-up Letter

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<Date>

<Homeowner's Name> <Homeowner's Address>

<Homeowner's City, State, ZIP>

Dear Homeowner,

Thank you for participating in the Home Equity Conversion Mortgage (HECM) counseling session I conducted with you on <DATE>. Please take the time that you need to review thoroughly the information that I have shared with you before making any decisions about your financial future. If you need more information, or if you have any more questions, please call me at any time.

Enclosed are two copies of the Certificate of HECM Counseling. This certifies that you have completed and understood the basics of HECM counseling. Please keep one copy for your personal records. If you apply for a HECM loan within the next six months, please sign and give the second copy of the Certificate of HECM Counseling to your HECM lender. The lender will need this signed copy to verify that you have been counseled within six months of loan application. If you apply for a different reverse mortgage product other than a HECM, ask your chosen lender whether you need to provide this Certificate for that product as well.

<**Amount of time that will pass until counselor calls the client**> from now, I will be calling you to ask if you have any more questions or if you have made any decisions about HECMs, reverse mortgages, or other alternatives available to you.

If you need any further assistance, please do not hesitate to call me at <PHONE #> at any time.

Sincerely,

<Counselor Name>

Housing Counselor, <NAME OF AGENCY> Enclosures

## **Attachment A.3: Reverse Mortgage Resources**

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### **General Reverse Mortgage Resources**

For a list of general resources as well as information about HUD's reverse mortgage program visit [HECM | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

Consumer Financial Protection Bureau [Reverse mortgage loans | Consumer Financial Protection Bureau \(consumerfinance.gov\)](#)

AARP [Reverse Mortgages - Mortgage Rates, Mortgage Debt & Management \(aarp.org\)](#)

National Council on Aging: for health, independence issues, volunteer opportunities for seniors and benefits available to seniors: [The National Council on Aging \(ncoa.org\)](#)

National Reverse Mortgage Lenders Association website [Home - Reverse Mortgage](#)

### **Resources on Lenders**

HUD's HECM Lender List: [HUD Lender List | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

Complaints about HECM lenders or counselors should be reported to HUD's Office of Housing Counseling at [housing.counseling@hud.gov](mailto:housing.counseling@hud.gov).

#### **Attachment A.4: HECM Online Comparison Tool**

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The web-based HECM Loan Calculator and Underwriting Tool (HLCUT) is HUD's designated calculation software. HLCUT calculates principal limits for variations on a HECM, based on different interest rates with different indices and margins. HLCUT generates individual loan amortization schedules and side-by-side comparisons of:

1. projected total principal limits,
2. total costs,
3. remaining credit line funds,
4. leftover equity, and
5. total annual average percentage rate costs at various future points in time related to the client's remaining life expectancy.

It will not generate calculations for any proprietary reverse mortgage products.

Additional features of this online tool include the ability to produce:

1. Information packages that can be printed or emailed to clients;
2. Loan comparison pie charts that can visually compare two types of loans to demonstrate the differences between them to the client;
3. Comparisons between one loan type during two periods of the client's life; and
4. Customized printouts for the client on selling their home and how it would affect them based on their property's current value.

This information can be saved within the tool and retrieved for each individual client and for any future questions and conversations between the counselor and the client regarding the features of specific reverse mortgages.

HLCUT is available only to counselors who are on HUD's HECM Counselor roster.

## **Attachment A.5: Using Client Budget and Resource Identity Tool (CBRIT)**

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### **Client Budget and Resource Identity Tool (CBRIT)**

Counselors are required to complete a budget using the Client Budget and Resource Identity Tool (CBRIT) with every client using financial information obtained from the client.

The objective of completing a budget using CBRIT is to illustrate to the client their current financial situation and to determine how a HECM or other reverse mortgage might assist them in meeting their needs and goals.

Using CBRIT, counselors will ask questions generated by the tool that helps the client report income, debt and expenses. Counselors are not expected to request verification of income, debts and expenses from clients in order to complete CBRIT.

CBRIT helps counselors assess a client's immediate budget concerns and identify other risks that could affect their ability to use a reverse mortgage to meet longer-term personal goals. CBRIT will facilitate conversations with counseling clients about life factors such as declining health, limitations in the home environment, or recent life transitions such as widowhood that can make it hard for them to stay at home. CBRIT provides a summary of these factors, which can help counselors identify the features of a reverse mortgage that may be appropriate to meet client goals, assess the impact of their financial needs on remaining equity over time, and consider alternative options to a reverse mortgage.

The decision to obtain a reverse mortgage is the client's decision regardless of the budget results.

In addition, CBRIT also helps counselors direct HECM clients to non-HECM resources including federal, state, and local programs that could be important alternatives or supplements to a reverse mortgage. CBRIT can be used to check client eligibility and provides instructions on accessing those resources. Counselors should note to the client that final program eligibility determination can only be made by the agencies administering the programs.

## **Attachment B: Required Handouts for Clients**

The materials in Attachment B are for the potential HECM borrowers and their advisors who are counseling clients. Counselors must provide these materials to the clients.

Handouts for clients begin on the following page. These include:

- Attachment B.1 Preparing for Your Counseling Session
- Attachment B.2: Important Information about Home Equity Conversion Mortgage (HECM) and Other Reverse Mortgage Counselors
- Attachment B.3 Reverse Mortgage Eligibility Requirements
- Attachment B.4 Steps in the HECM Lending Process
- Attachment B.5 Reverse Mortgage Considerations for Consumers
- Attachment B.6 Questions to Ask Your Lender about HECMs and Other Reverse Mortgages
- Attachment B.7 HECM Borrower Obligations
- Attachment B.8: Reverse Mortgage Borrower Obligations: A Checklist for Borrowers
- Attachment B.9: Using a Reverse Mortgage to Buy an Annuity
- Attachment B.10: Reverse Mortgage Counseling Frequently Asked Questions
- Attachment B.11: How You Can Access Your Home's Equity with a Reverse Mortgage: Payment Options

## Attachment B.1 Preparing for Your Counseling Session

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### Preparing for Your Counseling Session

The decision to get a reverse mortgage is an important one. The Department of Housing and Urban Development (HUD) and the Federal Housing Administration (FHA) want to ensure you are able to make an informed decision and that you are able to choose a course of action that will meet your needs. For this reason, housing counseling for HUD's Home Equity Conversion Mortgage (HECM) is required. This counseling must be provided by a HUD certified housing counselor on HUD's HECM Roster.

The purpose of this overview is to provide introductory information on counseling and the HECM program, to help you prepare for your counseling session. After your counseling session, you will have a better understanding of the features of a HECM; the impact a HECM will have on your particular circumstances; and whether services or programs other than a HECM or other reverse mortgage might better meet your needs.

#### What You Can Expect from Your HECM Counselor

Understanding what to expect from HECM counselors is an important first step in setting your expectations for your counseling session. Remember, only you can decide if a reverse mortgage is right for your situation. The counselor provides information to assist you in making that decision.

1. The counselor is responsible for helping you understand HECMs, its appropriateness to meet your particular needs, and alternatives to a HECM or other reverse mortgage product.
2. HECM counselors will discuss your financial and other needs for remaining in your home, the features of a HECM and how it works, your responsibilities with a HECM, the impact of a HECM on you and your heirs, and the availability of other assistance you may need.
3. The job of the counselor is not to "steer" or direct you towards a specific solution, a specific product, or a specific lender. In addition, HECM counselors are not financial advisors and may not be able to provide you with specific financial advice. Consider talking with a financial or tax professional if you need additional information.

HECM counselors are required to follow specific practices, which are designed to ensure you receive quality counseling services and are protected against fraud and abuse. HUD requires that HECM counselors do the following:

1. Send you required materials (i.e., this packet) prior to your counseling session,
2. Follow established protocols when conducting the counseling session, and
3. Follow up with you after the session has concluded.



## **What You Can Expect from the HECM Counseling Process**

Step 1. Schedule an appointment. The counseling process begins when you schedule your appointment for a counseling session. You must schedule an appointment directly with the counseling agency. Your lender cannot initiate or participate in the counseling session. This session is conducted in person, by live video, or over the telephone; however, HUD advises that, if possible, you meet with your counselor face-to-face to gain greater benefit from your session.

Step 2. The counselor will contact you and send information. Once you have set up an appointment, the agency sends you a packet of information so that you can prepare for your session. It is very important that you read through this packet before meeting with your counselor.

Also, before you begin, you should also know that some agencies charge a fee for counseling; if you cannot afford to pay this fee, you should discuss your inability to pay with the agency at the outset of your session to understand your options.

Step 3. The counselor will collect from you: Your name, contact and other key information, including your interest in obtaining a reverse mortgage, for the counseling session. The more complete information you provide the counselor, the more effective the counseling session can be for you. Counselors tailor their sessions to your specific needs.

Step 4. Counseling session: The counselor will discuss with you your needs and circumstances; provide information about HECMs, reverse mortgages, and other alternative types and sources of assistance that might be available to you. During the session, you will work with the counselor to develop an assessment of your current financial situation using online tools. This will assist you in determining the best course of action. You should be prepared to discuss your income, debts, and expenses. The counselor will also help you learn more about the funds and services in your area for which you may qualify.

Step 5. Certificate of HECM Counseling: Once you complete your session and you and your counselor are comfortable that you understand the essentials of a HECM, the counselor will issue a certificate which verifies for a lender that you have successfully completed counseling. The lender cannot accept an application fee from you until you have provided a signed Certificate of HECM Counseling.

Step 6. Follow up: Your counselors will follow up with you to learn if you need further assistance and to understand the outcome of your counseling session. You may also call your counselor to seek further assistance after your session.

Counseling agencies are required to make reasonable accommodations that may be necessary for individuals with disabilities. If you need a reasonable accommodation related to your HECM counseling, contact the counseling agency with which you are scheduling or have scheduled an appointment.

### How a Reverse Mortgage Works

Before you begin your counseling session, it is helpful if you understand a few basics about a reverse mortgage. The following apply to HUD’s HECM product. Other reverse mortgage products may have different features.

Generally, reverse mortgages enable homeowners age 62 or older to convert their home’s equity into available cash – a lender advances you money (the loan) based upon the equity in your home. The amount of money you are eligible to receive generally depends upon the amount of equity in your home and your age at the time you get the loan. With a reverse mortgage, you remain the owner of your home. You must continue to pay property taxes and homeowner’s insurance. You are also responsible for maintaining your home in good condition.

You will not have to repay your loan balance for as long as you live in your home. You can choose to pay off the loan through the sale of the property or prepayment of the loan at any time without penalty. Your estate may retain ownership of the property by paying off the loan balance as determined by the lender.

### Types of Reverse Mortgages

There are three types of reverse mortgages shown in the chart below.

<i>Single purpose</i> reverse mortgage	Typically offered by state and local government agencies to be used in only one specific way, for example, home repairs
<i>Proprietary</i> reverse mortgage	Can be used for any purpose and may be suitable for borrowers who may be able to get more funds through a private product or whose reverse mortgage loan or property may not fall within HUD guidelines
<i>Home Equity Conversion Mortgage (HECM)</i>	Can be used for any purpose and is <b>insured by the Federal Housing Administration.</b>

### Payment Plan Options

There are several types of HECM loan plans available, including monthly and annually adjusting interest rate loans as well as fixed interest rate loans. Borrowers can decide to take a line of credit with flexible draw down options, a term loan with fixed monthly payments for a specified number of years, a tenure plan with guaranteed payments for life, or a combination of these options, or a single lump sum payment.

### Choosing a Reverse Mortgage to Meet your Needs

HECM payment plans are flexible. The best payment plan for you will depend on your current and future financial needs and circumstances. For example:

If you have a small balance on your existing mortgage and would like to pay it off with the reverse mortgage, a line of credit plan would allow you to draw all the funds at loan closing and pay off the current mortgage.

If you know you will have some large health care expenses in the near future and want to have the funds available when needed, a line of credit may also meet your needs.

If you need a set amount of money every month to supplement your income to help meet monthly expenses, then a tenure or term payment plan might be a suitable option for you. Your HECM counselor will discuss your goals for a HECM or other reverse mortgage product with you and will explain the different options available to help meet your needs.

### **Costs to Obtain a HECM**

Costs associated with HECMs are the same as those for “forward” mortgages used to purchase a home. These costs include lender fees to originate the mortgage, servicing fees for ongoing administration of the loan and interest on the money you use from the loan. There are also closing costs, which include all the usual and customary expenses associated with obtaining a mortgage, for example, the appraisal, title searches, and insurance. HECMs also include a fee for FHA mortgage insurance.

### **Impact on Tax/Social Service Benefits**

Reverse mortgage loan advances are not taxable and do not affect Social Security or Medicare benefits. However, you must be careful that any loan proceeds you retain do not exceed the monthly liquid resource limits for Supplemental Security Income (SSI) and Medicaid. You may want to consult a financial professional for additional information.

### **Alternatives to a HECM or Other Reverse Mortgage**

Your HECM counselor will also help you consider options available to meet your needs other than a reverse mortgage. These options include:

1. selling your home and moving to a more suitable residence,
2. renting as well as other financial options, and
3. support services and public benefits that may be available to you in your community.

As with any big financial decision, HUD encourages you to consider all options before you decide on a reverse mortgage. Listed below are resources you can access to learn more about reverse mortgages and elder care.

Consumer Financial Protection Bureau provides information for consumers on reverse mortgages. [Reverse mortgage loans | Consumer Financial Protection Bureau \(consumerfinance.gov\)](https://www.consumerfinance.gov/reverse-mortgage-loans/)

AARP’s web site at [www.aarp.org/money/revmort](http://www.aarp.org/money/revmort) provides more information on reverse mortgages and calculators that will provide general estimates of the amount of money you might receive from a reverse mortgage. You may also contact AARP at 1 (800) 424-3410.

The National Reverse Mortgage Lenders Association provides consumer information at [Your Guide to Reverse Mortgages](#) and can be reached by calling (866) 264-4466.

## **Attachment B.2: Important Information about Home Equity Conversion Mortgage (HECM) and Other Reverse Mortgage Counselors**

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The role of Home Equity Conversion Mortgage (HECM) Roster counselors in HUD's reverse mortgage counseling program is to discuss information with you that will help you make your own decisions about getting a reverse mortgage and other available alternatives. The counselor can help you to decide whether or not a reverse mortgage may be appropriate for you, and which options may be most appropriate given your financial circumstances.

HECM counselors do not promote, represent, or recommend any specific lender or loan. They do, however, provide general information on factors you may want to consider in selecting a lender or a loan.

HECM counselors can tell you:

1. the types of costs that are required for reverse mortgages (both HECMs and proprietary products),
2. which types of reverse mortgage costs may vary from lender to lender, and
3. the maximum amount that HUD permits HECM lenders to charge for certain loan costs.

Counselors do **NOT** provide any information on the prices charged by any individual lender or loan officer. The prices that a lender or loan officer charges one borrower at one time may be different from what they would charge another borrower or at another time. The costs also vary among other available reverse mortgage products.

Lenders and loan officers are the best source of information regarding the prices they charge and the loan products they offer, while counselors can help you understand any reverse mortgage loan that is offered to you.

## **Attachment B.3 Reverse Mortgage Eligibility Requirements**

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Typically, to be eligible for a reverse mortgage, you must meet the following requirements:

### **Minimum Age**

You must meet the minimum age requirement for the reverse mortgage product. For HECM loans, the minimum age is 62.

*Note: If the borrower has spouse who is not at least 62 years of age, that spouse may be considered a Non-Borrowing Spouse under the HECM. If the borrowing spouse should die or otherwise become ineligible, the HECM may become due and payable and the Non-Borrowing Spouse may have to leave the home if they do not continue to meet the terms of the mortgage. Other reverse mortgage products may have different policies regarding spouses who do not meet the minimum age requirement.*

### **Residency**

You must maintain primary residence in the property for a HECM loan. This is often a requirement for proprietary loans, but some loan products may not have this requirement.

### **No Debt Against Your Home from an Existing Mortgage**

If you have debt against your home from an existing mortgage, you must either pay it off before getting a reverse mortgage or use an immediate cash advance from the reverse mortgage to pay it off. If you do not pay off the debt beforehand, or do not qualify for an adequate cash advance to do so, you will not be able to get a reverse mortgage.

### **Investment Requirement for HECM to Purchase a Home**

At closing, you must provide a monetary investment. This monetary investment is the difference between the amount of money you will receive from the HECM and the sales price for your current property, plus any loan-related fees that are not financed. Your lender will verify that the funds you use to close on the purchase are the result of money from the sale of your home, cash on hand, or from the sale of personal assets. You may not borrow money (such as through a credit card cash advance) or take out a temporary loan to close on a HECM.

Note: FHA regulations require that you have no outstanding financial obligations connected to the property involved in the HECM transaction.

### **Counseling**

HECM borrowers must receive HECM counseling from a counselor on the HECM Roster, employed by a HUD-approved housing counseling agency. Some states and proprietary products require counseling for reverse mortgages.

### **FHA Property Requirements**

Your property must meet certain FHA requirements.

*Note: For HECM loans, eligible property types include single-family homes, 2-4 unit properties, manufactured homes (built after June 1976), condominiums and townhouses. You, as the homeowner, should confirm the eligibility of your property type with your lender.*

## **Attachment B.3 Home Equity Conversion Mortgage (HECM) Features**

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A Home Equity Conversion Mortgage (HECM) is a loan that allows homeowners who are age 62 or older to convert their home's equity into available cash. A HECM is a reverse mortgage, which works much like a traditional mortgage, only in reverse. Reverse mortgages are "rising-debt, falling-equity" loans, because as debt increases, home equity falls. Rather than making a payment to the lender each month, the lender can send you a loan advance each month if you choose. Unlike a conventional home equity loan, a reverse mortgage does not require any repayment of principal, interest or servicing fees as long as you live in your home. You may use the cash you obtain from a reverse mortgage for any purpose.

### **Homeownership**

Through a HECM, you remain the owner of your home. As with any home, you must continue to pay property taxes and homeowner's insurance. Alternatively, you can arrange for the lender to pay your taxes and insurance and deduct this amount from your reverse mortgage loan proceeds. You will also be responsible for maintaining your home and making necessary repairs.

### **Debt Payoff**

A HECM must be a first mortgage. If you have an existing mortgage, it must be paid off prior to closing or paid off at closing with funds you receive from the HECM. Any additional lien against your property must be subordinated to the HECM.

### **Principal Limit**

The amount of money you may be eligible to borrow depends on your age, home value, and the interest rate. Typically, the older you are, the more cash you will be able to receive. Also, the greater the home value or the lower the interest rate, the more cash you will be able to receive. This amount may be impacted by whether you have a non-borrowing spouse.

### **Loan Costs**

HECMs typically involve costs such as:

1. an origination fee,
2. closing and other third-party costs,
3. servicing fees, and
4. mortgage insurance premiums.

You may finance these costs as part of your loan by having them added to the loan balance. Your lender must provide you with a Total Annual Loan Cost (TALC) disclosure for any loans that you are considering prior to your loan closing. Your lender may be able to waive certain loan costs.

### **Interest Rates**

Interest is charged on all money that you receive and on all loan costs that have been financed, i.e., added to the loan balance. You may select an interest rate that is fixed or that adjusts monthly or annually. However, not all lenders offer all options, but lenders are required to provide you numbers based on different interest rate scenarios. Your lender must provide you with the index, the margin, and the periodic and lifetime caps for adjustable interest rates.

## **Payment Plans**

You may receive the cash from a HECM in a variety of ways. You can receive the funds as a line of credit or through fixed monthly payments for as long as you meet the terms and conditions of the mortgage. You may choose to receive the funds at times and in amounts of your choosing through a line of credit or a combination of the different options, subject to HUD limits. Payment plan options include:

1. The Fixed-Rate Payment Plan: Single Lump Sum
2. Adjustable-Rate Payment Plans
  - a. Option 1: Tenure Payment Plan
  - b. Option 2: Term Payment Plan
  - c. Option 3: Line of Credit
  - d. Option 4: Modified Tenure Plan
  - e. Option 5: Modified Term Plan

HECM loan advances are not taxable and are not tax-deductible. They generally do not affect Social Security or Medicare benefits. However, you must be careful that any loan proceeds you retain do not exceed the monthly liquid resource limits for Supplemental Security Income (SSI) and Medicaid. Consult a financial professional for impacts of a HECM.

Generally, you have the option of changing your payment plan type at any time for a fee (not to exceed HUD limits). You should ask your lender about the procedures for changing your payment plan in the future.

## **Cancellation**

After closing a HECM, you, as the borrower, have three days to cancel the mortgage if you choose. This is also known as the “rescission period,” an important measure implemented to protect you, as the consumer. If you cancel during the rescission period, you are entitled to all your fees, minus the cost of the appraisal.

If you are purchasing a new property with a HECM, you will not have the three-day cancellation period. Your closing will be final.

## **When the HECM Becomes Due and Payable**

HECMs become due and payable when the last surviving borrower dies, sells the home, or no longer occupies the property as their primary residence. You may partially or fully repay the loan balance at any time. There are no prepayment penalties for a HECM. Non-borrowing spouses who continue to meet the terms and conditions of the HECM may be eligible to stay in the home.

Some products allow “open-end” credit: you may pay back some or the entire loan and then re-borrow the money at another time (a line of credit). Other products have “closed-end” credit, meaning that you may not re-borrow principal that is paid on the loan. Ask your lender which type of credit your loan provides.

### **HECM Loan Payoff**

When the loan becomes due and payable, you or your estate must pay back all of the cash advances, any fees or costs financed as part of the loan, and all interest that has been charged to date. The loan becomes due and payable when:

1. The last surviving borrower passes away,
2. The property is no longer the primary residence of the borrower,
3. The last surviving borrower fails to physically occupy the principal residence for more than 12 consecutive months because of physical or mental illness;
4. The borrower sells or otherwise transfers ownership of the property, or
5. The borrower fails to perform an obligation under the mortgage.

Non-borrowing spouses who continue to meet the terms and conditions of the HECM may be eligible to stay in the home.

When the loan is due and payable, you may choose to satisfy the HECM in full, sell the property for at least 95 percent of the current appraised value, provide the lender a deed in lieu of foreclosure, or otherwise correct the matter that resulted in the HECM becoming due and payable. If the borrowers pass away, the heirs or estate will have the option to keep the home by satisfying the HECM for the lesser of the full debt or 95 percent of the current appraised value. They can also sell the property or provide the lender with a deed in lieu of foreclosure.

### **Borrower Obligations Under the Mortgage**

After closing, you must continue to ensure that property taxes, hazard insurance and other property assessments are paid, either by yourself or through a full or partial life expectancy set-aside (LESA).

You must maintain the condition of the property and maintain the property as your principal residence. See your mortgage documents for any additional obligations.



## **Attachment B.4 Steps in the HECM Lending Process**

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### **APPLICATION**

You must receive counseling before the lender may process your application for a HECM loan.

When you apply, you will be asked to select a payment plan: a line of credit, monthly advances (term or tenure), a combination of a line of credit and monthly advances, or single lump sum. You may be asked to choose between a fixed interest rate and a monthly or annually adjustable interest rate. You also may be asked if you want your property taxes and homeowner's insurance paid directly by advances from your loan.

You will need to provide information required by the lender, which may include:

1. photo ID,
2. verification of your Social Security number,
3. a copy of the deed to your home,
4. information on any existing debt (liens) on your home, and
5. your Certificate of HECM Counseling.

You could be asked to pay a loan application fee and could be required to pay other fees, including the cost of a home appraisal and the cost of a credit check. The lender also determines your eligibility to be a HECM or a reverse mortgage borrower, according to the appropriate program guidelines.

### **PROCESSING**

Your lender orders an appraisal, title search and insurance, lien payoffs, and any other services needed to complete the loan. An appraiser comes to your home to assess its value and physical condition. If the appraiser finds structural defects or conditions that may affect your health and safety that require repair to be eligible for the loan, you must hire a contractor to make the repairs. If the repairs are relatively minor, it is possible that they will be delayed until after you get the loan. You may be eligible for a set-aside from your HECM loan for repairs.

Your lender submits all required information to the lender's underwriting department. They will determine if everything necessary to close the loan is completed correctly.

### **CLOSING**

When your loan is approved by the underwriter, **a date for closing the loan is set** and the final loan documents are prepared. A closing is a meeting at which you sign all the loan documents. It is generally handled by the title company or the lender. Some states require that an attorney be present at closing.

After closing, you have three business days in which you may cancel the loan, except if you are purchasing a home with a HECM. When these three business days are over, you can begin receiving money from the loan and you can use money from the loan as you choose, including paying off any existing debt on your home as required. Two new liens are placed on your home to secure the reverse mortgage (these two liens are explained in the "Frequently Asked

Questions” handout). Your loan is then sent to the “servicing” department or to another company that specializes in servicing reverse mortgages.

### **AFTER CLOSING**

Unless you have arranged to have your taxes and homeowner’s insurance paid directly from your loan proceeds, **you are still responsible** for making these payments. The lender may require a partial or full Life Expectancy Set-Aside (LESA) for these payments.

If you do not make the required taxes and insurance payments or if your LESA runs out, the lender can use loan proceeds to make the payments for you. If no loan proceeds remain, you should be aware that the **entire loan could be due and payable for nonpayment of taxes and insurance.**

Additionally, the real estate taxing authority, i.e. city or county, can sell your home for nonpayment of taxes.

If you have selected a monthly payment plan, the lender will send your payments on the first business day of the month.

If you have selected a line of credit, the lender will wait for a request from you before sending any loan advances. You should receive instructions from the lender on how to make requests for funds from your line of credit.

Unless you have selected a single lump sum payment, you may request to change the payment plan at any time during the life of the loan. The lender may charge a fee, not to exceed HUD’s limit for HECM borrowers, for changing your payment plan. You may change the term of payments, receive an unscheduled payment, suspend payments, or establish or terminate a line of credit.

## **Attachment B.5 Reverse Mortgage Considerations for Consumers**

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The following list includes several aspects of the reverse mortgage lending process that you, as a consumer, must be particularly cautious of.

### **Lender Involvement**

Beware of a lender's advice steering you towards or away from a particular reverse mortgage product before you are familiar with reverse mortgage products generally. Lenders cannot be present during counseling sessions nor do they need to be a part of your decision to take out a reverse mortgage.

You should also be cautious of a lender's recommendations on how you use your loan proceeds, particularly if they are recommending a costly annuity or other investment.

### **Lender or Product Steering by the Counselor**

Beware of lender or product steering by your counselor. During the counseling session, make sure that the counselor has informed you of various options and alternatives that may be available to you. A counselor should not recommend a particular course of action and should help you look at all available options (for example, selling your home or seeking other sources of financial help). A counselor should not tell you what specific loan products may be appropriate but should inform you about all reverse mortgage features generally.

### **Income and Benefits**

Keep track of your sources of income, especially if you are receiving any income-based government benefits such as Supplemental Security Income (SSI) or Medicaid. If you allow your reverse mortgage payments to accumulate into liquid assets, it could affect your benefits.

### **Borrower Obligations**

You should be aware of your and your spouse's, if applicable, obligations under a reverse mortgage after you have taken out your loan. You should know what will happen once you begin receiving loan payments each month and what you are responsible for. Consider creating monthly and annual checklists, which should include your obligations such as monthly payments and normal upkeep requirements.

### **Role of the Reverse Mortgage Broker**

The reverse mortgage broker is not a lender. The broker is an independent agent who accepts the loan application on behalf of the lender and deals with the consumer. For HECMs, brokers must be FHA-approved. The broker does not fund the loan nor provide money to the borrower. The broker is not responsible for establishing or remitting loan payments. Therefore, do not sign over funds to the broker to set up the line of credit for you.

### **Servicing Lender**

The servicing lender is responsible for the day-to-day management of your loan, including sending statements and providing customer service. This may be different than your originating lender, who processed your application for the HECM. Most originating lenders transfer your

loan to another company for servicing. Keep the servicing lender's information and your reverse mortgage documents readily available, should you have questions about your loan.

## **Attachment B.6 Questions to Ask Your Lender about HECMs and Other Reverse Mortgages**

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Here are questions and guidelines to assist you in your discussion of HECMs and other reverse mortgage products with lenders. Your counselor should educate you on all reverse mortgage features, including how the interest rate (fixed vs. adjustable) and payment plan you choose should be based on your unique financial needs and circumstances. You will also be educated on the meaning and implications of each of the various products, costs, and issues mentioned below.

For each product:

1. What is the appraisal fee?
2. What are the closing costs?
3. What is the origination fee? (The origination fee must cover all origination activities. HECM product defines the origination fee as the greater of \$2,500 or two percent of the maximum claim amount of the mortgage, up to a maximum claim amount of \$200,000, plus one percent of any portion of the maximum claim amount that is greater than \$200,000. The total loan origination fee may not exceed \$6,000. The lender may accept a lower origination fee when appropriate.)
4. What is the servicing fee? (HUD sets maximum servicing fees for HECMs. It is \$35 per month for a monthly adjustable HECM and \$30 per month for an annually adjustable or fixed rate HECM)
5. What is the mortgage insurance premium? (For HECMs, the initial mortgage insurance premium is 2% of the maximum claim amount, with an annual mortgage insurance premium of 0.5% of the loan balance)
6. What is the current interest rate? What is the expected interest rate?
7. Is the interest rate adjusted monthly or annually? Do you offer any products that have a fixed interest rate?
8. How much money do I need to close on a HECM or reverse mortgage to purchase a property?
9. What payments options do you offer? By law, a lender must offer all payment options, term, tenure, line of credit or any combination for HECMs.
10. If there is a credit line payment option, what is the rate of credit line growth?
11. Is there a fee to change payment plans?
12. What will be my monthly obligations with this reverse mortgage?
13. What will be my yearly obligations with this reverse mortgage?
14. Am I eligible for a reverse mortgage? Is my spouse eligible?
15. Is my home eligible for a reverse mortgage?
16. Can I set aside tax and insurance payments so that you can make payments on my behalf?

## **Attachment B.7 HECM Borrower Obligations**

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This handout covers your obligations under a HECM or other reverse mortgage. Check with your lender on how your spouse, if applicable, is expected to meet these obligations, and whether proprietary reverse mortgage product policies differ.

### **Paying Property Taxes**

1. Borrowers are required to make timely payments on their property taxes. Failure to do so could result in the loss of your home because this is considered a default of your mortgage agreement.
2. You must pay property taxes yourself or you can ask your lender to pay your property taxes with funds from the reverse mortgage.
3. In the case of a term, tenure or modified payment plan, the lender will estimate the annual costs, add the amount to the loan balance, and make monthly payments.
4. In the case of a line of credit plan, you can ask your lender to pay your taxes using draws on the line of credit when taxes are due.
5. If you choose a line of credit plan, and the line of credit is exhausted, the lender will no longer be able to make payments on your behalf. You will then be responsible to pay the taxes and insurance directly.
6. Note: that if you do not leave enough money to pay your taxes and insurance once your line of credit is exhausted, you may not be able to meet your loan obligations and you could lose your home.
7. The lender may charge a small fee for paying the taxes and insurance on your behalf. You should inquire about the specific costs with the lender. Paying a nominal fee for this service may help you keep your home in the long run.
8. Contact your lender or a HUD certified housing counselor if you are, become, or anticipate becoming unable to make property charge payments.

### **Paying Homeowner's Insurance**

Homeowner's insurance protects you and the lender from loss in the event that your home is damaged or destroyed by a fire or storm. HECM borrowers are required to make timely payments of premiums towards their homeowner's insurance. For HECMs, flood insurance is also required if the property is located in a flood zone. Failure to do so could result in the loss of the home.

1. It is your responsibility as the borrower to maintain active homeowner's insurance. Homeowner's insurance is different than mortgage insurance.
2. You can pay the insurance directly or ask the lender to pay using your loan funds.
3. The policy must remain active even if you are absent from the home for a period of time.
4. If you find out that your house is in a flood zone, you will be required to maintain flood insurance. For example, some areas have been rezoned as flood zones requiring flood insurance for the first time. Some insurance companies have also changed the geographic areas where their insurance is available. You should check on the status and costs of your homeowner's insurance and flood insurance policies. You may also find out that your house is in a flood zone during annual recertification or a property condition check by your lender.

Lenders may utilize force-place insurance if they learn the property no longer has the required hazard insurance. The lender's insurance may be more expensive than the borrower's own policy.

### **Regular Review of Loan Documents**

The HECM adjustable interest rate will adjust every month or year depending on the period selected by the borrower. This is also the case with many other reverse mortgage products. In the case of a HECM, the lender will notify you of a change at least 25 days before the new rate is charged to the loan. It is your responsibility to review this notice.

The servicing lender (which may be HUD on an assigned loan) is required to send a statement that summarizes your mortgage activity. Statements for HECMs are issued at least annually and may be issued more frequently by some lenders. You should review this statement when you receive it.

### **Maintaining the Property**

Your property must be maintained in at least the condition that it was in when the reverse mortgage was issued. Before the lender issues a HECM, they must make sure that the HECM property meets minimum property requirements and standards for being safe, sound, and secure.

Lenders may perform “drive-by” inspections. If problems are identified, you will be required to remedy them. One suggestion for you is to create a checklist of normal maintenance procedures and go through this list 4 times each year to make sure that you are keeping your home in good shape. Your counselor may be able to help you come up with a list of maintenance procedures appropriate for your property.

### **Prepayment**

Prepayment policies may vary depending on the reverse mortgage product. You should discuss prepayment policies with your lender. You may be able to prepay the loan, in whole or in part, without penalty.

- For a HECM, you may prepay all or part of the outstanding balance at any time without penalty. Repayment in full will terminate the loan agreement.
- You may choose to make a partial prepayment to preserve more of the equity in the property, or to increase monthly payments, if a payment plan with monthly payments was selected.
- Most products allow “open-end” credit: you may pay back some of the loan balance and then re-borrow the money at another time.
- Other products have “closed-end” credit, meaning that you may not re-borrow principal that is prepaid on the loan.
- Generally, you may change your payment plan at any time. The fee charged in association with this change will be applied to the loan balance.

### **When the Loan Becomes Due and Payable**

HECMs are typically not due and payable until the last surviving borrower or eligible non-borrowing spouse dies, or the home is sold or is no longer the primary residence of the borrower or non-borrowing spouse. Other proprietary reverse mortgages may have different repayment conditions. The borrower and non-borrowing spouse, if applicable, are responsible for telling the lender when a due and payable event occurs.

Generally, you or your heirs or estate must pay off the final amount determined by the servicing lender, as consistent with HUD rules, when the HECM becomes due and payable. A HECM, and most proprietary reverse mortgage products, can be repaid in a variety of ways. The loan can be paid in one payment from the proceeds of the sale of the home. Alternatively, your heirs might take out another mortgage on the home and pay off the loan with those funds or they may have other funds available to pay off the loan. The lender may also accept a deed in lieu of foreclosure.

The lender does not own the home and does not “get” the home when the borrower or non-borrowing spouse passes away. This is a common consumer misconception. The borrower owns the home and title throughout the life of the reverse mortgage, just the same as with a forward mortgage.

HECM loans are not assumable by family members or other parties.

HECMs are non-recourse loans. This means that the lender cannot require any other security other than the property, even if the mortgaged property does not cover the full value of the HECM balance.



## **Attachment B.8: Reverse Mortgage Borrower Obligations: A Checklist for Borrowers**

There are many things that you need to do and consider after you have closed on your reverse mortgage. For example, failure to make timely payments of taxes and insurance may make your reverse mortgage due and payable immediately. Here is a checklist to help you keep your reverse mortgage current.

- Pay your property charges (such as property taxes, hazard insurance premiums, special assessments, and homeowner association fees) on time
- Pay flood insurance (this is applicable only if the home is located in a flood zone)
- Maintain the property in good condition and make any necessary repairs
- Review interest rate change notices
- Review annual mortgage statement
- Maintain your principal residence status
- Change your payment plan (if necessary)
- Prepay the loan (if applicable)
- Check for property tax exemptions or reductions for seniors, disabled individuals, or low-income households (if applicable)

## **Attachment B.9: Using a Reverse Mortgage to Buy an Annuity**

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An annuity is a contract sold by an insurance company designed to provide payments, usually to a retired person, at specified intervals.

If you are considering using your HECM or other reverse mortgage to purchase an annuity, here are some facts and features you need to know about:

- your loan options
- annuity benefits
- annuity costs
- public benefits
- annuity choices

HECM counselors may be able to provide you with the basics of annuities. Consider consulting a financial professional for more information, including the availability of deferred annuities and death benefits; note that some financial professionals may also be in the business of selling annuities.

### **Your Loan Options**

You may have options on how to have a reverse mortgage loan paid to you. These options may include:

1. an immediate cash advance,
2. a credit line account that lets you take cash advances at times and in amounts that you select,
3. a fixed monthly cash advance for a specific number of years or for as long as you live in your home, and
4. a combination of immediate cash, credit line, or monthly advance.

Clearly, buying an annuity in order to get monthly cash advances is not always necessary. You may get this type of payment plan directly from a reverse mortgage.

### **Annuity Benefits**

An annuity can give you monthly cash advances for life, regardless of where you live. By contrast, reverse mortgages can only last for as long as you live in your home. If you sell or move, your reverse mortgage becomes due and payable. When considering an annuity, you should think about how long you expect to remain in your home.

- **Fixed annuities:** If you want annuity advances that are the same amount every month, be sure to get a “fixed” annuity. Fixed monthly annuity advances continue for life, no matter where you live. These advances may be smaller than the fixed monthly loan advances you can get from a reverse mortgage for as long as you live in your home.
- **Variable annuities:** Cash advances from a “variable” annuity may depend on the stock market or other investments that are more risky or volatile. Although they may provide a fixed monthly advance for a while, “variable” annuities can result in a smaller monthly advance after their guarantee periods end.

A lender can show you how much you can get each month from a reverse mortgage. You may want to compare this monthly loan advance to the annuity advance you could get.

You may also want to consider the fact that if you were to move into a nursing home and qualify for Medicaid, most of the annuity advances and proceeds from any sale of your home would be used to pay for nursing home costs.

### **Annuity Costs**

Using a reverse mortgage to buy an annuity is generally more expensive than getting monthly reverse mortgage advances. If you buy an annuity with loan proceeds, you will have a larger immediate loan balance. That means greater interest charges, especially in the early years of the loan. But if you live beyond your life expectancy, a reverse mortgage/annuity combination can become less costly than a HECM alone.

If lenders know that you intend to buy an annuity with a reverse mortgage, they are required to give you a Total Annual Loan Cost (TALC) disclosure that includes the annuity. Follow-up with your lender to ensure that you receive a TALC disclosure that includes the annuity.

Anyone who sells you an annuity will be paid a sales commission from the money you use to buy the annuity. If you want to know how much they will be paid, ask them what their sales commission would be. Also, ask if the annuity includes a “surrender” fee that you would have to pay if you later decide to discontinue the annuity.

### **Public benefits**

Annuity income does not affect your Social Security or Medicare benefits under current law. However, if you are eligible for Supplemental Security Income (SSI), you need to understand that annuity income may jeopardize your benefits from this and possibly other programs such as Medicaid.

Annuity advances are counted as income for SSI. Therefore, they can reduce SSI benefits dollar-for-dollar, and might make you ineligible for other programs. By contrast, HECM loan advances generally are not counted as income for SSI.

If you now receive or expect to become eligible for SSI or similar programs (for example, Medicaid), be sure you understand exactly how annuity income and HECM advances would affect your eligibility and benefits.

### **Annuity Choices**

An annuity is only as safe and sound as the company that provides it. You may want to ask the annuity company for its ratings from the firms that provide them. Companies such as A.M. Best, Fitch, Moody’s, and Standard & Poor’s provide ratings.

Many annuity plans offer an optional cash refund (or “death benefit”) to your heirs upon your death. This reduces the overall cost to your estate, but it also reduces the amount of your guaranteed monthly annuity advance. Be sure to consider these options carefully.

Some annuities provide monthly advances for a fixed period of time. If you are considering this type of “period certain” annuity, you may want to compare it with the monthly loan advance you

could get for the same amount of time from a reverse mortgage “term” plan. You may also want to compare how much you would end up owing in each case.

### **Conclusion**

Only you can decide what best fits your needs. It makes sense to be careful when considering a major financial decision about choices that may be new to you. You should take as much time as you need to:

- learn what you need to know,
- get answers to your questions,
- compare your choices carefully, and
- discuss your choices with people you trust who have no financial interest in your decision.

The following resources can provide you with additional information:

- [Securities and Exchange Commission. Investor.gov](https://www.investor.gov)
- [Financial Industry Regulatory Authority \(FINRA\)](https://www.finra.org)
- AARP: [www.aarp.org](https://www.aarp.org) Telephone: (888) 687-2277
- National Association of Insurance Commissioners: [www.naic.org](https://www.naic.org)

## **Attachment B.10: Reverse Mortgage Counseling Frequently Asked Questions**

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### **Why are HECMs and other reverse mortgages “rising debt, falling equity” loans?**

Reverse mortgages are called rising-debt, falling-equity loans, because as debt increases, home equity falls. Lenders, or investors who buy the loans, recoup this debt - the accumulated principal and interest payments - when the home is sold.

### **Why do I need an appraisal?**

An appraisal is needed to determine the market value of your home and to ascertain any required repairs. The property must meet minimum property standards in order to provide adequate security for the loan. If repairs are necessary, they must be made as a condition loan approval. The appraisal must be ordered by the lender and completed by a HUD-approved appraiser.

The appraised value of the home is used to determine the maximum claim amount, which is equal to the lesser of the appraised value of the home or the maximum FHA loan limit in your community. The appraised value and maximum claim amount will help determine how much you qualify to draw.

### **How can the amount of the loan differ from the lender’s estimate?**

The amount of your loan at closing is based on the appraised value of your home and the interest rate.

At the time you apply for the loan, you and your lender will probably not know what the appraised value of your home is going to be. Because of this, the estimate that the lender gives you will most likely change once the appraisal is completed.

In addition, whether the borrower locks in the interest rate or lets it “float” or change with the market will impact the loan amount. The interest rates change from week to week; however, the lender can lock the interest rate at the time you sign the loan application for 120 days. This would keep the rate from changing between the time of the application and the time of closing. If the borrower chooses to let the interest rate “float” or change with the market and rates decrease between the time of the application and closing, the principal limit will be recalculated and may result in a change to the loan amount.

### **What if I change my mind and no longer want the loan after I go to closing? Can I back out of the loan?**

By law, you have 3 business days to change your mind and cancel the loan. Saturday counts as a business day and Sunday does not. This is called a 3 day right of rescission. Be sure to ask the lender for instructions on this process, as the process for canceling a loan may differ from one lender to another. You should get the names of the appropriate people, phone numbers, fax numbers, addresses or written instructions on whatever process the company has in place. You may still be responsible for some of the loan costs if you decide to back out, such as the cost of the appraisal.

Note: If you are closing on a HECM to purchase a home, you will not have three days to change your mind. The loan transaction is finalized at closing.

**What annual expenses will I have in connection with this loan?**

The annual expenses that you are responsible for are all property taxes, flood and hazard insurance premiums, and special assessments, such as your homeowner's association or condominium fees. In some cases, a portion of these charges is escrowed by the lender, but ensuring their payment is still your responsibility. It is important that you budget for these expenses throughout the year, for the life of the loan, so that when payment is due you will have enough money available. For example, if your property value appreciates, your annual property taxes may increase, so review your tax statements or discuss with a tax professional.

**Once the loan closes, how soon can I access my line of credit?**

The lender can disburse funds to you after the 3-day right of rescission ends. The disbursement date will appear on your Closing Disclosure.

**After the first disbursement, how often can I expect to draw my money?**

After the first disbursement, payments from the lender will be made within 5 days of receiving a written request for payment from you. Term and tenure payments will be made on the first business day of each month beginning with the first month after closing.

**If the lender requires me to make repairs to the property, how soon after loan closing do I have to complete repairs?**

The lender determines the length of time you will have to complete repairs after loan closing. The exact date by which you need to have all repairs completed will be on the Repair Rider attached to the Loan Agreement. You will be given a copy of these documents at loan closing.

**What happens if the repairs are not complete on the date specified on the Repair Rider?**

If the required repairs are not completed by the date specified on the *Repair Rider* to the *Loan Agreement*, the lender must discontinue payments on the loan. The loan will be frozen at a line of credit status, available only to fund repairs and mandatory items such as property charges and Mortgage Insurance Premium (MIP). Upon satisfactory completion of the repairs, the loan may be converted back to the borrower's selected method of payment.

**Are any repair inspections required?**

Yes. The lender is responsible for ensuring that the completed repairs are inspected by a qualified inspector one or more times before the funds to pay for the repairs are disbursed. The lender must also complete a form HUD-92051, *Compliance Inspection Report*, before funds can be disbursed. The lender may charge an administrative fee and compliance inspection fees.

**How will the lender disburse any funds in excess of the cost of the repairs?**

Once the lender has paid the vendor for the repairs, the lender will transfer any remaining balance to a line of credit and inform you of the amount available. At that time, if you choose, you can send the lender a written request for an amount not to exceed the amount available and the lender will send a disbursement 5 days after receiving your written request for the funds. Otherwise, the remaining balance will remain in the line of credit.

## **Attachment B.11: How You Can Access Your Home’s Equity with a Reverse Mortgage: Payment Options**

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This handout provides descriptions of various payment plans for Home.

### **Payment Option Overview**

You can receive reverse mortgage loan proceeds through various payment plans, which may vary depending on which reverse mortgage product you choose.

HECM loans permit the following payment plans:

- term
- tenure
- line of credit
- combinations: modified term/modified tenure with a line of credit

Single Lump Sum.

With a HECM loan, you can also change the payment plan at any time during the life of the loan (until you have exhausted your available funds).

Not all of these options may be available for proprietary (non-HECM) products. In addition, a borrower may be required to pay a fee if he or she decides to change payment plans for a proprietary product.

You should ask your counselor if you have additional questions. If you want to know more about specific reverse mortgage product details, which payment plan options are available for specific products, or how much equity may be available to you through a reverse mortgage, you should contact a lender.

### **HECM - Term**

A borrower may choose a term option where he or she would receive equal monthly payments for a fixed period of time of the borrower’s choosing, e.g. 5 years or 10 years. The borrower will no longer receive payments at the end of the term but may remain in the home as long as he or she chooses.

### **Tenure**

Under the tenure option, the borrower can receive equal monthly payments as long he or she remains in the home. The amount of each monthly payment is determined by subtracting the age of the borrower (or the age of the youngest borrower on the loan) from 100 and dividing the amount of money made available by the reverse mortgage over that time period. Even if the loan balance exceeds the value of the home, or if he or she lives past age 100, the borrower will continue to receive payments as long as he or she stays in the home and meets the obligations of the loan.

### **Line of Credit**

You can choose to have the entire loan placed into a line of credit. With this line of credit, you can access the money at any time until no funds remain.

For HECM loans, the unused portion of the line of credit grows at the “credit line growth rate,” or “note rate.” A proprietary product may have a different credit line growth rate than that of a

HECM, which will affect the amount of cash available to you. You should ask your lender about the line of credit features if you are considering a proprietary product.

### **Combinations**

Borrowers may also choose a combination of an up-front draw, line of credit, term and tenure payment options. Modified Tenure combines a line of credit with monthly payments as long as the borrower remains in the home. Modified Term combines a line of credit with monthly payments for a fixed period of time determined by the borrower.

### **Single Lump Sum Payment**

Borrowers may choose this payment option, which will be limited to a single payment at loan closing no greater than 60% of the principal limit or mandatory obligations (such as loan origination fees) plus 10% of the principal limit.