

This notice will publish in the Federal Register on May 15, 2014. Publication in the Federal Register will commence the start of the public comment period.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5786-N-01]

**Federal Housing Administration (FHA):
Homeowners Armed With Knowledge (HAWK) for New Homebuyers**

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice solicits public comment on a proposed four-year, two-phase, housing counseling pilot, “HAWK for New Homebuyers.” HAWK stands for Homeowners Armed With Knowledge, and serves as an umbrella term for several initiatives to link HUD’s Housing Counseling program with FHA-insured mortgage origination and servicing. The HAWK for New Homebuyers pilot will provide FHA insurance pricing incentives to first-time homebuyers who participate in housing counseling and education that covers how to evaluate housing affordability and mortgage alternatives, to better manage their finances, and to understand the rights and responsibilities of homeownership. The goals of the HAWK for New Homebuyers pilot (HAWK Pilot) are to test and evaluate program designs that meet these objectives:

- To improve the loan performance of participants and reduce claims paid by FHA’s Mutual Mortgage Insurance Fund (MMIF);
- To expand the number of families who improve their budgeting skills and housing decisions through access to HUD-approved housing counseling agency services; and

- To increase access to sustainable home mortgages for homebuyers underserved by the current market.

The Supplementary Information section of this notice provides the details of the pilot. HUD welcomes public comment, and all comments will be taken into consideration by HUD.

DATES: Comment Due Date: **[Insert date 60 days after date of publication in the FEDERAL REGISTER].**

ADDRESSES: Interested persons are invited to submit comments responsive to this request for information to the Office of General Counsel, Regulations Division, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0001.

Communications must refer to the above docket number and title and should contain the information specified in the “Request for Comments” of this notice.

Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> website can be viewed by interested members of the public. Commenters should follow instructions provided on that site to submit comments electronically.

Submission of Hard Copy Comments. Comments may be submitted by mail or hand delivery. To ensure that the information is fully considered by all of the reviewers, each commenter submitting hard copy comments, by mail or hand delivery, should submit comments or requests to the address above, addressed to the attention of the Regulations Division. Due to

security measures at all federal agencies, submission of comments or requests by mail often result in delayed delivery. To ensure timely receipt of comments, HUD recommends that any comments submitted by mail be submitted at least 2 weeks in advance of the public comment deadline. All hard copy comments received by mail or hand delivery are a part of the public record and will be posted to <http://www.regulations.gov> without change.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Comments. All comments submitted to HUD regarding this notice will be available, without charge, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the documents must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Copies of all comments submitted will also be available for inspection and downloading at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Email specific program questions to counseling@hud.gov and include “HAWK Notice Question” in the subject line. You may also send inquiries to the attention of: Charlene Young, Office of Housing Counseling, Department of Housing and Urban Development, 451 7th Street, SW, Room 9278, Washington, DC, 20410; or call (202) 708-0317 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Relay Service at 800- 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

Through its Office of Housing Counseling, HUD administers the Housing Counseling Program, established pursuant to section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) (1968 Act). Under the Housing Counseling Program, HUD provides

grants, and oversees a broad range of nonprofit organizations, government agencies, and their branches and affiliates, to educate homeowners and renters so they may improve their housing conditions and meet the responsibilities of homeownership and tenancy. Housing counseling and education for first-time homebuyers, pursuant to HUD standards,¹ addresses topics that include the decision to own or rent; budgeting and credit; financing a home; the home buying process; maintaining a home; managing mortgage payments; managing the financial investment; and avoiding delinquency and default. Research² has shown that housing counseling for first-time homebuyers by HUD-approved housing counseling agencies assists homebuyers in homeownership, arming them with information that improves their chances of success.

Through the Federal Housing Administration (FHA) and under authority of the National Housing Act (12 U.S.C. 1701 *et seq.*), HUD provides mortgage insurance on single family loans made by FHA-approved lenders for 1-4 unit single family properties. FHA mortgage insurance provides lenders with protection against losses incurred as the result of single family borrowers defaulting on their mortgage loans. By insuring loans made by FHA-approved lenders, FHA facilitates the availability of mortgage financing, helps to expand affordable housing, and assists in meeting the housing needs of borrowers.³ FHA is also charged with ensuring the financial soundness of the MMIF, and making programmatic or premium adjustments as necessary to reduce risk to the MMIF.⁴

¹See HUD's regulations at 24 CFR part 214, and HUD's Housing Counseling Program Handbook (7610.1) at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsg/7610.1.

² See footnotes 5-8.

³ See 12 U.S.C. 1708(a)(7)(B), (including low and moderate income borrowers, borrowers from underserved areas, central city areas, rural areas, and minority borrowers (12 U.S.C. 1709(w)).

⁴ See 12 U.S.C. 1708(a)(3) and (6).

Some studies show that properly structured and delivered housing counseling and education provides a significant benefit to consumers and investors of residential mortgages.⁵ Several major studies have recently noted a correlation between counseled first-time homebuyers and reductions in serious delinquencies by up to 30% compared to borrowers with similar credit profiles who are not counseled.⁶ HUD-approved housing counseling agencies reach consumers who are lower income and more likely to be racial and ethnic minorities.⁷ Studies estimate that housing counseling saves lenders and investors approximately \$1,000 per counseled loan.⁸ While HUD expects positive results from this initiative, actual outcomes can only be determined after pilot implementation.

The HAWK Pilot is consumer-driven, designed to expand the benefits of housing counseling not only to consumers but also to lenders, investors and the FHA Mutual Mortgage Insurance Fund. “HAWK Homebuyers” – those described below who take the initiative to complete a series of housing counseling and education elements and meet payment requirements on their FHA-insured mortgages – will receive substantial reductions in the pricing of the upfront

⁵ See research summary available at

<http://portal.hud.gov/hudportal/documents/huddoc?id=counselingworks060412.pdf>.

⁶ See for example: Mayer, Neil S. and Kenneth Temkin. (2013). Pre-Contract Counseling Impacts on Mortgage Performance: Empirical Analysis of NeighborWorks® America’s Experience. Albany, CA: Neil Mayer & Associates; Agarwal, Sumit, Gene Amromin, Itzhak Ben-David, Souphala Chomsisengphet, and Douglas D. Evanoff. 2010. “Learning to Cope: Voluntary Financial Education and Loan Performance during a Housing Crisis,” American Economic Review: Papers & Proceedings 100: 495-500, May. See also Hirad, Abdighani, and Peter M. Zorn, Joint Center for Housing Studies, Harvard University, Cambridge, MA. “A little Knowledge Is a Good Thing: Empirical Evidence of the Effectiveness of Pre-Contract Homeownership Counseling.” Low-Income Homeownership Working Paper Series LIHO-01.4 (May 22, 2001); Gabriela Avila et. Al., The Benefits of Pre-contract Homeownership Counseling (working paper) (April 12, 2013), http://www.freddiemac.com/news/blog/pdf/benefits_of_pre_purchase.pdf (updating the 2001 findings on benefits of homeownership); Michael J. Collins and Collin O’Rourke, Research Institute of for Housing America & Mortgage Bankers Association, “Homeownership Education and Counseling: Do We Know What Works?” (April 26, 2011) http://www.housingamerica.org/RIHA/Publications/76378_10544_Research_RIHA_Collins_Report.pdf. Additional smaller studies find benefits from interventions after the loan is closed for first time homebuyers. See J. Michael Collins et al., “Effects of Monitoring on Mortgage Delinquency: Evidence from a Randomized Field Study” (working paper) (2013), <http://www.fdic.gov/news/conferences/2013ResearchConf/Papers/Moulton.pdf>.

⁷ Jennifer Turnham & Anna Jefferson, “Prepurchase Housing Counseling Outcome Study: Research Brief (May 2013), http://www.huduser.org/publications/pdf/pre_purchase_counseling.pdf. HUD housing counseling reporting data shows similar results. See http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/hcc/ohcqprt.

⁸ See Avila supra note 6.

and annual FHA mortgage insurance on their loan. Housing counseling and education for the HAWK pilot will occur at the points in time that have been determined most useful to first-time homebuyers. These points in time are: before the home purchase contract is signed, before the loan closes, and during the first year of homeownership. Housing counseling and education will be paid by the parties who benefit from the counseling. These parties include FHA-insured borrowers, consumers in general, originators, and servicers, through improved loan performance. Additional sources of funding for housing counseling and education will be encouraged and implemented during the pilot.

The HAWK Pilot is proposed to be a four-year pilot and the maximum number of FHA-insured loans under the pilot will be limited based upon the size and scope of premium reductions given to borrowers. The pilot will be implemented in two phases. Phase One constitutes a start-up period where participation will be limited to a small number of borrowers working with FHA-approved lenders, servicers, and housing counseling agencies selected by HUD in order to test the systems and operations required for the pilot. During Phase One, HUD will assess the sufficiency of communication, operations, systems and coordination of pilot processes. Phase Two will expand the participation opportunities to all first-time homebuyers using FHA-insured financing up to a capped number of loans in each of the four years. All FHA-approved mortgagees and servicers and all HUD-approved housing counseling agencies whose work plan permits pre-contract housing counseling will be eligible to participate in Phase Two of the pilot.

Implementation of Phase Two will be announced in a subsequent notice issued during the first year of the pilot. Changes made by HUD to the pilot will be announced through subsequent notices. HUD will evaluate the HAWK Pilot to assess the results of the pilot in terms of

consumer behavior, consumer outcomes, lender behavior, loan outcomes, claim results, and other measures.

In addition to describing the pilot, this notice also advises of HUD's intent to select housing counseling, lender and servicer participants for Phase One in accordance with the selection criteria and process described herein. Finally, this notice solicits comments and suggestions on the following topics:

- Marketing the pilot to real estate professionals and consumers;
- How to coordinate or leverage the pilot with other, non-FHA benefits for HAWK homebuyers such as local down payment assistance programs or mortgage products with reduced credit overlays;
- The content, duration and timing of housing counseling and education;
- Paying for housing counseling and education;
- Sufficiency of the pilot incentives to attract homebuyers to obtain housing counseling services;
- Ways to mitigate fraud and risk in the pilot; and
- Program coordination, operations and systems requirements.

II. HAWK for New Homebuyers Consumer Obligations and Benefits

A. Initial Responsibilities and Benefits of the Program

The HAWK pilot will provide incentives to eligible first-time homebuyers who participate in housing counseling and education as described in this notice.⁹ HUD may adjust the

⁹ Prospective homebuyers who are enrolled in the HUD Pre-Purchase Homeownership Counseling Demonstration and Impact Evaluation ("Demonstration"), also known as the "HUD First-Time Homebuyer Study", will not participate in the standard HAWK program. See http://www.huduser.org/portal/hud_firsttime_hmbyr_study.html. However, participants will be eligible to participate in an alternative program and are eligible to receive the HAWK mortgage insurance premium incentives. See participant eligibility Section II.B.1.

criteria for housing counseling and education, program eligibility requirements or the amount of the mortgage insurance premium (MIP) incentives at any time by subsequent notice. Although the exact amount of the incentives and housing counseling and education may change, for the initial year of the pilot, HUD expects that homebuyers who complete pre-contract and pre-closing housing counseling and education prior to the contract of sale of the home (pre-contract) and prior to the loan closing (pre-closing) will receive a one-time 50 basis points reduction in the upfront MIP and a permanent reduction of 10 basis points on the annual MIP at loan closing. After the homebuyer completes post-closing housing counseling and avoids any incidence of a 90-day delinquency on the mortgage payments during the first 18 months post-closing, the homebuyer will receive an additional permanent reduction of 15 basis points on the annual MIP beginning on the second anniversary from the beginning amortization date (the 25th month). The period between the completion of the borrower's obligation under the HAWK Pilot and the effective date of the permanent reduction is a processing period for the servicer and FHA. HUD reserves the right during the course of the pilot to change the timing, content and standards for housing counseling and education, and the amount and timing of the upfront and annual MIP incentives. Such changes will be announced in a notice prior to implementation.

B. Eligibility

1. Eligible Borrowers. Borrower participants are limited to first-time homebuyers¹⁰ who qualify for FHA-mortgage insurance. Borrowers who meet those requirements and are participants in HUD's Pre-Purchase Homeownership Counseling Demonstration and Impact

¹⁰ FHA defines a first-time homebuyer as an individual who has not been an owner in a primary residence for at least three years leading up to the purchase. See ML 2008-22, for updated FHA definitions of first-time homebuyer.

Evaluation (“Demonstration”)¹¹ will be eligible to participate in an alternative HAWK program. To preserve the integrity of the Demonstration, prevent contamination of the Demonstration’s participant pool, and provide additional data for the HAWK pilot, HUD will provide the same MIP incentives to Demonstration participants as provided to HAWK participants, but with alternative responsibilities for Demonstration participants rather than the standard HAWK program. All other borrowers participating in the pilot must complete the housing counseling and education requirements according to the standards set forth in this pilot in order to qualify for the HAWK MIP incentives.

HUD will not insure more than a certain number of mortgages under the HAWK Pilot in any single year based upon the size and scope of premium reductions given to borrowers. HUD will notify counseling agencies and lenders as the pilot cap approaches through various methods of communication including website postings and email communication.

2. Eligible Housing Counseling Agencies—Phase One. HUD will select HUD-approved counseling agencies for participation in Phase One of this pilot, in accordance with the criteria described in the Selection Criteria for Participating Housing Counseling Agencies. Borrowers participating during Phase One of the pilot must use the same HUD-approved housing counseling agency for all of the housing counseling and education received during Phase One in order to qualify for the HAWK MIP incentives. The housing counseling and education delivered

¹¹ In response to the foreclosure crisis, the subsequent tightening of lender underwriting standards, and the desire to mitigate borrower risk, HUD implemented the Pre-Purchase Homeownership Counseling Demonstration and Impact Evaluation (“Demonstration”) to measure to what extent housing counseling for potential homebuyers with mid-range credit scores and lower incomes can mitigate that risk. HUD is working with a contractor, three national lenders, and three national pre-purchase counseling intermediaries to design a randomized experiment using a sample of 6,000 prospective low- to moderate- and middle-income first-time homebuyers across 28 U.S. cities. The demonstration will test the effectiveness and impact of two types of pre-purchase homeownership counseling on mortgage preparedness, homebuyer outcomes, and loan performance. Information on Demonstration participants is found in the Evaluation section of this notice.

to the borrower during Phase One of the pilot will be valid for Phase Two in the event that Phase One is complete before the borrower has finished all of the HAWK requirements.

3. Eligible Counseling Agencies—Phase Two. Any HUD-approved housing counseling agency, including branches, affiliates and subgrantees of approved housing counseling agencies, whose approved work plan includes pre-purchase housing counseling and education, is eligible to provide housing counseling and education under this program. The list of HUD-approved housing counseling agencies that offer pre-purchase housing counseling and education is available at www.hud.gov/findacounselor or 800-569-4287. Participation by HUD-approved housing counseling agencies in the HAWK Pilot is voluntary. Housing counseling agencies that wish to participate in the HAWK Pilot must be registered in the Federal Housing Administration's Connection (FHAC) system and be qualified to issue certificates from FHAC evidencing the completion of housing counseling and education as described in this notice. HUD will seek to identify and publish a list of HAWK-participating housing counseling agencies periodically.

4. Eligible lenders—Phase One. HUD will select FHA-approved lenders and servicers for participation in Phase One of this pilot in accordance with the criteria described in the Selection Criteria for Participating Lenders and Servicers. Borrowers in Phase One must use an FHA-approved Phase One lender to access the HAWK mortgage incentives.

5. Eligible lenders—Phase Two. Any FHA-approved lender that originates home purchase mortgages is eligible to participate in the HAWK Pilot. Participation is voluntary. HUD will seek to identify and publish a list of HAWK-participating lenders periodically.

C. Housing Counseling and Education Basic Requirements

1. Definitions. HUD defines housing counseling to be counseling-to-client assistance that addresses unique financial circumstances and housing issues and focuses on overcoming unique obstacles to achieving a housing goal. 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 (including on-line education that is acceptable to the housing counseling agency issuing the certificate and meets HUD standards for education).¹²

2. General requirements. All housing counseling and education must be delivered by a HUD-approved housing counseling agency in accordance with HUD regulations, directives, handbooks, and as applicable, the requirements of the Notices of Funding Availability under which housing counseling agencies were provided grants. All housing counseling and education must comply with National Industry Standards¹³ for housing counseling and education, including but not limited to requirements to discuss options and alternatives to help the client meet housing goals, disclose financial relationships between the housing counseling agency and financial institutions, list all fees at the time of intake, and obtain authorization from the consumer to share information with third parties. In addition to these basic program standards, minimum duration and content standards are described below for each housing counseling and education element of the HAWK Pilot. The time-in requirements for education and counseling and content standards in this notice were developed after consultation with industry experts and align with the education and counseling requirements of successful programs. Housing counseling agencies have the flexibility to provide the level of services that they think appropriate to meet the needs of the consumer or potential borrower and may set housing counseling and education standards

¹² See HUD Handbook 7610.1 rev 5, Section 1.4 (B) and (G).

¹³ National Industry Standards for Homeownership Education and Counseling, National Industry Standards for Homeownership and Counseling (July 2012), <http://www.homeownershipstandards.com/Uploads/NW9-12%20Standards-FINALv02112013.pdf>.

that exceed the minimum requirements outlined in this section. Housing counselors may not give legal advice and should refer consumers to appropriate experts for specific issues.

3. Completion of Required Housing Counseling Elements. All borrowers on the loan are required to complete each of the required housing counseling and education elements in order to qualify for the maximum MIP incentives under the HAWK Pilot. Demonstration participants will follow different Demonstration protocol. Housing counseling agencies must disclose at intake whether the fees for services are on a per person or per household basis. Housing counseling and education may be conducted in person, via telephone or internet, or delivered by other methods mutually agreeable to the potential borrower and the housing counseling agency, as provided in the 24 CFR 214.300 and the HUD Housing Counseling Program Handbook (7610.1 rev 5).¹⁴

4. Housing Counseling and Education Elements for the HAWK Pilot. Each borrower must complete three elements as prescribed in this notice in order to be eligible for all of the MIP incentives offered herein. The three elements are: (1) pre-contract housing counseling and education; (2) pre-closing housing counseling; and (3) post-closing housing counseling. Each element must meet at a minimum the duration and content standards described below and must be completed separately within the prescribed timeframes.

a. Pre-Contract Housing Counseling and Education Element

i. Duration. Potential borrowers are required to receive a minimum of **6 hours** of housing education and counseling to complete the pre-contract housing counseling and education element and receive a counseling certificate. The services can include a combination of individual counseling and education as long as at least **1.5 hours** of individual counseling is provided.

¹⁴ See HUD Handbook 7610.1 rev 5.

ii. Content and Delivery. Individual housing counseling or education may be utilized to cover general topics, including, but not limited to: understanding the home shopping, home buying and mortgage application process; how to evaluate mortgage products; the role of various real estate professionals, including, the real estate agent, lender, title company, appraiser and home inspector, and considerations when selecting from among possible firms or individuals to perform in these capacities; rights and responsibilities of homeowners in comparison to those of renters; how to evaluate neighborhoods and home location; how housing and transportation costs vary depending on the type and location of the home and the terms of the mortgage loan and contract of sale; federal, state and local resources to assist with homeownership affordability including down payment and closing cost assistance programs and affordable mortgage products; responsibilities of repair and maintenance; the importance of the home inspection; avoidance of mortgage delinquency and default; the costs associated with homeownership; avoiding fraud and scams; and information on discriminatory housing and mortgage lending practices and the rights and remedies available under federal, state, and local fair housing laws. Housing counseling agencies may identify acceptable online or published education materials that comply with these content and duration requirements and comply with HUD standards for education as long as they obtain evidence that the borrower has completed them to the housing counseling agency's satisfaction. Individual counseling must, at a minimum, cover the following topics: analysis of homeownership readiness; household budget development; analysis of credit and debt; affordability analysis; and an explanation of the HAWK Pilot, including MIP incentives, housing counseling requirements, and payment of counseling costs.

iii. Timing. The pre-contract housing counseling and education certificate must be issued 10 days prior to ratification of a contract to purchase a home. It is the housing counseling

agency's responsibility to ensure that education obtained from third parties (such as on-line education) meets the requirements of the pilot before it issues the pre-contract certificate of completion.

b. Pre-Closing Housing Counseling

i. Duration. Potential borrowers are required to have a minimum of **1 hour** of pre-closing individual housing counseling.

ii. Content and Delivery. At a minimum, this counseling must cover: a review of the mortgage loan information that has been provided by the lender; re-assessment of the costs of homeownership based on the particular home and loan; general expectations for the closing process in the borrowers' state including: review of the Good Faith Estimate, Truth-in-lending statement, loan disclosures, and other mortgage and closing documents; annual percentage rate (APR) and interest rate; earnest money; the appraisal; title insurance; property and casualty insurance; inspections; and escrow.

iii. Timing. The pre-closing counseling certificate must be issued no earlier than the date of the loan application and no later than three days prior to settlement.

c. Post-Closing Housing Counseling

i. Duration. Borrowers are required to have a minimum of **1 hour** of post-closing individual housing counseling.

ii. Content and delivery. The content of the housing counseling must include: the new household budget reflecting expenses of home ownership including savings for planned and unplanned expenses; how to maintain and improve the home; recognizing home repair scams; delinquency prevention and resources available to intervene in the event of a risk of delinquency or default; federal, state and local laws relating to homeownership and mortgage servicing;

maintaining good credit; taxes; reserves; home equity; refinancing and alternatives; utility costs; energy efficiency; and selling the home.

iii. Timing. The post-closing counseling certificate must be issued no earlier than 30 days following loan closing and no later than the one year anniversary from loan closing.

d. Documentation of completion. The housing counseling agency will certify that each consumer has completed the counseling and/or education requirements for each element of the HAWK pilot by issuing a counseling certificate, form HUD-9911, for that element within 24 hours of the consumer's completion of counseling. A copy of the certificate, signed by the consumer and the housing counseling agency, must be kept in the housing counseling agency file in addition to FHAC. The completion of each required element will be evidenced by a separate certificate of completion issued in FHAC and signed by an authorized representative of the HUD-approved agency that provided the housing counseling and education. Each certificate will also be signed by the borrower. The housing counseling agency representative will certify that housing counseling and education was provided in accordance with the HAWK Pilot and HUD housing counseling program rules. The certificate will document the fee charged and received for each element. Lenders will access certificates in FHAC to validate that borrowers have met the pilot requirements and to validate the fees paid by the borrower. A total of three certificates will be filed in FHAC for each borrower before the borrower(s) may receive the maximum incentives under the HAWK Pilot. Demonstration participants will be asked to identify their status in the Demonstration through self-identification/notification to HUD and their FHA-approved lender of their status as a Demonstration participant. HUD will then apply a Demonstration participant code in FHAC, if participants have met the Demonstration protocols.

D. Borrower FHA Mortgage Insurance Incentives

First-time homebuyers who have completed pre-contract and pre-closing elements as evidenced by the respective certificates will receive a reduction in the FHA upfront MIP of 50 basis points and a permanent reduction of 10 basis points on the annual MIP.

First-time homebuyers who have completed post-closing housing counseling and education as evidenced by the certificate and who have made 18 months of mortgage payments with no instances of 90-day delinquencies will receive an additional permanent reduction in the FHA annual MIP of 15 basis points beginning with the 25th month from the beginning amortization date. Any delinquencies caused by or as a result of a transfer of servicing will not be counted as a delinquency for purposes of loan repayment performance. The period between the completion of the borrower's obligation under the HAWK Pilot and the effective date of the permanent reduction is a processing period for the servicer and FHA. The borrower will continue to pay the full amount owed on the mortgage and note until notified that the permanent reduction will take effect.

E. Consumer Benefits from the HAWK for New Homebuyers Pilot

1. Benefits from Housing Counseling and Education. HAWK participants will benefit from practical skills and acquired knowledge gained from housing counseling and education, whether or not they choose to purchase a home and whether or not they choose an FHA-insured mortgage loan. HAWK participants will receive education and customized housing counseling according to HUD standards, described in Section II.C.4, above including but not limited to a customized budget, review of income, expenses, use of credit and debt, the benefits and responsibilities of homeownership versus renting, and an analysis of home affordability for their situation. HAWK participants will also obtain information on how to shop for a home, opportunities for down payment and closing cost assistance, how to compare mortgage products,

recognize scams, understand their rights with respect to fair housing and fair lending, and know what to look for when selecting professionals involved in buying a home (e.g., the real estate agent, the financial institution, the home inspector). These HAWK participants may choose to proceed to home purchase or not. HUD will work with the real estate industry to identify products and services that may be targeted to HAWK participants in recognition of their commitment to becoming knowledgeable in these areas.

Some HAWK participants will choose to proceed to homeownership. Those who do will learn through the housing counseling process a basic understanding of mortgage and closing documents; a reassessment of the budget based on the actual costs of the home and the loan; strategies to plan for costs associated with homeownership; home maintenance; and various forms of insurance. Under existing HUD rules, housing counselors are required to avoid steering clients to any particular provider or service, so the HAWK participant may choose a mortgage other than an FHA-insured loan. HUD recognizes that real estate professionals may develop products tailored for HAWK consumers and that consumers are under no obligation to choose an FHA loan or any other product. Post-closing housing counseling provides homeowners with information about saving for maintenance and repairs; maintaining good credit; recognizing home repair scams; energy efficiency; property taxes; the importance of communicating with the servicer; and laws governing mortgage servicing. Post-closing housing counseling will also provide information and resources in the event the borrower experiences difficulty paying the mortgage.

2. Benefits for FHA-Insured Mortgage Borrowers. HAWK Homebuyers who participate in the pilot and select an FHA-insured loan will receive monetary savings from MIP reductions. While the actual amount in savings depends on several factors, including the homebuyer's loan

amount, whether the upfront MIP is financed, the interest rate, and the decision to refinance out of the FHA portfolio in the future, homebuyer participation in this initiative will result in a savings. Those homebuyers who successfully fulfill all requirements for a reduction in the upfront MIP and permanent annual MIP will have the most monetary savings. They will benefit from a 50 basis points reduction in the upfront MIP and a total permanent reduction of 25 basis points in the annual MIP. Homebuyers who only complete pre-contract housing counseling and education and pre-closing housing counseling will experience a savings of the 50 basis points on the upfront MIP and a permanent reduction of 10 basis points on the annual MIP. Those homebuyers who complete all three housing counseling and education sessions per the program but experience a delinquency of 90 days or more will not receive the 15 basis point reduction on the annual MIP.

F. The Cost of Housing Counseling and Education and Sources of Payment

1. Fees for Services. Housing counseling agencies incur costs to provide housing counseling and education and are permitted to charge for services under HUD rules.¹⁵ Fees must be commensurate with the level of services provided and must be reasonable and customary for the area. Housing counseling must be provided without charge to consumers who do not have an ability to pay as defined in HUD rules and regulations. The HAWK for New Homebuyers pilot will benefit many stakeholders and is designed so that those who benefit from the program will participate in paying for it. Multiple sources of funding are permitted as long as HUD and other rules and regulations are met. HUD prohibits housing counseling agencies steering clients to one particular product or settlement service; counselors must provide three referrals if they provide any referrals at all. All fees and agreements must be disclosed by the housing counseling agency

¹⁵ 24 CFR part 214.303 and 313; HUD Handbook 7610.1 rev 5.

to the consumer in advance. Fees must comply with applicable rules and regulations, including HUD and CFPB mortgage rules.¹⁶

2. Cost of Providing Housing Counseling and Education. HUD distinguishes between the cost of providing housing counseling and education services and fees charged for the provision of those services. HUD regulates fees as described in Section II.F.1 above, but HUD does not cap the cost of each HAWK element beyond existing regulatory and handbook requirements. Therefore, housing counseling agencies have the flexibility to provide the level of services and the modes of delivery that they think appropriate to meet the needs of the consumer. Consumers should shop for the best value and quality housing counseling and education program that meet their needs. HUD used the following estimates of average cost to provide the minimum services required by each HAWK element: individual counseling - \$100 per hour; education - \$150 per 4.5 hour session including the cost of materials and a credit report, if any. Housing counseling agencies should document their actual costs to provide HAWK services in accordance with HUD guidelines.

3. Reasonable Fees for Housing Counseling and Education. Housing counseling agencies may choose not to charge any fees if they have sufficient other resources. HUD deems fees of \$300 for the pre-contract element; \$100 for the pre-closing element; and \$100 for the post-closing element to be reasonable and customary for agencies providing the minimum required counseling and education for each element. Maximum fees that are permitted to be charged to consumers and lenders are described below.

4. Sources to Pay for Housing Counseling and Education. HUD believes that the parties that benefit from the HAWK Pilot should contribute to the cost of housing counseling and education, in particular the consumer, the originating lender, the servicer, HUD, and the public.

¹⁶ See, e.g., 12 CFR parts 1024 and 1026.

HUD recognizes that resources for paying for housing counseling and education are limited and has designed the HAWK Pilot to accommodate multiple sources of revenue. FHA is prohibited from using the MMIF as a source of funding for pre-contract housing counseling and education. FHA expects that the MIP reductions benefiting the borrower will offset any costs of HAWK counseling and education paid by the borrower. Housing counseling agencies who wish to subsidize the homebuyer's counseling and education costs have the option of using HUD's Housing Counseling grant for counseling and education associated with the pilot. However, grant funding from HUD is insufficient and cannot be relied upon exclusively. Therefore, payment for counseling is expected from parties who will benefit from the implementation of this pilot, including participants in housing counseling who become borrowers, FHA-approved lenders, servicers, and other government entities. HUD will work to identify other sources of funding for housing counseling and education associated with the HAWK Pilot. The payment structure below is recommended and will be considered to be "reasonable and customary" for purposes of HUD's housing counseling and education program requirements. Should other resources become available in the future, HUD will announce their availability by subsequent federal register notice. Housing counseling agencies may seek additional sources of payment for pre-closing and post-closing housing counseling and education but may not charge the borrower or the lender more than the value of the services actually provided to the borrower. Paying for counseling and education for Demonstration participants opting into the HAWK Pilot will be handled differently.

a. Pre-Contract Housing Counseling and Education Element

All borrowers on the loan are required to complete pre-contract housing counseling and education and are expected to pay a portion of the cost of the pre-contract housing counseling

and education element.¹⁷ Housing counseling agencies may cover the cost of housing counseling and education for the borrower from HUD's grant funding or other resources available to them from other government agencies, private individuals and corporations, or foundations. The cost to the housing counseling agency to provide the minimum required pre-contract housing counseling and education is estimated at \$150 for counseling and \$150 for education including (if utilized by the housing counseling agency) the cost of materials and a credit report with a credit score. Fees to the consumer in excess of these amounts must have documentation to establish that they are reasonable and customary under HUD regulations.

b. Pre-Closing and Post-Closing Housing Counseling Elements

Housing counseling agencies may elect to cover the cost of providing pre-closing and post-closing housing counseling by the HUD housing counseling grant, other government sources, foundations, or other private sources of funding that comply with existing rules and regulations relating to HUD counseling and mortgage fees. Pre-closing and post-closing housing counseling elements paid in part by borrowers and lenders are governed by the rules below.

The cost of pre-closing and post-closing housing counseling will be reimbursed at closing by the originating FHA-approved lender through a payment by the lender to the housing counseling agency at loan closing (or to the borrower at loan closing if the borrower paid for the counseling at the time it was delivered prior to loan closing). Borrowers who take housing counseling and do not close on an FHA-insured loan will not be reimbursed by the lender for pre-closing and post-closing housing counseling. Part of the lender payment will be used to pay the borrower for pre-closing housing counseling that the homebuyer completed as evidenced by

¹⁷ HUD Handbook 7610.1rev5 Chapter 7-6: If an agency chooses to charge fees, the agency must confirm 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. (4) The agency must disclose all fees that will or may be charged to the client, prior to the beginning of counseling services.

the pre-closing counseling certificate. The certificate will also serve as proof of payment for this service at loan closing in order for the borrower to receive reimbursement. The amount of the borrower's payment to the counseling agency and the subsequent lender reimbursement to the borrower at loan closing for pre-closing counseling **must be the same**, must reflect the value of the services rendered by the housing counseling agency to the borrower, and must not exceed **\$250**. The housing counseling agency may use other sources of funds in an amount greater or less than \$250 to pay for the pre-closing counseling including a payment directly from the lender to the housing counseling agency, so long as the method and amount of the payment meet applicable rules and regulations, including HUD and CFPB mortgage requirements.¹⁸

At loan closing, the originating lender must issue a voucher to the borrower in the amount of \$100 for the borrowers' post-closing housing counseling (\$150 if multiple borrowers are on the loan), which can only be redeemed by the borrower after the borrower completes the post-closing housing counseling and pays the housing counseling agency for services rendered. The cost and payment for the post-closing housing counseling will be evidenced on the post-closing counseling certificate. To redeem the voucher, the borrower is required to submit the voucher to the originating lender along with the certificate of completion of post-closing housing counseling demonstrating proof of payment for the service. The originating lender will provide the borrower with the actual amount paid for post-closing housing counseling and education **not to exceed \$100** (\$150 if multiple borrowers are on the loan). The originating lender does not have the option to provide the borrower with an amount less than what the borrower actually paid for post-closing housing counseling and education. The housing counseling agency may use other sources of funds in an amount greater or less than \$100 to pay for the post-closing counseling including a payment directly from the lender or servicer to the housing counseling agency, so

¹⁸ E.g., 12 CFR parts 1024 and 1026.

long as the method and amount of the payment meet applicable rules and regulations including HUD and CFPB mortgage requirements.¹⁹

The lender is not obligated to pay the pre-closing or post-closing fees if the borrower does not close on an FHA-insured loan. The lender is obligated to pay the post-closing fee if the borrower completes the post-closing housing counseling and closes on the FHA-insured loan even if the borrower is delinquent on the loan or does not ultimately qualify for a permanent MIP reduction. Reasonable costs incurred by housing counseling agencies associated with the HAWK pilot in excess of fees paid by other parties including the consumer and the lender are eligible for reimbursement through the HUD Housing Counseling Grant program in accordance with the grant agreement and HUD regulations.

G. Requirements of HUD-Approved Housing Counseling Agencies

Housing counseling agencies that participate in this pilot are required to be HUD-approved and must provide the content for each housing counseling and education session as described in the content of the Housing Counseling and Education Elements for the HAWK Pilot section of this notice for the duration specified. See Section II.C. Housing counseling agencies and lenders selected for Phase One of the pilot are also required to provide the consumer with a complete list of HUD-approved housing counseling agencies and FHA-approved lenders who have been selected to participate in Phase One of this pilot. The list of FHA-approved lenders and Housing Counseling Agencies participating in Phase One will be provided by HUD to Phase One participants and posted on a website. Housing counseling agencies are required to register and use FHAC. Housing counselors are required to issue the appropriate housing counseling certification, Form HUD-9911, to the homebuyer when the homebuyer completes the required

¹⁹ E.g., 12 CFR parts 1024 and 1026.

housing counseling and education. To populate FHAC with the fee charged for that service and the consumer's information and certificate number.

When the housing counseling agency uses HUD's grant funds to pay for the homebuyer's housing counseling and education, applicable grant agreement and other requirements, such as reporting and cost documentation, apply. All activity under the HAWK Pilot must be reported to HUD on Form 9902.

H. Requirements of FHA-Approved Lenders and Servicers

Lenders and servicers that elect to participate in this pilot initiative are required to be FHA-approved and follow existing FHA guidance and regulations except where that guidance is superseded in this notice. FHA-approved lenders that close FHA-insured loans under this pilot are required to pay for the borrowers' pre-closing and post-closing housing counseling costs in accordance with the Sources to Pay for Housing Counseling and Education section of this notice. The maximum lender fee covering pre-closing and post-closing housing counseling is **\$350** (\$400 if multiple borrowers are on the loan) except where lenders and housing counseling agencies have a specific written agreement for a different fee structure that complies with applicable rules and regulations, including HUD and CFPB mortgage rules. FHA-approved lenders and servicers will make adjustments to their systems to implement the MIP reduction in accordance with the guidance herein. Furthermore, servicers will submit MIP payments to HUD and report delinquencies in a timely manner as required by current guidelines.

III. Selection Criteria and Process for Phase One

A. Selection Criteria for Participating FHA-Approved Lenders and Servicers

The selection of lenders and servicers to participate in Phase One of the pilot will be based on the following non-competitive selection criteria. HUD's selection will also seek to minimize the effect of Phase One on the Demonstration.

- FHA-approved lenders who have a written agreement with one or more HUD-approved housing counseling agencies to provide pre-contract housing counseling and education.
- FHA-approved lenders that originate but do not transfer servicing. Also, FHA-approved lenders willing to participate in this pilot that do transfer servicing but are willing to do work with only one or two servicers on this pilot in order to test servicing transfer.
- FHA-approved lenders that agree to identify originators (mortgagees) they work with that are FHA-approved and work with housing counseling agencies.
- FHA-approved lenders originating the loan that agree to pay a lender fee to reimburse the homebuyers pre-closing and post-closing housing counseling and education as described in the Sources to Pay for Housing Counseling and Education section in this notice. See Section II.F.

B. Selection Criteria for Participating Housing Counseling Agencies

The selection of housing counseling agencies who participate in Phase One of the pilot will be based on the following non-competitive selection criteria. HUD seeks participating housing counseling agencies with no unresolved findings in their performance reviews and unconditional approval status. Neither the housing counseling agency nor any of its board members or principals may be debarred or subject to an investigation for debarment on the

publication date of this notice or any time prior to selection of participants. In addition, housing counseling agencies must evidence:

- Previous agreements with an FHA-approved lender(s) in a pre-purchase housing counseling initiative;
- Previous agreements and program arrangements with different types of lending institutions that finance mortgages and explain how pre-purchase housing counseling is delivered through these partnerships;
- Experience providing pre-purchase housing counseling to diverse populations and markets, identifying the experience and number of housing counselors with pre-purchase counseling experience;
- Existing relationships (at least one year) with real estate agents in different markets; and
- Adoption of national industry standards in the pre-purchase housing counseling curriculum delivered to consumers.

C. Selection Process for Participating Lenders and Servicers and Housing Counseling Agencies

FHA-approved lenders and servicers who wish to be considered for participation in Phase One must submit a letter to HUD, addressed to the Deputy Assistant Secretary of Housing Counseling, that expresses interest in participating in Phase One of the pilot and demonstrates how they satisfy the Selection Criteria for Participating FHA-Approved Lenders and Servicers. Housing counseling agencies who wish to be considered for participation in Phase One must also submit a letter to HUD, addressed to the Deputy Assistant Secretary of Housing Counseling, that expresses interest in participating in Phase One of the pilot and demonstrates how they satisfy the criteria for selection in the Selection Criteria for Participating Housing Counseling Agencies.

FHA-approved lenders and servicers and housing counseling agencies must submit the letter and documentation on the criteria to HUD by a date announced in a separate Federal Register notice. HUD will review all submissions, and submissions that do not address all the criteria will not be considered for Phase One. In addition to the criteria here, HUD selection will also ensure a balance among types of lender, counseling agencies, populations served, and service delivery in order to achieve the Phase One goal of testing systems and processes associated with the HAWK pilot. HUD will notify via letter housing counseling agencies, FHA-approved lenders and servicers selected to participate. HUD will also issue a notice announcing the housing counseling agencies and FHA-approved lenders and servicers selected for participation in Phase One.

Interested FHA-approved lenders and servicers and housing counseling agencies are invited to notify HUD of their expression of interest in participating in the pilot program, prior to the formal date of applications being announced. Expressions of interest may be sent to housing.counseling@hud.gov with the subject line reading “HAWK Pilot Phase One.”

IV. Evaluation

HUD will conduct an evaluation of the HAWK Pilot to assess the goals of improving loan performance, impact on the MMI Fund, and household and consumer outcomes. It will also include an evaluation of the pilot process, demographics and credit profile of HAWK borrowers compared to historic FHA first-time homebuyers, capacity and delivery of housing counseling, impact on lenders, and the sufficiency of MIP incentives.

Participating FHA-approved lenders, servicers, housing counseling agencies and consumers will be required to cooperate with HUD to evaluate the effectiveness of the HAWK program. HUD will use administrative data for the evaluation from FHA and other sources, as

well as data collected by housing counseling agencies and lenders under existing agreements with HUD.

HUD will evaluate the pilot program in several ways: (i) a process evaluation, (ii) comparisons of HAWK participants to other groups using administrative data, and (iii) comparison of HAWK information with information from the Demonstration.

(i) Through a multi-method approach, a process evaluation is expected to provide information about how the HAWK Pilot is being implemented. The process study is expected to use an analysis of administrative data to develop the sampling frame of counseling agencies who conduct a high volume of pre-purchase counseling. The sampling frame will include both agencies that are expected to conduct high volume of FHA HAWK for New Homebuyers counseling and those that are not. The process study is expected to include: site visits to a significant number of agencies; interviews with their staff to understand the viability of the service delivery model; how the program implementation is proceeding from the counseling agency perspective, including capacity and sustainability for housing counseling agencies; content; take-up rates; and cost of counseling provided. Counseling agency interviews are expected to occur at three stages: prior to program implementation, during the early stages, and at a later stage when HAWK for New Homebuyers is fully implemented.

The process evaluation is expected to include focus groups or surveys with FHA HAWK for New Homebuyers counselees to ascertain program implementation, viability, homebuyer decision-making, and program participation from the perspective of new homebuyers. The last component of the process evaluation is expected to include an analysis of administrative data to present descriptive statistics of the Pilot implementation and an analysis of the influence of HAWK on the pre-purchase counseling industry's overall service provision.

(ii) HUD will also compare HAWK participants to historic housing counseling participants and FHA first-time homebuyers in order to observe differences in demographics, credit profiles, risk, housing counseling participation and mortgage outcomes. HUD will use information in its FHA systems and Housing Counseling System to identify the effects of the mortgage insurance premium incentives on take-up of the counseling by comparing profiles of historic and current FHA first-time homebuyers to HAWK participants.

(iii) The pilot will be informed by the results of the Demonstration conducted by HUD's Office of Policy Development & Research. The Demonstration tests the impact of different pre-purchase housing counseling modalities on mortgage preparedness, homebuyer outcomes, and loan performance. In order to implement the Demonstration successfully, the research team offered free counseling and incentive payments to Demonstration participants to encourage participation and completion of milestones throughout the Demonstration, which indirectly makes the Demonstration a test of the combination of free counseling and incentive payments. (Note that these are cash incentive payments staged to coincide with the completion of different Demonstration protocols.) Demonstration participants are randomly assigned into three groups; (1) a treatment group of participants who receive online education and telephone counseling, (2) a treatment group of participants who receive in-person education and in-person counseling, and (3) a control group of participants who are not provided any counseling services.

Because HAWK will be implemented in the middle of the Demonstration's enrollment period, the Demonstration will also assess the impact of different types of counseling with and without HAWK incentives. While the HAWK pilot is not the focus of the Demonstration, it will be possible to do an analysis of homebuyer outcomes and loan performance for Demonstration participants in both treatment groups—providing valuable data for the HAWK pilot to compare.

To provide the valuable Demonstration data to the HAWK pilot and to protect the Demonstration from contamination, attrition, and the potential for dissatisfied borrowers by excluding them from the HAWK incentives, HUD will offer the same HAWK MIP incentives to Demonstration participants who select an FHA-insured loan. To be eligible for the same HAWK MIP incentives, Demonstration participants will be required to meet alternative responsibilities rather than the standard HAWK program. Specifically, Demonstration participants will follow the Demonstration protocols (counseling treatment or no treatment). Demonstration participants randomly assigned to either of the two treatment groups must complete the treatment protocol in order to be eligible for the HAWK MIP incentives. Demonstration participants will be asked to identify their status in the Demonstration through self-identification/notification to HUD and their FHA-approved lender of their status as a Demonstration participant. HUD will then apply a Demonstration participant code in FHAC.

V. Marketing, Outreach and Capacity Building Plan

Marketing, outreach and building the capacity of participants implementing the pilot will play an important role in the success of the pilot. In the past, HUD has used conference calls, written communications, the Internet, question and answer sessions and roundtables to expand operations and communicate guidance to its partners. HUD expects to augment these efforts with additional training and capacity building toolkits, especially in the areas of revenues for housing counseling, post-purchase housing counseling content, and marketing the program by real estate professionals. With this notice, HUD solicits comments and suggestions on the methods HUD should use to promote marketing, outreach and capacity building.

VI. Environmental Review

This notice does not direct, provide for assistance or loans and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Date: May 9, 2014

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Carol J. Galante,
Assistant Secretary for
Housing- Federal Housing Commissioner

[FR-5786-N-01]