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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. Subsection 106(a) - Housing and Urban Development Act of 1968. The Department's primary authority to provide housing counseling services is found in subsection 106(a) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x). 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) 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. Home Equity Conversion Mortgages (HECM) Housing Counseling. Section 255(d)(2)(B) of the National Housing Act (12 USC 1715z-20(d)(2)(B)) provides that to be eligible for insurance, a HECM must be executed by a mortgagor who received "adequate counseling by a third party (other than the lender)." Subsection 255(f) establishes that the Department shall provide, or cause to be provided by entities other than the lender, housing counseling for HECM mortgagors. 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) are satisfied. Pursuant to subsection 255(f), HECM housing counseling must include certain topics, which are also described in the HECM Handbook 4235.1, this handbook, and any subsequent mortgagee letters issued regarding HECM counseling.

C. 24 CFR 214. This part 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.

D. 24 CFR Part 206. This part implements the Home Equity Conversion Mortgage Insurance program authorized by Section 255 of the National Housing Act. This section was amended by the FHA Modernization Act, Title I of Division B of the Housing and Economic Recovery Act of 2008. Section 2122 of this act amended Section 255 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.

E. Other Requirements. In addition to the requirements of 24 CFR 214, the Housing Counseling Program is subject to other applicable federal requirements including but not limited to the nondiscrimination and equal opportunity requirements at 24 CFR 5.105.

1-2 Program Description. This program supports the delivery of a wide variety of housing counseling services to homebuyers, homeowners, low- to moderate-income renters and the homeless. The primary objective of the program is to educate families and individuals in order to help them make smart decisions regarding improving their housing situation and meeting the responsibilities of tenancy and homeownership. 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 achievement of HUD's mission. The Program's far-reaching effects support numerous departmental programs, including Federal Housing Administration (FHA) single family housing programs.

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 Part 214 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 24 CFR Part 214. Additionally, participants must comply with this handbook, and other applicable governing documents, including mortgagee letters, and if applicable, grant agreements and OMB regulations governing federal grant recipients.

1-4 Definitions.

A. Action plan. This 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 problem(s).

B. Affiliate. An affiliate is defined as a nonprofit organization participating in the HUD-related Housing Counseling program of a regional or national intermediary, or State Housing Finance Agency. The affiliate organization is incorporated separately from the regional or national 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. HUD defines a branch office as an organizational and subordinate unit of a local housing counseling agency, multi-state organization, regional or national 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.

D. Client Management System (CMS). A client management system is an online system that automates some of the counseling process, including intake, file creation, and 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, for example to 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. Counseling. Counseling is described as counselor-to-client assistance that addresses unique financial circumstances and housing issues, and focuses on overcoming specific obstacles to achieving a housing goal such as repairing credit, addressing a rental dispute, purchasing a home, locating cash for a down payment, raising awareness about critical housing topics such as predatory lending practices, fair lending and fair housing requirements, finding units accessible to persons with disabilities, avoiding foreclosure, or resolving a financial crisis. Except for reverse mortgage counseling, all counseling will involve the creation of an action plan.

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; (6) identifying and reporting predatory lending practices; (7) rights for persons with disabilities; (8) and the importance of good credit. Special Note: The educational topic of "Fair Housing" may include the promotion and protection of civil rights as they relate to ensuring equal opportunity housing. Such educational sessions may include topics such as identifying and reporting discriminatory policies, procedures practices, fair lending, Section 504 of the Rehabilitation Act, and predatory lending.

H. Government Technical Monitor (GTM). The GTM is a HUD staff person that monitors the grant activities of grantees as deemed necessary by the GTR. The GTM is responsible to the GTR.

I. Government Technical Representative (GTR). The GTR is a HUD staff person that oversees and monitors an agency's housing counseling grant agreement.

J. Grant Agreement. The grant agreement is a legal instrument that outlines the terms and conditions that an agency must comply with when it receives a HUD Housing Counseling Grant award. The grantee and the HUD Grant Officer or authorized designee signs the agreement.

K. Grantee. 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 this application.

L. Grant Officer (GO). The GO is the HUD official who is designated authority to award and administer grants.

M. Housing Counseling System (HCS). The HCS is a web-based 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 uses the HCS to manage the housing counseling program, including the scoring of grant applications and calculating of grant amounts. The system is accessed through the Housing Counseling webpage on HUD's website at www.hud.gov.

N. Housing Counseling Work Plan. This is a participating agency's 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) the type of housing counseling services offered; (4) fee structure, if applicable; (5) the geographic service area to be served; and (6) the anticipated results (outcomes) to be achieved within the period of approval. When the plan is changed or amended, the agency must notify and provide a copy to HUD. 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 Skype technology, video cameras and the internet.

An Intermediary's, a State Housing Finance Agency's or a multi-state organization's plan includes similar information for the network of affiliated agencies or branches. HUD must approve the any amended plan prior to implementation.

O. Housing Counselor. A housing counselor is a professional who provides advice and guidance to individuals and households in order to assist them in improving their housing situation, and meeting the responsibilities of tenancy and homeownership.

P. Housing Goal. A housing goal is a realistic short- or long-term objective set by the client, with advice from a housing counselor.

Q. HUD-Approved Housing Counseling Agencies. 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 Handbook and 24 CFR

214, to provide housing counseling services to clients directly, or through their affiliates or branches, and which meet the requirements set forth in this part.

R. 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.

S. 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-Atlanta, 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.

T. Local Housing Counseling Agency (LHCA). A local housing counseling agency directly provides housing counseling services. A local housing counseling agency may have a main office, and one or more branch offices, in no more than two contiguous states.

U. 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 what to do if you think you've been discriminated against (i.e. how to file a compliant) and the availability of housing counseling and other forms of assistance. Marketing and outreach includes distributing materials, presenting at community events, conducting informational campaigns such as public service announcements (PSAs), advertisements, or other forms of media campaigns, and advocating with lenders and other industry partners.

V. Multi-State Organization (MSO). A multi-state organization directly provides housing counseling services through a main office and branches in two or more states.

W. Notice of Funding Availability (NOFA). The NOFA is HUD's funding opportunity announcement that is published in the Federal Register 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

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

Y. Person in a Position of Trust. This person 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.

Z. Predatory Lending. The term 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.

AA. 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.

BB. 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.

CC. 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.

1-5 HUD Program Responsibilities.

A. The Assistant Secretary for Housing - Federal Housing Commissioner is the HUD official responsible for administering the Housing Counseling Program. The Assistant Secretary has designated the Deputy Assistant Secretary for Single Family Housing to carry out the program.

B. The Office of the Deputy Assistant Secretary for Single Family Housing administers the program through the Program Support Division.

C. Program Support Division staff at HUD Headquarters, HUD Homeownership Centers and field offices administer the Housing Counseling program. These offices evaluate approval and 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. Contact information for HUD Headquarters and the HUD Homeownership Centers is listed in Appendix 1.

D. Communication with Participating Agencies. HUD communicates Housing Counseling and other single family program information principally through email and Internet postings.

1. HCS Listserv. 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, NOFA publication and training notices.

2. FHA Homeownership Listserv. HUD may sponsor other automated email lists, for example the FHA Homeownership Listserv, through which subscribers receive emails regarding FHA single family programs, such as newly issued mortgagee letters and events and training announcements. HUD strongly recommends all participating agencies sign up for email notifications through this and other available email lists at www.hud.gov/counselors/.

3. Housing Counseling Homepage. This webpage provides relevant information for housing counselors including Housing Counseling and HECM program information, access to HCS, how to subscribe to the FHA Homeownership Listserv, and training opportunities. Appendix 3 lists the web address for this homepage.

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 214 and this Handbook chapter, and upon completing and submitting all of the required documentation for application outlined in HUD-Form 9900.

The approval of a counseling agency does not create or imply a warranty or endorsement by HUD of the listed agency, or their employees, including counselors, to a prospective client or to any other organization or individual. Nor does it represent a warranty of any 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 applications from eligible private or public organizations (including grassroots, faith-based and other community-based organizations) such as nonprofit, state, local or tribal government entities or public housing authorities that meet the criteria outlined below in Paragraph 2-2.

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. The Department's rule at 24 CFR § 5.109 sets 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 HUD's 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.

However, 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, to the HUD Homeownership Center that has jurisdiction over their state (see Appendix 1).

D. Branches and Affiliates. HUD Program affiliates of HUD-approved intermediaries or SHFAs 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.

E. Funding. Discretionary grant funds appropriated by Congress to HUD to support the delivery of housing counseling services and training. HUD awards these funds on a competitive basis to eligible organizations that participate in the Housing Counseling Program. 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 submitted a proposal in response to the Notice of Funding Availability which outlines the application criteria and along with applicable federal and HUD policies and regulations. Agencies may receive housing counseling funds through a direct grant award or they may receive funding as a participating sub-recipient. The Housing Counseling Program also awards competitive grants to organizations to provide training for counselors employed by HUD –Approved Housing Counseling agencies.

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 grants requirements.

2-2 Approval Criteria. The following criteria for approval apply to all agencies, including: all local housing counseling agencies, MSOs, 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. 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 must submit proof of their authorization to provide housing counseling services.

B. Experience. An agency must have administered a housing counseling program for at least one year in accordance with HUD requirements. An intermediary must have operated in an intermediary capacity 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). If you (a) Have been charged with an ongoing systemic violation of the Fair Housing Act; or (b) Are a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (c) Have received a letter of findings identifying ongoing systemic noncompliance under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act 1973, or section 109 of the Housing and Community Development Act 1974, and the charge, lawsuit, or letter of findings referenced in subparagraphs (a), (b) or (c) above has not been resolved to HUD's satisfaction, then you are ineligible. HUD will determine if actions to resolve the matter include, but are not limited to: (i) A voluntary compliance agreement signed by all parties in response to a letter of findings; (ii) A HUD-approved conciliation agreement signed by all parties; (iii) a consent order or consent decree; or (iv) An issuance of a judicial ruling or a HUD Administrative Law Judge's decision.

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. HUD requires the same of its funding recipients. You must affirmatively further fair housing for classes protected under the Fair Housing Act. Protected classes include race, color, national origin, religion, sex, disability and familial status. Housing counseling agencies are expected to help remedy discrimination in housing and promote fair housing rights and fair housing choice.

D. 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. These offenses include criminal offenses that can be prosecuted at a local, state, or federal level;

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, reviewed and annual activity data for the agency can be verified, reported, and analyzed.

Client files, both electronic and paper must be kept confidential in accordance with § 214.315. This system must meet the requirements of 24 CFR 1.6, 24 CFR 84.21, 24 CFR 8.55 *Compliance Information* and 24 CFR 121 and must be easily accessible to HUD for all monitoring and audit purposes (24 CFR 214.315). Participating agencies must ensure the confidentiality of each client's personal and financial information, both electronic and paper, including 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.

G. 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.

H. Housing Counseling Resources. The agency must have the following resources sufficient 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, and at least half the counselors must have at least six months experience in the job they will perform in the agency's housing counseling program. Evidence of staff training must be documented in agency's records. Documentation of staff training will be assessed when agencies receive performance reviews and when agencies complete applications for grant funding.

3. Language skills. The agency must have housing counselor(s) who are fluent in the language 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. 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. This guidance provides "safe harbors" for language services as well as offering distinctions between terms such as bilingual, interpretations and translations.

4. Alternative Formats. The agency must be prepared to provide vital documents and information in alternative formats for persons with disabilities 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 American with Disabilities Act (42 U.S.C. 12101 et seq.).

I. 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 Department's Consolidated Plans including an analysis of impediments to fair housing choice, 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. Appendix 2 lists applicable HUD handbooks that may be downloaded from the HUD website at www.hud.gov. As a condition of approval or participation, HUD may require training, for example training regarding FHA products and programs.

J. 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:

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. HUD will review and approve or disapproval the request. 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 eligibility standards, and 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 the parties.

    b. Agreements must be sufficiently detailed to establish accountability and allow for adequate monitoring in accordance with 24 CFR part 84 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations) and 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments) as applicable and the OMB Circulars described therein.

3. With prior approval from HUD, and at HUD's discretion, intermediary organizations may operate a 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.

K. Community Resources. The housing counseling agency must demonstrate that it has established working relationships with private and public 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.

L. State and Local Requirements. In accordance with 24 CFR Part 214.103 (k) an agency and its branches and affiliates must meet all state and local requirements for its operation.

M. 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:

a. 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.

b. 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 but these their services are critical to the community in which they are located.

c. Provide privacy for in-person counseling and confidentiality of client records;

d. 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.).

N. Housing Counseling Work Plan. The agency must submit a detailed yet concise housing counseling plan consistent with the requirements outlined in 24 CFR 214 and Chapter 3, Paragraph 3-2. The agency must also describe anticipated results (outcomes) to be achieved within the period of initial approval. Intermediaries and SHFAs must require that affiliates and branches participating in their HUD housing counseling program maintain a work plan.

O. 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 for more information on conflict of interest and disclosure requirements.

2-3 Application Process. For initial approval, all applicants must complete form HUD-9900 (available at http://www.hud.gov) and submit the application and all supporting documentation to the appropriate HUD office that has jurisdiction over the agency. These offices can also be contacted for technical assistance. The HUD offices are listed in Appendix 1. Agencies with branches or affiliates for which the parent entity exercises control over the quality and type of housing counseling services rendered, must submit a single application for approval to include all HUD-program offices.

The HUD office should send a written acknowledgement to the agency within ten days from the date of receipt. This is to assure the agency that HUD received the application package and the appropriate HUD staff is reviewing it. The HUD office should review the application package within 60 days of receipt.

A. Notice of Approval. If the application package meets all requirements outlined in §214.103, 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 Paragraph 2-5 for more information.

B. 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 period.

C. Disapproval. If, after responding to a deficiency letter, an application package does not meet all requirements in §214.103 and Paragraph 2-2, 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 §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.

D. HUD Non-Response. If the agency does not receive an acknowledgment of its application from the HUD office within 30 days of submission, the agency should communicate with the HUD office to determine whether it received the application. If the agency does not receive from the HUD office the approval, deficiency or disapproval letter within 90 days of submission of the application, the agency may contact the Program Support Division staff at the HUD office that has jurisdiction over the agency to request prompt resolution of the application.

2-4 On-site Conference.

Before the HUD office 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 if it lacks travel funds or available staff. In such an event, either HUD may require a face-to-face conference at the HUD office, or the agency may request a 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, such as having the appropriate space available to provide housing counseling services and adequate signage to identify the agency to the public.

During the on-site conference, face-to-face conference at the HUD office, 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 NOFA 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, Section L.;

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. The HUD office will send the approval letter to the agency's main office.

A. Upon receipt of the approval letter, the agency must sign and date the "Approval Accepted" lines on the letter, and return it to the HUD office within 10 business days.

B. Certificate of Approval. Upon receipt of the signed approval letter from the agency, HUD will issue a "Certificate of Approval" to the approved agency. The certificate will show the period of approval.

C. Appearance on list of HUD-approved housing counseling agencies. 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 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 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 unique services requested by the client, is unable to communicate effectively with the client, does not have sufficient resources to serve the client, or has any another appropriate reason for not being able to service the client, the agency must refer the client to another participating agency that can meet the needs of the client, preferably one in the area. If there is not a participating agency available, the agency must make a reasonable effort to refer the client to another organization or resource that can help them meet their needs. Resources permitting, agencies may not refuse to provide counseling to a potential client because the client lacks the ability to pay for services.

2-6 Re-approval. At the end of the approval period, and upon completion of a successful performance review, HUD will re-approve an agency. No application is required for re-

approval. The performance review of a HUD-approved housing counseling agency is described in Chapter 6.

CHAPTER 3. DELIVERY OF HOUSING COUNSELING SERVICES

3-1 Basic Requirements. This section outlines the basic requirements as provided under 24 CFR 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 requirements could result in consequences which may include, but are not limited to, termination of agency's HUD approval or participating status, 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. Counseling. Participating agencies must offer and be able to provide counseling, as opposed to just education, 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.

B. Education. All participating agencies that offer group, educational sessions must also offer individual counseling on the same topics covered in the group, educational sessions.

C. Setting/Format. Counseling services may take place in the office of the housing counseling agency, at an alternate location (for example a client's home), or through an alternative format, as long as the alternative format or location is mutually acceptable to the housing counselor and client. Alternative formats can include telephonic counseling or remote counseling systems designed using Skype technology, video cameras and the internet. Skype technology systems can also be used to deliver group education workshops and sessions. However, all participating agencies that provide services directly must offer and provide in-person counseling to clients that prefer this format.

D. Work Plan. A participating agency must be in compliance with its HUD approved work plan as described in Paragraph 3-2 below. A participating agency shall deliver housing counseling services consistent with the agency's housing counseling work plan.

E. 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. For example, agencies may only offer telephone counseling to clients in their approved geographic area. With HUD's approval, or at HUD's discretion, geographic scope can be expanded or reduced.

F. 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:

a. Title VI of the Civil Rights Act of 1964,
b. Title VIII of the Civil Rights Act of 1968,
c. Executive Order 11063,

d. Section 504 of the Rehabilitation Act of 1973,
e. The Age Discrimination Act of 1975
f. Americans with Disabilities
g. Title IX of the Education Amendments of 1972.

These requirement are designed to prevent discrimination in the delivery of benefits and services because of race, color, religion (creed), sex, national origin, age familial status or disability.

G. Fair Housing. In accordance with Section 808 (e) (5) of the Fair Housing Act, participating agencies must affirmatively further fair housing for classes protected under the Fair Housing Act (Protected classes include race, color, national origin, religion, sex, disability, and familial status.) Participating housing counseling agencies are expected to help remedy discrimination in housing and promote fair housing rights and fair housing choice.

H. 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. The office 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).

I. 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.

J. Limited English Proficiency (LEP). The Agency must make reasonable efforts to provide language assistance to persons who are 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 or an updated version, to determine the extent of the assistance the Agency should offer based on its own circumstances.

K. 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 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 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 unique services requested by the client, is unable to communicate effectively with the client or does not have sufficient resources, 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 them meet their needs.

3-2 Housing Counseling Work Plan. The housing counseling work plan is a detailed yet concise housing counseling plan that explains the needs and problems of the target population, how the agency will address one or more of these needs and problems with its available resources, the type of housing counseling services offered, fee structure if applicable, and specifies the geographic service area.

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.

2. 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. An agency's housing counseling work plan must meet the basic requirements for counseling services described in § 214.300 and Paragraph 3-1 based on the approved topics outlined in Paragraph 3-6. Group education and marketing and outreach strategies should also be identified in the agency's housing counseling work plan.

3. Alternative Settings/Format. An agency's housing counseling work plan must also address, if appropriate, alternative settings or formats for the provision of housing counseling services, for cases in which the agency and the client mutually agree on the need for an alternative setting or alternative format, and cases in which the agency's facilities are not accessible. Alternative formats can include telephonic counseling or remote counseling systems designed using Skype technology, video cameras and the internet. Skype technology systems can also be used to deliver group education workshops and sessions.

4. Follow-up. The housing counseling work plan must detail the agency's plan for follow-up communication with the client. This plan must meet the requirements outlined in 24 CFR Part 214.300 and Paragraph 3-5 (F) of this handbook.

5. Fee Structure. The housing counseling work plan must also describe the agency's fee structure, if applicable, for housing counseling and education services and how that fee structure is communicated. It must also explain how fees charged meet HUD requirements as outlined in Chapter 7 and 24 CFR Part 214, including how the agency assesses affordability and ability to pay.

6. Limited English Proficiency. The housing counseling work plan must describe how the agency serves non-English speaking or clients with limited English proficiency. 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). For assistance and information regarding LEP obligations, go to www.lep.gov.

B. Plan Modification. When a counseling work plan is changed or amended, the agency must notify and provide a copy of the updated plan to HUD prior to implementation. See Chapters 5 and 6, for more information on notifying HUD of work plan changes.

With HUD's approval, any aspect of the work plan can be amended, for example, geographic scope can be expanded or reduced. HUD may accept or reject work plan modifications proposed by the participating agency, and may require the agency to adjust the work plan as a condition of approval or participation.

HUD will evaluate a request to change geographic scope on a case-by-case basis. Approval of the request will be based on the capacity of the agency, the demand for services and other factors. HUD may place limitations or restrictions, for example allowing a participating agency to provide a particular type of counseling nationally but only to referrals from a particular source, or only through counselors participating in an affiliated network of counselors. Additionally, HUD may require specialized training or certifications prior to approving certain housing counseling services such as HECM counseling.

3-3 Client Intake. A housing counselor or administrative staff person who is trained in requirements of the Privacy Act 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. This client intake process 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 (Effective Communication and 214.103 (l) (3) participating agencies should indicate on correspondence materials disseminated to clients and prospective clients how to access information through alternative means if they have an impairment, disability, or language barrier, etc. For example, written communications may include instructions on how to contact the agency via TTY, Relay services or access translation or interpreter services. Additionally, written communication should ask clients and prospective clients whether they need assistance for mobility impairments, visual or hearing impairments or other disabilities.

3-5 Counseling Services. In order for a client to be classified as counseled under HUD's Housing Counseling program, the client must receive all of the basic services outlined in §214.300 (6)(b) and Items A – E below. A housing counselor must perform and document these activities.

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 his or her housing goal.

B. Discussion of Alternatives. Counseling must include a reasonable discussion of alternatives and options available to the client. To accomplish this, counselors may discuss specific products, features, properties or programs.

For example, this type of discussion may occur if a recipient of pre-purchase 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, they must provide at least three reasonable and comparable alternatives. Therefore, in the example provided the counselor should have given the client the opportunity to consider products from at least three different lenders.

Additionally, when discussing specific loan products or features, at least one of the alternatives discussed by the counselor must be Federal Housing Administration (FHA) products or features, the Federal government's safe and affordable options for home finance.

Counselors must not advise clients, or promote specific products, features or programs. Their role is to simply make counseling recipients aware of their options and empower them with the information they need to help them make smart choices. Any discussion of alternative options should be documented in client files.

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. 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 problem(s).

D. Financial Analysis. Every housing counseling session requires an analysis of the client's unique financial situation. This includes but is not limited to:

1. A review of the client's income, expenses, spending habits, home values and use of credit.

2. A comparative analysis of the client's spending habits to determine if the client's habits are more suitable for renting than owning.

3. The establishment of a household budget that the client can afford.

E. Referrals. If a participating agency is unable to provide a service and the agency is aware of a local, state, and federal resource that would help meet the client's needs, the agency should make referrals to such resources. Referrals made by counselors should be documented in the client file. Examples of referrals may include social service programs, energy assistance programs, fair housing agencies, legal services, etc.

F. Follow-up. Participating agencies must make a reasonable effort to have follow-up communication with the client, to assure that the client is progressing toward his or her housing goal, to modify or terminate housing counseling, and to learn and report outcomes. Client follow-up should be conducted by a qualified housing counselor. The counselor should make reasonable efforts to conduct a verbal (in person or via phone) follow-up session within the first 60 days of no client contact. If unsuccessful, after two attempts to conduct a verbal follow-up session, 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 must request that the client contact the housing counseling agency no later than 30 days from the date of the letter, to help the agency assess if additional client services are necessary to assist them in achieving their housing goals 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. Set up a confidential client file documenting the activities required by this section, and with the documentation required in Chapter 5.

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 cause/explanation of termination. Client files must not remain open indefinitely. The counselor must make reasonable efforts to conduct a verbal (in person or via phone) follow-up session within the first 60 days of no client contact. If unsuccessful, after several attempts to conduct a verbal follow-up session, the counselor should 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 must request that the client contact the housing counseling agency no later than 30 days from the date of the letter, to help the agency assess if additional client services are necessary to assist them in achieving their housing goals or if services should be terminated. If the agency does not have any client contact 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.

NOTE: An agency should not bill a client file against a HUD Housing Counseling Grant or continue to count the file as activity under the grant solely because the agency maintains the file in an open status. Actual counseling, education, preparation or follow-up activity must occur to justify billing a HUD Housing Counseling Grant. If a client file remains open over multiple reporting cycles or quarters, the initial counseling or education activity is only recorded once on the logic model, in the quarter it actually occurred. Even if follow-up occurs in the next quarter, it is still a part of the initial counseling interaction already

recorded in the previous quarter, and must not be counted again on the logic model. The agency can however, bill the grant for follow-up activity.

Termination occurs or may occur under any of these conditions:

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 locate the client;

4. The client does not follow the agreed upon action plan;

5. The client otherwise terminates housing counseling;

6. 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. The following are examples of approved housing counseling, education, and outreach topics that participating agencies may provide to, and discuss with, clients:

A. Pre-Purchase/Home Buying. This includes but is not limited to: advice regarding readiness and preparation for homeownership; Federal Housing Administration 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; and home inspection.

   This also may include guidance on: alternative sources of mortgage credit; down payment assistance; locating housing that provides universal design and visibility; how to apply for special programs available to potential homebuyers; how to purchase a home using the Section 8 Homeownership Voucher Program; and referrals to community services and regulatory agencies.

B. Resolving or Preventing Mortgage Delinquency or Default. This includes but is not limited to the consequences of default and foreclosure; loss mitigation, budgeting and credit;

restructuring debt; obtaining re-certification for mortgage subsidy; and establishing reinstatement plans. It may also include helping clients affected by predatory lending; foreclosure prevention strategies; explaining the foreclosure process; providing referrals to other sources; and assisting clients with locating alternative housing.

The earlier that the housing counselor and lender establishes contact with the client, identifies the cause of default and begins to discuss reinstatement options, the more likely it is that the default will be cured and the homeowner will be able to retain ownership. Efforts to assist the client should ideally begin as soon as the loan becomes delinquent. The housing counselor should conduct follow-up housing counseling with the client on an as-needed basis until the default is corrected or the mortgage lender completes foreclosure and the client has found alternate housing.

C. Non-Delinquency Post-Purchase, including Improving Mortgage Terms and Home Improvement. Home maintenance and financial management for homeowners, including, but not limited to: escrow funds; budgeting; refinancing; home equity; home improvement; utility costs; energy efficiency; and rights and responsibilities of home owners .

It may also include: 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.

D. Locating, Securing, or Maintaining Residence in Rental Housing. This refers to rental topics including, but not limited to: 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 providing assistance with locating alternate housing.

E. Reverse Mortgage. A reverse mortgage is a mortgage product that pays a homeowner, loan proceeds drawn from accumulated home equity and that requires no repayment until a future time. The Federal Housing Administration's reverse mortgage product is the Home Equity Conversion Mortgage. Please see additional information on HECM in chapter 4 of this handbook.

F. Homeless Assistance. This includes, but is not limited to information regarding emergency shelter; other emergency services; and transitional housing.

3-7 Fair Housing and Other Civil Rights Requirements and Guidance

A. **Nondiscrimination under 24 CFR §§ 5.105 and 214.503**
Pursuant to 24 CFR § 214.503, all participating agencies must comply with HUD's general nondiscrimination and equal opportunity requirements at 24 CFR § 5.105. For additional information on fair housing, please visit the Office of Fair Housing and Equal Opportunity on HUD's website at www.hud.gov.

B. **Promoting Fair Housing and Protecting Civil Rights**. All participating agencies must take reasonable steps to affirmatively further fair housing and to ensure that persons are not denied housing counseling services or treated differently on the basis of race, color, sex, religion, national origin, disability, or familial status:

1. **Identify Impediments to Fair Housing Choice.** Participating agencies should review the Consolidated Plan and Analysis of Impediments (AI) that cover the jurisdictions in their service area. Another activity that participating agencies may undertake to identify barriers to fair housing choice is a review of their own policies, procedures, and facilities to see if they pose barriers to particular groups receiving housing counseling services.

2. **Specify Activities to Affirmatively Further Fair Housing**. Participating agencies must address barriers to fair housing. Reasonable steps to affirmatively further fair housing can include outreach to particular population groups within the classes protected by the Fair Housing Act, especially groups previously underserved by housing counseling, real estate and housing financial services.

Participating agencies' endeavors to affirmatively further fair housing should include marketing and outreach activities. A participating agency may conduct affirmative marketing and outreach activities that 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 through internet, radio stations, flyers, newspapers, public television, message boards, and seminars that are known to be used by those populations within a market area; educating persons within settlement

agencies, faith-based communities, service providers, and other community-based organizations about fair housing and their obligations of lenders, landlords, realtors, and sellers to follow nondiscrimination laws; and marketing housing opportunities and housing related services to advocacy groups such as disability or veterans groups on the availability of housing or housing services.

In addition to marketing and outreach, reasonable steps to overcome barriers to fair housing choice may also include the delivery of particular housing counseling services or the manner in which they are delivered – for example, 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 C below.

1. **Reporting---**Participating agencies should maintain records of their activities to affirmatively further fair housing. Such records should identify the impediments to fair housing addressed by the planned activities, 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 family 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 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: default and foreclosure, rights of applicants and clients, identifying discriminatory or predatory loan terms, loss mitigation, budgeting, and credit;

3. **Home maintenance and financial management for homeowners--** including, the preservation of accessible housing features; and

4. **Rental topics**-- including, but not limited to: HUD rental and rent subsidy programs; other federal, state or local assistance; fair housing laws; housing search assistance; landlord tenant laws; lease terms; rights of applicants and clients, rent delinquency; reasonable accommodations and modifications for persons with disabilities.

D. **Responsibilities of intermediaries and sub grantees---** HUD-funded grant recipients are obligated under various laws not to discriminate in housing or services directly or indirectly based on race, color, religion, sex, 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.) 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 Section 5-13.

2. Training of staff with applicable civil rights laws and their applications. Refer to Section 3-7A.

3. Education and Outreach Activities. Refer to Section 3-7C.

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, 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 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: Title VI of the Civil Rights Act, 42 U.S.C. § 2000d et seq., (prohibits discrimination on the basis of race, color, and national origin, codified at 24 C.F.R. part 1); Section 504 of the Rehabilitation Act of 1973 (prohibits discrimination based on disability in any program or activity receiving federal financial assistance, codified at 24 C.F.R. part 8); and Executive Order 11063 (prohibits discrimination on the basis of race, color, religion, national origin and sex, codified, 24 C.F.R. part 107), 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.

Complaints filed pursuant to Title VI of the Civil Rights Act and Section 504 of the Rehabilitation Act of 1973 shall be filed within 180 days of the alleged act of discrimination, unless the time limit is extended for good cause shown. Complaints filed pursuant to Executive Order 11063 must be filed within one year of date of the alleged act of discrimination unless the time for filing is extended by the Assistant Secretary for FHEO.

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: http://www.hud.gov/offices/fheo/nov108online-complaint.cfm. Please note that the TTY numbers listed for those offices are not toll free, or call the toll free national TTY hotline at 1-800-927-9275. Please contact HUD's Office of Fair Housing and Equal Opportunity for additional information at 1-800-669-9777 or for the hearing impaired TTY 1 (800) 927-9275. A list of HUD local offices is available at http://www.hud.gov/complaints/housediscrim.cfm.

3-8 Industry Standards. HUD may require, promote or incentivize the adoption of, and implementation of, housing counseling and education standards, by participating agencies. These standards may include minimum acceptable counseling and education content and activities, training and testing. These industry standards may be developed or implemented by HUD or by other entities and endorsed by HUD. For reverse mortgage counseling, HUD requires the utilization of, and strict adherence to, the HECM protocol.

3-9 Marketing and Outreach Initiatives. Participating agencies may also conduct marketing and outreach, including, but not limited to, providing general information about housing opportunities, conducting information campaigns, and raising awareness about critical housing topics such as predatory lending and fair housing topics.

Affirmative fair housing outreach should be directed at those populations least likely to seek counseling services. 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 minorities.

3-10 Debt Management or Liquidation. HUD considers debt management service as an activity related to, but apart from, the housing counseling process. Negotiating payment plans with creditors and handling the client's money and making payment to the creditors for the client are usually done under a client-counselor contract. The contract governs the service provided by the housing counselor and the obligations of the client to the agency. Agencies that provide this service must assure HUD in writing that they comply with all state and local laws, including agency bonding, that govern these services. Fees charged for this service must meet HUD's guidelines (see Chapter 7, Paragraph 7-5). 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 an up-to-date working knowledge of HUD housing and fair housing programs including FHA Single Family mortgage programs. HUD staff will briefly assess an agency's general knowledge of HUD programs when conducting on-site performance reviews. For example, HUD staff conducting a performance review may ask the agency's staff person general questions regarding FHA products or ask questions to determine if the staff person understands how to access HUD policy memos, mortgagee letter, handbooks, etc on HUDclips. See Appendix 2 for a list of HUD handbooks.

3-12 Referrals to Community Resources. Agencies must demonstrate that they have established working relationships with private and public service agencies that could assist clients, when additional services not offered by the agency are needed. The agency's ability to make referrals to community resources will be assessed when the agency submits an application for program approval or to be considered for grant funding. Additionally, an agency's community referral network will be assessed through the review of client files and client surveys.

3-13 Discussion of For-Profit Entities. Helping clients resolve their housing problems may include discussing for-profit entities such as lenders or real estate professionals. If a client requests information 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.

In the case of lenders, the alternatives must include a discussion of FHA mortgage insurance programs and features.

Counselors must not advise clients, or promote specific for-profit entities. Their role is to simply make counseling recipients aware of their options and arm them with the information they need to help them make smart choices. Safeguards and disclosures must be used as described in Chapter 6, Paragraphs 6-1, Items F and G to avoid conflict of interest. See Chapter 4, Paragraph 4-12 for more information on discussing lenders with reverse mortgage clients.

CHAPTER 4. REVERSE MORTGAGE COUNSELING

4-1 Reverse Mortgage Counseling and Education. 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 seniors who seek to convert equity in their homes into income that can be used to pay for home improvements, medical costs, living expenses, or other expenses.

FHA insures a reverse mortgage known as a FHA Home Equity Conversion Mortgage (HECM). Specific information concerning counseling requirements for HECM borrowers appears at the end of this chapter. The first part of this chapter refers to general reverse mortgage counseling. A participating agency is defined as a HUD-approved counseling agency that employs a HECM Roster counselor and includes HECM counseling in its housing counseling work plan.

A. Group Education or Marketing and Outreach. A participating agency may provide general reverse mortgage program information to potential borrowers through group education or marketing and outreach. The agency MUST NOT use these types of activities to deal with individual client needs that require confidentiality and prudent use of private information. The agency MUST NOT issue the reverse mortgage housing counseling certificate to a person who attends only a group education or marketing and outreach session.

B. One-on-One Counseling. One-on-one reverse mortgage counseling is required to receive a HECM loan, and a HECM Counseling certificate is issued to counseling recipients as proof that the counseling occurred. Other reverse mortgage programs may also have counseling requirements. This counseling must meet the requirements of section 3-4 of this Handbook, with the exception of the creation of a written action plan, which is not required for reverse mortgage counseling. Additionally, this chapter outlines specific content and other requirements required for reverse mortgage counseling.

C. Face-to-Face Meetings. HUD recommends potential reverse mortgage borrowers, particularly HECM borrowers, meet face-to-face with a counselor and lender to discuss their unique financial circumstances and decide what options are best for them. Face-to-face counseling enables the counselor to assess whether the client understands the alternative features and reverse mortgage options and the financial implications of a reverse mortgage on his/her household. All reverse mortgage counselors must have the capacity to conduct face-to-face counseling with prospective reverse mortgage borrowers. Counselors must advise potential clients that they have a choice to have a face-to-face or counseling through another mutually agreed upon format such telephone counseling. This choice should be documented in the client's case file. Additionally, counselors may provide home visits for those clients who cannot get to the participating agency's office.

D. Reverse Mortgage Telephone Counseling. HUD recognizes that many seniors prefer telephone counseling to face-to-face counseling for a variety of reasons, including limited

mobility and health conditions. HUD allows participating agencies to provide telephone reverse mortgage counseling only if the agency has indicated that it will provide this as a service option within its HUD approved housing counseling work plan. Participating agencies must also define within its work plan the geographic area in which it will do telephonic counseling. Participating agencies may provide nationwide telephonic counseling as long as it is defined in the housing counseling work plan.

E. Counseling Requirement for Home Equity Conversion Mortgage HECM) Borrowers. Section 255(d) of the National Housing Act and the implementing FHA regulations at 24 CFR § 206.41 state that all prospective HECM borrowers must receive reverse mortgage counseling prior to obtaining a HECM. This counseling must be received from eligible counselors working for participating agencies approved to provide this statutorily required counseling.

To meet the statutory requirements for obtaining a HECM, the prospective borrower must receive one-on-one reverse mortgage counseling and be issued a HECM counseling certificate. Counselors are allowed to provide the required reverse mortgage counseling to a group of related family members if they are documented on the deed together.

F. HECM Counseling Fees. Participating agencies may charge fees for reverse mortgage counseling services to clients and related parties that are able to afford them. The fee must never exceed the actual cost of providing the service. Moreover, HUD may further limit allowable charges, for example through a Mortgagee Letter.

The reverse mortgage counseling charges may be paid in any of two ways:

(1) The HECM counseling client and related parties can pay counseling fees directly to the agency;

(2) The cost of HECM counseling can be paid out of a HECM borrower's loan proceeds. Upon agreement of both the lender and the borrower, the closing agent may assume responsibility for remitting payment to the counseling agency that performed the service.

Payment methods must be reflected in the 800 series on the HUD-1 settlement statement. Lenders (originators, servicers and funders) or other parties that sell annuities, investments, long-term care insurance or any other type of financial or insurance products are barred from providing compensation to counseling agencies.

In accordance with Section 313 of 24 CFR Part 214, participating agencies are permitted to charge fees for reverse mortgage counseling services as long as the cost does not create a financial hardship for the client. 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.

Clients must not be turned away because of an inability to pay counseling fees. Moreover, the housing counseling agency may not withhold counseling or the Certificate of HECM Counseling based on failure to pay.

Moreover, HUD expects counseling agencies to avoid unnecessary separate counseling, and to make every practical effort to counsel the borrower(s) and any related parties simultaneously.

Participating agencies must not offer discount on counseling fees based on the client's ability to pay service upfront. Clients that need to pay for counseling services out of the proceeds must not be penalized for having to do so.

4-2 Entities Eligible to Provide Reverse Mortgage Counseling. Entities or individuals providing reverse mortgage counseling must be separate from reverse mortgage lending institutions. Only entities with active HECM Roster counselors are eligible to provide reverse mortgage counseling. Agencies should see 24 CFR Part 206 for requirements for HUD's HECM Roster placement.

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

1. Be employed by a HUD approved Housing Counseling Agency or an affiliate of a HUD approved intermediary or State Housing Finance Agency;
2. Successfully passed the standardized HECM exam administered by HUD or a party selected by HUD;
3. Received training and education related to HECM within the prior two years;
4. Have access to technology that enables HUD to track the results of the counseling offered to each HECM client; and
5. Is not documented on any of the following:

    a. The General Service Administration's Suspension or Debarment List;
    b. HUD's Limited Denial of Participation List; or
    c. HUD's Credit Alert Interactive Response System

In order to remain active on the Roster, a counselor must provide proof of training or continuing education every two years and pass the HECM exam every three years. These timeframes are effective from the date the counselor gets on the Roster, i.e. the counselor must receive training or continuing education within two years of the date the counselor gets on the Roster.

An agency must also identify reverse mortgage counseling in its approved housing counseling work plan including the specific geographic areas the agency will provide reverse mortgage counseling. An agency may provide telephone counseling nationwide provided this is included in the housing counseling work plan. The agency must also agree in its housing counseling work plan to HUD's quality control measures which may include mystery shopping, performance reviews or other actions as determined by HUD.

4-3 HECM Counseling Protocol. As a condition of eligibility to provide reverse mortgage counseling, HECM Roster Counselors are also required to use the HUD's standardized HECM Protocol as guidance when providing HECM counseling. The HECM Protocol provides guidance to counselors on all the information that they must cover during a counseling session. The HECM protocol is Appendix 4 of this handbook.

4-4 Preparation for the HECM Counseling Session. HUD requires agencies to provide clients with an information packet prior to the counseling session and in enough time so the client has time to review the information and prepare questions. In cases where emergency counseling is necessary, the counselor must send the information to the client immediately after completing the counseling session. Additional guidance on this requirement is provided in the HECM protocol. Written communications should include instructions on how to contact the agency via TTY, relay or other assistive means for persons with hearing impairments. Written communications can also inform clients and prospective clients about translation or interpreter services. In addition, written communications should ask clients and prospective clients whether they need assistance for mobility impairments, visual or hearing impairments, or other disabilities.

The information packet can be sent via regular mail, priority mail, fax or email and must include:

1. *"Preparing for Your Counseling Session"- See HECM Protocol Attachment C.12*
2. Printout of loan comparisons
3. Printout of Total Annual Loan Cost (TALC) – This calculation is available on the IBIS software that counselors use to prepare loan printouts and TALC printouts.
4. Loan amortization schedule
5. The National Council on Aging (NCOA) booklet *"Use Your Home to Stay at Home – A Guide for Homeowners Who Need Help Now"*

Note: Loan printouts must be relevant to the client's situation to facilitate the counseling session.

4-5 Topics to be Covered in the HECM Counseling Session. In accordance with HECM statute and regulations National Housing Act Section 255 (f), Counselors must provide potential HECM borrowers with all the information outlined below. It is suggested that counselors confirm the client's receipt and review of the information. While clients may also receive some of the information outlined below from lenders, it is the role of counselor to explain the concepts of reverse mortgage and answer any questions the client may have. However, it is not the counselor's role to provide legal advice on any issues during the course of providing counseling.

A. Alternatives and Options. Counselor reviews information on client's other options as available and appropriate.

B. Reverse Mortgage Information. The counselor reviews basic information on reverse mortgages. The counselor may present this information within the context of the HECM program. The topics most essential to an understanding of reverse mortgages include:
   1. Rising debt, falling equity
   2. Repayment- requirements, when, how much
   3. Nonrecourse limits
   4. Leftover equity (implications for borrower and their heirs)

5. Factors that determine loan amounts and loan limits
6. Borrower obligations - especially taxes & insurance (See "Reverse Mortgage Borrower Obligations" in Appendix 4, provide client with this handout)
7. Fees and fee financing
8. Retention of title and other title issues
9. Impact on public benefits (may use National Council on Aging's www.benefitscheckup.org as reference)
10. Refinancing a reverse mortgage

C. HECM- Specific Information. The counselor should discuss key HECM program features and information, including:

1. Eligibility, including any special problems relating to deed or property (Important Note: While the counselor can generally describe basic borrower and property eligibility requirements for a HECM, remember that only the lender and an FHA-approved appraiser are authorized to make official determinations regarding the eligibility of both the homeowner and subject property.)

2. Principal limit (the amount the borrower can receive from a HECM) - The principal limit at origination is based on the age of the youngest borrower, the expected average mortgage interest rate and the maximum claim amount.

3. Expected Rate- The expected rate is fixed throughout the life of the loan and is used to determine payments to the borrower. For a fixed rate loan, the expected rate is the fixed interest rate. For an adjustable rate loan, the expected rate is the sum of the lender's margin and the loan's index adjusted to a constant maturity of ten years.

4. Claim Amount- The maximum claim amount is the lesser of the appraised value of the property or the maximum mortgage amount for a one-family residence that HUD will insure in an area under Section 203(b)(2) of the National Housing Act. The maximum claim amount represents the maximum amount that HUD will pay on a claim for insurance benefits.

5. Payment plan options and changes -A HECM borrower 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 $20.00, for changing the payment plan. A borrower may change the term of payments, may receive an unscheduled payment, may suspend payments, may establish or terminate a line of credit, or may receive the entire net principal limit (i.e., the difference between the current principal limit and the outstanding balance) in a lump sum payment. With all payment plans, the lender must be able to make lump sum payments up to the net principal limit at the borrower's request. The borrower may choose to prepay all or part of the outstanding balance at any time without incurring any penalties.

6. Credit line growth - The unused portion of the line of credit grows at the "credit line growth rate," which is equal to the note rate. This is the same rate at which the principal limit and the loan balance grow, which is the current interest rate plus 0.5 percent. Therefore, the amount of funds available to the borrower from a line of credit grows larger each month for as long as any funds remain. 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.

7. FHA home standards, required repairs

8. Loan costs (reference Appendix "Reverse Mortgage Product Features and Impact of Change")
    a. Application fee, appraisal fee, credit report
    b. Closing costs
    c. Origination fee
    d. Servicing fee
    e. Mortgage insurance premium
    f. Interest rate: Adjustable and Fixed and adjustment frequency

9. Repayment

    a. Requirements
    b. When
    c. How much
    d. Open-end credit v. Closed-end credit
       Open-end credit loans allow for the repayment of some or the entire principal that can be re-borrowed at some future point in time ("revolving credit"). Closed-end credit loans do NOT allow for the "re-borrowing" of principal that is paid on the loan (the "tenure" option for HECM loans).

10. Borrower obligations - (See Appendix C "Reverse Mortgage Borrower Obligations," provide client with this handout)

11. Tax implications

12. Estate planning services – Counselors should refrain from giving legal, tax, and accounting advice to a prospective or existing client during a housing counseling session and/or meeting. If counselors are licensed professionals and are asked general questions related to that discipline, counselors may respond but should refer clients to an outside source for advisory service. Counselors should not misrepresent themselves to hold financial designations, for example, the designations of Certified Financial Planner (CFP) or Certified Public Accountant (CPA), unless they hold these titles. When a client's needs are beyond the housing counselor's education, training or certification to provide, they should refer the client to a financial advisor or other professional.

13. Loan application: FNMA 1009 "Residential Loan Application for Reverse Mortgages" – This application is provided by the lender; however, counselors should review with client if requested.

D. Financial Implications. The counselor reviews 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 insurance. Counselor may reference printouts, including proprietary loan comparisons, as appropriate. (See Part 2: Additional Products) Financial overviews and printouts may include:

1. Cash advances and itemized costs
2. Individual loan amortization schedule(s)
3. Future projections and comparisons

    a. Total cash advances
    b. Total dollar costs
    c. Leftover equity
    d. Total annual average rates

4. Loan and annuity combinations. Counselors must ask a client if they intend to use the HECM proceeds to buy an annuity. If so, the Counselor should inform the homeowner that there are other ways to purchase an annuity and to point out that in most cases term or tenure HECM proceed amounts are greater than the annuity monthly payment. The federal Truth-in-Lending Act (TILA) recognizes the unique difficulty of evaluating the total cost of a HECM that is used to purchase an annuity. Counselors are also advised to give clients the brochure entitled "Using a Reverse Mortgage to Buy an Annuity." More detailed information about HECM loans and annuity combinations is contained the HECM Program Protocol, Appendix 4.

E. Client Concerns and Questions. Counselor answers client questions & discusses options.

F. Next Steps. Counselor explains follow-up packet and next steps.

1. Contents of follow-up packet (See Section 4-4 of this handbook)
2 Instructs client to make and keep copies of all documents
3. Loan processing & expected timelines
4. Provides ongoing access to counselor and other resources

4-6 Reverse Mortgage Printouts. A counselor must utilize and provide to the counseling recipient computer printouts generated by HUD or HUD endorsed software, or similar software generating the same information, for calculating the maximum funds available to borrower(s), payment plan options, and providing loan comparisons of available products to clients. Using the 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.

Counselors may discuss loan printouts and amortization schedules given by lenders to clients. They may also generate and discuss amortization schedules and loan comparisons they generate from an available reverse mortgage calculator. Counselors should answer questions about the loan printouts and product features. However, counselors must be sensitive when helping their clients analyze and compare the financial implications of the loan choices clients are considering. Counselors must be cautious not to steer clients toward any particular proprietary or HECM product. They should strive to provide a balanced view by only providing individually customized loan printouts to clients on

1. HECM loans that are widely available from a majority of HECM lenders,
2. Proprietary products that are broadly offered by reverse mortgage lenders, and
3. Proprietary or HECM products that have been offered to that client by a reverse mortgage lender.

The printouts should include:

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 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.
4. Amortization projections for selected products with year-by-year details (the loans negatively amortize as the loan balance increases, equity decreases).

Counselors must not encourage or discourage clients from any particular products. They must discuss loan printouts and information without bias. They should not provide any information on which lenders are offering specific HECM variations or proprietary products.

The web-based Reverse Mortgage Analyst software, which HUD makes available to all HECM Roster counselors, calculates principal limits for variations on a HECM based on different interest rates with different indexes and margins. Although the software generates principal limits for available HECM variations, it is not programmed to generate the principal limits for any specific proprietary reverse mortgage product or every single HECM variation.

HUD HECM software may also be used. For agencies that have never installed the HECM software, it can be downloaded from the HUD counselors' web page at www.hud.gov/counselors/. Updates are also available from the website.

Full instructions on how to use the HECM calculator are in HUD Handbook 4235.1.

4-7 Fraud Prevention. It is important to educate prospective borrowers about how to avoid becoming victims of fraud schemes. In an effort to warn borrowers of potential fraud schemes, HUD requires that reverse mortgage counseling cover the following:

1. Discuss the potential of mortgage fraud with the borrowers;

2. Explain the standard ways in which borrowers can access their loan proceeds; and

3. Warn borrowers against signing over their funds to loan officers or other parties involved in the mortgage transaction.

4. Recognizing and reporting predatory lending practices.

HUD will monitor compliance with this requirement through client surveys and other customer surveying tools.

4-8 Prohibition on Dissemination of Specific Loan Product information. A counselor must never provide information on the specific costs charged by any individual lender, because costs are subject to market fluctuations and may depend on variables that are not constant from client to client. The counselor should tell the client that information on prices must come from a loan officer. 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.

4-9 Sources of Information for Counseling. The following publications available from HUD and other sources provide information about the alternatives to the HECM. In addition, there are additional resources available in Appendix 4, Attachment C of this handbook.

A. HUD. Options for Elderly Homeowners: A Guide to Reverse Mortgages and their Alternatives, which describes both alternative forms of home equity conversion and alternatives to a reverse mortgage. It is available from HUD USER, which can be accessed by using the Search button at www.hud.gov.

B. Fannie Mae. Money From Home: A Guide to Understanding Reverse Mortgages can be downloaded from Fannie Mae's website at: http://www.fanniemae.com/global/pdf/homebuyers/moneyfromhome.pdf

4-10 Lender Steering and Disclosure. Housing counseling agencies are not permitted to promote, represent, recommend or speak for any specific lender. The clearest way to avoid steering is by not presuming that a client wants to contact a lender unless the client specifically asks for help in finding a lender. If a client does initiate a request for help in finding a lender, then counselors should tell them about HUD's current list (see Appendix 3 for the web address) or give them a copy of it. This ensures that only clients who expressly request help in finding a lender will be given information about contacting lenders, and that the information they receive will be a list provided by HUD rather than by a counselor or agency. Materials provided should be available in alternative formats and either translation or interpretation should be provided for LEP clients.

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

4-11 Counselor Steering. The lender may not steer, direct, recommend or otherwise encourage a client to seek the services of any one particular counselor or counseling agency. Lenders are required to give every client a list of HECM counseling providers that includes the national intermediaries providing telephone counseling and five agencies in the local area and/or state of the client with at least one of the local agencies located within a reasonable driving distance for face-to-face counseling. Lenders can obtain a list of these counseling agencies from the HECM Counselor Roster on HUD's website. Only agencies that appear on the HECM Counselor Roster may be included on the list given to clients.

Further, before, during, or after the counseling session is completed, the lender may not contact a counselor or counseling agency to refer a client by any means including but not limited to phone, fax, or electronic database; discuss a client's personal information, including the timing or scheduling of the counseling; or request information regarding the topics covered in a counseling session.

4-12 Reverse Mortgage Client File. Chapter 5, Paragraph 5-7 lists all information that must be maintained for the reverse mortgage client's file.

4-13 Follow-Up after the Reverse Mortgage Counseling Session. Regardless of counseling format, as required by 24 CFR§ 214.300(b)(2), housing counselors must make a reasonable effort to have follow-up communication with the client, when possible, to assure 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 must be performed and documented for all reverse mortgage clients to determine if the client needs additional assistance, obtained a reverse mortgage or utilized other options discussed during the counseling session.

4-14 HECM Borrowers – Persons Required to Receive Reverse Mortgage Housing Counseling. All eligible HECM borrower(s) meeting the requirements of Handbook 4235.1, including all eligible mortgagors on the property deed, must receive reverse mortgage counseling covering the topics outlined in this chapter.

In the event that multiple eligible borrowers shown on the deed are not located in the same place, counseling may be provided to these parties by one counselor via teleconference call or the individuals may receive counseling separately from different counselors. However, HUD expects counseling agencies to avoid unnecessary separate counseling, and to make every practical effort to counsel the borrower(s) and any related parties simultaneously.

A. Person(s) on the Deed. Any person(s) listed on the deed must receive reverse mortgage counseling.

B. Beneficiaries of Life Estates. FHA will insure a HECM on property held in the name of a trust with beneficiaries according to the provisions described in the HECM Handbook 4235.1, Rev.1 and Mortgagee Letter (ML) 93-22. The HECM Handbook and ML 93-22

provide, in part, that all beneficiaries of the trust should be eligible HECM borrowers at the time of origination and until the mortgage is released. Current trust beneficiaries or individuals who are eligible HECM borrowers and are seeking a HECM loan must attend reverse mortgage counseling and sign the HECM counseling certificate.

C. Borrower's Legal Representative. For borrowers lacking legal competency, the counseling session shall be conducted with a person holding a power of attorney (POA) for the borrower, or a court-appointed conservator or guardian.

4-15 Face-to-Face Counseling for Prospective HECM Borrowers

While FHA prefers that all prospective HECM borrowers participate in face-to-face interviews with a HECM lender and reverse mortgage counselor, this procedure may create a hardship for some prospective HECM borrowers, particularly those living in rural areas or with limited mobility. FHA will allow prospective HECM borrowers the option to meet face-to-face with the lender and/or reverse mortgage counselor or to participate in loan origination and counseling activities by telephone or other HUD approved format for counseling.

A prospective HECM borrower who decides to forego participation in face-to-face counseling will still be required to fulfill FHA's mandatory reverse mortgage counseling requirement, for example by completing a telephone counseling session.

4-16 HECM - Exceptions to Reverse Mortgage Counseling Requirement. In accordance with the provisions of 24 CFR § 206.53, HUD may waive the reverse mortgage counseling requirement for HECM mortgagors who are refinancing into a new HECM mortgage and choose not to receive counseling, only if the following conditions are met:

1. The HECM mortgagor received the anti-churning disclosure form required by law;
2. The increase in the mortgagor's principal limit exceeds the total cost of the refinancing by five times (although the current threshold is by five times, this may change. Please, see Federal Register for the most current standard); and
3. The timing between the closing on the existing HECM loan and the date of the application for refinancing does not exceed five years.

4-17 HECM - Persons Not Requiring Reverse Mortgage Housing Counseling. The following parties are not required to receive reverse mortgage counseling relative to a HECM.

A. Non-Borrower Spouse. It has been brought to FHA's attention that spouses of prospective HECM borrowers have quitclaimed their interest in real estate, which will serve as the security for an FHA-insured HECM, when the spouse of the prospective HECM borrower has chosen not to seek, or is ineligible for, an FHA-insured HECM.

1. FHA Recommendation. To ensure that the non-borrowing spouse understands the implications and risks posed by quit claiming his/her interest in the real estate, which will serve as the security for the HECM, FHA recommends that the HECM non-borrowing spouse receive reverse mortgage counseling. Non-borrowing spouses include:

a) A spouse, who is currently on the title for the real estate that will serve as the security for the FHA-insured HECM and is eligible for a HECM, but instead plans to be removed from the title;

b) A spouse, who is ineligible to receive a HECM, because she/he is under 62 years of age but is on the title for the property that will serve as the security for the FHA-insured HECM

c) A spouse who is currently not on the title for the real estate

In the first two cases described above, if the non-borrowing spouse elects to quitclaim his/her interest in the property to the prospective HECM borrower, it should be done prior to the HECM closing.

2. Non-Assumable. During counseling, all parties must be made aware that the FHA-insured HECM cannot be assumed by the non-borrower spouse upon the HECM borrower's death, or change of primary residence. In other words, the HECM becomes due and payable upon the HECM borrower's death, or when the real estate, which serves as the security for the FHA-insured HECM, is no longer the primary residence of the HECM borrower.

B. Prospective HECM Borrower's Children. The children of a prospective HECM borrower, who do not qualify for a HECM, but who currently reside on the real estate, or who are on the title for the real estate that will serve as the security for the FHA-insured HECM, but will be removed from title prior to closing, are not required to receive reverse mortgage counseling.

Although counseling for the child of a prospective HECM borrower is not required, it is permissible, and reverse mortgage counseling will be made available by a HUD-approved housing counseling agency, if requested by the child. 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.

C. Persons with a reversionary or remainder interest in the real estate, Trustees, and Contingent Beneficiaries of a Life Estate. Under FHA regulations at 24 CFR Section 206.35, if a HECM borrower holds a life estate in the property that will serve as the security for the FHA-insured HECM, persons with a reversionary or remainder interest in that property also must execute the HECM mortgage. The referenced "reversionary or remainder interest" is an interest in the real estate that will serve as the security for the FHA-insured HECM. The trustee must also sign the mortgage. Contingent beneficiaries of the trust who will neither receive any

benefit from the trust nor have any control over trust assets until the beneficiaries/HECM borrowers are deceased, need not be eligible HECM borrowers.

1. Counseling is not required for persons with a reversionary or remainder interest in the real estate.

2. The trustee is not required to attend counseling unless the trustee is also the beneficiary/HECM borrower.

3. A contingent beneficiary does not have to receive reverse mortgage counseling.

4. While counseling is not required for persons with a reversionary or remainder interest in the real estate, or trustees and trust beneficiaries who are not HECM borrowers, FHA strongly encourages that these individual seek reverse mortgage counseling. They may go to a HUD-approved housing counseling agency of their choice. Counseling for these individuals does not have to take place at the same agency that provided reverse mortgage counseling to the HECM borrower. However, these parties will not sign the HECM certificate.

5. Persons with a reversionary or remainder interest in the real estate, 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.

D. Persons with Advocacy Interest. Persons with advocacy interest such as non-mortgagor members of the mortgagor's family, the mortgagor's attorney, a friend or friends of the mortgagor, or staff from a HUD-approved housing counseling agency may attend the housing counseling session if the mortgagor requests it and/or agrees. Advocacy interest DOES NOT include a representative of the lending entity.

4-18 HECM Counseling Certificate. For HECM loans, a HECM Counseling Certificate is issued to demonstrate to the lender that the statutorily required counseling was provided. Other reverse mortgage products and programs may also require this certification of reverse mortgage counseling.

The lender can only proceed to process the initial loan application once the counseling is complete, as evidenced by a completed HUD 92902 that contains the date and signatures of both the counselor and borrower.

When the counseling session is successfully completed, the counseling agency must issue a certificate as described below.

A. All eligible mortgagors shown on the property deed (or legal representative, as described above) must sign and date the counseling certificate.

B. In the event multiple parties shown on the deed are not located in the same place and the potential reverse mortgage mortgagors choose to receive counseling from separate counseling agencies, each of the parties would sign and date a separate reverse mortgage counseling certificate.

C. The certificate must contain the name of the counselor, the name of the counseling agency, and the Housing Counseling System (HCS) identification number of the counseling agency. In addition, the certificate must be signed and dated by the counselor indicating the statutorily required counseling has been completed. The counselor must also provide the actual expiration date for the certificate. The certificate will expire 180 calendar days from the date the counseling was completed. The certificate must also indicate any fee charged the counseling recipient, if applicable.

D. Form HUD 92902 is used for the Reverse Mortgage Counseling Certificate. The certificate must be produced in FHA Connection. No alterations to this form are authorized. For example, housing counseling agencies may not print this form on their own letterhead.

E. Documentation. Agencies must keep a copy of the signed and dated certificate in the client's file. Agencies must send two certificates to clients counseled by telephone with instructions indicating that the client should sign both copies and return one of the signed copies to the counseling agencies. If the client fails to return a signed copy of the certificate, the housing counselor must document their efforts to contact the clients and note that the certificate was not returned.

F. Issuing the Certificate of Counseling. The counseling agency's issuing of a certificate of counseling attests ONLY to the fact that the client attended and participated in the required counseling and that the statutorily required counseling for a HECM was provided. Issuing a certificate does NOT indicate whether the counseling agency recommends or does not recommend the client for a reverse mortgage.

A certificate of counseling may be withheld if the counselor believes that the counseling recipient did not understanding basic information about reverse mortgages.

A counseling agency must withhold a certificate from a client who cannot successfully answer five of the ten review questions that are provided in Attachment B.10 of the Protocol. The client will be given adequate opportunities to correctly respond to the review questions in accordance with the requirements in Attachment B.10. The certificate cannot be withheld based on lack of payment.

G. Faxing or Transmitting the Certificate. With the permission of the client, the counselor may fax or otherwise provide a copy of the signed and dated reverse mortgage counseling certificate to the client's lender.

4-19 Concerns or Complaints Regarding a HECM Lender or Reverse Mortgage Counselor. If a consumer, lender, counselor or representative from the housing industry has a concern or complaint about the services provided by a particular HECM lender or reverse mortgage

counselor, they should immediately contact the HUD Homeownership Center in their jurisdiction. See Appendix 1 for HUD Homeownership Center contact information.

CHAPTER 5. RECORDKEEPING AND REPORTING

5-1 Introduction. The recordkeeping and reporting requirements contained in 24 CFR §214.315, §214.317, 24 CFR 8.55 and this chapter are required of every participating agency. In accordance with 24 CFR Part 214.315 all client files must be easily accessible to HUD for monitoring and audit 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 information needed for a performance review. This system must meet the requirements of 24 CFR§ 1.6, 24 CFR § 84.21 and 24 CFR Part 121.

5-3 Client Management System (CMS). 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. 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. Although 24 CFR 214.103 (f) requires that all agencies participating in HUD's Housing Counseling Program use a CMS that satisfies HUD requirements and interfaces with HUD databases, it is important note that HUD does not have a direct relationship with CMS vendors. HUD does not monitor, negotiate or engage with CMS vendors on behalf of housing counseling agencies.

In order to interface with HUD's database, a participating housing counseling 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 on HUD's website at www.hud.gov/counselors/.

B. Loan Product Comparison Tool. Provide access to a loan product comparison tool that interfaces with client data captured by the CMS, and includes FHA insured mortgage products as a loan product option. This requirement relates only to CMSs that cover counseling/education involving home buying or homeownership (i.e.: loans);

C. Financial Calculators. Provide access to tools/calculators that interface with client data captured by the CMS to analyze financial and credit information;

D. Text Fields. Include text fields in which counselors can input an activity log and client action plan;

E. File Access. Allow HUD limited access, in coordination with participating agencies, to access entire electronic client files for the purpose of conducting agency monitoring;

F. Privacy. Ensure the confidentiality of all client level and agency profile information. Housing counseling agencies must use a CMS which has taken all the standard and required security protections, including assurances that this data will not be shared with any entities other than HUD and the housing counseling agency, unless explicitly instructed to do so by the client themselves, and in the case of agency information, the housing counseling agency.

5-4 File Retention Requirements. Financial records, supporting documents, statistical records and all other pertinent records, both electronic and paper, shall be retained for a period of three (3) years from the date the case file was terminated for housing counseling.

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

5-5 Race, Ethnicity, Religion, Sex, Familiar Status, Income, Disability Data. Section 808(e)(6) of the Fair Housing Act, as amended, states that the Secretary of HUD shall annually report to the Congress and make available to the public, data on the race, religion, familiar status, ethnicity, disability, sex and other characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department. Section 562 of the Housing and Community Development Act of 1987 also supports this data collection.

To enable the Secretary to fulfill this requirement, HUD requires participating agencies to report this data to HUD for all recipients of counseling and education, regardless of funding source. Participating agencies must maintain current and accurate data on the race, ethnicity and income of their counseling clients and education participants.

5-6 Confidentiality of Records and Credit Reports.

A. Confidentiality. Participating agencies must ensure that their CMSs protects the confidentiality of each client's personal and financial information, both electronic and paper, including credit reports, whether the information is received from the client or from another source.

The participating agency must ensure that neither they nor their CMS vendor discloses the information in the client's individual case file to anyone except for authorized agency personnel and HUD. Participating agencies must also ensure that their selected CMS maintains the confidentiality of this information as well. The only exception to this requirement is when the counseling recipient expressly grants permission, for example in the case of, through a CMS, the automatic creation of a loan application and submission to a lender.

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 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 individuals.

B. Use of Credit Report Information. Nothing in the Fair Credit Reporting Act precludes a housing counseling agency from disclosing a credit report to a client. If a housing counseling 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 housing counseling agency and the credit-reporting bureau.

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

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 §214.300 and Chapter 3.

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. Files may be electronic or a combination of electronic and paper. The file must include the following items:

A. Required Data. All required fields are listed on the Housing Counseling website. See Appendix 3 for the CMS website containing the listing of all required data fields;

B. File Number. A file number for the unique counseling interaction.

C. Financial Analysis. Evidence of analysis of client's unique financial and credit circumstances;

D. Activity 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 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 with the client must be documented. This documentation should also include an account of all written and verbal attempts made to contact clients in order to conduct follow-up sessions.

G. Pertinent Documents. Copies (electronic or paper) of pertinent records or correspondence received from the client or created on their behalf.

H. Disclosure. A copy of the disclosure statement provided to each client in a face-to-face setting or a notation of the date that the disclosure statement was verbally provided during telephone counseling. The wording of the disclosure statement must be relevant to client. (See Chapter 6, Paragraph 6-1, Item G.)

I. Termination. 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 cause/explanation of termination. Client files must not remain open indefinitely. (See Chapter 3, Paragraph 3-5 (H) for additional information on client termination)

J. Results. Documentation of the results of counseling.

K. Funding Source. Document the funding source or sources, and amounts to which the counseling activity is attributed.

L. Fees. If applicable, the amount paid through client fees and a copy of the receipt provided to the client. Additionally, document the amount and source of fees paid by other parties, for example lenders. The counseling file of each client charged fees must include documentation demonstrating that the cost did not create a financial hardship.

M. HUD Grant Activity. An indication, if applicable, of the activity, and amount, that was partially or fully funded by a HUD housing counseling grant or sub-grant.

N. 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, Item H.)

O. Client Authorization. Documentation indicating client authorization to order a credit report and/or to share information, for example with HUD or third parties, if applicable.

P. Miscellaneous. Other information obtained during the intake and subsequent housing counseling sessions not mentioned above.

Q. Reverse Mortgage Counseling. Additional documentation required for reverse mortgage client files:

1. List of other people 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. Power of Attorney or other documents relating to legal competency, if applicable;

4. Total Annual Loan Cost Analysis;

5. Amortization schedules for reverse mortgage loan options;

6. 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.

7. Documentation demonstrating that all required counseling content and information (see Chapter 4) was provided

5-8 Group Education File. The housing counseling agency must maintain a separate confidential file for each course provided. The file may be electronic or a combination of electronic and paper. The file must include the items identified below. An individual file does not need to be established for each education attendee. However, if a client has an existing individual file and attends a group workshop the client's participation in the workshop session must be documented in his/her individual file.

A. File Number. A file number for the education/ workshop session

B. Data. All required fields are listed on the Housing Counseling Website. See Appendix 3 for the CMS website containing the listing of all required data fields.

C. HUD Grant. An indication of the activity, and amount, that was partially or fully funded by a HUD housing counseling grant or sub-grant, when applicable.

D. Course Description. Course title, course outline or established curriculum; and instructional goals

E. Instructors. Name of each housing counselor, instructor or presenter participating in the session.

F. Course Logistics. Date, place and duration of each session.

G. Participant Information. List of participating households and the race, ethnicity, and income data for each household

H. Disclosure. The disclosure statement provided to each household that is relevant to the subject of the session (See Chapter 6, Paragraph 6-1, Item G.)

I. Fees. If applicable, the amount paid through client fees and a copy of the receipt provided to the client.

5-9 Financial Records. Participating agencies must maintain and make available to HUD upon request evidence that leveraged funds cited in the grant application were actually provided to the agency, and/or 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 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 may be required to maintain additional records identified in the applicable grant agreement.

5-11 Reports to HUD. Participating agencies must submit complete, accurate and timely activity reports. The reports must be submitted in the format, by the date, and in a manner prescribed by HUD. Participating agencies that are also recipients of HUD grants or sub grants may be required to submit additional reports as described in their grant agreements and prescribed by HUD. 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's fails to submit the required reports, the agency can be terminated or placed on an inactive status.

HUD reporting requirements include client-level data, agency profile changes, data regarding program activity, grant reporting and disclosures to HUD.

A. Client-Level Data, reflecting counseling and education activity with all sources of money, must be transmitted to HUD quarterly via the agency's Client Management System (CMS). Client-level data transmitted by the agency via their CMS will be compiled and aggregated in HUD's Housing Counseling System (HCS), where it may be verified by the agency.

B. Agency Profile Changes. When agency profile information changes, such as address, telephone number or other contact information, agencies must submit the current, corrected information to the HCS database through their CMS. They may verify the change through HCS. However, making these changes through the CMS does not relieve the agency of its responsibility to notify the appropriate HUD office. Participating agencies must notify HUD within 15 days when any of the following occurs:

1. The agency loses or changes its tax-exempt, non-profit status.

2. The agency no longer complies with HUD, other Federal, local or state requirements.

3. Changes occur in any of the items below:

   a. Address(es) of the agency's main office and the address(es) of its branches and affiliates;

   b. Staff personnel responsible for the Housing Counseling Program, such as the housing counselors and management staff;

   c. Telephone numbers of the main office, affiliates, and branches, or

d. Any other aspect of the agency's purpose or functions that may impair its ability to comply with programmatic requirements, applicable regulations or the applicable grant agreement (e.g. lack of qualified housing counselors)

C. Grantee Activity Reports. Recipients of HUD Housing Counseling Grants are required to report activities under the grant in a format prescribed by HUD and within the designated time frames required by the applicable grant agreement. These requirements may include Form HUD-96010 (Logic Model), which captures projections and activity data specifically attributed to the relevant grant.

D. Disclosure to HUD. Agencies that provide housing services in addition to housing counseling services must disclose these additional services to HUD. They must also make HUD aware of any financial or other arrangements with other organizations. The Disclosure should also contain the following information regarding their agency and its business practices and procedures.

1. Any business practices and/or partnerships that would constitute a conflict of interest pursuant to Chapter 6, Paragraph 6-2

2. Description of the organizational structure and business practices that protect the client from inappropriate steering or influence;

3. Agency's written standard of ethics; and

4. Agency's quality control plan for identifying, addressing or mitigating any conflicts of interest and complying with handbook requirements

This information must be submitted to HUD when an agency applies for approval, when an agency takes on new services that result in any of the practices listed in Paragraph 6-2, or upon request by HUD. If the information provided to HUD does not alleviate concerns regarding conflict of interest, HUD may request that the agency address the concerns. The agency will have 60 days to comply with HUD's request. If the agency does not respond, HUD may terminate the agency's approval or participation.

E. Housing Counseling Work Plan. Changes to a participating agency's housing counseling work plan must be submitted to HUD for approval prior to implementation. This includes proposed changes in services to be offered and geographic boundaries.

F. Independent Audit. The most recent independent audit of the participating agency's financial records must be made available to HUD during a performance review. Housing Counseling Grant recipients and sub-recipients shall be subject to the audit requirements contained in 24 CFR parts 84 and 85 and must provide HUD a copy of the audit report within 30 days of completion.

G. Other Reports. HUD may require that participating agencies submit additional reports.

5-12 Activity Reporting Methodology.

The following methodology applies to all activity reporting, which could include client level data, form HUD-9902 or Form HUD-96010 (Logic Model). The methodology required by HUD for reporting activity data is to report the number of unique counseling or education services provided by the housing counseling agency, by household.

"By household" means that if a family comes in for counseling, or attends a course, regardless of the number of people, it is captured as one counseling activity and outcome, or one course attendee. Similarly, a group of tenants receiving counseling simultaneously on the same issue would be captured as one counseling activity and one outcome, regardless of the size of the group.

Moreover, an individual or household that receives multiple, distinct types of counseling or education in a reporting period may be reported multiple times. For example, if an individual comes in for one type of counseling (e.g. pre-purchase), they are reported. If, later in the reporting period, the same individual comes in for another type of counseling, for example default counseling, report this as new activity even though it is the same individual. By contrast, if multiple topics are covered in one counseling session or education/group session, it is only recorded as one activity.

The requirement is to capture participation in each complete course on a unique education topic or complete counseling service provision, regardless of whether it occurred in multiple sessions. For example, whether or not the course is completed in one 8-hour session, or four 2-hour classes, it is counted as one course. The same is true for one-on-one counseling. Even if pre-purchase counseling requires multiple visits, it is still reported as one counseling activity with one outcome.

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 consequences which may include, but are not limited to, a delay in 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; ineligibility for HUD housing counseling training resources; 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 subchapters 2-2 (C) and 3-7.

5-14 HUD Review and Analysis of Agency Reports. Local HUD offices and HUD headquarters will use the agencies' reports as follows:

A. Monitoring. HUD offices retain all reports for reviewing and monitoring the agency's program participation and compliance under a HUD housing counseling grant application, if applicable.

B. Performance Indicators and Program Appropriations. Annually, Headquarters 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 are 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 §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 non-compliance 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 non-compliance 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 to at least 30 clients. Agencies that offer only housing counseling services limited to reverse mortgages, including home equity conversion mortgages (HECMs), are exempt from this requirement.

B. Agency's Housing Counseling Work Plan. The participating agency must implement its housing counseling work plan and demonstrate reasonable achievement of the outcome objectives approved by HUD. Changes to a participating agency's housing counseling work plan must be submitted to HUD for approval prior to implementation. This includes proposed changes in services to be offered and geographic boundaries.

C. Reporting. The agency must submit to HUD complete, accurate, and timely activity reports as described in §214.317 and Chapter 5, Paragraph 5-11.

D. 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, the Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. These laws prohibit discrimination because of race, color, religion, sex, national origin, disability, familial status or age.

A faith-based organization's federal statutory exemption from employment discrimination on the basis of religion is found at Section 702(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1(a)) and is not forfeited when the organization receives HUD funding. All housing counseling agencies are required to affirmatively further fair housing in accordance with HUD regulation" as specified in Section 3-7 of this Handbook.

E. 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, 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.

F. RESPA A participating agency or its interested parties must be in full compliance with Public Law 93-533, 88 Stat. 1724, known as the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2601 et seq.].

G. Conflicts of Interest. The participating agency must comply with the conflict of interest provisions in section 6-2 of this chapter and are responsible for ensuring that their directors, employees, officers, volunteers and consultants understand and comply with these requirements.

H. 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. HUD will 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, in order 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 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.

I. Fee Schedule. Participating agencies must inform counseling and education clients of any fee schedule/structure in advance of providing services, including intake. Additionally, an agency's fee schedule must be posted in a prominent place 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. 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.

J. Alternative Information about Services or Products. If the counselor provides information about a specific service, program, feature or product, he/she must also provide information on relevant alternatives. FHA products, features or programs must be discussed as one of the available alternatives. At least three alternatives sources must be provided, if available. The

counselor must document in the client file the information provided to the client on additional products available.

K. Staff and Supervision. The agency must employ staff trained in housing counseling, and at least half the counselors must have at least six months experience in the job they will perform in the agency's Housing Counseling program. If less than one half of the counselors do not 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 qualified staff to meet the program requirement, the agency can be terminated or placed on an inactive status until required staffing levels are met.

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. 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 OMB Circular-A-133 revised, grant recipients and sub-grant recipients that expend $500,000 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 Circular A-133. Agencies should reference Circular-A-133 for additional guidance.

Housing Counseling participants that do not expend $500,000 or more in a year in Federal awards, must have an independent audit every two years. The audit must be prepared in accordance with generally accepted accounting principles and reporting practices and must include an auditor's review report, a treasure's report and any supplemental schedules.

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. HUD may sponsor the training of counselors from participating agencies, and strive to do so fairly and equitably. Information on training is available at the Housing Counseling webpage. (See Appendix 3 website address)

6-2 Conflicts of Interest. In accordance with 24 CFR 214.303(f) A director, employee, officer, contractor, volunteer, agent of a participating agency or the spouse, child or business partner of any individual holding these positions shall not engage in activities that create a real or apparent conflict of interest:

A. A person in a Position of Trust including a director, employee, officer, contractor, volunteer, agent of a participating agency or the spouse, child or business partner of any individual holding these positions 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. A conflict of interest would arise if the director, employee, officer, contractor, volunteer 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.

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.

The HECM statute specifically prohibits participating agencies from offering both HECM counseling and HECM loan origination services to a potential HECM borrower.

C. Referrals. It is a conflict of interest for a director, employee, officer, contractor, volunteer, 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 :

a. Landlords;

b. Real estate agents or brokers;

c. Creditors;

d. Mortgage brokers;

e. Loan originators;

f. Property owners–seeking to sell or rent clients;

g. Collection agents for the client's mortgage lender, landlord, or creditor

It is also a conflict of interest for the director, employee, officer, contractor, volunteer, 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 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 immediate conflict and avoid future conflicts. The report of the conflict of interest discovered must be submitted in writing via a letter or an e-mail to the participating agency's HUD GTR. If the participating agency fails to comply with this program requirement, the agency maybe terminated on place 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. HUD reserves the right to monitor a participating agency's performance, whether on-site, remotely or a combination of both, as part of the re-approval process or based on perceived risk. The performance review will consist 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.

A. Elements of a Performance Review. The performance review involves, but is not limited to: compliance with basic program and applicable civil rights requirements; skills and experience of the manager and the housing counselors; the financial and administrative capacity of the agency; program practices; compliance with conflict of interest requirements; facility and accessibility requirements and grant requirements, if applicable. HUD staff utilizes the HUD-Form-9910, Performance Review Checklist as a monitoring tool when conducting and recording the results of the review.

B. Housing Counseling Work Plan. The reviewer may assure that the agency's counseling and education activities comply with the initial work plan submitted by the agency as part of its application for approval or any revised plan that is considered current. See Chapter 3 for additional information regarding the components of the housing counseling work plan.

If the agency did not implement the work plan fully or has modified its activities since HUD approved the work plan, 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. HUD may require the agency to:

1. Commence full implementation of the work plan within sixty (60) days of HUD's written notice to the agency to that effect and notify HUD in writing that it has complied, or

2. Prepare 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.

C. Client Counseling Session Evaluation (Survey). The reviewing HUD office will conduct a client survey. Clients may anonymously respond to questions regarding the service received from the agency.

1. During the performance review, HUD staff will randomly select clients to be surveyed and subsequently send to the clients a survey form, for example form HUD-9908, Housing Counseling Client Survey and an envelope addressed to the HUD office conducting the review.

2. HUD staff may randomly select names and addresses from the client level data submitted by the participating agency, request the names and addresses of clients randomly selected from the agency's list of client file numbers, send surveys based on a sampling of the files reviewed, or any combination of the two sources.

D. Fee Structure. HUD may review the agency's fee structure to ensure compliance with all program requirements outlined within this handbook and the 24 CFR 214.

E. Compliance with Housing Counseling Grant. If the participant is a recipient of a Housing Counseling Grant, or sub-recipient, the reviewer shall examine the agency's compliance with the applicable funding notice, the participant's grant application and the grant or cooperative agreement, including but not limited to reviewing supporting documentation for vouchers and implementation of the proposed work plan, as well as verifying actual leveraging of resources.

F. File Review by HUD Staff. The reviewer decides which files and how many files will be reviewed and determines the method used to identify files. HUD staff may review files at the agency's office, request copies of files be sent to the HUD office for a desk performance review or remotely access files through the agency's client management system by prior arrangement. The purpose of the file review is to determine the participating agency's compliance with recordkeeping and other programmatic requirements and to evaluate the quality of counseling services being provided.

G. Access to Files and Information. The participating agency must allow HUD staff to obtain the necessary information to complete performance reviews and provide any information that HUD requests. 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 request an agency to send required information or files to the HUD office prior to an on-site review or as preparation for a desk review. When information is needed for those purposes, the GTR will generally request the information via official correspondence with required dates and times for submission.

H. 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 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, Item I below.

I. 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 Single Family Housing.

6-4 Consequences of a Performance Review. Using the findings of the Performance Review, the HUD office 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 serve as a basis for determining 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. 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 that 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. 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, 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 provisions of the Department's rules that implement the various fair housing and other civil rights laws.

2. 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 ;

3. Lack of the capacity to deliver the housing counseling activities described in its approved housing counseling work plan;

4. Failure to achieve outcomes described in the work plan;

5. Misuse of grant funds; or

6. HUD determines that there is 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.

6-5 Inactive Status. Under § 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, under 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. Loss of counselor(s);

2. Damage to facilities by natural disasters that renders the agency unable to function properly;

3. Significant, unexpected loss of funds;

4. Relocation;

5. Other circumstances caused by reasons beyond the agency's control;

6. Results of performance review;

7. HUD detects any questionable business practices or conflict of interest.

8. Outstanding Fair Housing violations

B. Process for Requesting Inactive Status. Agencies that seek temporary 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 HUD-approved the 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 independently obtains information of circumstances that may temporarily impair an agency from complying with its housing counseling plan, or HUD detects any questionable business practices, HUD may initiate the change to inactive status 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 Suspension, Termination, Debarment and Limited Denial of Participation. In cases where HUD has found fraud, 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.

6-7 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.

6-8 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 Homeownership Center that issued the approval certificate. A terminated or inactive agency cannot continue to display the certificate. 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 Availability (NOFA). If funds become available that are to be competitively awarded, HUD will notify the public through a Notice of Funding Availability (NOFA) in the Federal Register , on the Internet or other electronic media. The NOFA will set forth application instructions. Publication generally occurs between January 1 and May 1 of the year following the appropriation by Congress. HUD may notify agencies of the publication date, but ultimately it is the housing counseling agency's responsibility to ascertain when publication of the NOFA 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. Grants.gov. HUD may requires its housing counseling grant applicants to submit their applications electronically through http://www.grants.gov. See Appendix 3 for more information concerning this website.

D. HUD Approval or Program Participation Does NOT Guarantee Funding from HUD. Funding for the Housing Counseling program depends upon appropriations from Congress, and is awarded competitively under Federal 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 et seq).

E. Agency Program Funds. HUD housing counseling funds awarded under a NOFA are NOT intended to cover all expenses incurred by an agency to deliver housing counseling services. An agency must maintain a level of funds that enables it to provide housing counseling to at least the required workload of thirty (30) clients every year whether or not the agency receives HUD funding. See Chapter 6, Paragraph 6-1A.

F. Duplicate Billing. Grantees must not voucher 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. Examples 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. The agency charges a client a fee for the housing counseling services. Only the portion of the session not covered by fees can be counted toward the HUD Housing Counseling NOFA grant drawdown if fees charged to the client do not cover the full cost of the session.

7-2 Grant Administration. Local, multi-state organization, and state housing finance agency housing counseling grants are administered by the HUD Homeownership Center within whose jurisdiction the agency is located. Housing counseling grants awarded to national and regional intermediaries are administered by the HUD Headquarters Program Support Division.

A. Appointment of Government Technical Representatives and Government Technical Monitors. Government Technical Representatives (GTR) and Government Technical Monitors (GTM) are responsible for grant administration. See Chapter 5 for definitions of a GTR and GTM. HUD Handbook 2210.17, Discretionary Grant and Cooperative Agreement Policies and Procedures, Chapter 5, sets forth the duties of these two positions.

B. Vouchering HUD Under A Housing Counseling Grant. The housing counseling grant agreement provides specific instructions on how to voucher HUD for payment under a housing counseling grant award.

C. HUD Government Technical Representative (GTR) and HUD Government Technical Monitor (GTM) Approval of Vouchers. Only the GTR, GTM or their designee may approve payment request vouchers submitted by grantees.

D. Voucher Request Approval. The GTR or GTM may approve the grant voucher payment request only if the agency is in compliance with the grant agreement. Form HUD 27053, Request Voucher for Grant Payment, must be submitted with each request for grant payment. This form can be accessed by visiting HUD's Client Information and Policy Information website at www.hud.gov/hudclips/. Grantees are strongly encouraged to draw down funds in conjunction with quarterly report submission.

E. Non-Approval. If there are outstanding reports due, outstanding program compliance issues or if a voucher is incorrect, it is grounds for the GTR or GTM to reject the voucher.

F. Grantees seeking information about the status of a voucher must contact the GTR or GTM at the appropriate HUD office.

G. Payments by HUD to Grantees. HUD makes direct-deposit payments to the grantees' financial institutions. Part of the grant-award process includes the grantee's completion of Standard Form 1199A, Direct Deposit Sign-up Form. This form can be accessed by visiting HUD's Client Information and Policy Information website at www.hud.gov/hudclips/.

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 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 3 years from the date the final grant invoice was paid by HUD.

I. Audit. Housing counseling grant recipients and sub-recipients shall be subject to the audit requirements contained in 24 CFR parts 84 and 85. HUD must be provided a copy of the audit report within 30 days of completion.

J. 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 Subtitle A part 21. See the CFR for specific requirements.

7-3 Other HUD Grants as a Funding Source. Listed below are examples of HUD grants that allow housing counseling and education as eligible activities as of the publication of this handbook. This list is not meant to be all-inclusive and is subject to change.

A. Block Grants.

1. Community Development Block Grant (CDBG). The CDBG program is a flexible program that provides communities with resources to address a wide range of unique community development needs. The funds are provided annually on a formula basis to general units of state and local government. Funding for housing counseling and fair housing services may be available from these units of government.

2. Home Investment Partnerships Program (HOME). Grants are provided to state and local governments to expand the supply of decent, affordable housing for low and very low-income families. Nonprofits may provide housing counseling on behalf of the State and local government grant recipients.

B. Fair Housing Initiatives Program (FHIP). The Office of the Assistant Secretary for Fair Housing and Equal Opportunity publishes a FHIP NOFA when appropriated funds are available (24 CFR part 125). Eligible activities include providing outreach and education about fair housing rights and obligations, and how to avoid predatory lenders.

C. Housing Choice Voucher Family Self-Sufficiency Program (FSS). This grant is designed to help voucher families obtain employment that will lead to economic independence and self-sufficiency. Eligible activities include household skill training and homeownership counseling.

7-4 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 (e) and in Chapter 6.

7-5 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 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 § 214.303 (g) and in Chapter 6, Paragraph 6-1G, of this handbook. Agencies must also assure that such arrangements do not violate the provisions regarding conflicts of interest described in § 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. It governs interactions between those parties involved in the home buying process, including lenders, title companies, real estate agents, mortgage brokers, and consumers by:

1. Requiring disclosures throughout the process of closing a loan. These disclosures inform consumers about fees, the various responsibilities of the lender and escrow agent in the servicing of the loan, and basic relationships of the parties involved;
2. Prohibiting unearned fees and kickbacks from the lender in exchange for referral of business.

24 CFR Sec. 3500.14 (g) states that Section 8 of RESPA permits:

A payment to any person of a bona fide salary or compensation or other payment for goods or facilities actually furnished or for services actually performed.

Thus, while RESPA explicitly prohibits lenders from paying agencies for providing referrals, the Act does allow lenders to pay fees specifically associated with services.

Once a housing counseling agency has decided to enter into a relationship with a particular lender, HUD requires that you enter into a Memorandum of Understanding, signed by both parties, to formalize your relationship. (An example MOU can be found on HUD's website). The purpose of the document is to outline the expectations of both parties. Outline the terms of your agreement to ensure compliance with RESPA requirements and additionally the two following terms should also be included in the agency's MOU:

1. The client will choose between comparable products from at least 3 different lenders; and
2. The fee income is based on services rendered, NOT on the amount of the loan.

7-6 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.

If an agency serves a client with an annual household income of less than 200% of the Federal Poverty Level the agency should consider waiving the fee in its entirety or reducing 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 the counseling office in a prominent place, easily viewed by all visitors to the agency, and must be available to HUD for review. In addition, the fee schedule must be communicated verbally to all potential counseling and education recipients prior to the provision of services. Fee schedules must include the cost of credit reports, if applicable.

Only the portion of the counseling or education session not covered by fees can be charged to the HUD Housing Counseling NOFA 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.

4. The agency must disclose all fees that will or may be charged to the client, prior to the beginning of counseling services.

Note: 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. HUD recommends that the housing counseling agency 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.

B. Credit Reports. The agency may also be reimbursed from clients for the direct cost of obtaining copies of clients' credit reports from credit reporting bureaus if this does not cause a hardship for the client. In cases where the participating agency receives a discount for the cost of credit reports, this discount must be passed on to the client. The posted fee schedule must include the amount the housing counseling agency will charge for obtaining client credit reports, if applicable. If an agency receives a discount for the cost of credit reports, this discount must be passed on to the client.

7-7 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 7-4 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 Who May Appeal. 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, shall have the right under §214.205 to appeal any adverse decisions rendered by HUD.

8-2 Appeal Process. An appeal must be in writing. An applicant or participating agency may make a formal written appeal by writing to the HUD office of jurisdiction shown below. The appeal may include a request for a face-to-face meeting with the appropriate HUD office staff.

A. Local entities and multi-state organizations must make an initial appeal in writing to the reviewing HUD office (See Appendix 1 for the list of HUD offices). If the initial appeal does not result in a reversal of the original decision, the agency may appeal in writing to the appropriate HUD Homeownership Center (HOC) Director.

B. National and Regional Intermediaries must make their initial appeal in writing to Director of Single Family Housing Program Development at HUD Headquarters. In the event that a second appeal is necessary, it should be sent to the Deputy Assistant Secretary for Single Family Housing at HUD Headquarters.

8-3 Timeliness of Appeals. HUD must receive an appeal within 30 days of the date of the HUD decision letter to the applicant agency. HUD is not bound to review appeals received after this 30-day period.

8-4 Other Action. Nothing in this section prohibits HUD from taking such other action against an agency as provided in 2 CFR Parts 180 and 2424 or from seeking any other remedy against an agency available to HUD by statute or otherwise.

APPENDIX 1

HUD Office Contact Information

Applicants and participating agencies may contact the following offices to obtain technical support for HUD's housing counseling program. Applications must be submitted to the appropriate office based on type of organization or geographic location of the main office. Contact information is also available at: http://www.hud.gov/counselors/.

National and Regional Intermediaries

Mail applications to:

Director, Program Support Division
Office of Single Family Housing
HUD Headquarters, Room B-133 – Plaza 2206
451 Seventh Street, S.W.
Washington, D.C. 20410

For technical assistance contact: (202) 402-2209

Local Housing Counseling Agencies, Multi-state Organizations, and State Housing Finance Agencies

Contact the HUD Homeownership Center that has jurisdiction over the state where the main office is located.

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia

Mail applications to:

U.S. Department of Housing and Urban Development
Philadelphia HUD Homeownership Center
ATTN: Director, Program Support Division
The Wanamaker Building, 100 Penn Square
East Philadelphia, PA 19107-3380

For technical assistance contact: 1 (800) 225-5342

Alabama, Puerto Rico, Florida, Georgia, Illinois, Indiana, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee

Mail applications to:

U.S. Department of Housing and Urban Development
Atlanta HUD Homeownership Center
ATTN: Director, Program Support Division
40 Marietta Street, 8th Floor
Atlanta, GA 30303-2806

For technical assistance contact: (404) 331-5001

Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wisconsin and Wyoming

Mail applications to:

U.S. Department of Housing and Urban Development
Denver HUD Homeownership Center
ATTN: Director, Program Support Division 20rd Floor
1670 Broadway
Denver, CO 80202-4801

For technical assistance contact: 1-(800) 225-5342

Alaska, Arizona, California, Guam, Hawaii, Oregon, Idaho, Nevada and Washington

Mail applications to:

U.S. Department of Housing and Urban Development
Santa Ana HUD Homeownership Center
ATTN: Director, Program Support Division
Santa Ana Federal Building
34 Civic Center Plaza, Room 7015
Santa Ana, CA 92701-4558

For technical assistance contact: (714) 796-1200 ext. 3210

APPENDIX 2

HUD Handbooks

Handbooks may be downloaded from http://www.hud.gov/hudclips/.

1378.0	Tenant Assistance, Relocation and Real Properties Acquisition
4235.1	Home Equity Conversion Mortgages
4240.4	Rehabilitation Home Mortgage Insurance
4330.1	Administration of Insured Home Mortgages
4350.1	Project Servicing
4350.3	Occupancy Requirement
4381.5	The Management Agents Handbook
7420.3	Section 8 Housing Assistance Payments Program
7465.1	Public Housing Occupancy Handbook
7472.1	Indian HOME Program Grants Administration
8024.1	Title VIII, Complaint Intake, Investigation and Conciliation Handbook

APPENDIX 3

Website Addresses

Identified below are frequently used website addresses. Addresses may periodically change. If you are having problems accessing a particular site, there are many ways to get help:

1. Go to HUD's website at http://www.hud.gov and use the Search box top left
2. Contact the appropriate HUD Homeownership Center listed in Appendix 1
3. Call 1 (800) CALL FHA
4. Send an email to: answers@hud.gov.

Information Source	**Web address**	**Website purpose**
HUD Main Page	http://www.hud.gov	The main web page includes HUD news, highlights, program and contact information for the public and HUD partners.
HUD Main Page in Spanish	http://espanol.hud.gov	***In Spanish-*** Includes HUD news, highlights, program and contact information for the public and HUD partners.
HUD Client Information and Policy System	http://www.hud.gov/hudclips/	HUD's library for HUD provides links to handbooks, mortgagee letters and forms. The site also explains how to order HUD pamphlets and publications. It also includes links for the Federal Register.
HUD Housing Counselor Main Page	http://www.hud.gov/counselors/	This page provides links to the Housing Counseling System, training opportunities for housing counselors, frequently asked questions, how to become a HUD approved housing counseling agency, grant information, and HUD's reverse mortgage housing counseling network.
HUD Client Management System (CMS) Main Page	http://www.hud.gov/counselors/ Click on Client Management System	This link provides information about CMS interface requirement for housing counseling electronic systems including interface requirements, HCS compliant vendors, security information, and frequently asked questions.
HUD National Servicing Center	http://www.hud.gov/offices/hsg/sfh/nsc/nschome.cfm	This page provides links to loss mitigation servicing guidelines

		for housing counselors, mortgagee letters and training information specific to HUD's loss mitigation program.
HUD Grantees/Non-Profits main page	http://portal.hud.gov/portal/page/portal/HUD/groups/grantees	This page has links to income limits, fair market rents, and other information useful to HUD grantees and nonprofits
HUD User	http://www.huduser.org/portal/	Main page for HUD's Policy and Research Information Service, it includes over 1,000 free downloads of data sets, reports, and publications.
American Association for Retired Persons	http://www.aarp.org	This page includes information on Reverse Mortgages
Area Agency on Aging	www.eldercare.gov	
Fannie Mae	http://www.fanniemae.com/global/pdf/homebuyers/moneyfromhome.pdf	This page also includes information on Reverse Mortgages
Grants.gov-Federal grant information	http://www.grants.gov	The site provides information about federal grant programs and on-line grant application submission.
Office of Management and Budget	http://www.omb.gov	This site provides additional information on federal regulations governing federal financial assistance

APPENDIX 4

HECM Counseling Protocol
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I. Objectives of Reverse Mortgage Counseling

The objective of reverse mortgage counseling is to educate clients on:

- How reverse mortgages work and the implications of reverse mortgages,
- The appropriateness of a reverse mortgage for their personal and financial situation, and
- Possible financial alternatives to reverse mortgages

The following topics must be thoroughly covered in every reverse mortgage counseling session:

- Client Needs and Circumstances
- Features of Reverse Mortgages
- Client Responsibilities Under a Reverse Mortgage
- Costs to Obtain a Reverse Mortgage
- Financial/Tax Implications of a Reverse Mortgage
- Financial or Social Service Alternatives to Reverse Mortgages
- Warnings About Potential Reverse Mortgage/Insurance Fraud Schemes and Elder Abuse

Current HUD reverse mortgage counseling policies appear in Attachment A. Additional resources for counselors appear in Attachment B. Resources for clients appear in Attachment C.

II. Reverse Mortgage Counselor Roles and Responsibilities

Role of the Counselor

The counselor's role is to educate the client about the features of reverse mortgages and the appropriateness of a reverse mortgage or other financial options to meet the client's needs. The counselor should not tell the client whether to proceed with a 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 throughout the process.

Responsibilities of the Counselor

Client Education on Reverse Mortgages and Relevant Financial/Housing Options

The counselor must provide the client with a discussion of reverse mortgage products and other financial, social service and housing options within the context of the client's financial situation. In order to do so, the counselor must be familiar with the client's financial situation. The counselor must work with the client following the requirements of Attachment B.12 to determine 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."

Counselors must follow this Protocol when counseling their clients. Counselors must ensure that clients receive HUD's required handouts (listed in Attachment B.1) 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.

- **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. The Housing and Economic Recovery Act of 2008 prohibits lenders or any other party from requiring HECM borrowers to purchase insurance, annuities or any other additional products as a requirement or condition of eligibility for a HECM loan. Counselors must not perform, or offer to perform, any services that conflict, or appear to conflict, with the best financial interests of the client.

- **Detection and Prevention of Fraud and Elder Abuse**
  The counselor must be sensitive to the client's intentions for obtaining a reverse mortgage and the client's particular needs and circumstances. 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 must request that other individuals who have no financial interest in the 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 his or her decision to go forward with a reverse mortgage and not the decision of others.

  If fraud is suspected, please contact the HUD Homeownership Center and HUD's Office of Inspector General as listed in Attachment B.13.

- **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. In addition to these issues, counselors should be sensitive to any cultural issues that interfere with the client's understanding of the counseling session. The counselor must not issue a certificate when these issues prevent the client from benefitting from the counseling.

- **Issuance of the Counseling Certificate**
  Counselors must withhold the counseling certificate if they reasonably believe that the client:
  1. does not have an adequate understanding of a reverse mortgage, its implications for the client's unique situation, and the client's own responsibilities as a reverse mortgage borrower; or
  2. is being coerced into obtaining a reverse mortgage; or
  3. is a potential victim of fraud

- **Reviewing the Client's Level of Understanding**
  The counselor must make specific efforts to review the client's level of understanding of reverse mortgages, including the following:

  1. The basic mechanics, requirements and implications of a reverse mortgage;
  2. The impact on the client's personal financial situation of the particular loan in which he or she is interested; and
  3. The client's responsibilities and requirements for residency under the mortgage

  Review Tool
  Attachment B.10 provides a list of questions the counselor must ask to assess client comprehension. Counselors must ask questions about reverse mortgages in general and questions appropriate to the specific client situation. The client must be able to answer five of the ten questions in order to receive the counseling certificate during the first session. These questions will be interspersed throughout the session. The counselor will ask questions in the spirit of a review throughout the counseling session, rather than an exam at the end of the session, in order to avoid intimidating or insulting the client.

  The counselor may discontinue the session without issuing the certificate if it is apparent early in the counseling session that the client is not able to understand the material. Refer to Attachment B.10 for the appropriate course of action in this case.

- **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. The Counseling Session Protocol provides further details and timeframes for following up with the client.

III. The Counseling Session

In addition to understanding reverse mortgage products and keeping up-to-date with the market, counselors must 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 reverse mortgage features that is tailored to the client's specific abilities, needs and financial goals.*

This section provides:

A. Information on the Counseling Process
B. Steps in the Counseling Process
C. Protocol that Counselors must follow to set up, conduct, and follow up on the Counseling Session

A. Information on the Counseling Process

- **Paying for Counseling**
  Agencies participating in HUD's Housing Counseling Program are permitted to charge clients a fee for HECM counseling services if the fee is: 1) reasonable and customary; 2) does not create a financial hardship for the client; 3) commensurate with the level of services provided; and 4) meets all other HUD requirements (refer to Attachment A.2 for further details). Lenders may not pay for counseling services directly or indirectly.

  Agencies may charge a higher fee for clients needing multiple, in-home, or prolonged sessions; however, this higher fee may only cover the actual cost of the services provided. Agencies may not turn clients away because of their inability to pay and may not withhold the Counseling Certificate because of a client's inability to pay. Counseling agencies may collect the fee prior to conducting the counseling session or they may be paid from the reverse mortgage proceeds.

- **Lender Referral**
  No lender, or party associated with or acting on behalf of the lender, may contact a counseling agency on a client's behalf. <u>Clients must contact a counseling agency directly and personally to initiate the counseling process and schedule an appointment</u>. When the client calls to schedule an appointment, the counselor must mail, fax, or email HUD's required handouts to the client.

  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. The counselor must continue to focus on the client's unique financial circumstances.

Clients who demonstrate a detailed knowledge of 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 reverse mortgage in which he or she is interested.

When clients have already met with a lender and have received specific reverse mortgage product details, it is appropriate for counselors to discuss the features presented as they apply to the client. 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.

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

1. Discuss a client's personal information, including the timing or scheduling of the counseling;
2. Request information regarding the topics covered in a counseling session; or
3. Check on the progress of the counseling session.

Similarly, counselors and counseling agencies may not discuss any of these topics with a lender. To report instances where the lender is attempting to influence the outcome of the counseling session, counselors may contact HUD's Office of Inspector General Hotline by:

- Phone at (800) 347-3735
- Email at HOTLINE@hudoig.gov
- FAX (202) 708-4829.

Lenders must provide every client with a list of no fewer than nine HUD-approved counseling agencies that can provide HECM counseling, five of which must be in the client's local area and/or state, and at least one agency must be located within a reasonable driving distance. The other four agencies (which offer services nationwide) must be:

- National Council on Aging – (800) 510-0301
- Consumer Credit Counseling Services of Atlanta – (866) 616-3716
- Money Management International (MMI) – (877) 908-2227
- National Foundation for Credit Counseling (NFCC) – (866) 698-6322

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. Additional guidelines regarding acceptable lender activities prior to receiving a counseling certificate appear in Attachment A.8.

- **Impact of Referrals and Market Conditions**

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

- **Face-to-face Counseling**
  HUD encourages face-to-face counseling, and certain states require face-to-face counseling for all borrowers considering a 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 telephone counseling must be particularly sensitive the client's engagement in the session and understanding of the topics covered.

- **Telephone Counseling**
  Clients may receive telephone counseling unless such counseling is prohibited in their state. Telephone counseling must not commence until the client has received HUD's required handouts (Attachment B.1) 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 prompt the client for questions, concerns or points of confusion during and after the counseling session.

- **Emergency Counseling**
  Emergency counseling is HECM counseling that occurs without the client scheduling an appointment in advance. The client may receive emergency counseling by phone or in person only if:

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

  HUD permits emergency counseling without a prior appointment, and recognizes that in emergency circumstances, it is unlikely that the client has received HUD's required handouts. 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. Unlike scheduled face-to-face or telephone counseling, counselors who are participating in emergency counseling are not required to provide relevant 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 reverse mortgage materials unless a lender has provided them previously. Counselors must provide clients who receive emergency counseling with HUD's required handouts and other resource material immediately after the session. These may be sent via email, fax or regular mail. Information on handouts to clients is in Attachment B.

- **Issuing the Counseling Certificate**
  Reverse mortgage counseling typically ends with the issuance of a counseling certificate, validating that the client received the required counseling and understands basic concepts about the mechanics and implications of reverse mortgages and their alternatives, as required by law.

- **How to Issue the Counseling Certificate**
  The counselor may provide the counseling certificate to the client in person, by mail, or by fax. The counselor may also send the Certificate directly to the lender by mail or fax, pursuant to the client's verbal or written request. Lenders must have a certificate that is signed by the client and that has all the relevant information completed. Refer to Attachment A.8 for counseling certificate guidelines and lender communications. FHA will only accept HECM certificates generated from FHA Connection when the lender submits the loan for insuring.

- **Reviewing the Client's Level of Understanding**
  To review a client's understanding of reverse mortgages, counselors must ask ten questions interspersed throughout the session. The questions, selected from the list in Attachment B.10, must be relevant to the client's situation. The counselor must withhold the certificate if the client cannot answer five of the 10 questions correctly in the first session. Additionally the counselor must note in the client file that the certificate was withheld and the reason why it was withheld.

  When the certificate is withheld in the first counseling session, the counselor must 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 phone conversation,
  3. Suggest that the client meet face-to-face with another counselor and assist the client with finding another HECM roster counselor,
  4. 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 reverse mortgages. A certificate cannot be issued until the client correctly answers 5 out of the 10 questions.

B. Steps in the Counseling Process

There are four required steps in the counseling process:
1. Intake
2. Counseling session
3. Client file update
4. Follow up

C. Protocol that Counselors must follow to set up, conduct, and follow up on the Counseling Session

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**

- Client Name(s), Address, Date(s) of Birth
- Estimated Home Value, Location, Type
- Existing Debt on Home
- Any unpaid Federal Debt

☐ **Client Objectives**

- Determine the client's main reason(s) for investigating reverse mortgages
- Discuss the client's personal and financial goals

☐ **Disclosure**

- Counselors must disclose the fee structure for the counseling session at the beginning of the session, or at intake. (Refer to Attachment A.2**).**
- Counselors must determine if paying the HECM fees will cause the client financial hardship.

☐ **Client Assistance**

Counselor and client discuss:

- Hearing or language problems
- Legal capacity
- Power of attorney

☐ **Family/Advocate Participation**

The counselor must encourage participation by family and/or professional advisors (see "Participants in Reverse Mortgage Counseling Sessions" in Attachment A.4).

☐ **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 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 thoroughly before the counseling session.

- The counselor must provide clients with HUD's required handouts: 1) *Preparing for Your Counseling Session* (Attachment C.12); 2) printout of loan comparisons; 3) printout of TALC calculation; 4) loan amortization schedule; and 5) the National Council on Aging (NCOA) Booklet, *Use Your Home to Stay at Home - A Guide for Homeowners Who Need Help Now* at www.ncoa.org/rm. The counselor may send these documents to the client by regular mail, priority mail, fax or email. Loan printouts must be relevant to the client's situation to facilitate the counseling session.
- The counselor must establish that the client has received and thoroughly reviewed the educational materials before the counseling session.

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. Additional suggestions for handouts are provided in Attachment B.2 of this document.

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/Interest in Reverse Mortgage**

- Determine the main reason(s) for investigating reverse mortgages.
- Discuss personal and financial goals that may affect decisions about applying for a reverse mortgage.
- Help the client understand how a 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.
- Address concerns about preserving assets.
- Discuss the length of time the client plans to remain in his or her home.
- Discuss the condition of the home and whether repairs or modifications to address mobility/health-related issues, as well as future maintenance, are likely to be necessary.
- Determine whether the client intends to secure an investment or annuity with the reverse mortgage loan. This risky strategy requires additional discussion and information.
- The counselor must notify the client that lenders and HUD do not require estate planning services in order to obtain a HECM.
- The counselor must create a budget using the Financial Interview Tool discussed in Attachment B.12 based on the client's income, assets, debt and expenses.

☐ **Discuss Client Needs and Circumstances**

- 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.*
- Counselors should use software printouts to walk their clients through their preferred loan examples, as well as other relevant examples. Refer to "Client Scenarios" at the end of Section V, "Client Needs and Circumstances," for further details.

☐ **Discuss Client and Property Eligibility**

- Basic borrower issues: age, deed restrictions
- Power of Attorney and Conservator/Guardian (if applicable)
- Property eligibility requirements for a HECM
  Note: *only the lender is authorized to make official determinations regarding the eligibility of the homeowner and subject property; eligibility requirements vary for different proprietary products.*
- Residency and allowed time away for health reasons and time spent at a vacation home.
- Required repairs (including, if applicable, the 15% rule)
- Properties held in trust (if applicable)

☐ **Introduce Reverse Mortgage Features**

- Rising debt/falling equity
- Retention of title
- Repayment requirement
- Closed or open-ended funding
- Factors that determine principal limit
- Payment plan options
- Leftover equity
- Loan balance
- Growth rate of payment plans
- Individual loan negative amortization schedule(s)
- Future projections and comparisons
- Non-recourse

☐ **Discuss Reverse Mortgage Loan Costs**

- Origination fees
- Third party closing costs including appraisal fee, credit report, and title search
- Loan costs
- Mortgage Insurance Premium
- Servicing fee and set aside
- Interest rate

☐ **Discuss Borrower Obligations and Reverse Mortgage Implications After Closing**

- Repairs
- Taxes and insurance
- Financial implications
- Effect on public benefits

☐ **Provide Information About Financial Alternatives**

- Selling and moving
- Deferred payment and home repair loans
- Home equity loans
- Social service alternatives
- Property tax deferral and relief

- SSI and Medicaid
- Medicare (QMB/SLMB, Part D, etc.)
- Other housing options (congregate housing, assisted living, etc.)

☐ **Provide Information on Reverse Mortgage Refinance**

- Refinance for a lower interest rate
- Refinance to take advantage of home value appreciation and access to a greater amount of equity
- More information regarding refinancing can be found in Attachment B.7

☐ **Provide Information on HECM for Purchase**

Counselors conducting sessions with clients who are interested in purchasing a residence with a HECM should refer to the information provided in Mortgagee Letter 2009-11, which can be accessed on HUD's website at http://www.hud.gov/hudclips/.

- HECM homebuyers must be counseled on the following topics:
  - Role of the real estate professional;
  - Importance of legally binding sales contracts
  - Importance of home inspections in the buying process;
  - Ability to write an offer contingent on satisfactory home inspection;
  - Including repair expenses in the purchase agreement;
  - Role of the Appraisal in the buying process;
  - Expenses associated with properties needing significant repairs;
  - Limited right to cancel transaction at any time prior to closing; and
  - The HUD-1 Settlement Form

- Counselors must also advise clients on the following topics:
  - Real estate professionals are required to provide clients with the FHA Amendatory Clause and Real Estate Certification which can be found in Attachment C.13;
  - There is no three day right of rescission for HECM mortgages being used for purchase, unless required by state law;
  - 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; If the borrower pays for the repairs, payment must come from the borrower's personal assets; and
  - 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:
  - Clients are not required to use a HECM to purchase any property;
  - 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; and
  - Clients must not be rushed into purchasing a property.

- Counselors must report **suspected fraud** to the local HUD Homeownership Center or to the Office of Inspector General – see Attachment B.13.

☐ **Discuss Purchasing an Annuity with a Reverse Mortgage**

This step is optional if all HECM 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. If the client is considering an annuity, the counselor must inform the client that there are ways to obtain an annuity other than through a reverse mortgage. The counselor must also discuss the costs and implications of purchasing an annuity with the proceeds from a reverse mortgage. The counselor must explain that in some cases fixed monthly annuity advances that continue for life may be smaller than the fixed monthly loan advances from a reverse mortgage for as long as the client lives in his or her home. 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 C.9, Using a Reverse Mortgage to Buy an Annuity.

Counselors must remind their clients that only reverse mortgage borrowers themselves can determine how to use the loan proceeds. Counselors must caution clients to resist 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.

☐ **Review Client Understanding of Session Contents**
The counselor must review the topics of the session, and ask the client open-ended questions to ensure that the client understands the information and is able to make an informed decision. Refer to Attachment B.10.

- **Address Client Concerns and Questions**
  A list of frequently asked questions from clients is provided in Attachment C.10.

- **Provide Additional Handouts and Resources**
  Additional handouts and resource guidelines are in Attachment B. HUD requires the client to receive the handouts prior to the counseling session, except in an emergency. If the session was performed as emergency counseling, the counselor must provide the materials at the session or immediately after the session is completed. There are other handouts and resources in Attachment C that may be useful to the client during or after the counseling session. Lenders may also provide the handouts in Appendices B and C.

- **Issue the Counseling Certificate**
  The counselor may fax the certificate to the client, and directly to the lender with the client's verbal or written consent. Guidelines for issuing the counseling certificate and lender communications are in Attachment A.1.

- **Discuss Next Steps**
  - **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 http://www.hud.gov/ll/code/llslcrit.cfm.
  - **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 C.

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 files must contain all of the items listed in Attachment A.3.

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.

A qualified housing 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 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 that there is a 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 his or her housing goals, or if the agency should terminate counseling services. Refer to Attachment B.4 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 call the counselor at any time 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 so that the client has time to review the materials and consider his or her options. Again, the counselor must emphasize that the client may call the counselor at any time 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 letter must also remind the client to be cautious of insurance agents offering costly annuities to be purchased with the loan proceeds, and other individuals who may suggest uses for the loan proceeds that are not 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).

IV. Client Needs and Circumstances

Clients receiving reverse mortgage counseling have diverse needs and circumstances, which counselors must consider when conducting the counseling session. Counselors should be able to discuss the following topics, with reference to the clients' specific circumstances.

- **Property Value: 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 a national FHA loan limit. Further, older houses may have lower appraised values, and some houses may require certain repairs in order to qualify for a reverse mortgage. If you are counseling a client on a HECM, the counselor must tell them about other proprietary reverse mortgage products and provide a comparison of costs and benefits. Additionally, other reverse mortgages are not insured by the federal government. Counselors should ensure that clients understand the benefits of FHA mortgage insurance.

- **Borrower's Age: Effect on Eligibility**
  HECMs are available only to seniors age 62 or older. Other reverse mortgage products may have different age requirements. All borrowers on the loan must also be on the title and must be age 62 or older. If a client considers removing a younger spouse from the title in order to be eligible, the counselor should caution the client about possible consequences for the non-borrower spouse. For example, in the event of the borrower's death or change of residence, the loan will be due and payable. The counselor should also advise the client that the younger spouse may be added to a new HECM loan when he or she has reached the age of 62 via a HECM refinance. HECM refinancing is not guaranteed, and will depend on the eligibility of the clients and the equity in their property, as well as the availability of HECM loans.

- **Borrower's Age: Effect on Access to Equity**
  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 on the loan, 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.

- **Income Requirements: Effect on Reverse Mortgage**
  There are no income requirements or restrictions for reverse mortgages. Reverse mortgage proceeds are not income, and therefore are not taxed. However, clients must consider their current income to determine if reverse mortgage proceeds are appropriate to achieve their financial goals. If a client's current income does not his or her needs, a reverse mortgage may be a useful financial alternative to allow the client to remain in the home and maintain a comfortable way of life into old age. Clients must also consider how their income may change in the future and if there are alternative ways to supplement their income.

- **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 and/or down payment. Borrowers may provide a larger investment amount in order to retain a portion of HECM proceeds for future payments or withdrawals.

- **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 usually financed) at the time of 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 in the near future may find the costs of the reverse mortgage burdensome compared to the costs of directly selling their home to meet their financial needs. 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 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?

- **Using a HECM to Purchase a Less Expensive or Smaller Property**
  If the client currently has a HECM on his or her 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. When considering a HECM to purchase a new property, counselors must advise clients to obtain a home inspection, particularly if the home, which the client intends to purchase, is available because of a foreclosure or a short sale. These properties may require extensive and costly repairs.

- **Payment Plan Options, and Their Effect on Current and Future Financial Obligations**
  Clients may choose from several payment plan options:

  - **Line of Credit:** The line of credit is the payment plan most borrowers choose. It is often a solution for clients who can no longer afford their forward mortgage, but otherwise have enough funds to cover their daily living expenses. The proceeds from the HECM must be sufficient to pay off the forward mortgage and any other liens on the property.

    With the line of credit option, clients can draw varying amounts of money at unscheduled intervals of time. This plan is useful for those clients who want a particular sum of money up-front and would maintain a balance upon which to draw in the future. 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.

Clients may also choose to draw all of the proceeds at closing. 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. Counselors must warn clients away from lenders who seek to advise them on how to use the loan proceeds, particularly if the lender is urging the client to purchase an annuity or other investment.

- **Tenure:** This plan provides a fixed monthly disbursement and is particularly useful for clients who intend to remain in their homes for a long period, and who know how much money they need to meet their monthly expenses. Although tenure plan calculations are based on clients reaching the age of 100 years, clients will continue to receive payments for as long as they remain in the home.

- **Term:** The term plan provides a fixed monthly disbursement to clients for a set number of years. This plan provides security of income to clients who know how long they will remain in their home and how much money they need each month. Because the available funds may be disbursed over a shorter period than under a tenure plan, clients may receive larger monthly payments than they would under a tenure plan.

- **Combination:** This option enables clients to combine a line of credit plan with either a tenure or a term plan. It is beneficial for clients who need a fixed amount of money each month and who want to reserve funds for unforeseen expenses or for their heirs if they do not need the funds.

- **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. If the HECM is large enough, it may be a good option for a client who wants to pay off a forward mortgage and receive additional monthly income.

- **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.

  Recurring expenses include:
  - Property taxes
  - Hazard insurance
  - Home maintenance

  Future expenses may include:
  - Home repairs
  - Ramps
  - Grab-bars

- In-home health care or assistance
- Other medical expenses

- **Availability of Public Benefits to the Client**
  Counselors must determine whether the client receives public benefits (e.g. SSI, Medicare, and Medicaid). If not, counselors must inform clients about their potential eligibility for such benefits. Counselors will utilize the NCOA's www.benefitscheckup.org, which allows users to check eligibility for frequently utilized public benefit programs. If the client has an income below 200% of the Federal Poverty Level or is disabled, counselors must run BenefitsCheckUp 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. See Attachment B. 9 for more information on public benefits, financial alternatives and supplements for seniors.

- **The Reverse Mortgage and the 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 is a factor in calculating the allowable principal amount of a HECM loan.

- **Client Scenarios and Loan Comparisons**
  Prior to conducting the counseling session (except in an emergency), the counselor or the counseling agency must provide the client with the following documents: a loan summary; an amortization schedule; and comparisons of the different reverse mortgage loans available to the client. Counselors must use loan comparison software that generates a set of loan options to help clients understand what a reverse mortgage requires; the timing of payments in a reverse mortgage; and the purposes and benefits of the loan. 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. Attachment B.11 provides information on loan comparison software.

V. Features of Reverse Mortgages

Overview of Reverse Mortgage Programs and Product Features

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

- **Eligibility**
  - Borrower Eligibility
  - Property Eligibility
  - Required Repairs
  - Properties Held in Trust (if applicable)
  - Power of Attorney and Conservator/Guardian (if applicable)

- **Loan Features**
  - Reverse Mortgage Products
  - Loan Limit
  - Principal Limit
  - Payment Options
    - Line of Credit
    - Tenure
    - Term
    - Combination Payment Plans
  - Interest Rate
    - Adjustable Interest Rates
    - Margin/Index
    - Interest Rate Cap
    - Fixed Interest Rates
    - Expected Rate
    - Note Rate
  - Leftover Equity
  - Mortgage Insurance
  - Retention of Title
  - Repayment of Debt

- **Loan Costs**
  - Mortgage Insurance Premium
  - Servicing Fee and Set Aside
  - Third Party Costs (Appraisal, Credit Report, and Processing Fees)
  - Origination Fee
  - Financing Closing Costs
  - Payment Plan Change Fees
  - Total Annual Loan Cost (TALC)

- **After Closing**
  - Disbursement of Funds
  - Right of Rescission
  - Borrower Obligations
  - Loan Payable Events/Repayment of Debt
  - Prepayments
  - Impact on Public Benefits
  - Income Tax Implications
  - Ability to Change Payment Options

Eligibility

- **Borrower Eligibility**

  All borrowers must be 62 or older. If both husband and wife are on the title to the property, they must both be at least 62 years old in order to qualify for a HECM. A younger spouse may take his or her name off the title of the property in order to allow the eligible spouse to participate. Then, when the younger spouse turns 62, he or she may be added to the loan if the borrower chooses to refinance. However, there is a significant risk associated with removing the non-borrowing spouse from the title in order to pursue a reverse mortgage. If the borrowing spouse should die, the reverse mortgage will become due and payable and the non-borrowing, non-titled spouse may be forced to sell the home to pay off the loan.

  Borrowers must receive reverse mortgage counseling from a HUD-approved housing counseling agency before applying for a HECM loan with a lender.

  Borrowers must maintain their principal residence in the property securing the HECM loan. They cannot leave the property for more than 12 months. Borrowers may have only one principal residence.

  Borrowers who have an existing mortgage on their home must either pay it off before getting a reverse mortgage, or use an immediate cash advance from the reverse mortgage to pay it off. Borrowers who do not pay off the mortgage before obtaining a reverse mortgage, or who do not qualify for a sufficiently large cash advance to pay off the existing mortgage, will not be able to get a reverse mortgage.

  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 principle 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 vary from those for a HECM.

- **Property Eligibility**

For HECM loans, eligible property types include single-family homes (one to four-unit properties), manufactured homes (built after June 1976), condominiums, properties in planned unit developments, and townhouses. Properties held in a living trust are also eligible for HECM loans. 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.

Properties eligible for HECM for Purchase 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.

Ineligible properties include the following:

- Cooperative units
- Boarding houses
- Bed and breakfast establishments
- Manufactured homes built before June 15, 1976
- Manufactured homes lacking HUD certification labels or a permanent foundation

Additionally, "flipped" properties are ineligible for purchase with a HECM. The following are ineligible:

- Properties being sold by anyone other than the owner of record
- Properties being re-sold 90 or fewer days from the previous sale
- 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: *HUD may issue exceptions to these restrictions to accommodate home sales in economically distressed areas. Potential borrowers must confirm with their lenders whether specific properties are exempt from HUD's eligibility restrictions.*

- Borrowers must occupy the property within 60 days.

- **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. Funds equal to 150% of the cost of the repairs, plus the administration fee, may be 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.

- **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 benefit of other individuals (such as the borrower's heirs), the property may be eligible for a reverse mortgage 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 irrevocable for the property to be eligible for a HECM. However, a lender may require the trust to be irrevocable as a condition for approving a reverse mortgage.

- **Power of Attorney and Conservator/Guardian**
  The counseling session may be conducted with a person holding a durable power of attorney for the client. A person holding a durable power of attorney specifically designed to survive incapacity may execute necessary loan documents. To be valid, the legal documents establishing the durable power of attorney must be prepared when the borrower is competent to understand the nature of the arrangement. 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 client to the HUD Homeownership Center in that region.

  If a court has judged the homeowner to be legally incompetent (i.e., incapable of decision-making), 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.

Loan Features

- In a forward mortgage, the borrower makes monthly payments to the lender, gradually building up his or her equity in the property. In a reverse mortgage, the lender makes monthly payments to the borrower, gradually purchasing the equity in the home from the borrower. The borrower continues to hold title to the property, which is security for the loan.

There are three types of reverse mortgages:

- **Single purpose reverse mortgage:** State and local government agencies usually offer this type of loan, in which the borrower may use the proceeds in only one specific way. For example, the borrower may use the proceeds for home repairs or payment of taxes. This type of reverse is often restricted to homeowners with low or moderate income.
- **Proprietary reverse mortgage:** 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. Propriety reverse mortgages may be more suitable for upper-income borrowers with high -value homes.
- **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 HEM loans, and designs and administers the guidelines governing lender and borrower eligibility and use of HECM loans. Borrowers may use a HECM for any of the following purposes:
  - Paying off any existing forward mortgage
  - Accessing home equity of a current residence (after satisfying any outstanding mortgage debt on the property)
  - Refinancing an existing HECM
  - Purchasing a new residence and obtaining a reverse mortgage in a single transaction

- **Loan Limits**

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

  The loan limit on a HECM for purchase is the lesser of the FHA 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 may want to 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.

- **Principal Limit**

  The principal limit is the amount of money that a borrower may access through a reverse mortgage. For HECM loans, the principal limit available to the homeowner 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 and the expected interest rate, which may be no lower than 5.5 percent. 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.

- **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 or a combination of line of credit with term or tenure ("modified term" or "modified tenure," respectively).

A HECM borrower may request to change his or her payment plan at any time during the life of the loan. The lender may charge a fee, not to exceed $20.00, 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.

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.

Proprietary reverse mortgages may not offer different payment options. If the proprietary product offers different payment plans, the lender may prohibit the borrower from changing the payment plan, or require the borrower to pay a fee to change plans.

- **Line of Credit**
  The lender may offer the borrower the HECM proceeds through a line of credit. The borrower may access the money at any time until the line of credit is exhausted. 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 stay in the home as long as he or she continues to pay homeowners insurance real estate taxes, and makes any necessary home repairs.

  The unused portion of the line of credit grows at the "credit line growth rate," which is equal to the note rate. This is the same rate at which the principal limit and the loan balance grow, which is the current interest rate plus 0.5 percent. Therefore, the amount of funds available to the borrower from a line of credit grows larger each month for as long as any funds remain. 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. Moreover, all HECM payment plan options "grow" 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.

  A borrower may receive the entire net principal limit from the line of credit at closing in one up-front draw or lump sum. This draw schedule is not a payment plan in itself but is an option with a line of credit. A borrower may use this money to pay off an existing mortgage. If the client has indicated that their lender is trying to cross-sell them an annuity or other investment, the counselor must provide the client with the OIG Hotline number to report the lender.

- **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 length of the term for tenure payments 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.

- **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 by paying their property taxes and hazard insurance, and maintaining the home.

- **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.

➢ **Note Rate**
Counselors must ensure that clients understand the interest rate being charged by the lender for the reverse mortgage.

For either adjustable or fixed-rate loans, lower interest rates may be offset by higher origination costs, which the borrower may pay at closing or finance in the loan. If closing costs are financed, less cash will be available to the borrower. With HECMs, origination charges are rarely paid by increasing the interest rate because the higher rate results in result in a lower principal limit.

- **Adjustable Interest Rate**
  The interest rates for adjustable loans are comprised of an index rate plus a margin. Currently, 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 the London Inter-Bank Offered Rate (LIBOR).

  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. 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.

The chart below displays the eligible index types for adjustable rate HECM loans.

Eligible Index Types		
HECM ARMs	**Periodic Adjustments-Note Rate**	**Expected Average Mortgage Interest Rate or Expected Rate (Determines Principal Limit)**
Monthly Adjustable	1-Month CMT	10-Year CMT swap
	1-Year CMT	10-Year CMT
	1-Month LIBOR	10-Year LIBOR swap
Annually Adjustable	1-Year CMT	10-Year CMT swap
	1-Year LIBOR	10-Year LIBOR swap

- **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 added to the expected rate, which affects the calculation of the initial principal limit. The higher the rate, the lower the principal limit. Margins may vary from lender to lender and from product to product.

- **Interest Rate Cap**
  The interest rate cap is the maximum amount that the lender may add to the initial interest rate on an adjustable rate loan. Annual adjustable rate HECM loans have a 2 percent annual cap and a 5 percent lifetime cap. Proprietary reverse mortgages often have interest rate caps, but these will vary from product to product.

- **Fixed Interest Rate**
  Some lenders offer HECMs with a fixed interest rate. With a fixed-rate reverse mortgage, the principal limit and the loan balance will grow at the interest rate determined at closing. When discussing a fixed-rate reverse mortgage, counselors must make clients aware that some lenders may set the interest rates at a level that makes the line of credit with a full, up-front draw at closing the only feasible option. Drawing the entire loan balance at closing exposes the borrower to many 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 large 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. Over time, a fixed-rate loan which avoids the risk associated with an adjustable interest rate may be less advantageous to the borrower than an adjustable-rate loans which maximizes the amount of equity available up-front and has a lower initial rate.

  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. Because the interest rate on an

adjustable-rate loan may increase over time; for line of credit borrowers who do not plan to draw all of their funds at (or soon after) closing, an adjustable-rate loan may actually provide more available borrowing power for the homeowner.

- **Expected Rate**
  The lender calculates the expected rate at origination and uses it to determine the principal limit and the servicing fee set-aside. For a fixed-rate HECM loan, the expected rate is equal to the fixed rate and is the same as the note rate. The higher the expected rate, the lower the principal limit will be.

  For an adjustable-rate loan, the expected rate is the sum of the lender's margin and the loan's index adjusted to a constant maturity of ten years (10-year CMT or 10-year LIBOR swap rates). When determining the principal limit for an adjustable rate HECM, if the expected rate is less than 5.5 percent, then 5.5 percent will be the rate the lender uses to determine the principal limit.

- **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.

- **Leftover Equity Reserve**
  When a borrower takes out a reverse mortgage, 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.

- **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 can 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 the borrower, FHA will make the payments to the borrower.

- **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.

- **Repayment of Debt**
  The HECM loan becomes due and payable for any of the following reasons:

  1. The last surviving borrower passes away;
  2. The property is no longer the primary residence of the borrower;

3. The last surviving borrower does not occupy the home for more than 12 consecutive months for health reasons;
4. The borrower maintains resides at another property for more than 6 months out of a year; or
5. The borrower fails to perform an obligation under the mortgage, such as paying taxes and hazard insurance.

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, he or she 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.

- **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. 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, they are personally liable for the full balance of the loan.

  The lender is limited to 6 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 6 month, or previously extended timeframe has expired. It 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.

Loan Costs

- **Mortgage Insurance Premium**
  Borrowers must pay both an up-front and monthly premium for the insurance provided by FHA. These premiums are calculated at closing. The borrower pays an up-front insurance premium, which is 2 percent of the maximum claim amount, plus a 0.5 percent annual premium. Mortgage insurance fees are charged to the borrower throughout the life of the loan and are not refundable.

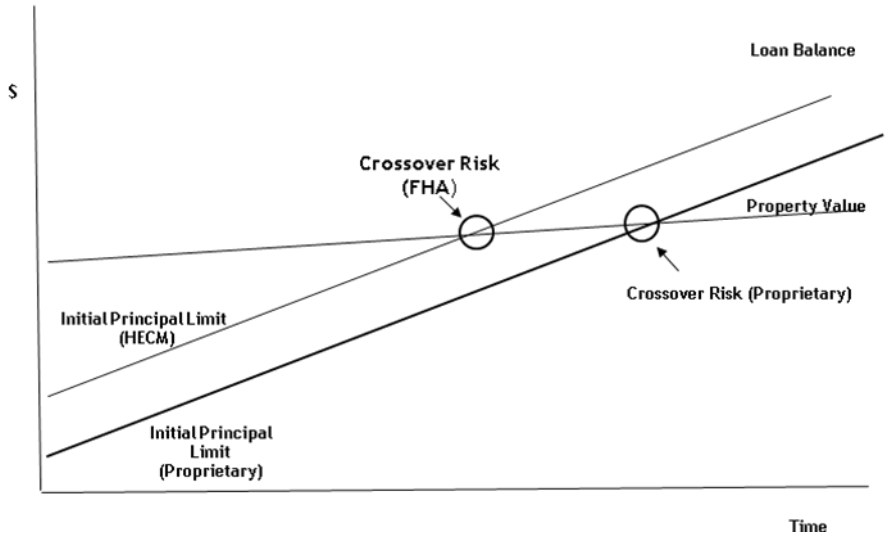
  HECM borrowers who refinance into another HECM are eligible for a reduction in their up-front mortgage insurance premium. The premium paid on the new HECM is calculated by multiplying the difference between the old maximum claim and the new maximum claim

amounts by 2 percent. 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.

Today, reverse mortgages that are not federally insured do not have a mortgage insurance premium and generally include other fees and pricing programs to protect lenders from risk. For example, non-insured products may set the principal limit much lower than a HECM, as illustrated below, so that the beginning loan balance represents a small portion of the home's value, even as the loan balance grows over time. Without mortgage insurance to protect them from losses associated with the loan balance growing larger than the property value, lenders take a conservative approach and set the principal limit lower. As a result, typically the FHA-insured product gives borrowers access to more equity than non-insured reverse mortgage products. Counselors should make potential borrowers aware of the costs and available loan amounts on proprietary products that compensate for the absence of a mortgage insurance premium.

Crossover Risk

"Crossover" occurs when the loan balance exceeds the property value. FHA charges an insurance premium as protection against crossover risk. With proprietary products for which the crossover exposure is greater than with a HECM, lenders protect themselves by setting the initial principal limit lower than they would on a HECM (as shown in the chart above). 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, and also provide lenders and borrowers with the security of full backing by the federal government.



- **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.

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.

- **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 he or she completes a reverse mortgage application with the lender.

- **Application Fee and Origination Fee**
  These fees compensate the lender for processing, underwriting and preparing the loan documents. Lender origination fees are 2 percent of the first $200,000 of the maximum claim amount, plus 1 percent of the balance above $200,000 to a maximum origination fee of $6,000. Some lenders may charge lower origination fees, but they may charge higher interest rates. This practice may be more costly to the consumer.

- **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.

- **Payment Plan Change Fees**
  The borrower has the option of changing the reverse mortgage payment plan type at any time for a fee not to exceed $20. Borrowers should ask lenders about the procedures for changing the payment plan when applying for a reverse mortgage.

- **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 costs of the loan. 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 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. See B.6 for sample TALC calculations.

After Closing

- **Disbursement of Funds**
  After closing, 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.

- **Right of Rescission**
  After closing, borrowers have three days to cancel the loan. If a borrower decides not to take the reverse mortgage, he or she must notify the lender immediately of this decision. There is **no** right of rescission with a HECM for purchase unless state law provides it.

- **Borrower Obligations**
  The borrower must pay property taxes and hazard insurance. At the borrower's request, the lender may withhold funds to pay these costs on the borrower's behalf.

  The borrower must maintain the condition of the property as it was when the lender approved the reverse mortgage. 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.

- **Impact on Public Benefits**
  A reverse mortgage 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 reverse mortgage 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. If the borrower resources exceed these limits, that benefit will be terminated.

- **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 reverse mortgage is not tax- deductible until it is actually paid through loan prepayment or payoff.

VI. Financial Alternatives and Supplements

Here are five questions that counselors must ask clients to assess how well a reverse mortgage meets the clients' needs:

1. **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.
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. **What are your financial needs and how would a reverse mortgage help you?**
4. **How much could you get from a reverse mortgage?** Will a reverse mortgage be enough to cover your financial needs?
5. **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.

Further details and resources regarding these options are in Attachment B. 9 of this document.

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 and 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 reverse mortgage. Counselors must discuss the following options:

- **Alternative Ownership Arrangements**

  - **Retirement communities**
    Retirement communities offer a number of services such as meals, housekeeping services, transportation and activities. Residents may retain their independence while eliminating most of the burdensome responsibilities of homeownership.

  - **Home-sharing arrangements**
    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.

- **Selling**
  Clients may consider selling their homes because:

  - The home is too large and the client wants to downsize.
  - The upkeep of the home is too burdensome or costly.

- The house needs repairs or upgrades that the client cannot afford.
- The client believes he or she will save money by selling and renting.

Renting

- **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. This funding covers the difference between how much the senior is able to pay and the actual rent.

  Seniors who qualify for subsidized housing are less subject to dramatic increases in rent over time as long as 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 will may affect their ability to qualify for subsidized housing.

- **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.

Other Financial Options

- **Home Equity Loans**
  A home equity loan uses the equity in the borrower's home as collateral. These loans are sometimes useful to help pay for unexpected home repairs and medical bills. A home equity loan creates a junior lien against the borrower's home. Home equity loans must be repaid in monthly payments of principal and interest, which become due as soon as the loan is closed. Borrowers must have sufficient income and good credit to qualify for a home equity loan.

- **Individual Retirement Accounts**
  Many clients may have Individual Retirement Accounts that may serve as sources for extra income. There are several types of IRAs including 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.

- **Refinance of Existing Forward Mortgage**
  If a client has an existing forward mortgage, he or she 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 good credit to qualify for a refinancing mortgage.

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:

- **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.

- **Senior Centers**
  Many senior centers offer a variety of exercise programs, health screenings, socialization and recreation opportunities, counseling services, hot meals, and other activities.

- **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.

Community Programs

A wide variety of additional services and programs may be offered by local public agencies or nonprofit groups at the community level, such as:

- **Home repair and adaptation services**: Subsidized funds for minor home repairs, to build wheelchair ramps, and to install safety features for older adults;

- **In-home care, homemaker, and chore services**: Public assistance available for those who need help with tasks like housekeeping, grocery shopping, or personal care;

- **Adult day care**: Group care programs may serve as an alternative to expensive one-on-one home care for adults who need constant supervision;

- **Transportation**: Assistance via public programs or volunteer groups;

- **Volunteer coordination programs:** Assistance with yard-work, house painting, roof repairs, grocery shopping, transportation, social contact, and other needs;

- **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;

- **Local hospitals:** Wellness events or health fairs that provide free blood pressure checks and materials on nutrition and fitness;

- **Churches:** Support of "friendly visiting" of older people who are homebound by another member of the church; and

- **Civic groups**: Charitable events to serve older adults.

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), which began in 2006, is an optional add-on to the regular Medicare health insurance program. In most cases, seniors can save 50% or more 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 www.nasua.org 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 reach out to and work with the Aging Network in their local community to partner in providing clients with the level of service to meet their needs.

VII. Reverse Mortgage Counseling Tools

Product Printouts/ Software

Counselors may discuss loan printouts and amortization schedules given by lenders to clients. They may also generate and discuss amortization schedules and loan comparisons they develop using an available reverse mortgage calculator (See B.11 "Reverse Mortgage Online Comparison Tool") or other available software. Counselors should answer questions about the loan printouts and product features. 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 clients' unique financial circumstances.

Counselors must be cautious not to steer clients toward any particular proprietary or HECM product. 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. They should provide a balanced view by providing customized loan printouts to clients on:

- HECM loans that are widely available from many HECM lenders,
- Proprietary products that are broadly offered by reverse mortgage lenders, and
- Specific proprietary or HECM products that have been offered to that client by a reverse mortgage lender.

Acceptable software must provide the following:

- Future remaining credit line projections based on credit line draws specified by the client (if the client selects a credit line)
- A comparison of estimated loan details at closing
- 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
- Amortization projections for selected products with year-by-year details (the loans negatively amortize: as the loan balance increases, equity decreases)

- Required investment for HECM purchase loans

Counselors must neither encourage nor discourage clients towards or away from specific products. Available software can be found by going to www.hecmresources.org. Only counselors on the HECM Counselor roster may use this software.

HECM PROTOCOL ATTACHMENTS

Attachment A: HUD Counseling Policies

- A.1 Counseling Certificate
- A.2 Paying for Counseling
- A.3 Contents of the Client File
- A.4 Participants in Reverse Mortgage Counseling Sessions
- A.5 Client Privacy
- A.6 Elder Abuse
- A.7 Lender Steering
- A.8 Lender Communications
- A.9 Lender Activities

A.1 Counseling Certificate

Overview of Requirements on Counseling Certificate

All borrowers must have a reverse mortgage counseling certificate in order to proceed with a HECM loan application.

Counselors issue the counseling certificate (HUD-92902) after the borrower successfully completes the counseling session. Counselors generate the certificate only in FHA Connection and not from any other source. 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 includes a list of specific items that the counselor must discuss in detail with the client before issuing the certificate. This list includes:

- Options other than a Home Equity Conversion Mortgage that may be available to the homeowner(s) including other housing, social service, health and financial options;
- 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;
- The financial implications of entering into a Home Equity Conversion Mortgage;
- 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);
- A notice that the homeowner need not pay for the services of an estate planner in order to get a HECM loan; and
- 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).

The counselor must record on the certificate:

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

Only those individuals who must attend the HECM counseling session are required to sign the counseling certificate. Other individuals participating in the session (e.g. a non-borrower spouse) are not required to sign the certificate. 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.

The counseling certificate is valid for 180 calendar days from the date counseling is completed.

A.2 Paying for Counseling

Borrower-Paid Counseling
Agencies participating in HUD's Housing Counseling Program may charge a fee for HECM counseling services as long as the fee:

1. Is reasonable and customary;
2. Does not create a financial hardship for the client; and
3. Meets the other requirements of the regulation in 24 CFR 214.313.

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. The housing counseling agency must establish written procedures for determining the client's ability to pay. Such procedures must support a determination of ability to pay that is based on objective criteria. If the counseling agency charges the client a fee, the counseling agency must show that it disclosed its hardship policy to the client. If the client requests a hardship-based waiver of the fee, the client's file must include the information the agency reviewed to make the decision.

Agencies must inform clients of the fee structure in advance of providing services. Counseling agencies must not turn away clients because of an inability to pay. Moreover, agencies may not withhold counseling or the Certificate of HECM Counseling based on failure to pay.

Appropriate Charges
A HECM counseling fee must be reasonable and commensurate with the counseling services that are provided. Agencies may not impose fees upon clients for the same portion of a service, or for an entire service that is already funded with HUD Housing Counseling grant funds.

The fee charged may not be excessive and must be commensurate with services actually performed. The maximum amount an agency may charge is the actual cost of counseling. If counseling requires a prolonged session, multiple sessions, or an in-home session, the counseling agency may charge a higher fee, if commensurate with services provided. All agencies charging fees for HECM counseling must document the actual cost of providing the counseling session in the client file.

Other Individuals Participating in Counseling Session
Agencies participating in HUD's Housing Counseling Program 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. 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.

Payment of Counseling 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 in the 800 series or charges on the HUD-1 settlement statement.

A.3 Contents of the Client File

Once the counseling session is complete, the counselor should complete the client file, either paper or electronic is acceptable. As stated in HUD's Housing Counseling Handbook, all counseling agencies *must* maintain a separate, confidential file for each client. The counselor must ensure that the file contains all of the following contents:

- ☐ **File number:** A file number for the unique counseling interaction;
- ☐ **Financial Analysis/Budget:** Evidence of analysis of the client's unique financial and credit circumstances as they relate to the reverse mortgage;
- ☐ **Required Data:** All required fields listed in the Interface Control Document (ICD) of the Client Management System – details regarding these fields can be found at: http://www.hud.gov/counselors/.
- ☐ **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;
- ☐ **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;
- ☐ **Counseling Participants:** Listing of people other than the borrower(s) that attended the reverse mortgage counseling session and a description of their relationship to the client(s);
- ☐ **Counseling Certificate:** Signed and dated HECM counseling certificate; if the certificate was not issued, the reason why it was withheld;
- ☐ **Agency Disclosure Statement:** A copy of the disclosure statement 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 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 telephone counseling, the agency must verbally or electronically provide a disclosure that meets these requirements.
- ☐ **Power of Attorney** or other documents relating to legal competency, if applicable;
- ☐ **Total Annual Loan Cost (TALC):** Assessment of the total annual costs of a reverse mortgage including interest payments and other fees that require payment;
- ☐ **Amortization schedules** for reverse mortgage loan options;

- ☐ **Notation** of other brochures or handouts on the reverse mortgage lending process / procedures / timelines, reverse mortgage lenders, and/or alternatives to a reverse mortgage provided to the client;

- ☐ **Documentation** demonstrating that all required counseling content and information was provided;

- ☐ **Statement** about client's qualifications as a current or prospective borrower for a HECM or a conventional reverse mortgage;

- ☐ **Pertinent Documents** including copies (electronic or paper) of pertinent records or correspondence received from the client or created on their behalf;

- ☐ **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;

- ☐ **Documentation of Results** of counseling session(s);

- ☐ **Fees charged,** if applicable; the amount paid through client fees and a copy of the receipt(s) provided to the client;

- ☐ **HUD Grant Activity**, if applicable, noting whether the activity was partially or fully funded by a HUD housing counseling grant or sub-grant;

- ☐ **Discussion of Alternatives** listing any service providers, product vendors, products, features, services, or properties about which information was discussed with the client; and

- ☐ **Miscellaneous Information** obtained during the intake and subsequent housing counseling sessions not mentioned above.

A.4 Participants in Reverse Mortgage Counseling Sessions

The FHA HECM handbook 4235.1 Rev.1 and Mortgagee Letter 2006-25 provide guidelines regarding who must receive reverse mortgage counseling in order to obtain a HECM loan. The handbook also suggests other individuals who may benefit from or be of assistance to the client by attending the counseling session. It is important that reverse mortgage counselors convey this information to every client so that the client can seek additional assistance from friends or family when appropriate. The HECM handbook and mortgage Letter 2006-25 provides the following guidelines on **who is *required* to attend** and **who *may benefit* from attending** a reverse mortgage counseling session.

Who *Must* Receive Reverse Mortgage Counseling:

Person(s) on Deed
All persons on the deed to the client's home, who intend to be reverse mortgage borrowers and are eligible for a HECM, must participate in reverse mortgage counseling.

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. The trustee must sign the mortgage, but the trustee is not required to attend counseling unless the trustee is also the beneficiary of the loan or a HECM borrower.

Homeowner's Legal Representative
For any homeowner who is not legally capable of decision-making (as determined by an attorney or a court of law), the counseling session must be conducted with a person holding a durable power of attorney or with a court-appointed conservator or guardian on behalf of the homeowner.

Who *May* Receive Reverse Mortgage Counseling:

A Non-Borrower Spouse
When the spouse of a homeowner chooses not to seek, or is ineligible for a reverse mortgage, FHA recommends counseling. In the case of a non-borrower spouse who intends to remove his or her name from the title, counseling ensures that he or she understands the implications of a reverse mortgage and the risks posed by quitclaiming interest in the real estate.

Persons with Reversionary or Remainder Interest, or Trustees and Trust Beneficiaries
Counseling is ***not*** required for persons with a reversionary or remainder interest in the real estate, or trustees and trust beneficiaries that are not HECM borrowers. FHA strongly encourages these individuals to seek reverse mortgage counseling. The following provisions apply:

- Counselors should provide counseling if requested by persons with a reversionary or remainder interest, or are trustees and trust beneficiaries.

- Persons with a reversionary or remainder interest, or trustees and trust beneficiaries may go to a HUD-approved housing counseling agency of their choice.

- Counseling for these individuals does not have to take place at the same agency that provided reverse mortgage counseling to the original client.

- When counseling services are rendered to persons with a reversionary or remainder interest in the property, or to trustees and trust beneficiaries that are not HECM borrowers, they do not need to sign the HECM certificate.

- Persons with a reversionary or remainder interest in the real estate, 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.

Children of the Homeowner
Children of a prospective reverse mortgage borrower who do not qualify for a reverse mortgage 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 encouraged to attend counseling.

If requested, reverse mortgage counseling will be made available by a HUD-approved housing counseling agency, but the children or other individuals not on the title may, but are not required to, sign the HECM certificate. 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.

Persons with an Advocacy Interest
Persons with an advocacy interest such as members of the homeowner’s family, the homeowner's attorney or friends of the homeowner, may attend the housing counseling session. This DOES NOT include representatives of the lending entity.

A.5 Client Privacy

HUD's basic requirement on the confidentiality of client information is set forth in the HUD Housing Counseling Handbook 7610.1: "The counseling agency must hold in strict confidence all client information regardless of the source or sources from which it is received." In addition, HUD Mortgagee Letter 2004-25 states:

> "[B]efore, during, or after the counseling session is completed, the lender may not contact a counselor or counseling agency to refer a client; discuss a client's personal information, including the timing or scheduling of the counseling; or request information regarding the topics covered in a counseling session."

To safeguard further the privacy of their clients, reverse mortgage counselors also **must not**

- accept counseling requests by anyone "on behalf of" consumers, except for persons who are legally empowered to represent such consumers; and
- 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.

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. These practices undermine the independence of the counselor's role, disrespect consumer autonomy and violate the confidentiality of the counseling process. Instead, counselors must make it clear to the client from the start: 1) that they have a confidential relationship with the client that is independent of the lender; 2) that the role of the counselor is separate from that of the lender; 3) and that the counselor's job is to represent the best interests of the client. However, if a client has already been in contact with a lender, the counselor should show sensitivity to that established relationship by neither encouraging nor discouraging the continuance of the relationship.

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 HUD Homeownership Center.

A.6 Elder Abuse

Elder abuse is defined as follows: "any knowing, intentional, or negligent act by a caregiver or any other person that causes harm or a serious risk of harm to a vulnerable adult." Legal definitions vary from state to state, but may include abuse that is physical, emotional, sexual or financially exploitive. The definition may also cover situations involving neglect or abandonment. Financial exploitation is the illegal or improper use of a person's funds, property or assets. It includes the illegal or improper use of conservatorship, guardianship or power of attorney. It can also involve cashing a person's checks without authorization or permission; forging a person's signature; misusing or stealing a person's money or possessions; or coercing or deceiving a person into signing any document including a counseling certificate, a loan application, or mortgage documents. *Source: National Center on Elder Abuse (see* http://www.ncea.aoa.gov/ncearoot/Main_Site/index.aspx)

Sixteen states require anyone to report suspected abuse, and most other states require „human services professionals' to report suspected abuse, including financial exploitation, of older people. Reports can be made anonymously; conversely, most state laws or policies state that there is no duty to report to the person who lodges the complaint as investigations, actions, and outcomes are confidential. All states provide statutory immunity to those who report a problem in good faith." *Source: American Bar Association (see* http://www.abanet.org/aging/about/pdfs/Immunity_for_Good_Faith_Reporting_Explanation.pdf*)*

If a counselor suspects that a conservatorship, guardianship or power of attorney may be invalid, the counselor must refer the case to the HUD HOC or OIG Hotline. According to Mortgagee Letter 2006-25, 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.

A.7 Lender Steering

"Lender steering" means inducing a client to contact, select or to avoid a specific lender or lenders. Lender steering can eliminate or sharply reduce client choice in the selection of a lender by substituting the steering party's judgment for that of the client. It can also constitute a real or apparent conflict of interest on the part of a counseling agency or counselor. Such conflicts can undermine the independence of the counselor's role in fact or as perceived by clients.

To implement a strict "no steering" policy, counselors must provide their clients with the handout in Attachment C.1 regarding the role of reverse mortgage counselors, in addition to adhering to the following guidelines:

Counselors must not:

- Promote, represent or recommend any specific lender or lenders.

- Speak for any lender or lenders about what they charge clients for origination or servicing fees or third-party closing costs:
  - by providing information on the specific origination or servicing fees being charged by any specific lender or lenders;
  - 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
  - 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.

- Presume that a client wants to contact specific lenders.

- 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:

- All lenders charge the same mortgage insurance premium (MIP) on HECM loans.

- HECM and proprietary product interest rates, origination and servicing fees and third-party closing costs can vary from lender to lender.

- HECM origination and servicing fees may not exceed the maximum amounts established by HUD, which the counselor will also provide.

- 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."

- The origination and servicing fees and third-party closing costs a lender charges a borrower may vary from one borrower to another and may be negotiable.

- Counselors do not promote, represent or recommend any specific lender or lenders.

- 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.

- A list of approved HUD HECM lenders by state is provided on HUD's website available at http://www.hud.gov/

- While being sensitive to steering issues, counselors must not protect lenders against price competition. Instead, they must inform their clients about allowable loan costs and allowable lender prices. Counselors must carefully explain which loan costs are required in order to obtain a loan and which are not. They must identify the specific loan costs that may vary from lender to lender and explain the maximum amount that HUD permits HECM lenders to charge for specific loan costs.

A.8 Lender Communications

Faxing a certificate to a lender is acceptable as long as doing so reflects the client's wishes as expressed by the client to the counselor at any time **after** the counseling has concluded. This approach does not prejudge 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:

- 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.
- The request does not have to be in writing. If the client makes a verbal request, the counselor must note this fact 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.
- If a client makes such a request before counseling has been completed, the counselor must respond that he or she will be happy to comply if that is what the client still wants once the counseling is complete. In these cases, the counselor must acknowledge the request, and then, once the counseling is complete, ask the client if he or she still wants the counselor to fax the certificate to a lender.
- Only the client or his or her legally authorized representative may request that the counselor fax the certificate to the lender.

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

- The counselor must fax a copy of the certificate to the lender that has been signed by the counselor;
- The counselor must then mail a copy of the certificate to the client;
- The client must sign the certificate and then either fax or mail a signed copy to the lender;
- 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.

The lender may not proceed with processing the reverse mortgage application until it receives the complete certificate.

A lender may not charge any fees or proceed with processing the loan 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.

A.9 Lender Activities

Reverse mortgage 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. HECM Handbook 4235.1 Rev.1 and applicable Mortgagee Letters provide the following guidelines for appropriate lender activities:

Lender Activities Allowed Prior to HECM Counseling

- Explain the HECM program or proprietary products
- Discuss whether the prospective borrower is eligible
- Provide information regarding fees and charges associated with reverse mortgages
- Describe the potential financial implications of a reverse mortgage
- Provide the prospective borrower with copies of the mortgage, note, and Loan Agreement
- Order a **limited** (but not a full) title search, which is performed from the date of the search back to the most recent deed on record
- 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.

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 him or her prior to the completion of counseling.*

Lender Activities Prohibited Prior to Counseling

- Beginning to process a loan application
- Ordering an appraisal
- Requesting a full title search from the date of search back to the original deed
- Obtaining an FHA case number
- Obtaining a credit report
- Imposing any application fees or any other HECM-related service charges

Note: *The lender may only process the initial loan application after the counseling is completed and the lender has received the HECM counseling certificate (HUD Form 92902) containing the date and signatures of both the counselor and client(s). When counseling is completed, the client can request to have the reverse mortgage counselor provide a faxed copy of the HUD 92902 to the lender of his or her choice.*

Additionally, a lender should not pressure the borrower to make a decision to go forward with the reverse mortgage too quickly or discourage the participation of family or trusted advisors. Lenders also may not cross-sell other financial products to reverse mortgage 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.

Attachment B: Resources for Counselors

- B.1 Required Handouts for Clients
- B.2 Additional Handouts for Clients
- B.3 SAMPLE: Appointment Confirmation Letter on Agency Letterhead
- B.4 SAMPLE: Follow-up Letter
- B.5 Reverse Mortgage Resources
- B.6 Understanding Total Annual Loan Cost (TALC) Rates and Costs of Reverse Mortgages
- B.7 Refinancing a HECM
- B.8 Annuities
- B.9 Reverse Mortgage Alternatives
- B.10 Assessing the Client's Ability to Make a Reverse Mortgage Decision
- B.11 Reverse Mortgage Online Comparison Tool
- B.12 Using FIT and BenefitsCheckUp as a Budget Tool
- B.13 Reporting Fraud, Abuse, Coercion or Other Questionable Practices

B.1 Required Handouts for Clients

HUD requires that counselors provide all clients with a standard information packet. Except for emergency counseling, counselors must provide this packet to clients prior to conducting the counseling session, and must allow sufficient time to enable clients to read the materials before the counseling session. If emergency counseling is conducted face-to-face, the counselor must give the packet to the client at the session. If conducted by phone, the counselor may email, fax or mail the packet.

The packet contains the following documents:

- ☐ HUD's *Preparing for Your Counseling Session* (Attachment C12)
- ☐ Loan printout showing TALC
- ☐ Loan printout amortization schedule
- ☐ Loan comparison printout
- ☐ National Coalition on Aging's Booklet, *Use Your Home to Stay at Home - A Guide for Homeowners Who Need Help Now* at www.ncoa.org/rm

B.2 Additional Handouts for Clients

In addition to required handouts for clients, counselors may 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 C and include:

- ☐ Important Information about Reverse Mortgage Counselors
- ☐ Reverse Mortgage Eligibility Requirements
- ☐ Home Equity Conversion Mortgage (HECM) Features
- ☐ Steps in The Reverse Mortgage Lending Process
- ☐ Reverse Mortgage Warnings for Consumers
- ☐ Questions to Ask Your Lender about Reverse Mortgages
- ☐ Reverse Mortgage Borrower Obligations
- ☐ Reverse Mortgage Borrower Obligations: A Checklist for Borrowers
- ☐ Using a Reverse Mortgage to Buy an Annuity
- ☐ Reverse Mortgage Counseling Frequently Asked Questions
- ☐ How You Can Access Your Home's Equity with a Reverse Mortgage: Payment Options
- ☐ Sample Amendatory Clause and Real Estate Certificate

B.3 SAMPLE: Appointment Confirmation Letter on Agency Letterhead

<Date>

<Homeowner's Name>
<Homeowner's Address>
<Homeowner's City, State, ZIP>

Dear Homeowner,

Thank you for requesting reverse mortgage 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 HECM counseling certificate. 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 Home Equity Conversion Mortgage (HECM) loan 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
NCOA Booklet *Use Your Home to Stay at Home – A Guide for Homeowners Who Need Help Now*

B.4 SAMPLE: Follow –up Letter

<Date>

<Homeowner's Name>
<Homeowner's Address>
<Homeowner's City, State, ZIP>

Dear Homeowner,

Thank you for participating in the reverse mortgage 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 Home Equity Conversion Mortgage (HECM) counseling certificate, which certifies that you have completed and understood the basics of reverse mortgage 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 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 the Certificate. Other reverse mortgage products may require it 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 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

B.5 Reverse Mortgage Resources

General Reverse Mortgage Resources

- For a list of general resources as well as information about HUD's reverse mortgage program visit www.hud.gov/groups/seniors.cfm.
-
- **AARP**'s websites: www.aarp.org/revmort.

- **National Council on Aging**: for health, independence issues, volunteer opportunities for seniors and benefits available to seniors: www.ncoa.org.

- National Reverse Mortgage Lenders Association website www.reversemortgage.org
  - *Using Reverse Mortgages for Health Care: A NRMLA Guide for Consumers*
  - *Just the FAQs: Answers to Common Questions About Reverse Mortgages*
  - *The NRMLA Guide to Aging in Place*

Resources on Lenders

- **HUD's HECM Lender List**: http://www.hud.gov/ll/code/llslcrit.cfm

- **Complaints about reve**rse mortgage lenders or counselors should be reported. See Attachment B.13 for FHA contact information.

B.6 Understanding Total Annual Loan Cost (TALC) Rates and The Costs of Reverse Mortgages

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

- Reverse mortgages are most costly at the beginning of the loan term
- The annual average cost of a reverse mortgage generally decreases over time
- 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 himself or herself to determine whether or not the loan would meets his or her needs and circumstances.

Itemized Reverse Mortgage Costs

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

- Origination Fee
- Up-front MIP (for HECM loans)
- Third party closing costs
- Servicing Fee
- Monthly MIP (for HECM loans)
- 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.

Total Annual Loan Cost (TALC) Rates

The TALC rate is the annual average rate that includes all loan costs and takes into account the future loan balance including all loan advances. The TALC is what the interest rate would be if all loan costs had to be included in the interest rate.

TALC rates depend on:

- The payment option and the timing and size of the loan advances
- The loan term
- 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.

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

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

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

TALC Rates and Home Appreciation
- The loan balance reaches the principal limit over time
- 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
- 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%

B.7 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% of the difference between the original maximum claim amount and the new maximum claim amount.

In the event of a HECM refinance, HECM borrowers should be aware that lenders must provide them with the following information:

- HECM Anti-Churning Disclosure- HUD form 92901
- The total cost of the HECM refinance
- 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..

For HECM refinance, HUD will waive the counseling requirement if all three of the following conditions are met:

- The HECM borrower has received the required HUD Anti-Churning Disclosure form.
- 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 (5) times the cost of the transaction.
- The time between the closing on the 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 HUD's Mortgagee Letters 2004-18.

B.8 Annuities

An annuity is a contract between a buyer and an insurance company. The insurer agrees to make periodic payments immediately or at some future date in exchange for premiums. For instance, a client may agree to invest $100,000 in exchange for a promise of $500 per month for the client's lifetime. In a deferred annuity, the monthly payments would not begin until a specified future date; in an immediate annuity, the payments begin right away. Deferred annuities are often inappropriate for older borrowers who may not gain any benefits from the investment if they have to wait 10 or 15 years.

Annuities are frequently used for retirement savings because they typically offer tax-deferred growth of earnings. There are generally two types of annuities: fixed and variable. Fixed annuities are funds typically invested in bonds, and variable annuities are invested in stocks. Advisors typically discourage older investors from variable annuities because they are designed for long-term growth.

Clients may be interested in an annuity because they can continue to receive payments even if they do not remain in their home. However, a reverse mortgage borrower will have used substantial amounts of cash paying for the costs of both a reverse mortgage and an annuity. Additionally, annuities can have high surrender charges (penalties for early withdrawal of funds) or may put the client's funds entirely out of reach for a period of time. A line of credit option on a reverse mortgage may be more appropriate for a client who is concerned with being able to access funds at his or her discretion.

If clients express interest in purchasing an annuity, a counselor must take extra steps to inform the clients that there are ways to obtain an annuity other than through a reverse mortgage. The counselor must also point out the implications of purchasing an annuity through a reverse mortgage.

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 C.9 of this protocol.

Counselors must warn clients of potential pressure by lenders to purchase an annuity or other costly security with the reverse mortgage loan proceeds.

B.9 Reverse Mortgage Alternatives

In some cases, alternatives to reverse mortgages may best meet the needs of prospective borrowers. Counselors must be aware of the resources available to senior homeowners and know how to make referrals to these resources.

Primary alternatives to reverse mortgages available to seniors as well as some basic information to assist counselors with identifying local community resources appear below. A counselor must make every effort, after identifying viable options, to contact appropriate agencies and local resources on behalf of the client to help the client access the resources that may be available.

Alternatives to Ownership

- **Retirement communities**
  This option may be expensive, but retirement communities offer a number of services such as meals, housekeeping services, transportation and activities. They can allow individuals to keep their independence while being freed from burdensome responsibilities.

- **Home-sharing arrangements**
  Clients may be able to find another senior to share a home with, either through informal networking or, in some communities, through an agency that screens and matches potential home-sharers.

- **Selling**
  Selling may be the appropriate alternative for some clients. Some reasons why clients may be considering selling their home are:
  - The family house is too large and the client wants to downsize.
  - The upkeep of the home is too burdensome and/or costly.
  - The house needs repairs or upgrades that the client cannot afford.
  - The client believes he/she will save money by selling and renting.

Although clients may save money by selling and moving, they must be informed of the cost and lifestyle issues involved with this decision. Clients who sell their homes incur significant costs, such as real estate broker commissions and other transaction fees, moving costs, and costs to set up a new living space. Clients who move at an older age may have a difficult time adjusting to a new environment and neighborhood.

Renting

- **Subsidized or affordable senior apartments**
  Subsidized housing is generally available to people age 62 years or older and below a certain income level. Both state and federal programs offer this type of housing, which provide funding towards monthly rent on an apartment. This funding covers the difference between how much the senior is able to pay each month and the actual rent. These apartments may be limited and there are usually waiting lists.

A major benefit of subsidized housing is that a senior who qualifies is less subject to dramatic increases in rent over time as long as the senior's income remains stable. This is an attractive solution for seniors living in a home with a lower value or a home that holds a large amount of debt, as renting may be less costly than maintaining a home and paying a mortgage. Seniors should be aware that subsidized housing program criteria may consider the assets from selling a home or a future large increase in income and may affect their ability to qualify. For alternative housing options, go to www.seniorhousingnet.com/seniors or to the American Association of Homes & Services for the Aging at www.aahsa.org.

- **Non-subsidized rentals**
  Many communities offer non-subsidized housing for seniors 55 years old or older. Assets do not affect their eligibility to live in the community and therefore seniors have flexibility with their assets and the amount of assets they maintain. Additionally, rent may increase on an annual basis. The tenants of such communities range from seniors to lower-income families who are eligible to live in the community.

Other Financial Options

- **Home Equity Loans**
  A home equity loan is a type of loan in which the borrower uses the equity in his or her home as collateral. These loans are sometimes useful to help finance major home repairs, medical bills or college education. A home equity loan creates a lien against the borrower's home, and allows the borrower to withdraw funds from the equity while making lower monthly payments. Home equity loans are repaid in monthly payments of principal and interest, which commence as soon as the loan is closed. Borrowers must have sufficient income to qualify for a home equity loan.

- **Individual Retirement Accounts**
  Many clients may have Individual Retirement Accounts that they can tap into for extra income. There are several types of IRAs including traditional IRAs, Roth IRAs, SIMPLE IRAs and SEP IRAs. Combined with potential tax savings at the time of contribution, IRAs can prove to be very 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 low tax bracket during retirement. Seniors who have invested in an IRA may benefit from contacting their financial institution to learn more about their ability to draw on this account.

- **Refinance of Existing Forward Mortgage**
  If a client has an existing forward mortgage, he or she may be able to refinance the mortgage to obtain a loan with better terms including a lower interest rate. In some cases, the client may be able to obtain cash through a refinance provided there is sufficient income to qualify.

Major Public Benefits

Many low- to moderate-income homeowners are not aware of the fact that they are eligible to receive benefits from major public programs. Counselors must discuss potential eligibility for these programs with their clients.

- **Supplemental Security Income (SSI)** provides monthly cash payments to qualifying low-income persons age 65 and over. To be eligible in 2008, an applicant's liquid resources (cash and savings) could not be greater than $2,000 ($3,000 for a couple), not including the value of a home or car. Monthly "countable income" could not be greater than $637 for a single person and $956 for a couple. Some earned income can be excluded from the countable total. Some states also provide additional supplements to the federal SSI benefit. See www.ssa.gov/ssi for current details.

- **Medicaid** is health insurance for low-income individuals paid for by a combination of federal and state dollars. Medicaid eligibility guidelines vary from state to state, and the program goes by different names in different states. SSI recipients are automatically eligible for this program, but many states have established higher income limits for Medicaid eligibility. Liquid resource limits for Medicaid are the same as those for SSI (see above). Eligibility and program information is available at www.cms.hhs.gov/home/medicaid.asp.

- **Medicare Savings Programs** can help pay Medicare premiums, co-payments and deductibles. Like Medicaid, these programs are funded by a combination of federal and state dollars. These programs are also known by a variety of names (e.g. QMB, SLMB). Income limits vary but are somewhat higher than regular Medicaid limits. In 2008, programs that help pay Medicare costs have liquid resource (cash and savings) limits of $4,000 and $6,000 for couples. Limits on the amount of allowable income vary from state-to-state. This information can be found at www.medicare.gov.

- Many reverse mortgage clients report prescription drug costs as a major financial strain. **Medicare Prescription Drug Program (Medicare Part D)**, which began in 2006, is an optional add-on to the regular Medicare health insurance program. In most cases, seniors can save 50 percent or more on their drug costs (compared to full retail) by signing up for this program. There is also a Low Income Subsidy program that provides savings that are more substantial for clients who meet income and asset criteria. For more information and a tool to help clients select a plan, visit www.medicare.gov. Additionally, information about the Low Income Subsidy is available at www.ssa.gov.

Resources

Benefits Eligibility

The National Council on Aging maintains a website on Senior Benefits and Programs, available at: www.benefitscheckup.org. In partnership with NCOA, AARP offers a streamlined version for checking eligibility for the 15 most frequently utilized public benefit programs, which is available at www.aarp.org/quicklink. Counselors must complete BenefitsCheckUp for all borrowers whose income falls below 200 percent of the Federal Poverty Level (FPL) or who are disabled. Counselors are required to offer BenefitsCheckUp to all clients however a client who does not fall in one of the previous two categories may decline it. For more information, please see Attachment B.12.

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. Federal funds from the Older Americans Act are transmitted to State Units on Aging, which channel them to Area Agencies on Aging.

- **The Administration on Aging (AoA)** is located within the U.S. Department of Health and Human Services. It serves as a:

  - Clearinghouse for information
  - Source for technical assistance, and
  - Catalyst for more effective use of resources for seniors

- **State Units on Aging (SUAs)** are the designated state agencies for serving the elderly. They coordinate related state activities and administer federal funds at the state level.

- **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. Most AAAs are not in the direct service business meaning that they contract out this work to local agencies who provide such services to the older population. The local agencies may be a county Department of Aging, or a nonprofit Council on Aging, or may go by other names. AAA and local agency contact information can be obtained from the Eldercare Locator available at www.eldercare.gov or by telephone at (800) 677-1116.

Aging Network Services

Federal funds support the provision of services in local communities via the Aging Network. Three areas of service benefit the most broadly from federal funding:

- **Information and Referral (I & R):** These programs exist to help older adults and their caregivers find specific information on the programs that are available to them. Many I & R programs also publish a directory of resources or maintain a website with information about community resources for the elderly. These services may or may not be located in an AAA office, but the AAA office will know where to find them. The I&R number can often be found under Senior Citizens in the blue (government) pages of the telephone book.

- **Senior Centers:** Sometimes the I&R office is located in a senior center. These buildings are the focal points for most federally funded, community-based services for older adults. Many senior centers also offer a variety of exercise programs, health screenings, socialization and recreation opportunities, counseling services, hot meals, and other activities.

- **Nutrition Services:** A significant portion of funds allocated by 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.

Additional Resources

At the community level, a wide variety of additional services and programs may be offered by local public agencies or nonprofit groups. Some of the most common are:

- **Home repair and adaptation services:** These programs provide subsidized minor home repairs, build wheelchair ramps and help make homes safe for older adults. For more information on modifying a home or making **home improvements**, go to www.homemods.org. This site contains a state-by-state directory for home modification resources for seniors that can help locate local programs providing these services.

- **In-home care, homemaker and chore services:** Many communities have some public assistance available for those who need help with tasks like housekeeping, grocery shopping, or personal care.

- **Adult day care:** These group care programs can be an alternative to expensive one-on-one home care for adults who need constant supervision because of memory loss or other illness.

- **Transportation assistance:** These may be provided by public programs or volunteer groups.

- **Volunteer coordination programs:** Volunteers may be available to help older adults with yard work, house painting, roof repairs, grocery shopping, transportation, social contact and other needs.

Many alternative agencies and organizations also provide resources and support to the senior population. For example:

- Many corporations know that a number of their employees not only care for children but also for their aging parents. Corporate eldercare programs may provide information and referral for their employees, and may provide more tangible support such as using a corporate van to deliver meals or organizing teams of employees to build wheelchair ramps.

- Many hospitals sponsor wellness events or health fairs that provide free blood pressure checks and materials on nutrition and fitness.

- Churches have long supported older members of their congregations. Among the most popular church programs involve “friendly visiting” of older people who are homebound by another member of the church.

- Civic groups focus many charitable events on serving older adults; some offer lending libraries of durable medical equipment (canes, walkers, wheel chairs, etc.) for those of limited means.

B.10 Reviewing the Client's Level of Understanding

The content of a reverse mortgage counseling session is comprehensive and complex. A truly informed decision to apply for a reverse mortgage requires both an understanding of the essential elements of the loan and the ability to apply that knowledge to the client's individual situation. 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 he or she grasps the fundamental facts of a reverse mortgage.

When providing counseling by telephone, counselors must be particularly sensitive to a client's level of understanding. Counselors must sometimes judge 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 his or her decisions regarding a reverse mortgage.

Review Questions
During the session, counselors must ask ten questions to determine whether the client has understood the essential features of the reverse mortgage. These questions explore some of the most fundamental facts about reverse mortgages – things that every adequately informed client must know. 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.

These questions must not be given as a written test, nor are they to be presented as something the client has to "pass" in order to get the loan. Presenting the questions in these ways may intimidate some clients, causing them to get confused when trying to answer the questions. 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.

As an example, after discussing when the loan needs to be repaid, the counselor might say: "I want to make sure I am explaining things to you clearly, so I will periodically ask you some questions to make sure. This also gives me a way to emphasize some key aspects of a reverse mortgage. Here's question number 1. When will you need to pay back your Reverse Mortgage loan?" If a client answers incorrectly, the counselor can discuss the concept further and ask the question again.

Clients must answer five questions correctly to receive the Counseling Certificate at the initial counseling session. For additional instructions on what counselors should do if the client cannot answer five questions correctly see the section titled Results of the Review. 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, prompts may be given to assist the client in answering the questions. If the client gets a question wrong or only partially right, the counselor should try a prompt or rephrase the question to see if that helps, and then briefly review the right answer before going on to the next question. Whenever possible, avoid yes/no questions.

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 remain silent. If the quiet client cannot respond, then the counselor may allow the other one to answer the question. The counselor must avoid allowing a dominant client to completely take over the question and answer exchange.

When counseling an older adult with a son or daughter or other advisor present, the counselor must direct questions to the homeowner and ask the other person to remain silent. It may be necessary in some cases to ask the other person to leave the room in order to get a good idea of whether the client has understood the essential features of the reverse mortgage.

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 remain silent until the client has attempted to answer. 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.

The following are lists of questions from which the counselor must chose ten to ask the client:

General Questions About Reverse Mortgages and HECMs

- When you have a reverse mortgage, who owns your house (whose name is on the title/deed)?

- There are several "payment options" or ways to get money from a reverse mortgage. Which payment option do you think will best meet your needs? What other choices do you have (if applicable)? What happens if you change your mind later and want to change your payment plan?

- When you have a reverse mortgage, do you have to make a monthly payment to the bank?

- Does the money you get from a reverse mortgage <u>ever</u> have to be paid back?

Questions to determine if the client understands the implications of a reverse mortgage

- When does the reverse mortgage have to be paid back?

- What homeowner responsibilities will you continue to have after you get a reverse mortgage? What may happen if you do not keep up these responsibilities as a borrower?

- What happens if you use up all the money that is available from the reverse mortgage? Offer an example tailored to client's circumstances, e.g., "What if you took all the money from the reverse mortgage in a lump sum and spent every bit of it? What would happen to you? Would you be able to go on living in your house?"

- What happens if the amount you owe under a reverse mortgage gets to be greater than your home is worth at that time? Would you have to move out of your house? Would you have to take out another loan to pay the difference?

- If you get a reverse mortgage, how does that change the amount of money that you will have to leave to your children (or other heirs)? Will your children or other heirs inherit more or less after you die, than they would have without the reverse mortgage?

- How does a reverse mortgage change the amount of money you would have left to take with you if you moved somewhere else like into a retirement community? Will you have more or less left over to spend if you move somewhere else?

Questions for Refinances

- If you refinance your current HECM, will you still have to pay mortgage insurance? How does this work?

- What are some of the additional costs you will incur with a refinance?

Questions for Purchase HECMs

- When you purchase a home with a HECM, will the HECM be held on your existing home or your newly purchased home?

- How will the lender determine how much money you will need at closing? What sources of funds (money) are allowed when you purchase a home with a HECM?

- Why is it important to get a home inspection?

- When you are working with a real estate professional, what are some of the questions you should ask him/her?

Results of the Review

Counselors must make detailed notes about difficulties the client has in answering questions, particularly when the answers are grossly inadequate, as this will help support any decision to withhold or delay issuing the certificate.

Because these questions are meant to test the most basic reverse mortgage concepts, if the client cannot provide adequate answers for five questions, there may be concern about his or her ability to make an adequately informed reverse mortgage decision. If that is the case, the counselor must not issue the counseling certificate after the first counseling session, but must propose additional ways to help the client gain the necessary knowledge. These options must meet the client's specific needs.

The counselor will offer one or more of the following in order to answer the 5 out of 10 questions correctly.

- Schedule an additional session to allow more time to review important topics and possibly at a different time of day, or
- Help the client to arrange a face-to-face counseling session with the original counselor or another counselor, or
- Ask the client if there is someone else he or she could bring with them to or could join in a phone counseling session and schedule another session to include this person.

During any additional counseling sessions, the counselor will ask the review questions again. If the client again is not able to correctly answer five out of the ten 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. A certificate cannot be issued until the client correctly answers 5 out of the 10 questions.

Fraud and Coercion

Although fraud and coercion are not limited to clients with impaired ability to understand and make decisions, cognitively impaired clients are more vulnerable to such exploitation. Counselors should be especially sensitive to the possibility that such a client is being pushed into an inappropriate choice by others who do not have the client's best interests at heart. If the counselor feels that: 1) the client was coerced into pursuing a reverse mortgage, or 2) the client may be a victim of elder abuse or exploitation, the counselor should advise clients that each state has an elder abuse hotline and provide them with the hotline phone number in the client's state. Hotline numbers can be found at
http://www.ncea.aoa.gov/NCEAroot/Main_Site/Find_Help/Help_Hotline.aspx

B.11 Reverse Mortgage Online Comparison Tool

The web-based Reverse Mortgage Analyst software calculates principal limits for variations on a HECM based on different interest rates with different indices and margins. This software is available only to counselors who are on HUD's HECM Counselor roster. Although the software generates principal limits for available HECM variations, it is not programmed to generate the principal limits for any specific proprietary reverse mortgage product.

For those products that are not preprogrammed such as "jumbo" reverse mortgages, counselors can enter product information in order to generate printouts. Currently, counselors can enter the costs and terms of any product that has been provided to a specific client by a lender, along with any credit line draws specified by the client.

The software generates individual loan amortization schedules, as well as side-by-side comparisons of projected total principal limits, total costs, remaining credit line funds, leftover equity, and total annual average percentage rate costs at various future points in time related to the client's remaining life expectancy. This information can also be saved 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.

Additional features of this software include:

- Ability to produce and email/print information packages for clients;
- Availability of a Client Management System that includes the capacity to schedule sessions with clients and store information about each client's case;
- Capacity to produce loan comparison pie charts that can visually compare two types of loans to demonstrate the differences between them to the client; it may also produce comparisons between one loan type during two periods of the client's life; and
- Ability to create a customized printout for the client on selling their home and how it would affect them based on their property's current value.

When a client has provided loan product details, the counselor must be careful to use the details in order to compare features among different products. The counselor must not steer the client towards or away from a specific product. For further information on obtaining this software, go to www.hecmresources.org.

B. 12 Using FIT and BenefitsCheckUp as a Budget Tool

Counselors are required to complete a budget with every client during the counseling session based on information obtained from the client. Counselors will use NCOA's web-based Financial Interview Tool (FIT) to meet the budget requirement. Using FIT, counselors will ask questions that help 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 FIT. FIT is completed based on the client's responses. The objective of completing a budget using FIT is to illustrate to the client their current financial situation and to determine how a reverse mortgage might assist them in meeting their needs and goals. FIT will assist the client in determining whether an alternative form of financial product, housing arrangement or social service may better meet their needs. While completing FIT, a counselor may determine that completing a monthly or annual budget would further benefit the client however, this is not required.

FIT helps counselors assess a client's immediate budget shortfalls, and identify other risks that could affect their ability to use a reverse mortgage to meet longer-term personal goals. Through a few key questions, FIT 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. FIT 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.

In addition to FIT, counselors are required to complete BenefitsCheckUp, for clients whose income falls below 200% of the Federal Poverty Level (FPL) or who are disabled. Counselors are required to offer BenefitsCheckUp to all clients however a client who does not fall in one of the above two categories may decline it.

Many homeowners consider a reverse mortgage to help pay for homeowner expenses, health care and other basic needs. For those with limited incomes, benefits from existing federal, state and local programs could be an important alternative or supplement to a reverse mortgage. Using BenefitsCheckUp, counselors can quickly screen more than 1,800 public and private benefits programs from all 50 states and the District of Columbia. These benefit programs include tax relief, energy assistance, health care and in-home services, prescription drugs, nutrition programs, housing, and programs for which a client may be eligible, and provide contact information to help them apply for these benefits.

BenefitsCheckUp prepares a report identifying public and private benefits programs for the client to consider. This report includes program details such as program descriptions, application forms, local contact information that answers questions and helps with enrollment, and a listing of necessary documentation to aid in the application process. It is important to note to your client that final program eligibility determination can only be made by the agencies administering the programs.

The decision to obtain a reverse mortgage is the client's decision regardless of the budget results.

B.13 Reporting Questionable Practices

The Protocol provides specific instances that must be reported to either HUD or HUD's Office of Inspector General. There may be other questionable situations that, as a counselor, you may want further guidance on from HUD. Please do not hesitate to contact HUD in any of these situations.

To contact HUD, call toll free (800) CALL FHA (1-800- 225-5342)

Persons with hearing or speech impairments may access this number via TDD/TTY toll free at (877) TDD-2HUD (1-877-833-2483). Your call will be transferred to the HUD Homeownership Center serving your area.

Email – answers@hud.gov

For more about HUD's Office of Inspector General please go to the website at http://www.hud.gov/offices/oig/hotline/index.cfm

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 (202) 708-2451

Fax (202) 708-4829

Email - hotline@hudoig.gov

Attachment C: Resources for Clients

- C.1 Important Information about Reverse Mortgage Counselors
- C.2 Reverse Mortgage Eligibility Requirements
- C.3 Home Equity Conversion Mortgage (HECM) Features
- C.4 Steps In The Reverse Mortgage Lending Process
- C.5 Reverse Mortgage Warnings for Consumers
- C.6 Questions to Ask Your Lender about Reverse Mortgages
- C.7 Reverse Mortgage Borrower Obligations
- C.8 Reverse Mortgage Borrower Obligations: A Checklist for Borrowers
- C.9 Using a Reverse Mortgage to Buy an Annuity
- C.10 Reverse Mortgage Counseling Frequently Asked Questions
- C.11 How You Can Access Your Home's Equity with a Reverse Mortgage: Payment Options
- C.12 *Preparing for Your Counseling Session*
- C.13 Sample Amendatory Clause and Real Estate Certificate

C.1 Important Information about Reverse Mortgage Counselors

The materials in Attachment C are for the potential HECM borrowers and their advisors who are counseling clients. Counselors must provide these materials to the clients.

The role of reverse mortgage 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.

Reverse mortgage 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.

Reverse mortgage counselors can tell you:

- the types of costs that are required for reverse mortgages (both HECMs and proprietary products),
- which types of reverse mortgage costs may vary from lender to lender, and
- 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.

C.2 Reverse Mortgage Eligibility Requirements

Typically, to be eligible for a reverse mortgage, you must meet the following requirements:

☐ You must be of a certain age (for HECM loans, the age is 62).

Note*: If both you and your spouse are on the title to your home, you must both be at least 62 years of age in order to qualify for a HECM and many other reverse mortgage products. An ineligible spouse can take his/her name off the title of the property in order to allow an eligible spouse to participate in the program. However, this choice is very risky. If the borrowing spouse should die or otherwise become ineligible, the reverse mortgage will become due and payable and the non-borrowing spouse may be forced out of the home.*

☐ 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.

☐ 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, which 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 or take out a temporary loan to close on a HECM.

Note: *If you will not have enough funds to close a HECM loan, you cannot incur additional debt, such as a credit card cash advance or an additional lien against the property from a home equity loan, to make the loan work. FHA regulations require that you have no outstanding financial obligations connected to the HECM transaction.*

☐ HECM borrowers must receive reverse mortgage counseling from a HUD-approved housing counseling agency. Some states and proprietary products require this.

☐ 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.*

C.3 Home Equity Conversion Mortgage (HECM) Features

A Home Equity Conversion Mortgage (HECM) is a loan that allows homeowners that 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.

Loan Costs
HECMs typically involve four types of costs: an origination fee, closing and other third party costs, servicing fees, and the mortgage insurance premium. 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.

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. 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 money as a line of credit or through fixed monthly payments for as long as you live in the home or for a shorter specified period of time. Through a line of credit, you may choose to receive the cash all at one time as a single draw on the loan. You may also choose to receive cash at times and in amounts of your choosing through a line of credit or a combination of the different options.

Reverse mortgage loan advances are not taxable and 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.

You have the option of changing your payment plan type at any time for a fee not to exceed $20.00. 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 3 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 are purchasing a new property with a HECM, you will not have the three-day cancellation period. Your closing will be final.

Repayment
HECMs do not have to be repaid until the last surviving borrower dies, sells the home or permanently moves from the home. You may partially or fully repay the loan balance at any time. There are no prepayment penalties for a HECM.

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.

Reverse Mortgage 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 the last surviving borrower:

1. Passes away
2. The property is no longer the primary residence of the borrower
3. The last surviving borrower has been unable to occupy the home for more than 12 consecutive months
4. The borrower sells or otherwise transfers ownership of the property, or
5. The borrower fails to perform an obligation under the mortgage

If your home is sold to pay off the loan, you or your estate will not have to pay back more than the amount received from the sale of the home. However, if your heirs or your estate choose to keep the home, they must pay the entire loan balance even if it is greater than the value of the home. This may occur if the home's value depreciates, if interest rates go up, or if the total payments made during the life of the loan exceed the value of the home.

C.4 Steps in the Reverse Mortgage Lending Process

1. 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), or a combination of a line of credit and monthly advances. 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 photo ID, verification of your Social Security number, a copy of the deed to your home, information on any existing debt (liens) on your home, and your counseling certificate. 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.

2. 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.

- **Your lender submits** all required information to the lender's underwriting department, which determines if everything necessary to close the loan is completed correctly.

3. 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 3 business days in which you may cancel the loan except if you are purchasing a home with a HECM.** When these 3 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.

4. 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. If you do not, 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 is 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.

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 $20.00 for HECM borrowers, for changing your payment plan. You 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 (i.e., the difference between the current principal limit and the outstanding balance) in a single, up-front payment.

C.5 Reverse Mortgage Warnings for Consumers

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.

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.

Lender or Product Steering
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.

Borrower Obligations
You should be aware of your 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.

C.6 Questions to Ask Your Lender about Reverse Mortgages

Here are questions and guidelines to assist you in your discussion of 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:

- What is the appraisal fee?
- What are the closing costs?
- 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.)
- What is the servicing fee? (HECM products maximum: $35 per month for a monthly adjustable HECM and $30 per month for an annually adjustable or fixed rate HECM)
- What is the mortgage insurance premium? (For a HECM, it is 2 % of the Maximum Claim Amount plus an Annual Premium of 0.5 % of the loan balance)
- What is the current interest rate? What is the expected interest rate?
- Is the interest rate adjusted monthly or annually? Do you offer any products that have a fixed interest rate?
- How much money do I need to close on a HECM to purchase a property?
- What payments options do you offer? By law, a lender must offer all payment options, term, tenure, line of credit or any combination.
- If there is a credit line payment option, what is the rate of credit line growth?
- Is there a fee to change payment plans?
- What will be my monthly obligations with this reverse mortgage?
- What will be my yearly obligations with this reverse mortgage?

- Am I eligible for a reverse mortgage? Is my spouse eligible?
- Is my home eligible for a reverse mortgage?
- Can I set aside tax and insurance payments so that you can make payments on my behalf?

C.7 Reverse Mortgage Borrower Obligations

This handout covers your obligations under a reverse mortgage. The next handout provides a sample checklist that will help you keep track of your obligations and prevent the loan from becoming due and payable.

Paying Property Taxes
Reverse mortgage borrowers are required to make timely payments on their property taxes. Failure to do so could result in the loss of your home.

- You must pay property taxes yourself or you can ask your lender to pay your property taxes with funds from the reverse mortgage.
- 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 equal to 1/12 of that amount.
- 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.
  - 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.
  - 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.*

- 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.

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. Reverse mortgage borrowers are required to make timely payments of premiums towards their homeowner's insurance. 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.

- It is your responsibility as the borrower to maintain active homeowner's insurance.
- You can pay the insurance directly or ask the lender to pay using your loan funds.
- The policy must remain active even if you are absent from the home for a period of time.
- If you find out that your house is in a flood zone, you will be required to maintain flood insurance. You should check on the status and costs of your homeowner's insurance and flood insurance policies. For example, with the rash of hurricanes in recent years, 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.

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 lender 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. 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.

Repaying the Loan

- Reverse mortgages are typically not due and payable until the last surviving borrower dies, or the home is sold or is no longer the primary residence of the borrower.
- Your estate must pay off the loan if you pass away.
- You may change your payment plan at any time. The fee charged in association with this change will be applied to the loan balance.
- The lender does not own the home, and does not "get" the home when you die. 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.
- 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. If the heirs choose to retain ownership of the home and the loan balance exceeds the value of the home, they must pay the full loan balance.
- 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.

C.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 property taxes on time
- ☐ Pay hazard insurance premiums in a timely manner
- ☐ 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 permanent residence status
- ☐ Change your payment plan if necessary
- ☐ Prepay the loan (if applicable)

C.9 Using a Reverse Mortgage to Buy an Annuity

If you are considering using your 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

Your Loan Options
You may have options on how to have a reverse mortgage loan paid to you. These options may include:
- an immediate cash advance
- a credit line account that lets you take cash advances at times and in amounts that you select
- a fixed monthly cash advance for a specific number of years or for as long as you live in your home
- any 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.

If you want annuity advances that are the same amount every month, be sure to get a “fixed" annuity. 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.

Fixed monthly annuity advances that continue for life no matter where you live 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. 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, and 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 by Federal Truth-in-Lending law (12 CFR 226.33) to give you a Total Annual Loan Cost (TALC) disclosure that includes the annuity. If you want to make certain that you get it, send your lender a letter requesting a TALC disclosure that includes the annuity.

Generally, the least expensive reverse mortgage/annuity plans work like this: You take a reverse mortgage in two parts - as a single draw at closing and as a "term" monthly advance for a specific number of years. You then use the draw on the loan to buy a "deferred" annuity that will begin sending you monthly annuity advances in the first month after the reverse mortgage loan advances end.

A “deferred” annuity is less costly than an "immediate" annuity, which sends you monthly annuity advances immediately after the loan is closed rather than defer such payments to a later date. As long as you do not move before the annuity advances begin, a deferred annuity would give you continuing monthly advances for life. This approach is likely to cost less or provide greater monthly advances than you would get by purchasing an immediate annuity.

On the other hand, if you die before the advances from a deferred annuity begin, you and your heirs would get no cash benefits from a deferred annuity unless you select an optional “period certain” or “death benefit” (see **annuity choices**).

Note: *A “deferred” annuity should not be confused with a “tax-deferred” annuity, which may or may not provide fixed monthly advances for life.*

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, loan advances generally are not counted as income for SSI, and are not counted as assets if you spend

them within the calendar month you receive them. (Source: American Bar Association, Reverse Mortgages: A Lawyer's Guide, 1997, p. 36)

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 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. For example, one recognized consumer finance specialist suggests that consumers should look for companies with at least three of these five ratings: A+ from A. M. Best, AA+ from Fitch, Aa3 from Moody's, Aaq from Standard & Poor's, and a B from Weiss.

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, but 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
- discuss your choices with people you trust who have no financial interest in your decision

This information was developed by the AARP Foundation's Reverse Mortgage Education Project under a grant (HC 02-0000-011) from the U. S. Department of Housing and Urban Development (11/03). Neither AARP nor the AARP Foundation endorses any specific reverse mortgage lender, product, or annuity. But they want you to have the information you need to make an informed decision about these options and other, less costly alternatives.

The following publications can provide you with additional information:

AARP: www.aarp.org Telephone: (888) 687-2277
"Money Matter: Annuities",

The Securities and Exchange Commission: www.sec.gov, email: PublicInfo@sec.gov

- "Variable Annuities: What You Should Know",

Written Requests: Office of Investor Education and Advocacy
SEC
100 F Street NE
Washington, DC 20549

National Association of Insurance Commissioners: www.naic.org, Email: prodserv@naic.org

- "Seniors: Educate Yourself on Annuities"
- "Variable Annuities: Beyond the Hard Sell"
- "Equity-Indexed Annuities- A Complex Choice"
- "Should You Exchange Your Variable Annuity?"

Financial Industry Regulatory Authority (FINRA)
Publications Customer Service: (816) 783-8300 Select Option 2

C.10 Reverse Mortgage Counseling Frequently Asked Questions

Why are 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.

What if the amount of the loan is different from the lender's estimate?
The amount of your loan at closing is based on the 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, 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.

In addition, the loan amount might change if you, as the borrower, choose to let the interest rate "float" or change with the market. In this case, if rates decrease between the time of the application and closing, the principal limit may be recalculated at closing and may result in a larger 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 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. These charges may not be escrowed by the lender so paying them would be your responsibility. It is important that you budget for these expenses throughout the year so that when payment is due you will have enough money available.

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 page 1, Block I of the Settlement Statement. 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.

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?
The lender is responsible for ensuring that the repairs are inspected by an FHA-approved 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?
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.

C.11 How You Can Access Your Home's Equity with a Reverse Mortgage: Payment Options

Reverse Mortgage Payment Options
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 HECM loan, you can also change the payment plan at any time during the life of the loan.

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

This handout provides descriptions and graphics of various payment plans. 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

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," which is the same rate at which the principal limit grows (the current rate plus half a percent divided by twelve). A proprietary product may have a lower 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.

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.

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.

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.

C.12 Preparing for Your Counseling Session

Handout for clients appears on the following Page

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. 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 reverse mortgage; the impact a reverse mortgage will have on your particular circumstances; and whether services or programs other than a reverse mortgage might better meet your needs.

What You Can Expect from Your Reverse Mortgage Counselor

Understanding what to expect from reverse mortgage 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.

- The counselor is responsible for helping you understand reverse mortgages and the appropriateness of a reverse mortgage to meet your particular need as well as alternatives to a reverse mortgage.

- Reverse mortgage counselors will discuss your financial and other needs for remaining in your home, the features of a reverse mortgage and how it works, your responsibilities with a reverse mortgage, the impact of a reverse mortgage on you and your heirs, and the availability of other assistance you may need.

- The job of the counselor is not to "steer" or direct you towards a specific solution, a specific product, or a specific lender.

- Counselors will help you understand your options and their impacts.

Reverse mortgage 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:

- Send you required materials(i.e., this packet) prior to you counseling session,
- Follow established protocols when conducting the counseling session, and
- Follow up with you after the session has concluded.

What You Can Expect from the Reverse Mortgage 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 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. 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. 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.

Step 4. Counseling session: The counselor will discuss with you your needs and circumstances; provide information about 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 the Financial Interview Tool, which will assist you in determining the best course of action. You should be prepared to discuss your income, debts and expanses. You will also be offered the opportunity to obtain a BenefitsCheckUp which may provide information on funds and services in your area for which you may qualify.

Step 5. Certificate of Completion: Once you complete your session and you and your counselor are comfortable that you understand the essentials of a reverse mortgage, the counselor will issue a certificate which verifies for a lender that you have successfully completed 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.

How a Reverse Mortgage Works

Before you begin your counseling session, it is helpful if you understand a few basics about a reverse mortgage.

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 and must pay off the loan in full or the property can be sold to an unrelated party for the lesser of the unpaid mortgage balance or 95% of appraised value.

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	Can be used for any purpose and may be suitable for borrowers with high cost homes
Home Equity Conversion Mortgage (HECM)	Can be used for any purpose and is **insured by the Federal Housing Administration.**

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, or a tenure plan with guaranteed payments for life or a combination of these options.

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 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.
>
> *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.

Your reverse mortgage counselor will discuss your goals for a reverse mortgage 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.

Alternatives to a Reverse Mortgage

Your HECM counselor will also help you consider options available to meet your needs other than a reverse mortgage. These options include:

- selling your home and moving to a more suitable residence,
- renting as well as other financial options, and
- support services and public benefits that may be available to you in your community

HUD encourages you to learn as much as possible about your options, before you decide on a reverse mortgage. Listed below are resources you can access to learn more about reverse mortgages and elder care.

AARP's web site at 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 on their website at http://www.reversemortgage.org/default.aspx and can be reached by calling (866) 264-4466.

FHA DISCLOSURES
AMENDATORY CLAUSE / REAL ESTATE CERTIFICATION

Buyer(s) _____ _____ Date of Agreement: _____

Seller(s) _____ _____ File No.: _____

Property Address : _____

FHA AMENDATORY CLAUSE

It is expressly agreed that notwithstanding any other provisions of this contract, the purchaser shall not be obligated to complete the purchase of the property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless the purchaser has been given in accordance with HUD/FHA or VA requirements a written statement by the Federal Housing Commissioner, Department of Veterans Affairs, or a Direct Endorsement lender setting forth the appraised value of the property of not less than $. The purchaser shall have the privilege and option of proceeding with consummation of the contract without regard to the amount of the appraised valuation. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value nor the condition of the property. The purchaser should satisfy himself/herself that the price and condition of the property are acceptable.

_____ _____
Borrower Date

_____ _____
Borrower Date

_____ _____
Seller Date

_____ _____
Seller Date

Note: The dollar amount to be inserted in the amendatory caluse is the sales price as stated in the contract. If the borrower and seller agree to adjust the sales price in response to an appraised value that is less than the sales price, a new amendatory clause is not required. However, the loan application package must include the original sales contract with the same price as shown on the amendatory clause, along with the revised or amended sales contract.

REAL ESTATE CERTIFICATION

We, the borrower, seller, and the selling real estate agent or broker involved in the sales transaction certify by our signatures below that the terms and conditions of the sales contract are true to the best of our knowledge and belief, and that any other agreement entered into by any of these parties in connection with this real estate transaction is part of, or attached to, the sales agreement.

_____ _____
Borrower Date

_____ _____
Borrower Date

_____ _____
Seller Date

_____ _____
Seller Date

_____ _____
Listing Agent (as applicable) Date

_____ _____
Selling Agent (as applicable) Date

WARNING: Our signatures above indicate that we fully understand that it is a Federal Crime punishable by fine, imprisonment or both to knowingly make any false statements concerning any of the above facts as applicable under the provision of Title 18, United States Code, Section 1012 and 1014.

Figure 1 - Image of the FHA Disclosures Form