



## HUD Office of Housing Counseling

### Housing Counseling FAQ's

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#### I. Delivery of Housing Counseling Services

##### Delivery Methods

**Q1:** Can a housing counseling agency offer online homebuyer education and meet HUD requirements for the recipient to receive a certificate of completion?

**A1:** Yes, HUD allows web-based/internet education. At a minimum, recipients of internet education must have the opportunity to schedule follow-up individual counseling if desired. This requirement does not mean, however, that every recipient of web-based education must also receive one-on-one counseling. They simply must have the option to pursue individual counseling through the agency to complement the education, should they desire this service.

**Q2:** Would a housing counseling agency be allowed to bill the HUD grant for online Homebuyer Education and count the client under the Education section on the 9902 (Section 6a) get credit as an educated client?

**A2:** Housing education is generally an allowable expense under a HUD Housing Counseling grant. When this is indeed the case, grantees can seek reimbursement from HUD for the eligible costs not offset by consumer fees or other funding sources, if applicable, incurred involving the provision of web-based education. See specific NOFAs and grant agreements to determine if education is a reimbursable expense.

For the purposes of reporting counseling services activity via form HUD-9902, internet education, including internet education provided through a third party provider, should be counted as education. For example, web-based homebuyer education should be recorded in section 6a of form HUD-9902. To claim the web-based education activity, the counseling agency must be able to demonstrate that the client learned about and accessed the web-based education through the actions, for example marketing and outreach, of the counseling agency. Additionally, either of the following bullets must apply:

- the counseling agency created the web-based education system/program; or
- the counseling agency conducts the education and makes it available via web cast or skype; or
- the counseling agency has entered into an agreement with a third party provider of web-based education through which they can provide their clients access to the web-based education.

**Q3:** Can an agency subcontract out their education/workshop services? Does it matter if an employee is a W-2 employee or a 1099 payee?

**A3:** An agency can enlist the help of an industry expert in providing education. But a housing counselor has to be primarily responsible and present for the provision of the education services. Further, the Dodd-Frank Act states that counselors must be HUD certified to provide these services, and HUD soon will publish a final rule implementing that requirement. If an agency provides on-line education, then the counseling agency must be able to demonstrate that clients learned about and accessed the web-based education through the actions, for example marketing and outreach, of the counseling agency. Additionally, either of the following bullets must apply:

- the counseling agency created the web-based education system/program; or
- the counseling agency conducts the education and makes it available via web cast or skype; or
- the counseling agency has entered into an agreement with a third party provider of web-based education through which they can provide their clients access to the web-based education.

The housing counseling regulations and handbook do not prohibit hiring counselors via the 1099 process to provide counseling services for participating agencies. As long as the counselor works for the agency, and the agency is required to exercise control/oversight over the counselor's activities, then the agency is in compliance with HUD. The agency must not hand over entirely all of its housing counseling activities to be provided by another group.

## **Workload Issues**

**Q1:** Regarding the policy in HH 7610.1 REV-5, Ch. 6, Paragraph 6-1 regarding workload, do the minimum 30 clients served in a 12-month period for each participant apply to clients served specifically under the HUD grant or through all funding sources?

**A1:** During each 12-month period, the participating agency must provide housing counseling to at least 30 clients. This minimum number of clients applies to clients served under all funding sources. Agencies that offer only housing counseling services limited to reverse mortgages, including home equity conversion mortgages (HECMs), are exempt from this requirement.

## **II. Performance Criteria and Monitoring**

### **Disclosures/Conflicts of Interest**

**Q1:** As a housing counseling agency, can we also offer real estate brokerage services as part of our menu of services?

**A1:** The Housing Counseling handbook permits agencies to participate in multiple affordable housing services, including loan origination, property sales (real estate brokering), and housing counseling services. However, should an agency choose to do this, clients must be provided with a disclosure form stating that these services are available through the agency, or through agency

partnerships, and that the client is under no obligation to use these services and is free to seek them from another provider. The client must also be provided with information on at least three other relevant alternative services or products. Employees of the agency cannot be given extra compensation for counseling a client that purchases a home from the agency.

**Q2:** To what extent can housing counseling agencies use realtors /lenders to provide homebuyer education? Can these realtors/or lenders be paid by the housing counseling agency?

**A2:** Housing counseling agencies can enlist the help of realtors/ lenders or other industry experts to be a part of a counseling activity as long as the housing counseling agency and realtors/lenders or other industry experts have an agreement about ethics and content. Industry experts are not permitted to solicit for clients but can provide their contact information if clients want to contact them outside the classroom. Industry experts cannot steer or provide content that was not approved by the HCA, and the HCA should monitor their content/ delivery

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.

### **III. Funding**

#### **Lender Funded Counseling Services**

**Q1:** Do housing counseling agencies need to have a Memorandum of Understanding (MOU) agreement with lenders when lenders provide grants?

**A1:** Yes. Once a housing counseling agency has decided to enter into a relationship with a particular lender, HUD requires that you enter into a MOU, signed by both parties, to formalize the relationship between the housing counseling agency and the lender. The MOU must outline the expectations of each party.

The MOU must also ensure compliance with RESPA requirements by requiring discussion of comparable loan products from three different lenders and ensuring any fee income is based on services rendered.

Housing counseling agencies must also include in their disclosure forms their relationship with any lenders and other partners.

**Q2:** Do Housing Counseling Agencies need to have a Memorandum of Understanding (MOU) agreement with lender charitable agencies when those organizations provide pay for housing counseling?

**A2:** Yes. HUD requires that lender charitable agencies enter into a MOU, signed by both parties, to formalize the relationship and outline the expectations of each party.

The MOU must also ensure compliance with RESPA requirements by requiring discussion of comparable loan products from three different lenders and ensuring any fee income is based on services rendered.

Housing counseling agencies must also include in their disclosure forms their relationship with any lenders (including lender charitable agencies) and other partners.

**Q3:** For the Back to Work program, are agencies required to disclose the relationship with the lender if they receive a grant from the lender to cover general operating expenses, provide general counseling and/or financial education services?

**A3:** Any financial relationship between a housing counseling agency and a lender should be disclosed in accordance with 24 CFR Part 214.

### **Charging Fees**

**Q3:** Are housing counseling agencies permitted to charge membership fees to their network of affiliate organizations?

**A3:** The HUD Housing Counseling Rule or Handbook does not prohibit agencies from charging small fees to their affiliates for membership benefits. These fees may be used as annual membership fees to off-set training and technical assistance costs, etc.

### **Double – Dipping/Double Counting**

**Q4:** If a housing counseling affiliate is receiving HUD grant funds from an intermediary or state housing finance agency, can the same housing counseling agency be a part of another intermediary's network? Also, If a LHCA receives funding directly from HUD, can it also be affiliated with an intermediary agency network even if it does not receive funding from the intermediary agency?

**A4:** In general, affiliates and sub-grantees (including LHCA's and local agencies with no direct HUD approval) are not permitted to have more than one parent agency for purposes of HUD's Housing Counseling Program (e.g. HUD-9902 reporting, grant funding, HCS, etc). However, they are allowed to be members of and/or receive technical assistance, peer learning, training, etc. from other intermediary agencies.

LHCA's/Affiliates cannot receive HUD funding from multiple sources within the HUD Housing Counseling Program (i.e. HUD, intermediary, State Housing Finance agencies, etc.) unless allowable under an exception in a specific NOFA or grant agreement. For example, the FY 2014-2015 Comprehensive Housing Counseling NOFA includes the following exceptions:

- a.** The grantee or sub-grantee has one or more HUD HECM Roster Counselors that are awarded Comprehensive grant funds directly from HUD, or indirectly through an Intermediary or SHFA, and the grantee or sub-grantee receives a single additional sub-grant for reverse mortgage counseling activities from an Intermediary that provides reverse mortgage counseling exclusively; and/or

b. The grantee or sub-grantee are awarded Comprehensive grant funds directly from HUD, or indirectly through an Intermediary or SHFA, and a single additional sub-grant for default counseling from an Intermediary that provides default counseling exclusively.

#### **IV. Reporting and Recordkeeping**

##### **HCS/CMS Issues**

**Q1:** What agencies are required to have a Client Management System (CMS) for reporting quarterly performance activity? Is it required to have a CMS if the agency does not provide direct counseling activities?

**A1:** HUD regulations require that all HUD approved agencies use a CMS to report housing counseling activity on a quarterly basis (9902 reporting). State Housing Finance Agencies (SHFAs) may be exempted from this requirement if the following circumstances exist:

- The SHFA do not provide direct counseling services
- The SHFA serves only in an administrative capacity to its sub-grantees
- The sub-grantees submit their own individual quarterly 9902 reports which make up the consolidated report for the SHFA.

##### **9902 Reporting and Extensions**

**Q2:** How does a housing counseling agency report grant activity when the agency has been granted an extension past the grant fiscal year?

**A2:** Grant extensions must first be approved by the HUD Point of Contact (POC). Once the POC approves the request, the HUD POC will enter the extension in HCS which will automatically generate a HUD column on the 9902 for the extended fiscal year. The agency will report any grant activity on the corresponding fiscal year 9902 and the system automatically adjusts to the grant reporting period.

**Q3:** In HCO, what constitutes an official start date? The date of hire or the date an employee officially becomes a housing counselor?

**A3:** An official start date of an employee is the date the employee is hired as a housing counselor. If the employee was not initially hired as a housing counselor, the official start date is the date that the employee begins work as a housing counselor.

##### **Record Maintenance**

**Q4:** When agencies use multiple funding sources (including HUD funds) to pay for a counseling session, are the agencies required to keep separate files?

**A4:** The Handbook 7610.1, Rev. 5, Chapter 5-7 does not require a separate “HUD” file, distinct from files utilizing other funding sources. HUD expects that counseling agencies will keep a file for

each “unique, distinct provision of counseling services provided to a client”; not based on funding source. Nevertheless, agencies have the option of keeping separate files if they choose to do so.

HUD does require that agencies meet OMB regulations by ensuring that within each client file, the funding sources are clearly identified and are detailed on a time sheet, personnel activity report (PAR), client notes, or all the above. For instance, if half of the hours billed to a client file are for HUD and half of the hours are billed to another allowable source, then the hours must be correctly identified on the invoices and PARS/Time sheets for agencies to be in compliance. Note: Current NOFAs and grant agreements prohibit grantees and sub-grantees from using HUD Housing Counseling grant funds to reimburse housing counseling activity costs for any counseling recipient for which the specific grantee or sub-grantee received NFMC reimbursement.

### **LOCCS Issues**

**Q5:** What form must be used to request to change the VRS Approving Official?

**A5:** The agency must complete two of the LOCCS Access Authorization Forms HUD-27054; one to terminate the previous user, and, one to approve the new user.

The HUD-27054 Form is on HUD clips at this link:

<http://www.hud.gov/offices/adm/hudclips/forms/hud2.cfm>

This form can also be used to add a new user, reinstate a user, reset passwords, change a tax id, resend a user id, and change the name or address of an agency.

Also, when completing Sections 5 a, b and c, on this form, please enter the following information:

5. a. is CHC

5. b. is Comprehensive Housing Counseling

5. d. for the new user is “D” for drawdown.

### **Proof of Counseling**

**Q6:** Are agencies required to use a certain format for housing counseling certificates to show proof of counseling?

**A6:** Currently, HUD does not require a specific format design for housing counseling certificates. Agencies are permitted to create their own certificates and have the autonomy to customize the design/format of the housing counseling certificate to its own preference, perhaps with feedback from the lenders that will receive the certificates. However, HUD may in the future require certain certificate forms to be used if HUD/FHA programs are designed with embedded counseling services required.

### **Back-to-Work Program**

**Q1:** Under the Back-to-Work Program, if a client completes housing counseling and allows their counseling certificate to expire before applying for a loan, then later obtains a new counseling certificate, must the client still wait 30-days before applying for a loan?

**A1:** Yes. Mortgagee Letter 2013-26 requires that participants in the FHA Back-to-Work initiative receive homeownership counseling or a combination of homeownership education and counseling,

provided that each participant receives, at minimum, one hour of one-on-one counseling from a HUD-Approved housing counseling agency. Housing counseling must be completed a *minimum of 30 days* but no more than 6 months prior to submitting a loan application to a lender.