

CHAPTER 1. GENERAL PROGRAM INFORMATION

1-1 Legislative Authority

A. General counseling authority

1. Section 106 of the Housing and Urban Development Act of 1968 (12 USC 1701x) provides HUD's general counseling authority.

- a. Section 106(a)(1)(iii) provides that the Secretary is authorized to provide, or contract with public or private organizations to provide, counseling and advice to tenants and homeowners with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and in meeting the responsibilities of tenancy or homeownership.

- b. Section 106(a) (2) provides that the Secretary may provide these services directly or may enter into contracts with, make grants to, and provide other types of assistance to private or public organizations with special competence and knowledge in counseling low and moderate-income families to provide such services.

B. Title II mortgages (other than section 235). Section 106(a)(2)(C) of the Housing and Urban Development Act of 1968 (12 USC 1701x(a)(2)(C)) provides that the Secretary may provide the counseling services described in section 106(a)(1)(iii) of that Act (see discussion above) for owners of single family dwelling units insured under Title II (other than section 235, for which there is a requirement to do so--see below).

C. Section 235. HUD does not insure new mortgages under Section 235 because the Congress repealed this provision of the legislation; however, mortgages were insured prior to the repeal and this section is cited for that reason.

1. Section 101(e) of the Housing and Urban Development Act of 1968 (12 USC 1701w) authorizes the Secretary to provide or contract with public or private organizations to provide, such budget, debt management, and related counseling services

to mortgagors whose mortgages are insured under sections 235(i) and 235(j) (4) as he/she determines to be necessary to assist such mortgagors in meeting the responsibilities of homeownership.

2. Section 106(a)(2)[A] of the Housing and Urban Development Act of 1968 (12 USC 1701x(a)(2)) provides that the Secretary shall provide counseling services described in section 106(a)(1)(iii) of that Act (see discussion above) for

homeowners assisted under section 235 of the National Housing Act.

- D. 237 mortgages. Because of the low mortgage amount limitations of Section 237, practically no mortgages are now insurable under this section.
1. Section 237 (e) of the National Housing Act (12 USC 1715z-2(e)) authorizes the Secretary to provide or contract with public or private organizations to provide, such budget, debt management and related counseling services to mortgagors whose mortgages are insured under Section 237 as the Secretary determines to be necessary to meet the objectives of Section 237. The Secretary may also provide such counseling to otherwise eligible families who lack sufficient funds to supply a down payment to help them to save an amount necessary for that purpose.
 2. One of the conditions of eligibility for mortgage insurance under Section 237 is that it be executed by a mortgagor whom the Secretary has determined would not be an acceptable credit risk for mortgage insurance purposes under regular HUD mortgage insurance programs, but would be a reasonably satisfactory credit risk and capable of homeownership with the assistance of budget, debt management, and related counseling.
- E. Rural housing guaranteed loans. Section 106(a)(2)(B) of the Housing and Urban Development Act of 1968 (12 USC 1701x(a)(2)(B)) provides that the Secretary shall, in consultation with the Secretary of Agriculture, provide the counseling services described in section 106(a)(1)(iii) of that Act (See discussion above) for borrowers who are first-time homebuyers with guaranteed loans under section 502(h) of the Housing Act of 1949 (42 USC 1472(h)).
- F. Department of Veterans Affairs (VA) loans. Section 106(a) (2) (C) of the Housing and Urban Development Act of 1968 (12 USC 1701x(a)

07/95

1-2

7610.1 REV-4

(2)(C)) provides that the Secretary may provide the counseling services described in section 106(a)(1)(iii) of that Act (See discussion in 1-1A1) for owners of single family dwelling units guaranteed or insured under chapter 37 of Title 38 of the U.S. Code.).

- G. Home Equity Conversion Mortgages (HECMs). 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 have been executed by a mortgagor who has received adequate counseling by a third party (other than the lender) as provided in subsection (f) of that Section. Subsection (f) provides that the Secretary shall provide or cause to be provided by entities other than the lender the information required in subsection (d)(2)(B) and that such information shall be discussed with the mortgagor and shall include:

1. Options other than a home equity conversion mortgage that are available to the homeowner, including other housing, social service, health, and financial options;
2. Other home equity conversion options that are or may become available to the homeowners, such as a State program, sale-leaseback financing, deferred payment loans, and property tax deferral;
3. The financial implications of entering into a home equity conversion mortgage;
4. A disclosure that a home equity conversion mortgage may have tax consequences, affect eligibility for assistance under Federal and State programs, and have an impact on the estate and heirs of the homeowner; and
5. Any other information that the Secretary may require.

H. Pre-foreclosure sales. Section 204(a) of the National Housing Act (12 USC 1710(a)) authorizes the preforeclosure sales procedure. Under this procedure, the mortgagee can permit a defaulting mortgagor to sell the property for its approximate fair market value to a third party. The mortgagee can then file a claim for FHA insurance benefits and receive an amount equal to the difference between the unpaid principal balance of the mortgage and the net sales proceeds (plus interest, reimbursement of certain

1-3

07/95

7610.1 REV-4

reimbursement of certain expenses, and an administration fee). Section 204(a) provides that such insurance benefits shall be available only if the mortgagor had received appropriate homeownership counseling, as determined by the Secretary. Mortgagee Letter 94-45 provides that such counseling may be provided by the mortgagee or by a HUD-approved counseling agency, depending on the circumstances.

I. Mortgages with Loan-to-Value ratios greater than 97%. Section 203(b) (2) of the National Housing Act (12 USC 1709(b) (2)) provides that the Secretary may not insure or enter into a commitment to insure a mortgage under 203(b) that is executed by a first-time homebuyer and that involves a principal obligation in excess of 97 percent of the appraised value of the property unless the mortgagor has completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary; except that the Secretary may, in the discretion of the Secretary, waive the applicability of this requirement. This requirement was waived in Mortgagee Letter 93-33 pending the completion of implementing regulations. (See Appendix 22, Mortgagee Letter 93-33 .)

J. Community Development Block Grants. Housing counseling is an eligible activity under the CDBG program. HUD-approved housing

counseling agencies are encouraged to present counseling proposals to their communities for consideration for funding from this resource. Section 92.302, 24 CFR Subpart G, provides for "Housing Education" that includes providing or administering programs for educating and counseling eligible homeowners and tenants under the HOME program.

HOME money can be used to support counseling in two ways. HOME administration money (10% of each year's allocation) can be used to support a general counseling program. HOME project funds can be charged if the homebuyer is directly assisted with HOME funds.

- K. Section 203(r) (4) of the National Housing Act (12 USC 1709(r)) provides that the Secretary shall take appropriate actions to reduce losses under the Title II single-family mortgage insurance programs and that such actions shall include providing counseling, either directly or through third parties, to delinquent mortgagors whose mortgages are insured under section 203, using the Fund to pay for such counseling.

07/95

1-4

[Click Here](#) or type Alt-k for MS Word version of Change-2 to Chapter 1 (Links to 76101c1.doc)

7610.1 REV-4

1-2 HUD Approval and Funding

A. Approval. National, Regional, Multi-State, and Local public and private nonprofit agencies may participate in the program after they become HUD-approved housing counseling agencies. They may remain in the program as long as they comply with the requirements in this handbook. Chapter 2 describes the approval process.

It is executive branch policy that, within the framework of constitutional church-state guidelines, faith-based organizations should be able to compete on an equal footing with other organizations for federal funding. Accordingly, organizations that are faith-based 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 receiving funds under a HUD program or activity shall discriminate against an organization on the basis of the organization's religious character or affiliation. HUD supports the participation of faith-based organizations in its programs.

B. Funding. An organization approved by HUD under this handbook does NOT automatically receive funding from HUD. Funding depends upon two factors: appropriations by Congress and the award of grants by HUD on a competitive basis under established federal and HUD policies and regulations. HUD funding is not intended to cover all counseling costs incurred by the agency in delivering counseling services. See Chapter 6.

1-3 Program Objectives

A. For Homebuyers, Homeowners and Renters as provided under Section 106(a) of the Housing and Urban Development Act of 1968, as amended. The overall objective is to provide housing counseling services, including outreach to potential first-time homebuyers, to persons eligible for or assisted under homebuying, homeownership and rental housing programs regardless of the source of the program. This includes enabling these persons to make prudent and responsible use of the programs by helping eligible renters, including public housing and Section 8 participants, locate and qualify for assisted rental units, and by helping eligible homebuyers obtain affordable housing, and homeowners avoid foreclosures or evictions.

1-5

10/04

B. For the Department

1. Increase participation of first-time homebuyers in the homeownership market.
2. Reduce losses to the single-family mortgage insurance funds by reducing the number of foreclosures and their costs.
3. Reduce mortgage defaults and their servicing costs to HUD under HUD-insured and Secretary-held single-family mortgages.
4. Reduce losses to the multifamily mortgage insurance funds caused by rent delinquencies and evictions, and their creation of cash-flow problems in multifamily project management, that adversely affect HUD.

10/04

1-5a

1-4 Program Participants

A. HUD-approved Housing Counseling Agencies. These agencies are private and public nonprofit organizations that provide housing counseling services to clients directly or through their affiliates or branches and meet and maintain the requirements set forth in this handbook. The agencies have applied for HUD approval and received it in written form from a HUD Office.

B. Clients are potential renters, renters, potential homebuyers, homebuyers, and homeowners eligible for and applying for HUD-related, VA, FmHA, State, local, or conventionally-financed housing or housing assistance, or are persons who occupy such housing and seek the assistance of a HUD-approved housing counseling agency to meet a housing need or resolve a housing problem. See para. 1-6A for the full definition of a client.

C. HUD Headquarters and Field Offices. These offices receive and evaluate applications from organizations interested in becoming HUD-approved housing counseling agencies. The offices, approve or reject applications, monitor approved agencies' housing counseling programs, reapprove agencies biennially, withdraw approval, and monitor agency activities under HUD grants. Headquarters awards grants and, in conjunction with Field Offices, monitors agency activities under the grants. These offices provide the approved agencies with their first-line communication with the Department.

1-5 HUD Headquarters Program Responsibilities

A. The Assistant Secretary for Housing-Federal Housing Commissioner is responsible for administering the 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, administers the program through the Housing Counseling Staff.

C. The Housing Counseling Staff administers the program on a day-to-day basis. The staff develops and implements program policy and procedures. The staff also provides technical assistance and training to Field Offices on an as-needed basis.

1-6

10/04

7610.1 REV-4

1-6 Definitions

A. Client

1. General Definition. A person (or persons) who falls within the definition in either subpara. a. or b. below AND enters the agency's housing counseling workload by means of a screening interview.
 - a. A person, family, or group of persons with the same DOCUMENTED housing need or problem potentially RESOLVABLE under a HUD program, a conventional home mortgage program, or under a State, county or city program.
 - (1) A housing need exists when a client lacks affordable "decent, safe and sanitary" housing.
 - (2) A housing problem exists when a client occupies HUD-related housing, a conventionally financed home, or a home financed under a State, county, or city program and faces the possibility of foreclosure as a homeowner, eviction as a renter, or other circumstances that impair occupancy in affordable decent, safe, and sanitary housing.

b. A potential or present home buyer, homeowner, or renter of a property that is or will be HUD-assisted or financed by a HUD-insured or conventional mortgage or a by a State, county, or city program.

2. A HUD-related Client is a client who occupies or is eligible for and seeks to occupy housing under a program administered by the Secretary of the U.S. Department of Housing and Urban Development.

B. Counseling. Counseling is a counselor-to-client or counselor-to-group activity during which the counselor completes any or all of the following types of actions.

1. Interviews the client in a private space and a confidential manner to obtain basic information about the client and the client's housing need or problem.

1-7

07/95

7610.1 REV-4

2. Identifies resources within the agency, the client's community, and HUD that might assist in meeting the client's need or resolving the client's problem.

3. Designs a counseling plan on behalf of the client.

4. Explains the counseling plan to the client and obtains the client's consent for the counselor to carry out the plan, including the actions the client must take.

5. Refers the client to other resources within the community and assists the client in arranging appointments with those resources.

6. Recommends additional private or group counseling sessions conducted by the agency or other community resources.

7. Monitors the client's progress toward meeting the need or resolving the problem.

C. Government Technical Representative (GTR) The HUD staff in Headquarters or the Field Office who oversees and monitors the housing counseling grant program.

D. Governmental Technical Monitor (GTM) A HUD Field Office staff person who monitors the grant activities of certain grantees within the jurisdiction of the Field Office as deemed necessary by the GTR. The GTM is responsible to the GTR.

E. Notice of Funding Availability (NOFA) & Application Kit. A NOFA is HUD's printed announcement in the Federal Register of the availability of housing counseling funds. The Kit contains detailed instructions regarding the preparation and submission of a grant application under the NOFA. HUD usually mails these documents to or makes them available to HUD-approved housing

counseling agencies to initiate the grant award process.

- F. Grant Officer (GO). The HUD official designated the authority to award and administer grants.
- G. Grantee. A HUD-approved counseling agency that receives housing counseling funds from HUD under the grant award process.
- H. Grant Agreement. The legal instrument that states the terms and conditions of a HUD grant for housing counseling services. The

07/95

1-8

7610.1 REV-4

grantee and the Grant Officer sign the agreement.

- I. Housing Goal. A potentially realizable objective the client sets for himself or herself with advice from the agency and with which the agency counselor concurs (Under HUD programs, a HUD-approved housing counseling agency should not accept as a client a person whose housing objective is unreasonable and obviously unrealizable.)
- J. National, Regional, and Multi-State Intermediaries. With the publication of Revision 4 of this handbook, the Department initiated the approval of national, regional, and multi-State organizations as housing counseling agencies. HUD uses the terms "intermediary" or "umbrella group" to identify these counseling agencies.
 1. National Organization. A national organization is one that provides housing counseling services through its branches or affiliates in more than half of the States; that is, in at least twenty-six States.
 2. Regional Organization. A regional organization is one that provides housing counseling services through its branches or affiliates in a generally recognized region or group of regions such as the Southwest, Mid-Atlantic, or New England.
 3. Multi-State Organization. A multi-State organization is one that provides housing counseling services through its branches or affiliates in three or more States but not more than twenty-five States nor for an entire region or group of regions as defined in paragraph 2 immediately above.

- 1-7 The Drug-Free Workplace Act of 1988 requires grantees of Federal agencies to certify that they will provide drug-free workplaces. Each potential grantee must certify that it will comply with drug-free workplace requirements in accordance with 24 CFR part 24, subpart F. For specific requirements, see the current Request for Grant Application published by HUD.

1-9

07/95