



# **Emergency Homeowners' Loan Program Procedural Manual**

*December 22, 2014*

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## **Introduction**

### **Mission Statement**

Minnesota Housing finances and advances affordable housing opportunities for low- and moderate-income Minnesotans to enhance quality of life and foster strong communities.

### **Background**

The Minnesota Housing Finance Agency (Minnesota Housing) was created in 1971 by the Minnesota Legislature.

Minnesota Housing offers programs funded by the State Legislature and the Federal Government to assist homeowners facing foreclosure due to a temporary financial crisis by providing case management or financial assistance on a one-time basis. Minnesota Housing’s goal is to preserve the integrity of neighborhoods by preventing properties from becoming vacant, abandoned, or blighted.

### **Emergency Homeowners’ Loan Program Counseling (hereinafter referred to as the “Program”)**

The Dodd-Frank Wall Street Reform and Consumer Protection Act provided \$1 billion to the U.S. Department of Housing and Urban Development (HUD) to implement the Program. The Program is managed by HUD's Office of Housing Counseling and administered through NeighborWorks® America (hereinafter referred to as “NeighborWorks”).

Under the HUD directed approach, Minnesota Housing received Program funding from NeighborWorks. This is a one-time allocation to support a rapid delivery of Program services to struggling homeowners. The Program specifically provides funding for Counseling Agencies to provide Counseling, Outreach and Program-Related Support, and Extension Direct Program Support.

## **Chapter 1 – Partner Responsibilities and Warranties**

### **1.01 Procedural Manual**

This Procedural Manual, including subsequent changes and additions, is a supplement to the Grant Funding Agreement (hereinafter referred to as the “Agreement”) executed between the Counseling Agency and Minnesota Housing. The Agreement is incorporated herein by reference and is a part hereof as fully as if set forth herein.

Minnesota Housing, as directed by NeighborWorks, reserves the right to:

- Alter or waive any of the requirements herein;
- Impose other and additional requirements; and
- Rescind or amend any or all materials effective as of the date of issue unless otherwise stated.

### **1.02 Evidence of Misconduct Referred to Attorney General**

Minnesota Housing will refer any evidence of fraud, misrepresentation, or other misconduct in connection with the operation of the Program to the Minnesota Attorney General’s office for appropriate legal action.

If, after a grant is made, a Counseling Agency that acted in good faith discovers any material misstatements or misuse of the Program funds by the recipient or others, the Counseling Agency shall promptly report such discovery to Minnesota Housing.

Minnesota Housing may exercise all remedies available to it, both legal and equitable, to recover funds from the Counseling Agency. This includes Program funds, together with all applicable administrative costs and other fees or commissions received by the Counseling Agency in connection with the funds and for all attorney fees, legal expenses, court costs or other expenses incurred by Minnesota Housing in connection with the funds or recovery thereof.

### **1.03 Unauthorized Compensation**

The Counseling Agency may receive fees approved in this Procedural Manual. However, it must not receive or demand from any other party to the transaction:

- Kickbacks;
- Commissions; or
- Other compensation.

#### **1.04 Minnesota Housing Monitoring Guidelines and Requirements**

Sub-Grantees are required to keep on file complete copies of all client file documentation, as described in the “File Maintenance and Documentation” subsection in Section 2.01 of this Procedural Manual, the Funding Announcement, and subsequent guidance issued by NeighborWorks and/or HUD. In addition, documentation of all Program funds expended must be maintained. Files must be made available to Minnesota Housing at Sub-Grantee’s office(s) during regular business hours or, Minnesota Housing may request copies be forwarded to Minnesota Housing for review.

Audits of the use of Program funds identify incidents of fraud or misrepresentation on the part of any party to the transaction and look for compliance guidelines including but are not limited to the following:

- NeighborWorks requirements;
- HUD requirements;
- Housing counseling approval requirements under 24 CFR Part 214;
- Requirements included in the following OMB Circulars as applicable: A-133, A-102, A-110, A-87 and A-122;
- National Industry Standards Code of Ethics and Conduct; and
- Minnesota Housing program policy.

#### **1.05 Termination of Counseling Agency Participation**

Minnesota Housing may terminate a Counseling Agency’s participation under the Agreement and this Procedural Manual at any time. Reason(s) for termination may include, but are not limited to, nonconformance with:

- The Program Funding Announcement;
- This Procedural Manual;
- The Agreement; and
- Applicable state and federal laws, rules and regulations.

Minnesota Housing may, at its option, seek remedies other than, and in addition to, termination of the Agreement for noncompliance, including, but not limited to, repayment of Program funds.

If the Counseling Agency’s participation is terminated, reinstatement may be requested. The decision whether or not to reinstate shall be at Minnesota Housing’s sole discretion.

## **1.06 Representations and Warranties**

Sub-Grantee warrants and represents the following:

- It agrees to provide Counseling only to individuals meeting the Program eligibility requirements;
- It certifies that its counselors have demonstrated the necessary skill and competency concerning the interviewing of Pre-Applicants regarding financial circumstances, collection and review of standard loan processing documents and evaluation of income and asset documentation;
- It agrees that Counseling will be provided at no charge to the client; and
- If any Program funds are used to pay a consultant then the maximum amount allowable to pay the salary of any individual shall not be greater than the daily equivalent of the rate paid for level IV of the Executive Schedule of the United States Government, unless otherwise provided by law.

## **Chapter 2 –Program Requirements**

### **2.01 Counseling Agency Requirements**

#### **Counseling Agency and Staff Standards**

Sub-Grantee must:

- Meet or exceed HUD’s housing counseling approval requirements under 24 CFR Part 214;
- Certify adherence to the National Industry Standards Code of Ethics and Conduct and offer the Minimum Standard Activities for Foreclosure Intervention and Default Counseling;
- Certify that the staff and volunteers who will provide Counseling have no conflict(s) of interest due to other relationships with servicers, real estate agencies, mortgage lenders and/or other entities that may stand to benefit from particular Counseling outcomes;
- Not have engaged in exclusivity agreements with clients or interested parties such as servicers or lenders; and
- Not have engaged in practices which exclude other Counseling Agencies from working with its clients’ servicers or lenders, should the client willingly seek assistance from another organization.

#### **HOPE LoanPort**

Sub-Grantee must use HOPE LoanPort for the transmission of applications to the Fiscal Agent and to facilitate communication between the two parties.

#### **Budget and Funds Tracking**

Sub-Grantees are required to maintain a separate account, or accounts, for Program funds and are responsible for tracking Counseling funds separate from Outreach and Program-Related Support funds. Extension Direct Program Support funds must also be tracked separately.

- Advance payments must be kept in an interest bearing account and any interest earned before such advance funds are used for Program purposes must be remitted quarterly to Minnesota Housing except in situations where:
  - Sub-Grantee receives less than \$120,000 in federal awards per year; or
  - The best reasonably available interest bearing account is not expected to earn interest in excess of \$250 per year on federal cash balances; or
  - The depository requires an average minimum balance so high that it is not feasible within the expected federal and non-federal cash resources.

**Data Privacy, Authorization and Disposal**

Sub-Grantees must meet all the requirements of Minnesota Statutes Chapter 13 and Section 462A.065:

- Sub-Grantees must undertake customary and industry standard efforts to ensure the protection of each Pre-Applicant’s, Applicant’s, Approved Applicant’s and Borrower’s personal and financial information, both electronic and paper.
- Sub-Grantees must undertake customary and industry standard efforts so that neither they nor any of their vendors disclose any Pre-Applicant’s, Applicant’s Approved Applicant’s or Borrower’s personal or financial information to anyone except authorized personnel. The only exception to this requirement is when the Pre-Applicant, Applicant, Approved Applicant or Borrower expressly grants permission.
- Data privacy requirements of Minnesota Housing, and applicable forms including the authorization form and Tennessean warning, must be adhered to and documentation of compliance maintained in Sub-Grantee files at their office.
- Sub-Grantees must dispose of clients’ records in a manner that protects clients’ confidentiality and is consistent with State statutes governing records and social work licensure, as outlined in the National Industry Standards for Homeownership Education and Counseling guidelines on disposing of personally-identifiable information.

**File Maintenance and Documentation**

Sub-Grantees must use Program forms as required by NeighborWorks and Minnesota Housing. Further, they must maintain files with proper documentation and make such files available upon request by an authorized party.

The following list of required documentation/forms is subject to change. Sub-Grantees must stay informed of changes communicated by Minnesota Housing, NeighborWorks, and HUD. Revisions may be communicated by e-mail from Minnesota Housing or NeighborWorks, posting to Minnesota Housing’s website, [www.mnhousing.gov](http://www.mnhousing.gov), NeighborWorks’ website, [www.nfmcmembers.org](http://www.nfmcmembers.org); and if necessary, subsequent amendments to the Agreement or revisions to this Procedural Manual.

COUNSELING LEVEL	REQUIRED DOCUMENTATION/FORMS
Level 5a	<ul style="list-style-type: none"> <li>• Pre-Applicant Screening Form</li> <li>• Authorization Form</li> <li>• Eligibility Determination Checklist</li> <li>• Credit Reports</li> <li>• Copies of all miscellaneous documents provided by the Pre-Applicant</li> <li>• Copies of all documentation related to changes in income provided by the Borrower</li> </ul>
Level 5b	<ul style="list-style-type: none"> <li>• Acknowledgement of Explanation of Program Expectations</li> </ul>

	<ul style="list-style-type: none"> <li>• Verified Budget</li> <li>• Accompanying documentation to prove income and expense/debt obligations are verified</li> <li>• Action Plan</li> <li>• EHLP Counseling Agreement and Disclosure</li> <li>• EHLP Homeowner Post-Closing Counseling Summary and Confirmation</li> <li>• EHLP Homeowner Post Closing Summary and Confirmation</li> <li>• EHLP Homeowner Post Closing Summary and Confirmation – Verbal Authorization (if applicable)</li> </ul>
Level 5c	<ul style="list-style-type: none"> <li>• Recertification Determination Checklist, and</li> <li>• Copies of all updated documentation provided by the Borrower</li> </ul>
Level 5d	<ul style="list-style-type: none"> <li>• Proof of Contact to Borrower offering 5d counseling (utilizing NeighborWorks’ template language)</li> <li>• Listing of Other Assistance Resources</li> <li>• Revised “post-Program” Action Plan</li> <li>• Revised “post-Program Budget</li> <li>• Budget Verification Documentation</li> <li>• EHLP Homeowner Post Closing Summary and Confirmation</li> <li>• EHLP Homeowner Post Closing Summary and Confirmation – Verbal Authorization (if applicable)</li> <li>• Documentation of steps taken based upon Action Plan</li> <li>• Close-Out Checklist &amp; Supporting Documentation</li> </ul>

**Records Retention**

Sub-Grantees must establish and comply with a records retention policy in accordance with applicable law and meeting the minimum thresholds outlined in the Agreement.

**Monitoring**

Sub-Grantees will be subject to monitoring by Minnesota Housing and required to submit such materials as Minnesota Housing deems necessary.

**2.02 Eligible Activities**

For purposes of this Procedural Manual, there are three categories of eligible activities:

- Counseling levels 5a-5d;
- Outreach and Program-Related Support; and
- Extension Direct Program Support

**2.03 Eligible Counseling Activities**

Counseling activities specific to Program delivery as a Minnesota Housing Sub-Grantee, and in addition to all other Program requirements, are as follows:

- Minnesota Housing has centralized the acceptance of Pre-Applicant screening forms through the Minnesota Home Ownership Center.
- Sub-Grantees are responsible for assisting with Pre-Applicant screening through the centralized intake process as coordinated by the Minnesota Home Ownership Center, and for supporting statewide outreach in addition to local outreach.
- Eligible Pre-Applicant listings are centralized for submission via the Data Collection System (DCS) to the lottery by the Minnesota Home Ownership Center.
- Sub-Grantee communication will be with Minnesota Housing or the Homeownership Center, as applicable.

**2.04 Counseling Costs**

The Program identifies a four-tiered structure for defining the extent and estimating the cost of the necessary Counseling. For budgetary purposes the value of services assigned to the four levels of Counseling are as follows:

	<b>5a</b>	<b>5b</b>	<b>5c</b>	<b>5d</b>
<b>THE PROGRAM</b>	\$600	\$150	\$200	\$300

**2.05 Duplicate Counseling Services**

Minnesota Housing will not reimburse Sub-Grantees for the cost of providing duplicate Counseling to clients. In instances where duplicate Counseling occurs, NeighborWorks and Minnesota Housing reserve the right to suspend, recapture and/or de-obligate Program funds.

**2.06 Eligible Outreach and Program-Related Support Activities**

Outreach and Program-Related Support funds are a component of overall Program funds allocated to each Sub-Grantee. These funds shall be used for local outreach efforts to Pre-Applicants, including activities to increase Program efficiencies related to participation. These funds must be maintained in a separate account from the Counseling funds. Usage tracking and record keeping of Outreach and Program-Related Support funds must be maintained independently of Counseling funds for reporting and monitoring purposes.

Eligible uses of Outreach and Program-Related Support include but are not limited to:

- Outreach to delinquent Pre-Applicants, especially in Program distressed localities. The Program encourages outreach strategies that target delinquent Pre-Applicants at risk of foreclosure.

- Establishing a triage system that makes more effective and efficient use of Counseling time so counselors are not scheduling and reserving time for Pre-Applicants seeking help with situations not related to the Program or mortgage and home foreclosure. Triage can also ensure that Pre-Applicants are better prepared for the Counseling session (e.g. documents and information gathered by Pre-Applicant prior to the session).
- Hosting group orientation and education sessions on the Program to help Pre-Applicants use Counseling time more effectively.
- Registering attendees, preparing for, and delivering these group sessions.
- Development of Program infrastructure and communication strategies.
- Improving Counseling Agency capacity and infrastructure for tracking and reporting data.
- Costs related to hiring, orienting, and training new Counseling staff.
- Costs related to orienting and training existing Counseling staff.
- Purchasing or leasing equipment and software for counselors.
- Collecting data and preparing quarterly reports and draw requests.
- Quality control of the Counseling function.

## **2.07 Eligible Extension Direct Program Support Activities**

Extension Direct Program Support Funding is intended to supplement direct costs associated with awarded Counseling Agencies’ ability to effectively and efficiently provide quality required Program services and Counseling.

Eligible uses of Extension Direct Program Support funding include, but are not limited to:

- Systems to ensure Borrowers are better prepared for required Counseling sessions – for example, ensuring Borrowers have gathered required documents and information.
- Continued outreach to Borrowers. Certain EHLP Counseling sessions require pre- or post-Counseling outreach notifications.
- Borrower education sessions to help use Counseling time more effectively. This includes registering attendees, preparing forms, and delivering group sessions.
- Outreach and communication efforts aimed at providing program updates and preventing “rescue” or loan modification scams.
- Infrastructure development and communication.
- Technology improvements for outreach, Counseling, education, registration and loan modification purposes.
- Improving Sub-Grantee capacity and infrastructure for tracking and reporting data.

- Costs related to hiring, orienting and training new Counseling staff.
- Purchasing or leasing equipment and software for counselors.
- Collecting data and preparing quarterly reports and draw requests.
- Quality control of the Counseling function.

## **2.08 Ineligible Activities**

Sub-Grantee may not:

- Charge fees to clients in exchange for Counseling.
- Pass through the cost of pulling a credit report for the Program to the Pre-Applicant or Applicant as this cost is reflected in the reimbursement rates for Level 5a.

## **2.09 Unspent Funds**

Prior to December 31, 2014, all Program funds expended must be used as specified in Sections 2.04, 2.06, and 2.07 of this Procedural Manual. Thereafter, any unspent Program funds must continue to be tracked separately from any other funds. Unspent Program funds may be used to support Sub-Grantee’s general foreclosure counseling program between January 1, 2015 and May 1, 2015. All Program funds must be expended by May 1, 2015. Any Program funds not expended by May 1, 2015, are subject to recapture by Minnesota Housing. Sub-Grantees must supply any documentation to support their use of Program funds as Minnesota Housing requests, including, but not limited to, written reports or narrative explanations, general ledgers, receipts, invoices, timesheets, or paystubs.

## Chapter 3 – Reporting and Disbursement Schedules

### 3.01 General Report Requirements

Sub-Grantees must supply quarterly narrative and expenditure reports, and a final report upon completion of the Program, to Minnesota Housing in form and substance acceptable to or designated by Minnesota Housing. The reports shall be supplied in accordance with the schedule as described in Section 3.02 of this Procedural Manual.

Sub-Grantees must supply reports detailing client/household level data and aggregate overall production data to the Minnesota Home Ownership Center. The reports shall be supplied in accordance with a schedule and by methods established by the Minnesota Home Ownership Center. Grantee shall obtain and report all data points, including the optional data points, when known. Grantee shall pay careful attention to reporting outcome data when known. Please refer to the Counseling Agency Reporting Data Points listed in Appendix B of this Procedural Manual.

Upon request, Sub-Grantee must furnish to Minnesota Housing information on expenditures during the course of the Program’s quality control and compliance measures. Such information may include, but is not limited to, accounting records, general ledgers, and expense documentation such as paystubs, invoices, and receipts. Sub-Grantees must comply with third-party quality control and compliance measures which may include site visits, file audits, and other measures designed to ensure compliance with the requirements of the Program.

### 3.02 Reporting Schedule

Notwithstanding the draw schedule described in Section 3.03 of this Procedural Manual, quarterly reporting must be current in order to obtain a draw. The Program reporting schedule is as follows:

Report Due Date	Reporting Period
October 15, 2011	Grant award announcement through September 30, 2011
January 15, 2012	October 1, 2011 – December 31, 2011
April 15, 2012	January 1, 2012 – March 31, 2012
July 15, 2012	April 1, 2012 – June 30, 2012
October 15, 2012	July 1, 2012 – September 30, 2012
January 15, 2013	October 1, 2012 – December 31, 2012
April 15, 2013	January 1, 2013 – March 31, 2013
July 15, 2013	April 1, 2013 – June 30, 2013
October 15, 2013	July 1, 2013 – September 30, 2013
January 15, 2014	October 1, 2013 – December 31, 2013
April 15, 2014	January 1, 2014 – March 31, 2014

July 15, 2014	April 1, 2014 – June 30, 2014
October 15, 2014	July 1, 2014 – September 30, 2014
January 23, 2015	Final report covering June 17, 2011 – December 31, 2014

### 3.03 Draw Schedule

Minnesota Housing’s funding disbursement schedule corresponds with NeighborWorks’ funding disbursement schedule. Disbursements occur only when all Minnesota Housing’s Sub-Grantees combined, reach the required disbursement threshold **and** Minnesota Housing receives funds from NeighborWorks.

Funds will be disbursed as outlined in the Agreement.

At minimum, quarterly reports must be up-to-date before funding disbursements will be made.

Sub-Grantees will not be paid or otherwise reimbursed for production of Approved Applicant application submissions in excess of awarded funds unless first approved by Minnesota Housing and NeighborWorks.

If a Sub-Grantee submits production above its awarded Counseling allocation, then that Sub-Grantee bears the sole responsibility of seeing those Approved Applicants or Borrowers throughout the duration of their Program participation without compensation from Minnesota Housing or NeighborWorks.

In order to ensure that Sub-Grantees remain on track to meet goals by Counseling level, each draw will be evaluated individually.

Sub-Grantees are to upload their Counseling level data on at least a quarterly basis.

Minnesota Housing reserves the right to adjust draw schedules and amounts. In addition, if substantial production is not demonstrated in quarterly reports, Minnesota Housing, in its sole discretion, reserves the right to recapture or de-obligate Program funds.

## Appendix A: Definitions

TERM	DEFINITION
Action Plan	A plan which outlines steps to resolve the Borrower’s delinquency and includes specific goals and steps the Borrower will take to be able to resume full mortgage payments by the Program’s end.
Activity	A permitted or prohibited use of funds received under the Program.
Agreement	The Grant Funding Agreement executed between the Counseling Agency and Minnesota Housing, which is incorporated herein by reference.
Applicant	Refers to a homeowner that has been selected into the lottery but has not yet been approved for a loan under the Program.
Approved Applicant	Refers to a homeowner that has been approved for a Program loan by HUD, but has not yet executed the Program loan documents and become a Borrower.
Counseling Agency	Refers to a Sub-Grantee that provides counseling services directly and is eligible to receive sub-awards for the Program under the NeighborWorks funding announcement for the Program dated May 13, 2011.
Borrower	Refers to an Approved Applicant by HUD that has executed all necessary the Program loan documents as a participant in the Program
Counseling	Refers to the Program activities carried out by Counseling Agencies. Specifically, “Level 5a”, “Level 5b”, “Level 5c” and “Level 5d”. These counseling levels are further described in the Emergency Homeowners’ Loan Program Counseling Agency Roles and Responsibilities document and Funding Announcement, both available at <a href="http://www.nfmcmembers.org">www.nfmcmembers.org</a> .
Data Collection System (DCS)	Refers to the data system used by Minnesota Housing and the Minnesota Homeownership Center to report counseling activities to NeighborWorks.

<b>TERM</b>	<b>DEFINITION</b>
Debt to Income (DTI) Ratio	The total of all minimum monthly payments for all debts with a remaining term in excess of 10 months divided by monthly gross income.
Extension Direct Program Support	Refers to funding provided to be used for direct costs associated with Counseling Agency’s ability to effectively and efficiently provide required EHLP services and Counseling.
Fiscal Agent	Entity through which HUD contracts to provide loan servicing and fiscal control functions such as collecting payments from Pre-Applicants, distributing payments to servicers and managing loan balances.
Funding Announcement	Refers to the Program Funding Announcement provided by NeighborWorks.
HOPE LoanPort®	The system that will be used for the transmission of the Program Pre-Applicant applications from the Counseling Agency to the Fiscal Agent and to facilitate communication between the two parties.
Minimum Standard Activities for Foreclosure Intervention and Default Counseling	Refers to the activities defined in Exhibit D of the National Industry Standards for Homeownership Education and Counseling Guidelines and Code of Ethics Reference Guide.
Outreach and Program- Related Support	Refers to funding provided to be used for direct costs associated with outreach efforts to Pre-Applicants and to increase the effectiveness and efficiency of Sub-Grantees’ ability to provide quality Program Counseling.
Pre-Applicant	Refers to a homeowner who is in the process of applying to participate in the Program and has submitted a Pre-Applicant Screening Worksheet but has not had a formal application submitted to the Fiscal Agent via HOPE LoanPort®
Program	The Emergency Homeowners’ Loan Program
Sub-Grantee	A Counseling Agency selected by Minnesota Housing to deliver the Program

As used in this Procedural Manual, unless otherwise specified herein, the preceding terms shall have the meanings set forth respectively after each term and such meanings shall be equally applicable to the singular and plural forms of such terms.

## Appendix B: Counseling Agency Reporting Data Points

<b>Branch ID</b>	Sub-Grantee identifier (defined by Minnesota Housing)	Y	Y	Y	Y
<b>Client Unique Identifier</b>	Client's ID (defined by Program Loan Application Submission) This is the homeowner's Program ID	Y	Y	Y	Y
<b>Counseling Level</b>	5 a, 5 b, 5 c, 5 d	Y	Y	Y	Y
<b>Counseling Intake Date</b>	<b>(Report the current value at time of counseling)</b>	Y	Y	Y	Y
<b>Counseling Mode</b>		Y	Y	Y	Y
	Phone				
	face to face				
<b>First Name</b>		Y	Y	Y	Y
<b>Last Name</b>		Y	Y	Y	Y
<b>Age</b>		Y	Y	Y	Y
<b>Race</b>		Y	Y	Y	Y
	American Indian or Alaskan Native				
	Asian				
	Black or African American				
	Native Hawaiian or Other Pacific Islander				
	White				
	American Indian or Alaskan Native and White				
	Asian and White				
	Black or African American and White				
	American Indian or Alaskan Native and Black or African American				
	Other				
	Chose not to respond				
<b>Ethnicity</b>		Y	Y	Y	Y
	No				
	Yes				
	Chose not to respond				
<b>Gender</b>	Female/Male	Y	Y	Y	Y
<b>Household Family Income</b>	Annual gross income	Y	Y	Y	Y
<b>House Number</b>	House or Unit number of property	Y	Y	Y	Y
<b>Street</b>	Street name of property.	Y	Y	Y	Y
<b>City</b>	The actual city location of the property.	Y	Y	Y	Y
<b>State</b>	Two digit state (or U.S. territory) code of property	Y	Y	Y	Y

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<b>Zip</b>	Five digit ZIP code of property.	Y	Y	Y	Y
<b>Current Servicer</b>	Name of current servicer the primary or foreclosure problem loan for client	Y	Y	Y	Y