

## **EHLP QUESTIONS: Submitted 08.14.2011**

**Q: Do I use current Income or Pre-Event Income to calculate DTI?**

A: Pre-Event Income (2008 or 2009, as applicable, combined AGI of the Pre-Applicant and all Co-Applicants (if any)).

**Q: Can I use other submitted documentation in place of the monthly mortgage billing statement, if the Pre-Applicant cannot obtain such statement?**

A: Yes. If no mortgage statement is available, the CA may substitute the following documentation in place of the required mortgage statement: (1) the submitted Breach Letter or equivalent for the servicer name, account number, and address of the property secured by the Pre-Applicant's delinquent 1st lien mortgage; (2) the Pre-Applicant's Credit Report for the amount of the regular first lien mortgage monthly payment, the date of the last payment, current address of the Pre-Applicant, and remaining mortgage balance; (3) copy of flood insurance policy in good standing, for Pre-Applicant's who indicate that the mortgaged property is in a flood zone.

If the CA determines that the Pre-Applicant is eligible, the CA should upload a copy of the permitted alternative documentation for each eligibility criterion. This may mean that the CA uploads the same document more than one time, once for each applicable requirement.

**Q: [NOTE: This is a correction of a previously released FAQ] Can we adjust Pre-Event income if AGI is high because of a one-time event (e.g., liquidated annuity/retirement account, sold a business or other property, received a disability settlement, etc.)?**

A: **No.** Each Pre-Applicant is subject to the same standard for determining Pre-Event (prior to the Pre-Applicant's becoming temporarily and involuntarily unemployed or underemployed due to economic condition or medical condition) Income. Pre-Event Income is the total combined Pre-Event AGI of each individual named on the Pre-Applicant's 1st lien mortgage loan documents (mortgage and/or note), as recorded on the individual's 2008 or 2009 tax return (whichever is Pre-Event).<sup>1</sup>

**Q: Could someone with an owner-financed mortgage or mortgage from a local investor be eligible?**

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<sup>1</sup> Except in the case of (1) Pre-Applicants or Co-Applicants who are married filing jointly, with a spouse that is not named on the 1st lien mortgage loan documents; and/or (2) Co-Applicants who were exempt from the Federal tax return filing requirement in the Pre-Event year, and who did not file a tax return in that year. See EHLP Counseling Agency Guidelines for more information.

**A:** No. The EHELP statute only allows HUD to make Emergency Mortgage Relief Payments to banks, trust companies, finance companies, mortgage companies, savings and loan associations, insurance companies, credit unions, and other financial institutions which the Secretary finds to be qualified by experience and facilities. HUD's EHELP Counseling Agency Guidelines supplement dated August 11 2011 restates this requirement.

**Q:** **If an EHELP applicant has a Federal tax lien filed against him but indicates that the lien is in dispute is this applicant eligible for funding under EHELP?**

**A:** No. A Federal tax lien is a priority lien. To provide assistance, the Pre-Applicant's delinquent mortgage must be in first position. If the Pre-Applicant or any Co-Applicant is subject to a Federal tax lien, the Pre-Applicant is not eligible for the EHELP (if the CA finds a Federal tax lien on the credit report, the Pre-Applicant may submit official documentation uploaded with the credit report that demonstrates that the identified Federal tax lien has been released).

**Q:** **If a homeowner received or receives income from non-taxable or partially-taxable sources, should the full amount or the "taxable" amount be used for purposes of determining pre-event income and current income?**

**A:** For Pre-Event Income, the EHELP requires the use of the homeowner's AGI as reported on his or her tax returns (2008, or 2009, as applicable). For current Income (except for Puerto Rico residents and self-employed), the EHELP requires that the CA evaluate wages, unemployment, disability/SSI, pensions/annuities/retirement plans, and TANF (CA guidelines provide more detail).

**BUT, for the substantial reduction in income test, the CA will compare Pre-Event Income (combined 2008 or 2009 AGI, whichever is pre-Event) to the lesser of: (a) 2010 combined AGI (of all persons on the 1st lien mortgage loan documents); and, (b) the combined current income (of all persons on the 1st lien mortgage loan documents) based on the regular current income calculation (e.g., pay stubs, unemployment checks, disability/SSI checks, and self-employment wages and rental income from 2010 tax return).** This policy has been included in the EHELP Counseling Agency Guidelines supplement dated August 22, 2011.

**Q:** **If a Pre-Applicant or Co-Applicant has 1099 income that has decreased each year since 2009, can we show his 1099's from 2010 as pre-event income and his current year to date 1099 income as his current income?**

**A:** No. Individuals with 1099 income are evaluated for the EHELP using the documentation requirements established for self-employed persons. Therefore, for 1009 income earners, current income is determined by that person's 2010 AGI, as reported on that person's 2010

Federal tax return. This policy has been included in the EHELP Counseling Agency Guidelines supplement dated August 22, 2011.

**Q: For current income, are we required to include all sources of income?**

**A:** The CA determines current Income (except for self-employed and rent, alimony, and dividend and interest) by evaluating wages, unemployment, disability/SSI, pensions/annuities/retirement plans, and TANF for the prior month. Income from self-employment and rent, alimony, and dividend and interest income comes from the 2010 1040 tax return (in Puerto Rico, the state tax return).

**BUT, for the substantial reduction in income test, the CA will compare Pre-Event Income (combined 2008 or 2009 AGI, whichever is pre-Event) to the lesser of: (a) 2010 combined AGI (of all persons on the 1st lien mortgage loan documents); and, (b) the combined current income (of all persons on the 1st lien mortgage loan documents) based on the regular current income calculation (e.g., pay stubs, unemployment checks, disability/SSI checks, and self-employment wages and rental income from 2010 tax return).** This policy has been included in the EHELP Counseling Agency Guidelines supplement dated August 22, 2011.

**Q: Is there any exception for a person whose type of employment cannot provide a reliable current monthly income figure using the regular documentation requirements? For example, seasonal workers, seasonal employment, 1099 income earners?**

**A:** Yes. If the CA determines that the person's employment is seasonal (the CA reasonably believes that the person's wages/income stream fluctuates by more than 50% based on the time of year because of the character of the employment), the CA may input into the monthly wage field of C-Max or HLP the person's current income by using that person's 2010 AGI (or equivalent in Puerto Rico), as reported on that person's 2010 Federal tax return divided by 12. This policy has been included in the EHELP Counseling Agency Guidelines supplement dated August 22, 2011.

**Q: Should an individual complete a profit and loss statement for undocumented income - for example odd jobs such as landscaping/self employment?**

**A:** No. Profit and loss statements are not part of the EHELP application process. Self-employed persons (and persons with 1099-reported or seasonal employment) are subject to a different income documentation requirement than other individuals. For current Income reporting requirements, see the EHELP Counseling Agency Guidelines at pp.14-17. For Pre-Event Income reporting requirements, see the Guidelines at pp.17-18.

**PLEASE NOTE, for the substantial reduction in income test, the CA will compare Pre-Event Income (combined 2008 or 2009 AGI, whichever is pre-Event) to the lesser of: (a) 2010 combined AGI (of all persons on the 1st lien mortgage loan documents); and, (b) the**

**combined current income (of all persons on the 1st lien mortgage loan documents) based on the regular current income calculation (e.g., pay stubs, unemployment checks, disability/SSI checks, and self-employment wages and rental income from 2010 tax return).** This policy has been included in the EHLPCounseling Agency Guidelines supplement dated August 22, 2011.

**Q: How do I calculate a person's current income who has recently regained employment?**

**A:** The EHLPCounseling Agency Guidelines requires the last four weeks of pay stubs, if any (except for self-employed persons, 1099 income earners, and persons with seasonal employment – see previous Q&A). The recently re-employed person should provide whatever pay stubs exist for the past four weeks.

**PLEASE NOTE, for the substantial reduction in income test only, the CA will compare Pre-Event Income (combined 2008 or 2009 AGI, whichever is pre-Event) to the lesser of: (a) 2010 combined AGI (of all persons on the 1st lien mortgage loan documents); and, (b) the combined current income (of all persons on the 1st lien mortgage loan documents) based on the regular current income calculation (e.g., pay stubs, unemployment checks, disability/SSI checks, and self-employment wages and rental income from 2010 tax return).** This policy has been included in the EHLPCounseling Agency Guidelines supplement dated August 22, 2011.

**Q: EHLPCounseling Agency Guidelines Pre-Applicant is delinquent on a loan held at zero percent interest, but Hope Loan Port (HLP) does not allow for input of 0% interest rates. Are there any restrictions on 0% mortgages? If not, what should the counselor enter there so they can proceed to submit the case to the FA?**

**A:** There is no EHLPCounseling Agency Guidelines restriction prohibiting the provision of program assistance to a homeowner with a 0% mortgage. We will work with HLP to correct this problem and until then the Counselor should put in the lowest interest rate accepted by HLP.

**Q: Can a Pre-Applicant/Co-Applicant provide a tax transcript obtained from the local IRS office if he/she does not have a copy of his/her required tax returns?**

**A:** Yes. The Counselor and the Pre-Applicant/Co-Applicant should work together to ensure that the type of transcript obtained includes all of the information necessary for the Counselor to make the required eligibility determinations. This policy has been included in the EHLPCounseling Agency Guidelines supplement dated August 22, 2011.

**Q: Is a complaint filed by the mortgage holder in registry of deeds allowable to determine delinquency and risk of imminent foreclosure in place of the breach letter?**

**A:** For the indication of imminent foreclosure requirement, a different document may substitute for the breach letter if the document: (1) was received by the homeowner from the holder (or holder's agent, e.g., the Servicing Institution), (2) identifies an existing delinquency, AND, (3) indicates the holder's intention to foreclose (e.g., failure to cure the delinquency will

result in the commencement or continuation of foreclosure proceedings), the pre-foreclosure letter can be an acceptable substitute to the default letter.

**Q: Can an unlisted document (e.g., driver's license, Tribal citizen card) satisfy the citizenship documentation requirement?**

**A:** It depends. You can find the description of Citizenship Requirements (including permitted documentation, at:

[http://findehlp.com/documents/EHLP\\_CitizenshipandQualifiedAlienRequirements\\_2.pdf](http://findehlp.com/documents/EHLP_CitizenshipandQualifiedAlienRequirements_2.pdf).

If a U.S. citizen or non-citizen national cannot provide one of the documents listed under "Primary Evidence" (see link, above), the CA is authorized to accept a document listed under "Secondary Evidence". This includes "any other document that establishes a U.S. place of birth or in some way indicates U.S. citizenship." If a particular state driver's license or Tribal identification card establishes a U.S. place of birth or in some way indicates U.S. citizenship, it may fall under this category.

As with all individuals applying to the EHLP (Pre-Applicants and Co-Applicants), completion of the citizenship status certification on the applicable certification statement is a requirement for participation.

**Q: How are people who have Temporary Protected Status (TPS) going to be considered? The citizenship documentation does not address the TPS issue.**

**A:** The Pre-Applicant/Applicant and all Co-Applicants, if any, must be eligible to receive a Federal public benefit under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. § 1611 (hereafter PRWORA). Persons who have been granted Temporary Protected Status to reside in the United States and who have not been approved for residency as a non-citizen national or qualified alien are not eligible for EHLP, because they are not a US citizen, non-citizen national, or qualified alien under PRWORA.

**Q: Can the Pre-Applicant make up some of their past due payment if it would make them eligible for the program?**

**A:** No. The EHLP Statute requires a finding that the homeowner is financially unable to make full monthly mortgage payments. A person who brings funds to the table at closing calls into question their inability to make full monthly mortgage payments.

**PLEASE NOTE, HUD has revised its policy concerning the maximum assistance rules. Pre-Applicants are eligible for assistance so long as the Delinquent 1st Mortgage arrearage amount + 1 full monthly mortgage payment + 10 subsidized monthly mortgage payments (monthly mortgage payment amount minus expected monthly Homeowner Contribution Payment amount) is less than or equal to \$50,000.** This policy has been included in the EHLP Counseling Agency Guidelines supplement dated August 22, 2011.

**Q: How should monthly debt payments be determined for debts which don't require monthly payments and/or the homeowner has not been paying?**

**A:** If there is a debt due that does not amortize on a monthly basis, the CA should use reasonable methods to annualize these non-monthly debts and divide this number by 12 in order to calculate a monthly payment amount. This policy has been included in the EHLPCounseling Agency Guidelines supplement dated August 22, 2011.

The monthly payment amount is included in the overall calculation of a Pre-Applicant's DTI ratio, regardless of whether he or she is making timely monthly payments.

**Q: Do we count deferred student loans in the debt payments for calculating DTI? If so, how do we calculate the term?**

**A:** Yes, we count deferred student loans. A deferment does not relieve the individual of the responsibility for the underlying debt.

**Q: If a homeowner was fired for cause according to her termination letter and subsequently appealed the decision and had it overturned, does the homeowner qualify under the unemployment or underemployment requirement?**

**A:** The EHLPC statute limits assistance to homeowners who became unemployed or underemployed due to adverse economic conditions or medical conditions. A submitted termination letter indicating a person was fired for cause is proof that the person is not unemployed for statutorily authorized reasons. To overcome the evidence already submitted (the letter indicating that the termination was for cause) the Pre-Applicant would have to provide additional documentation from the prior employer or relevant court or administrative agency nullifying the first letter and indicating that she actually became unemployed or underemployed due to adverse economic conditions or medical conditions. If the termination letter indicates that the employee was terminated for cause, the Counseling Agency cannot process the Pre-Applicant's EHLPC application without this additional documentation.

**Q: Should we include late fees in monthly mortgage payment amount?**

**A:** No. The monthly mortgage payment amount is the regular monthly payment amount.

**Q: Does the form 4506-T apply to Puerto Rico? Is there anything else necessary for Puerto Rico tax forms?**

**A:** It depends. Residents of Puerto Rico that are required to file an annual income tax return with the United States Internal Revenue Service are required to sign and complete the 4506-T. Guidance pertaining to income tax requirements and forms for citizens of Puerto Rico who are not required to file an income tax return with the IRS can be found on pp. 15-16 of the EHLPCounseling Agency Guidelines.

**Q: If a homeowner does not file the income tax returns for valid reasons, how do we process their application?**

**A:** It depends. If the homeowner is the Pre-Applicant, he/she must have a copy of his/her pre-event (2008 or 2009) Federal income tax return. Co-Applicants who were exempt from the Federal filing requirement and did not file tax returns in the pre-event year are permitted to complete and sign the Exempt from Filing Taxes Affidavit. For 2010 tax returns, Pre-Applicants and Co-Applicants are permitted to complete and sign the Exempt from Filing Taxes Affidavit.

**Q: If we have already pulled recent credit report for a homeowner, how old can it be to still be considered “current” for EHLP purposes?**

**A:** The credit report must be dated within 30 days of the date of the application appointment.

**Q: Does the opportunity for Pre-Applicants to request a temporary foreclosure hold for sale dates occurring on or before August 22nd require CAs to reconsider homeowners previously disqualified as part of the application screening process?**

**A:** No. HUD provided the guidance concerning foreclosure sale dates prior to August 22nd, to make clear that the temporary hold, if in place, supersedes any previous notice from the holder to the homeowner.

**Q: Regarding a legal name and married name/other name (nickname, shortened name). Which name do we use for HLP?**

**A:** The individual should be identified on the application by whatever name is used on the mortgage. If the individual’s name varies between submitted documentation, enter the other name in the notes. This policy has been included in the EHLP Counseling Agency Guidelines supplement dated August 22, 2011.

**Q: HOPE LoanPort requires “Lender Email ID” and “Lender Website” as part of the EHLP question form, but that information is not available on all mortgage statements our counselors are getting. Is there a way to bypass these two fields if the information is unavailable (such as writing in “Unknown”), or is it possible to make these optional fields?**

**A:** Please enter “NA”.

**Q: I saw HUD’s revised program changes, dated 8-22-2011, what do these changes mean?**

**A:** Counseling Agencies that deemed any pre-applicant ineligible, **post lottery**, due to any of the revised changes must revisit those pre-applicant case files against the newly revised changes.

- This means former ineligible pre-applicants that failed eligibility under the prior guidelines but meet HUD's newly revised requirements can now be eligible.
  - These applicants should be contacted about HUD's policy revisions. Counseling Agencies should continue processing their EHLP application and submit it onto the fiscal agent for processing.
  - **ONLY** Pre-applicants that failed eligibility solely on the basis of the old requirements should have their files reviewed. Applicants are still expected to meet all other program requirements set forth by HUD.
- Counseling agencies may now utilize the revised eligibility standards moving forward, effective immediately!

**Q: What should be counseling agencies' first step?**

**A:** Counseling agencies should take the steps below:

1. Identify the affected pre-applicants by reviewing their current case file documentation.
2. Determine if the pre-applicant(s) now meet the new eligibility criteria based on the above revised guidelines and all other prescribed eligibility criteria as set forth in the guidelines.
3. If the pre-applicant meets eligibility based on the new revised criteria, contact that pre-applicant and (1) explain the new program change set forth by HUD and (2) inform the pre-applicant their application will be pushed through for processing.