



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410

MEMORANDUM FOR: NeighborWorks America

FROM: Todd Richardson, EHLP Project Director

CC: Eileen Fitzgerald; Michael Forster; Jeffrey Bryson; Rutledge Simmons; Jeanne (Reitz) Fekade-Sellassie; Nicole Harmon; Kathryn Watts

SUBJECT: EHLP Next Steps

DATE: October 12, 2011

This memo summarizes the process going forward as we shift from Counseling Agency submission of applications to the Fiscal Agent closing the loans. Specifically, the memo discusses the letters to ineligible applicants, procedures to address Fiscal Agent requests for more information from Counseling Agencies, as well as what borrowers and Counseling Agencies should expect from the closing process. The memo also briefly discusses the next phase of counseling for the EHLP homeowners.

As of September 30th, HUD has sent out all of the commitment letters to Applicants to whom it has committed funds. In total HUD sent commitment letters to 5,822 Applicants. Attached to this memorandum is a short summary of the distribution of borrowers by state and some basic demographic characteristics (Attachment 1).

These commitment letters represent HUD's formal approval of an application for an EHLP loan. However, as stated to the borrower in the commitment letter: **"Please note that this approval and commitment does not guarantee payment, but will result in payment upon HUD's verification of this eligibility determination, certification from your servicing institution, identified in box F, above, and your proper execution of the EHLP loan documents."**

The next steps in the process are as follows (**bold** items 1, 3, 8, 10, and 11 involve counselor action):

- 1) **Ineligibility Letters for Individuals Not Receiving a HUD Commitment Letter.**
 - a. **CA determined ineligibility, CA sends letter**
 - b. FA or HUD determined ineligibility, HUD sends letter
- 2) Servicer Reinstatement.
- 3) **Fiscal Agent and HUD Verification.**
- 4) Closing Letter delivered to borrowers.
- 5) HUD Verification Failure/Servicer Objection letter with Appeals Process.
- 6) Closing.
- 7) Reinstatement Payment.
- 8) **Level 5b Counseling.**
- 9) Borrower First Payment to The Bank of New York Mellon's designee.

- 10) **Recertification – Level 5c Counseling**
- 11) **Program Exit – Level 5d Counseling**

The details of each of these actions and the Counseling Agency role are as follows.

- 1) **Ineligibility Letters for Individuals Not Receiving a HUD Commitment Letter**
(Timing: Letters sent between now and October 28, 2011).

Applicants not receiving a commitment from HUD are ineligible for the program. For borrowers *found ineligible by the Counseling Agency (including incomplete, in process and non-submitted cases in HOPE LoanPort)*, the Counseling Agency will send out the ineligibility letter that specifies that there is not an opportunity for appeal. Attachment 2 is an updated version of the ineligibility letter Neighborworks provided in August 2011. As noted in the letter, applicants found ineligible at this point have no opportunity for an appeal.

For borrowers *found ineligible by the Fiscal Agent or HUD* (cases that were successfully submitted by the CA for Fiscal Agent review) HUD will send out the Notice of Ineligibility. The Notice of Ineligibility will detail the ineligibility determination(s) made by HUD, and the process for appeal, if any.

Finally, there are a small number of cases where the Counseling Agency had complete documents and believed they had submitted cases to the Fiscal Agent prior to the deadline on September 30th but due to technical or human error the documents were never actually submitted to the Fiscal Agent. At this time, please take no action on those cases, HUD is still assessing what it can do in those cases. If you are an agency who believes they have cases that fall into this category, please send an email to Todd.Richardson@HUD.GOV with the header “Applications Submitted for Fiscal Agent Review but Not at Fiscal Agent.”

For your information, the primary reasons that HUD did not issue commitment letters to Applicants who were otherwise found eligible by counseling agencies include:

- Multiple applications for single applicant. Some individuals applied to more than one agency and were passed to the fiscal agent by more than one agency. In those cases, HUD generally made commitment only once, to the first application (by date) that was uploaded to the Fiscal Agent. Attachment 3 has a crosswalk of “duplicate” cases and the case that received the commitment (along with the counseling agency name). There were 78 “duplicate” cases. Since all these applicants did receive a commitment letter, there is no need for a follow-up letter.
- Delinquent Nontax Federal Debt. HUD did not make commitment to applicants where HUD determined that the borrower was delinquent on a non-tax federal debt with the following exceptions: a) If the delinquency was a first lien mortgage, such as a Rural Development Loan, an SBA Residential Disaster Loan, or an FHA or VA Insured Loan; and b) if the delinquency was a student loan delinquency and there was evidence in the application file that the delinquency has been resolved, deferred, or is in forbearance,

HUD made a commitment. For the very few cases with other federal non-tax delinquency, HUD did not make a commitment.

- Not a qualified alien. HUD also checked the documentation from “qualified aliens” to ensure that it was valid in accordance with Department of Justice guidance. In a very few cases, HUD did not issue a commitment because the applicant did not meet the Department of Justice guidance. Several qualified alien files are still under review and a commitment was made pending the outcome of that review.
- Fiscal Agent Determination of Ineligibility. HUD consulted with the fiscal agent on the cases that the fiscal agent had determined ineligible to confirm that there did not appear to be a disagreement on the determination. In those cases where we believed there was no dispute on the ineligibility, HUD did not issue a commitment letter. HUD did issue commitments to many cases that have received an ineligibility determination from the Fiscal Agent but there was a possibility of dispute in the case. **Because some borrowers have both been notified they are ineligible and also have received a commitment letter from HUD, we anticipate some confusion. Counseling agencies should indicate that HUD sent the commitment letter to the borrower due to the CA determination. If the FA determined them ineligible, they have the right to appeal that decision. If determined ineligible, the borrower will receive a Notice of Ineligibility from HUD. That notice will include information and requirements for the submission of an appeal.**
- Over Income. In a very few cases, Applicants had pre-event income in excess of the applicable HUD EHLPP income limit.

2) Servicer Reinstatement (Now to October 21).

The Fiscal Agent’s designee, Risk Management Group (RMG) is requesting reinstatement quotes from servicers on behalf of Applicants who have been issued a commitment letter.

Servicers with an MOU with HUD. Assuming that the Applicant’s Third Party Authorization form is correct, the request for quote has already been transmitted to the Servicer; the turn-around time for responses to these request average about a week. For the larger Servicers, HUD has an existing Memoranda of Understanding (MOU) in place. All participating servicers are required to certify under the terms of the MOU that if they provide a reinstatement quote then the Applicant is 90-or-more days delinquent on his or her mortgage payments, is at risk of foreclosure, and that the Servicer will accept the EHLPP funds to bring them current provided the loan is closed within 30 days of receiving the reinstatement amount. At the same time, the Servicer has agreed to put a 45-day foreclosure hold on foreclosure sales. Attachment 4 provides a list of Servicers with an existing MOU and the number of EHLPP cases with each of those servicers.

Other Servicers. For EHLPP Applicants with Servicers that HUD does not have an existing MOU, RMG is contacting each such Servicer on behalf of HUD to request that the Servicer provide a certification that the borrower(s) is 90 or more days delinquent, at risk of foreclosure, and that they will accept payment to bring the borrower current. This process is time consuming because many

of these Servicers require their legal department to review the certification language before they are willing to sign off on it.

3) **Fiscal Agent and HUD Verification (Present to October 21).**

Simultaneous to the request for a reinstatement amount from the Servicer, HUD is verifying the information in the approved application. That verification process includes:

- *Title Search* to verify: (1) there is a valid open mortgage on record for the applicant(s); (2) the number of open mortgages on the property does not exceed two; (3) the borrower(s) listed on the first lien mortgage match the Applicant(s) and contains no additional names that are not listed on the application; and (4) there are no liens in a superior position to the first lien mortgage.
- *IRS Check* to verify that the information provided on the tax returns by the borrower is correct.
- *Document Check* to verify that the correct documents were uploaded and that the information on the documents uploaded is correct.

A failure on one or more of these verification items may be correctable and counseling agencies are notified through Hope LoanPort of the verification failures. In some cases, this notification will occur while the file is still in “Under Review” status while in other cases the failure will trigger an “FA Ineligible” status code. In both cases, Counseling Agencies should review the reason for the ineligibility determination. Ineligibility due to Servicer Objection or due to Document Check problems will be noted in a comment message in Hope Loan Port. Ineligibility due to the Title Check will be a separate message in Hope Loan Port.

Some of these ineligibility determinations may be correctable by the Counseling Agency:

- Wrong or Incomplete Documents. If the rejection is due to the wrong document (for example, the wrong Third Party Authorization or the wrong tax return year), the Counseling Agency can contact the borrower and request that they provide the correct document. When the correct document is received, it should be uploaded into HLP. We recognize that there has been a communication break-down on what has been uploaded and needs to be uploaded. HUD and BNYM are working to build a “current status” message to counseling agencies that summarizes the status of each of their cases. Note that a change in circumstance after September 30, 2011 will not be considered when evaluating an Applicant’s eligibility for the EHLP.
- Calculation Discrepancies. Counseling agencies are not required to check the work of the Fiscal Agent. However, if a counseling agency chooses to review the Fiscal Agent calculations and disagrees over methodology and/or Applicant variables, the Counseling Agency should send an email to ehlphelp@rmgglobal.com with the subject line: “Calculation Discrepancy: Case #xxxxx” (where xxxxx is the HLP case ID). The content of the email should describe the FA calculation and what the CA believes to be different. Note that ultimately the Fiscal Agent and HUD will make the final decision on the correct calculation.

- Title Check Failure due to Applicants on application not matching total persons on mortgage. If this happens it will be a Fiscal Agent rejection. If the borrower has a commitment letter from HUD, the counseling agency may contact the applicant and notify them of the reason for denial and assist them with resubmitting their case (under the same case number) with the information for the missing person on the mortgage.

On cases with an ineligibility determination by the Fiscal Agent, HUD will allow 7 days for a counseling agency to resubmit the case if they have other information as discussed above, to show that the applicant is eligible. If there is no resubmission of the case within 7 days, HUD will mail out an ineligibility letter to the applicant. If the applicant had received a commitment letter from HUD, they may appeal within the 15 day appeal window as described in Section 5 below. (Note that October 30th is the last possible date for any resubmission).

4) Closing letter (October 10 to November 11).

Approved borrowers that receive a Servicer Reinstatement and have no problems in the application verification process will be issued a Closing letter from HUD indicating that a closing agent/notary will be contacting them and the date that they need to close by in order for their commitment to still be valid. HLP will send a notification to Counseling agencies that this letter has been sent. Attachment 5 provides a draft of what this letter will look like.

5) HUD Verification Failure/Servicer Objection letter with Appeals Process (October 10 to November 4).

As noted in the discussion above regarding the Fiscal Agent and HUD Verification Process, if there is a servicer objection or HUD determines the application was ineligible, HUD will issue a Notice of Ineligibility to the borrower, including details about the appeals process available to that borrower, if any (HUD is still developing its appeals procedures for the EHLP). Once an ineligibility determination is finalized, the loan commitment, if any, issued to a borrower by HUD becomes null and void. Upon receipt of a Notice of Ineligibility that includes an opportunity to appeal, borrowers with questions regarding the preparation and submission an appeals package may contact HUD at 1-800- 225-5342, and select Option 6 for assistance.

- *If the appeal is granted and the Servicer continues to not object, HUD would issue a closing letter to the borrower.*
- *If the appeal is not granted or the appeal is granted but the Servicer now objects, HUD would issue a letter to the borrower indicating the reason for their continued ineligibility.*

6) Closing (October 10-November 25).

Most closings are expected to occur in the last week of October through the first two weeks of November. In the closing process a Closing Agent/Notary will contact the Applicant to schedule an appointment for closing. In most cases, Applicants will be expected to close at a specific location. In some cases, the notary may go to the Applicant's residence. The Applicant will be asked to sign a "Loan Description Acknowledgment" (Attachment 6) as well as the Mortgage/Deed of Trust and

Note that have been formatted for the state and county in which the property is located.

The Closing Agent/Notary will send a copy of the signed documents back to The Bank of New York Mellon after they are signed and notarized as well as proceed to have the documents recorded in the appropriate county. A message will be generated in HLP when The Bank of New York receives the closing documents.

Some Counseling Agencies have requested information on who the closing agent/notary will be to make sure that the applicant does not miss the opportunity to close the loan. At this time, we do not have a system built to communicate who the closing agent will be to the counseling agency. We are investigating this option.

Foreclosure sales scheduled in October through November 15th. Given the timing on closing the EHLP loans, an increasing number of applicants are likely to have foreclosure sale dates prior to closing. In general, we are expecting the servicers to stop or delay the foreclosure sales when they provide a reinstatement amount. However, if there is a foreclosure sale pending that does not appear to have been delayed, please send an email to EHL@HUD.GOV with the following header "Foreclosure Sale Scheduled Before November 15th". Counselors should also encourage homeowners to share a copy of their HUD commitment letter with their servicer as evidence of the homeowner's participation in the program.

7) Reinstatement Payment (October 10-November 25).

Upon receipt of the signed loan documents, the Bank of New York Mellon will notify HUD via Hope Loan Port and HUD will make funds available for the Bank of New York to make the reinstatement payment to the servicer.

When the Bank of New York Mellon notifies HUD, the status code in HOPE LoanPort will be changed to "Loan Closed."

8) Level 5b Counseling (Post October 10th).

Further guidance will be provided from NeighborWorks on what constitutes Level 5b Counseling. Counseling Agencies may offer 5b counseling to EHLP borrowers any time after HUD has issued the pre-closing letters which will be indicated through an HLP message and a status change for the borrower to "HUD approved".

Among other things, the 5b counseling will provide Borrowers who cannot afford the minimum contribution payment with 31% of their current income the opportunity to apply for a hardship waiver as specified in the forthcoming revised Counseling Agency EHLP Guidelines.

9) Borrower First Payment to Bank of New York (November 15-December 15, 2011).

In general, HUD's initial reinstatement payment is expected to cover the total arrearages plus any payments that would have been due during the "good through" date provided by the Servicer. HUD will also make the next monthly mortgage payment in full. This means that if a borrower closes their loan in October and their "good through" date from the servicer was prior to November

1, their first payment due to The Bank of New York Mellon's designee, Dovenmuehle Mortgage, Inc., will be due November 15th. If the good through date includes November 1 or the loan closes in November, the borrower first payment will be due December 15th.

It will be important to emphasize as part of 5b counseling that the borrower is to make payment to HUD and **NOT** to their servicer during the assistance period. Borrowers will receive a billing statement and payment coupon each month from HUD's fiscal agent detailing the amount of their Homeowner Contribution Payment that is due that month. The envelope will have the HUD logo on it and checks should be made out to "HUD Emergency Homeowners' Loan Program" ("HUD EHLP" will also work).

10) Recertification – Level 5c Counseling (September 1, 2012-November 30, 2012)

See forthcoming updated Counseling Guidelines.

11) Program Exit – Level 5d Counseling (June 2013 – August 2013)

See forthcoming updated Counseling Guidelines.

Attachment 1 – EHLBP Borrower Characteristics

By State

State Name	HUD Commitment
Alaska	36
Arkansas	63
Colorado	348
Hawaii	50
Iowa	45
Kansas	140
Louisiana	267
Maine	107
Massachusetts	568
Minnesota	416
Missouri	152
Montana	91
Nebraska	29
New Hampshire	99
New Mexico	119

State Name	HUD Commitment
New York	458
North Dakota	4
Oklahoma	157
Puerto Rico	468
South Dakota	34
Texas	876
Utah	24
Vermont	21
Virginia	388
Washington	380
West Virginia	38
Wisconsin	436
Wyoming	8
TOTAL	5,822

By Race/Ethnicity

	Number	Percent of those providing race/ethnicity
American Indian/Alaskan Native	42	0.9%
Asian	55	1.1%
Black	974	20.1%
Native Hawaiian or Pacific Islander	16	0.3%
Hispanic	950	19.6%
White Non- Hispanic	2,531	52.3%
Multi-race Non- Hispanic	53	1.1%
Other	216	4.5%
No Response	985	
Total	5,822	100.0%