Subpart B—Approval and Disapproval of Housing Counseling Agencies

§ 214.100 General.
An organization may be approved by HUD as a HUD-approved housing counseling agency upon meeting the requirements of §214.103 and upon completing the application procedures set forth in this subpart B.

(a) The approval of a counseling agency does not create or imply a warranty or endorsement by HUD of the listed agency, or their employees, including counselors, to a prospective client or to any other organization or individual, nor does it represent a warranty of any counseling provided by the agency. Approval means only that the agency has met the qualifications and conditions prescribed by HUD.

(b) Effective date. Agencies approved by HUD on or before October 29, 2007 and agencies that have submitted applications to HUD on or before September 28, 2007 and that are subsequently approved, are required to be in full compliance with the requirements in this part on October 1, 2007. Agencies approved after October 29, 2007 must comply with this part.

§ 214.103 Approval criteria.
The following criteria for approval apply to all agencies, MSOs, and intermediaries, including all local housing counseling agencies, branches, and affiliates that are included in one application:

(a) Nonprofit and tax-exempt status. A housing counseling agency must function as a private or public nonprofit organization, or be a unit of local, county, or state government. The agency must submit evidence of nonprofit status and tax-exempt status under section 501(a), pursuant to section 501(c) of the Internal Revenue Code of 1996 (26 U.S.C. 501(a) and (c)). Units of local, county, or state government must submit proof of their authorization to provide housing counseling services.

(b) Experience. An agency must have successfully administered a Housing Counseling program for at least one year. An intermediary must have operated in an intermediary capacity for at least one year. To be considered part of an LHCA’s, MSO’s, or intermediary’s approval application, and to participate in the HUD-approved portion of the intermediary’s, SHFA’s, or MSO’s Housing Counseling program, affiliates and branches must have successfully administered a Housing Counseling program for at least one year.

(c) Ineligible participants. An agency, including any of the agency’s directors, partners, officers, principals, or employees, must not be:
(1) Suspended, debarred, or otherwise restricted under the Department’s, or any other federal regulations;
(2) Indicted for, or convicted of, a criminal offense that reflects upon the responsibility, integrity, or ability of the agency to participate in housing counseling activities. These offenses include criminal offenses that can be prosecuted at a local, state, or federal level;
(3) Subject to unresolved findings as a result of HUD or other government audit or investigations.

(d) Community base. A housing counseling agency and its HUD Program branches and affiliates must have functioned for at least one year in the geographical area(s) the agency set forth in its housing counseling work plan.

(e) Recordkeeping and reporting. The agency must have an established system of recordkeeping so that client files, electronic and paper, can be reviewed and annual activity data for the agency can be verified, reported, and analyzed. Client files, both electronic and paper, must be kept confidential, in accordance with §214.315. This system must meet the requirements of 24 CFR 1.6, 24 CFR 84.21, and 24 CFR 121 and can be easily accessible to HUD for all monitoring and audit purposes.

(f) Client management system. All participating agencies shall utilize an automated housing counseling client management system for the collection and reporting of client-level information, including, but not limited to, financial and demographic data, counseling services provided, and outcomes data. The system used must provide the counseling agency with the tools necessary to track and manage all counseling and educational activities associated with each client. Agencies...
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must utilize a Client Management System that satisfies HUD’s requirements and interfaces with HUD’s databases.

(g) Housing counseling resources. The agency must have the following resources sufficient to implement the proposed housing counseling work plan no later than the date of HUD approval:

(1) Funding. The application for approval must provide evidence of funds immediately available, or written commitment for funds to cover the cost of operating the housing counseling work plan during the initial 12-month period of HUD approval.

(2) Staff. The agency must employ staff trained in housing counseling, and at least half the counselors must have at least 6 months of experience in the job they will perform in the agency’s Housing Counseling program.

(3) Language skills. The agency must have housing counselor(s) who are fluent in the language of the clients they serve, or the housing counseling agency must use the services of an interpreter, or the agency must refer the client to another agency that can meet the client’s needs.

(h) Knowledge of HUD programs and local housing market. The agency’s housing counseling staff must possess a working knowledge of HUD’s housing and single-family mortgage insurance programs, other state and local housing programs available in the community, consolidated plans, and the local housing market. The staff should be familiar with housing programs offered by conventional mortgage lenders and other housing or related programs that may assist their clients.

(i) Contracts or agreements to provide eligible housing counseling services. An agency and its branches or subgrantees or affiliates must deliver all of the housing counseling activities set forth in the agency’s housing counseling work plan. It is not permissible to contract out housing counseling services, except:

(1) In geographic areas where a need for housing counseling services is demonstrated and no HUD-approved housing counseling agency or its branches, affiliates, or subgrantees exists. Under this exception, the contract must delineate the respective Housing Counseling program responsibilities of the contracting parties, the agency providing services (contractor) must meet the HUD approval eligibility standards, and the contracting agency must receive prior written approval from HUD.

(2) Intermediaries and SHFAs may enter into agreements with affiliates to provide housing counseling services. The agreements with affiliates may be in the form of an exchange of letters that delineate the respective Housing Counseling program responsibilities of the parties. Agreements must be sufficiently detailed to establish accountability and allow for adequate monitoring in accordance with 24 CFR part 84 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations) and 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to States, Local and Federally Recognized Indian Tribal Governments), as applicable, and with the OMB Circulars described therein.

(3) With prior approval from HUD, and at HUD’s discretion, intermediary organizations may operate a Housing Counseling program with a network of affiliated counselors, rather than affiliated counseling agencies, if the structure is designed to meet a special housing counseling need identified by HUD.

(j) Community resources. The housing counseling agency must have established working relationships with private and public community resources to which it can refer clients who need help the agency cannot offer, including agencies offering similar or related services to non-English speaking clients.

(k) State and local requirements. An agency and its branches and affiliates must meet all state and local requirements for its operation.

(l) Facilities. All housing counseling facilities of the agency and its branches, affiliates, and subgrantees must meet the following criteria:

(1) Have a clearly identified office, with space available for the provision of housing counseling services. The office should operate during normal business hours and offer extended hours when necessary;
§ 214.200 Inactive status.

(a) HUD may change a participating agency’s status to inactive, in lieu of terminations of HUD-approved status or removals from the list of HUD-approved agencies, under certain circumstances that may temporarily impair an agency from complying with its housing counseling plan. An agency’s status may be changed to inactive on a case-by-case basis for a period not to