

(A) Employed by the organization in a permanent or temporary capacity;

(B) Contracted or retained by the organization; or

(C) Acting on behalf of, or with the express or apparent authority of, the organization; and

(D) Has been convicted for a violation under Federal law relating to an election for Federal office.

(ii) For the purposes of this paragraph (c)(1), a violation under Federal law relating to an election for Federal office includes, but is not limited to, a violation of one or more of the following statutory provisions related to Federal election fraud, voter intimidation, and voter suppression: 18 U.S.C. 241–242, 245(b)(1)(A), 592–611, and 42 U.S.C. 1973.

(2) A participating agency that provides housing counseling through housing counselors who are not HUD certified housing counselors in accordance with §214.103(n).

(d) *Misuse of housing counseling grant funds.* If any participating agency that receives housing counseling grant funds under the Housing Counseling Program is determined by HUD to have used those housing counseling grant funds in a manner that constitutes a material violation of applicable statutes and regulations, or any requirements or conditions under which such funds were provided:

(1) HUD shall require that, within 12 months after the date of the determination of such misuse, the agency shall reimburse HUD for such misused amounts and return to HUD any such amounts that remain unused or unobligated for use; and

(2) Such agency shall be ineligible, at any time after the date of such determination of material misuse, to apply for or receive further funds under the Housing Counseling Program.

(3) The remedies under paragraph (d) of this section are in addition to any other remedies that may be available under law.

[72 FR 55648, Sept. 28, 2007, as amended at 81 FR 90658, Dec. 14, 2016]

§214.313 Housing counseling fees.

(a) Participating agencies may charge reasonable and customary fees for housing education and counseling

services, as long as the cost does not create a financial hardship for the client. An agency's fee schedule must be posted in a prominent place that is easily viewed by clients, and be available to HUD for review.

(b) Agencies must inform clients of the fee structure in advance of providing services. Clients cannot be charged for client intake.

(c) If any agency chooses to charge fees, the agency must conform to the following guidelines:

(1) Provide counseling without charge to persons who cannot afford the fees;

(2) Fees must be commensurate with the level of services provided;

(3) Agencies may not impose fees upon clients for the same portion of or for an entire service that is already funded with HUD grant funds.

(d) The agency may also be reimbursed from clients for the direct cost of obtaining copies of clients' credit reports from credit reporting bureaus if this does not cause a hardship for the client. In cases where the participating agency receives a discount for the cost of credit reports, this discount must be passed on to the client.

(e) Lenders may pay agencies for counseling services, through a lump sum or on a case-by-case basis, provided the level of payment does not exceed a level that is commensurate with the services provided, and is reasonable and customary for the area, and does not violate requirements under the Real Estate Settlement Procedures Act (12 U.S.C. 2601 *et seq.*). These transactions and relationships must be disclosed to the client as required in §214.303(g).

§214.315 Recordkeeping.

(a) *Recordkeeping system.* Each participating housing counseling agency must maintain a recordkeeping system. The system must permit HUD to easily access all information needed for a performance review. This system must meet the requirements of 2 CFR part 200, subpart D, 24 CFR 1.6, and 24 CFR part 121.

(b) *File retention requirements.* Financial records, supporting documents, statistical records and all other pertinent records, both electronic and on

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paper, shall be retained for a period of 3 years from the date the case file was terminated for housing counseling. If the housing counseling agency is a recipient of a HUD housing counseling grant, then the client files for the housing counseling grant year must be retained for 3 years from the date the final grant invoice was paid by HUD.

(c) *Grant activities.* Recipients of HUD housing counseling grants are required to report activities under the grant in a format acceptable to HUD and within the designated time frames required by the applicable grant agreement.

(d) *Race, ethnicity, and income data.* Participating agencies must maintain current and accurate data on the race, ethnicity, and income of their counseling clients and education participants.

(e) *Client file.* The housing counseling agency must maintain a separate confidential file for each counseling client to document the action plan and the services provided to the client, as described in § 214.300. For all counseling, except for HECM counseling, the client file must include an action plan. The client file may be for an individual or household or for a group of clients with the same housing need.

(f) *Group education file.* The housing counseling agency must maintain a separate confidential file for each course provided. This file must contain a list of all participants, their race, ethnicity and income data, course title, course outline, instructors, and date of each course.

(g) *Confidentiality.* Participating agencies must ensure the confidentiality of each client's personal and financial information, including credit reports, whether the information is received from the client or from another source. Failure to maintain the confidentiality of, or improper use of, credit reports may subject the agency to penalties under the Fair Credit Reporting Act (14 U.S.C. 1681 *et seq.*).

(h) *Termination of services.* The housing counseling agency must document in the client's file termination of housing counseling. Termination occurs or may occur under any of these conditions:

(1) The client meets his or her housing need or resolves the housing problem;

(2) The agency determines that further housing counseling will not meet the client's housing need or resolve the client's housing problem;

(3) The agency attempts to, but is unable to, locate the client;

(4) The client does not follow the agreed-upon action plan;

(5) The client otherwise terminates housing counseling; or

(6) The client fails to appear for housing counseling appointments.

[72 FR 55648, Sept. 28, 2007, as amended at 80 FR 75936, Dec. 7, 2015]

§ 214.317 Reporting.

All participating agencies shall submit to HUD activity reports, which may be required up to quarterly. The reports must be submitted in the format, by the deadline, and in the manner prescribed by HUD. Participating agencies that are also recipients of HUD grants or subgrants may be required to submit additional reports, as described in their grant agreements and prescribed by HUD.

Subpart E—Other Federal Requirements

§ 214.500 Audit.

Housing counseling grant recipients and subrecipients shall be subject to the audit requirements contained in 24 CFR part 200, subpart F. HUD must be provided a copy of the audit report within 30 days of completion.

[72 FR 55648, Sept. 28, 2007, as amended at 80 FR 75936, Dec. 7, 2015]

§ 214.503 Other requirements.

In addition to the requirements of this part, the Housing Counseling program is subject to applicable federal requirements in 24 CFR 5.105.

PART 219—FLEXIBLE SUBSIDY PROGRAM FOR TROUBLED PROJECTS

Sec.

219.1 Program operations.

219.2 Savings provision.