

**National Foreclosure Mitigation Counseling Program
Events of Default and Remedies Policy**

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National Foreclosure Mitigation Counseling Program

Events of Default and Remedies Policy for Grantees

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National Foreclosure Mitigation Counseling Program Events of Default and Remedies Policy

I. Introduction

The National Foreclosure Mitigation Counseling (NFMC) Program was launched in December 2007 with funds appropriated by Congress to address the nationwide foreclosure crisis by dramatically increasing the availability of housing counseling for families at risk of foreclosure. The Congressionally-chartered Neighborhood Reinvestment Corporation, doing business as NeighborWorks® America (NeighborWorks), developed and manages the NFMC Program and distributes funds to competitively selected HUD-Approved Housing Counseling Intermediaries (Intermediaries), State Housing Finance Agencies (SHFAs), and chartered members of the NeighborWorks network (NWOs) to provide foreclosure counseling in all 50 states, its territories, and the District of Columbia. These Grantee organizations, in turn, provide the counseling services either directly or through Sub-grantees, Branches, Affiliates, or Contracted Counseling Entities. Over 1,300 counseling agencies operate under the program during a given funding round.

Because the NFMC Program is federally funded, NeighborWorks and the NFMC Program Grantees are accountable to Congress, the Office of Management and Budget, and the United States taxpayer. NeighborWorks routinely monitors NFMC Program progress and compliance of its NFMC Program Grantees. A Grantee can be found noncompliant through a number of measures, as delineated in the Funding Announcements and Grant Agreements, which govern each funding round. This Policy sets forth the general process for handling: (1) Events of Default and (2) other areas of non-compliance or financial management concerns which may become Events of Default if not remedied.

NeighborWorks provides the *National Foreclosure Mitigation Counseling Program Events of Default and Remedies Policy* to both help Grantees understand what issues can cause an Event of Default and possible consequences, and to assure Grantees that NeighborWorks will work with them to remedy these issues. NeighborWorks encourages Grantees to discuss any difficulties meeting compliance measures with NFMC Program staff. If compliance Findings are made, NeighborWorks will work cooperatively and efficiently with Grantees to remedy those issues in a timely manner, so that the important services they make available to homeowners can continue.

Section II of this Policy describes the method in which compliance requirements are conveyed and what resources are available to help Grantees understand the requirements. Section III provides an overview and sets forth the general process governing the handling of Events of Default in the NFMC Program. Section IV provides information on how NeighborWorks responds to reports of non-compliance or financial management concerns that can become Events of Default if not remedied. Section V outlines the appeals process.

This Policy governs only the NFMC Program's counseling component.

Questions regarding this Policy should be addressed to:
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II. Conveyance of Compliance Requirements and Resources

A. Conveyance of Requirements.

NFMC Program compliance requirements are outlined for Grantees in the following documents, which all Grantees agree to adhere to upon acceptance of the NFMC Program grant award:

1. NFMC Program Funding Announcement
2. Notice of Intention to Award Funds
3. NFMC Program Grant Agreement, and all applicable laws (federal, state, and local) and OMB Circulars as referenced. Please note the Office of Management and Budget (OMB) has released its final revised guidance for Federal Awards. All Applicants should ensure that it follows the Uniform Grant Guidance applicable to the OMB Circulars, A-21, A-87, A-110, and A-122 as well as Circulars A-89, A-102 and A-133; and the guidance in Circular A-50 on Single Audit Act follow-up. Applicants can find additional information regarding the guidance at the OMB website, here: www.whitehouse.gov/omb/grants_docs
4. NFMC Program Guidance Memoranda posted on the NFMC Members' Site (e.g., Guidance on Proper Disposal and Protection of Client Information)
5. National Industry Standards for Homeownership Education and Counseling – Foreclosure Intervention Specialty

B. Resources

NeighborWorks has a team of staff dedicated to ensuring the quality of foreclosure counseling provided under the NFMC Program meets National Industry Standards for Foreclosure Intervention, and promotes Grantees compliance with the foregoing requirements. There are many resources available to assist Grantees in understanding the program's compliance requirements, including the following.

1. Individualized webinar trainings and a program manual for first-time Grantees or new grant management staff to facilitate understanding of program requirements.
2. Access to the NFMC Members' Site supporting over 12,000 active members and links to reference materials such as:
 - a. Funding Announcement
 - b. Grant Agreement
 - c. Guidance Memoranda that includes forms available to counselors to use that comply with NFMC Program requirements, a sample action plan, documentation checklist, client authorization form, and a checklist for quality control and compliance expectations for program reviews.

3. An ongoing series of live webinar trainings held as needed on a variety of compliance topics, which are recorded and available for viewing on the NFMC Members' site. Examples include:
 - a. Overview of Random Client File Review Process
 - b. Overview of Standard Compliance Review Process
 - c. Overview of Quality of Counseling Review Procedures
 - d. Differentiation between Nonservice-Related Compliance Findings and Service-Related Compliance Findings
 - e. Peer Sharing of Successful Strategies for Managing Sub-grantees, Branches, Affiliates and Contracted Counseling Entities
 - f. National Industry Standards for Homeownership Education and Counseling – Foreclosure Intervention Specialty
 - g. Understanding the NFMC Program Grant Agreement
4. Grantee meetings or workshops where Grantees can interact with NFMC Program Quality Control and Compliance staff and the third-party NFMC Program Quality Control and Compliance contractors.
5. Scholarships to attend NeighborWorks Training Institutes and place-based trainings providing classes on foreclosure intervention counseling in accordance with the National Industry Standards.
6. Free access to on-line e-learning courses providing foreclosure intervention counseling, including Foreclosure Basics, Understanding and Applying Foreclosure Intervention and Loss Mitigation Tools, and Using Effective Practices to Improve Your Foreclosure Program. All courses are developed in accordance with the National Industry Standards.
7. Access to a dedicated email inbox (nfmc@nw.org) for compliance-related questions and answers.

III. Events of Default

This section provides the general process the NFMC Program follows when notifying Grantees of default and remedies for those defaults. This applies to all terms and conditions of the award at the time the Grant Agreement is signed, and at any subsequent point if the status of an organization changes.

A. Events of Default

Each of the following may be deemed an Event of Default under the NFMC Program.

1. Any material failure by Grantee to comply with the terms and conditions of the Grant,

whether stated in the Grant Agreement, a federal statute or regulation, NFMC Program Funding Announcement, applicable OMB Circulars, NeighborWorks-issued guidance memoranda, NFMC Program audit requirements, Notice of Intention to Award Funds, or warranties and assurances.

2. Grantee fails to expend funds in accordance with NFMC Program requirements.
3. Grantee fails to return funds, subject to recapture, to NeighborWorks within the required timeframe.
4. Grantee becomes the subject of a federal, state, or local investigation related to foreclosure intervention counseling or the use of federal funds.
 - a. The term “investigation” shall not include a regularly-scheduled review by a government agency (as required for licensure) or any labor or employment matters that do not relate to foreclosure intervention counseling or the use of federal funds.
5. Grantee fails to continue as a going concern; becomes insolvent, defunct, or commences bankruptcy proceedings; has any director, officer or senior manager engage in fraud, willful misconduct, gross negligence, suspected appearance or misappropriation of any funds.
6. Grantee’s acts or omissions, in the sole and reasonable determination of NeighborWorks, may cause NeighborWorks significant reputational harm.
7. Any Grantee misrepresentation in its application submissions, which if known by NeighborWorks, would have resulted in funds not being awarded.

C. Discovery of Events of Default

NeighborWorks may become aware of Events of Default in any number of ways, including but not limited to:

1. Third-party NFMC Program Quality Control and Compliance reviews
2. Random Client File Reviews
3. Reports of non-compliance by third parties such as media, government agencies, Grantee’s clients, and/or whistle blowers
4. Reviews of audited financial statements and OMB Circular A-133 audits

D. Notice of Event of Default

If NeighborWorks becomes aware of an Event or Events of Default, NeighborWorks’ NFMC Program Vice President or the NFMC Program Sr. Director Quality Control and Compliance, shall give Grantee a “Notice of Events of Default,” which is a written notice of the occurrence of the Event or Events of Default that provides a reasonable opportunity to respond to notification or take corrective action as appropriate. NeighborWorks reserves the right to send notification of Event(s) of Default and all related subsequent correspondence to Grantee’s Board of Directors or Trustees and to the United States

Department of Housing and Urban Development. The notice shall identify:

1. Specified Event(s) of Default
2. Any required response or corrective action by Grantee
3. Specific instructions to provide only the relevant documents and information, and that submission of excessive documentation may impede the quick resolution of Grantee's Event(s) of Default
4. Date by which the response or corrective action must be taken (See below, Subsection D, Corrective Action Time Period)
5. Penalties that are being imposed during the 15 calendar day Corrective Action Time Period
6. Support made available to the Grantee by NFMC Program staff and its agents
7. Consequences for failing to respond or take corrective action (See below subsection F, Failure to Remedy Event(s) of Default)

E. Corrective Action Time Period

A Grantee provided with Notice of Event(s) of Default will be given 15 calendar days to remedy the Event(s) of Default, and if requested, assistance to take corrective action.

1. During this time, NeighborWorks may impose the one or more of the following penalties, which will be stated in the Notice of Event(s) of Default:
 - a. disable Grantee's access to report clients to the Data Collection System.
 - b. freeze disbursements to Grantee
 - c. and/or place Grantee on "Suspended" status if the Event(s) is considered to be severe and/or persistent.

F. Successful Remedy of Events of Default

If Grantee is able to address the Event(s) of Default to the satisfaction of NeighborWorks management, NFMC Program management may lift penalties imposed during the Corrective Action Time Period, allowing the Grantee to resume full participation in the NFMC Program. NeighborWorks will provide the Grantee written notification of the successful remediation of the Event(s) of Default. NeighborWorks reserves the right to thereafter ensure continued compliance by placing additional conditions on the Grantee that are appropriate and relevant to the Event(s) of Default, which may include but are not limited to:

1. Grantee's issuance of revised policies and procedures and evidence of adherence
2. Third party assurances that the Event(s) of Default is/are remedied
3. Additional sampling of client files prior to disbursements

4. Submission and review/acceptance of financial records prior to disbursements
5. Placement of Grantee on an adjusted disbursement schedule for all active grant awards, if applicable

G. Failure to Remedy Event(s) of Default

If Grantee is unable to address the Event(s) of Default to the satisfaction of NeighborWorks management within the 15 calendar day timeframe specified in the Notice of Event(s) of Default, then Grantee shall be placed in “Suspended” status until the Event(s) of Default is/are remedied. If the Grantee fails to remedy the Event(s) of Default, then the Grantee shall be placed in “Default” status until the Event(s) of Default is/are remedied.

1. “Suspended” Status
 - a. Grantee will be issued a Notice of Suspension, which shall identify the following.
 - (1) The Event(s) of Default not remedied.
 - (2) The severity or persistence of the default, including duration of the Event(s) of Default, willful or negligent actions, and violations of law.
 - (3) Whether or not the Grantee made any efforts to remedy and, if efforts were made, why those efforts were not satisfactory.
 - (4) Grantee’s required response or corrective action, if appropriate, including any additional documentation or information requests.
 - (5) Specific instructions to provide only relevant documents and information, and that submission of excessive documentation may impede the quick resolution of Grantee’s Event(s) of Default.
 - (6) Date by which corrective action must be taken to lift the suspension and to avoid further consequences.
 - (7) Support made available to the Grantee by NFMF Program staff and its agents, if appropriate.
 - (8) Further consequences for failing to respond or to take appropriate corrective action.
 - b. Grantee shall have no longer than 30 calendar days from the date of the Notice of Suspension to remedy the ongoing Event(s) of Default. NeighborWorks may extend “Suspended” status for a reasonable time period beyond 30 calendar days under special circumstances at NeighborWorks’ sole discretion, if the Grantee is making reasonable progress towards remedying the Event(s) of Default.
 - c. While in “Suspended” status, the following penalties shall be imposed:
 - (1) Grantee will not be allowed to upload additional NFMF Program units of counseling into the Data Collection System, and
 - (2) All disbursements to Grantee shall be frozen.
2. “Default” Status. If, after being in “Suspended” status for 30 calendar days, Grantee does not remedy the Event(s) of Default, Grantee will be placed in “Default” status unless the

suspension period is extended under special circumstances at the sole discretion of NeighborWorks America. If Grantee's "Suspended" status is extended, Grantee will receive written notification with a new end date by which it must remedy the Event of Default. If Grantee is not granted an extension, Grantee will be notified of status change to "In Default" as follows.

- a. Grantee will be issued a Notice of Default, which will identify:
 - (1) The Event(s) of Default not remedied
 - (2) Whether or not the Grantee made any efforts to remedy and, if efforts were made, why those efforts were not satisfactory
 - (3) Date by which corrective action must be taken to lift the default and to avoid further consequences.
 - (4) The actions and consequences to be taken for failing to take corrective action.
- b. Default Status Time Period. Grantee will remain in Default Status for a period of no more than 90 calendar days. After 90 calendar days the Default status will become permanent and the Grantee will not have an opportunity to request an extension or remedy the Default.
- c. NeighborWorks will take one or more of the following actions after sending Grantee a Notice of Default.
 - (1) Recover misspent or unspent funds.
 - (2) De-obligate awarded but undisbursed funds.
 - (3) Terminate Grant Agreement/award for cause. Upon termination of the award, all unspent funds (as determined by NeighborWorks based on Grantee's allowed production) shall revert immediately to NeighborWorks, either in the form of recapture or de-obligation, or shall be redeployed in accordance with the requirements of the NFMC Program.
 - (4) Use information learned during the Events of Default process in consideration of future funding decisions.
 - (5) Take other administrative or legal remedies available.

H. Impact of Default on Further Funding

NeighborWorks may consider Grantee's Defaults, the severity of Grantee's quality control and compliance findings, and timeliness and completeness of corrective action in future grant applications and funding decisions for Grantee. NeighborWorks may consider the Organizational Health Tracking System Rating for NeighborWorks organizations in future grant applications and funding decisions for all Grantees. Per the NFMC Program Funding Announcement for each grant round, all Applicants are permitted to request a debriefing for discussion of all factors contributing to the application review findings and subsequent funding decisions.

IV. NFMC Program Response to Reports of Non-Compliance or Financial Management Concerns

Reports of Non-Compliance and Financial Management Concerns are *typically* raised to NFMC

Program staff in one or more of the following ways that are discussed in more detail in the following Subsections: (A.) Findings are discovered during NFMC Program on-site or remote Standard Quality Control and Compliance Reviews; (B.) Findings are discovered during NFMC Program Random Client File Review; (C.) review of Applicants' audited financial statements, OMB A-133 audit reports, and management letters reveal internal control deficiencies or material weaknesses; (D.) third party complaints about Grantee's management of the funds or provision of services, from media, whistleblowers, or recipients of Grantee's services for example, or (E.) HUD notifies NFMC Program management of compliance concerns or suspension from HUD Housing Counseling program.

A. Standard Quality Control and Compliance Reviews

The NFMC Program conducts quality control and compliance reviews of Grantees to ensure that Grantees are adhering to the mandated terms of the Grant Agreement. Intermediaries and SHFAs, regardless of whether they receive on-site or remote reviews, will also have a subset of their Sub-grantee, Branch, Affiliate or Contracted Counseling Entity locations reviewed. Risk ratings determine how often and in what way Grantees receive Compliance Reviews.

Biennial Reviews – may consist of either Onsite or Remote Programmatic Reviews depending on risk rating. Every other year Grantees are tested, along with a subset of Sub-Grantees and Contracted Counseling Entity's (CCEs) from every Housing Finance Agency (SHFA) Grantees, HUD Approved Housing Counseling Intermediary and NeighborWorks organization.

Annual Reviews – consists of NFMC Program counseling Client File Testing, randomly selecting client files reported to the Data Collection System that may include both direct Grantee's files and a sample of its Sub-Grantee and/or CCE's NFMC Program counseling files.

1. Risk Rating System Factors. Budget permitting, Grantees will receive either an on-site or remote review. The type of review is determined through the application of a risk rating system which considers factors such as, but not limited to:
 - a. Size of the grant award
 - b. Years of experience providing foreclosure counseling
 - c. Findings from Audited Financial Statements, OMB Circular A-133 review and litigation disclosure
 - d. Increase in service over demonstrated experience, as determined by size of NFMC Program grant award in comparison to the Grantee's demonstrated experience
 - e. I Organizational Assessment Rating
 - f. Experience participating in monitoring and compliance by HUD
 - g. Compliance and Quality Control ratings based on the Standard, Random Client File or other compliance indicators from previous and current years in which Grantee has been awarded funding
 - h. Event Of Default, Suspension, or Default Determination status from previous and current years in which Grantee has been awarded funding
 - i. Number of Sub-grantees or Contracted Counseling Entities, if applicable
2. Categories of Review. A set of standard procedures is applied during the review process. These procedures are designed to test whether Grantees are in compliance with the terms and conditions of the NFMC Program. The following documentation, practices, and procedures are among those reviewed.

b. Organization and Programmatic Compliance

- (1) Most recent audited financial statements and OMB A-133 audit report.
- (2) Agency budget and NFMC Program expenditures
- (3) Verification that the Grantee has secured the required match and it has been appropriately credited to the foreclosure program
- (4) Record Retention Policy
- (5) Anti-Discrimination Policy
- (6) Ability to provide services in the languages spoken by client populations
- (7) Verification of Fidelity Bond Insurance policy naming NeighborWorks as an additional insured for \$100,000 or the amount of the NFMC Program grant, whichever is less, unless Grantee is a SHFA and was granted a waiver for having comparable insurance
- (8) Accessibility for persons with disabilities, as required by the Americans with Disabilities Act and other federal and state regulations

B. Random Client File Compliance Reviews

The NFMC Program conducts an annual Random Client File review testing a sample of randomly selected client files reported via the Data Collection System to ensure that Grantees are adhering to the mandated terms of the Grant Agreement. Random Client File Reviews are conducted remotely and include files from the direct grantee and their Sub-grantee, Branch, Affiliate or CCE's, if applicable. Grantees will be given one opportunity to cure. Risk ratings determine, which Grantees receive a Random Client File Review. Client File testing includes but is not limited to the following:

- (1) Disclosure Statement – signed by client (electronic or verbal “signatures” are permissible within the limits of the law).
- (2) Authorization to release personal information – signed by client (electronic or verbal “signatures” are permissible within the limits of the law).
- (3) Privacy Policy – signed by client (electronic or verbal “signatures” are permissible within the limits of the law).
- (4) Independent confirmations from clients regarding whether they received services from the Grantee, whether they were charged a fee for receiving services, and satisfaction with services received.
- (5) Verification of screening the clients’ eligibility for Making Home Affordable (MHA) products (Level 1 only).
- (6) Documented proof of service (e.g. Action Plan, Budget, Verified Budget, Verification of Action Taken, Level 4 Debt-to-Income calculation).
- (7) Verification that clients served using NFMC Program funds were owner-occupants of a single family 1-4 unit property

C. Sub-grantees, Branches, Affiliates or Contracted Counseling Entities, Compliance.

The Direct Grantee is responsible for ensuring compliance of all of its, Sub-grantees, Branches, Affiliates or Contracted Counseling Entities and resolving any Findings that are identified. Oversight includes, but is not limited to, the examples listed below, which can be found in the Grantee’s Grant Agreement or Funding Announcement.

- (1) Ensuring Sub-grantees, Branches, Affiliates or Contracted Counseling Entities are tracking grant funds and NFMF Program expenditures separately.
- (2) Monitoring Sub-grantees, Branches, Affiliates or Contracted Counseling Entities, for compliance with NFMF Program and service quality.
- (3) Ensuring that Sub-grantees, Branches, Affiliates or Contracted Counseling Entities, meet or exceed the minimum requirements for HUD-approval.
- (4) Providing oversight of contractors and evidence that its procurement procedures are not in violation of OMB circulars.

D. Meeting Minimum National Industry Standards for Homeownership Education and Counseling – Foreclosure Intervention Specialty.

The NFMF Program requires Grantees and their Sub-grantees, Branches, Affiliates or Contracted Counseling Entities that provide counseling services to adhere to the following National Industry Standards appropriate for the level(s) of counseling they provide:

- Code of Ethics and Conduct
- Minimum Standard Activities for Foreclosure Intervention and Default
- Counseling
- Provide training certificates that support that the counselor received training to be a foreclosure counselor within 18 months of employment
- Provide validation that the foreclosure counselor performing NFMF Program counseling services was involved in on-the-job training and/or a coaching/mentoring program for at least 90 calendar days after hire, by providing certificates, policy memos, or verbal confirmation of training.
- Determine whether or not foreclosure counselors meet National Industry Standards as provided in the National Industry Standards for Foreclosure Intervention Counseling. Provide foreclosure counselor-signed National Industry Standards Code of Ethics & Conduct.

E. Compliance Review Notifications.

NFMF Program Grantees and their Sub-grantees, Branches, Affiliates or Contracted Counseling Entities that are tested, will receive a Compliance Review Results Letter from NFMF Program staff or its third-party contractor. Grantees and Sub-grantees, Branches Affiliates and/or Contracted Counseling Entities may also be required to acknowledge receipt of the Compliance Review Checklist by signature of the Executive Director or other authorized official.

1. Compliance Review Results Letter. The Compliance Review Results Letter may contain “Findings Noted” or “Recommendations for Resolving Findings.”

- Findings: Areas of non-compliance cited by NFMF Program Quality Control and Compliance staff and or its third-party contractor that require corrective action during the compliance review process. Findings not cured may also result in Suspension or Default.
- Recommendations: Areas of weakness cited by NFMF Program s Quality Control and Compliance staff and or its third-party NFMF Program Quality Control and

Compliance contractor. Recommendations may not require action during the compliance review process however they do require corrective action going forward that may affect future testing and/or funding rounds if not addressed.

- a. Findings and Recommendations. If Findings are made they will be a direct result of the following.
 - (1) Missing required NFMF Program documentation.
 - (2) Missing required language from NFMF Program documents.
 - (3) Nonconformity with NFMF Program guidelines, as defined in the Grant Agreement, Funding Announcement, National Industry Standards, and any subsequent Program Announcements.

- b. Initial Corrective Action Time Frame in response to Compliance Review Results Letter if Findings are cited.
 - (1) Grantees have 10 business days from the date of the Compliance Review Results Letter to respond if Findings and/or Recommendations are cited. Grantees may request an extension which may be granted at the sole discretion of the NFMF Program Senior Director for Quality Control and Compliance.
 - (2) Grantees must respond to all "Findings Noted" and include documented, actual evidence that it is in compliance with NFMF Program requirements.
 - (3) Grantee must provide only the documentation required to show that policies have been changed or compliance has been maintained. Submission of excessive. Documentation may impede the quick resolution of Grantee's Event(s) of Default.
 - (4) If adequate response to the Compliance Review Results Letter is made with documented, factual evidence, which results in NFMF Program staff making a determination that the Grantee is in compliance with NFMF Program requirements, then NFMF Program staff will validate that the Findings have been resolved by the Grantee, Sub-grantee, Branch, Affiliate, or Contracted Counseling Entity, and so notify the Grantee.

- c. Failure to Respond
 - (1) If within 10 business days the Grantee does not respond to the Compliance Notification, the Compliance Review Results Letter or has not adequately responded to all the Findings in the Compliance Review Results Letter, written correspondence from the NFMF Program staff will be sent that will include the following:
 - (a) A "No Response" Letter will be sent if no response has yet been received and the response is past due:
 - (b) A reminder that any issues with NFMF Program compliance should be addressed to NFMF Program Quality Control and Compliance staff.
 - (c) A reminder that assistance is available from NFMF Program staff.
 - (d) Notification that a lack of response within the next 10 business days:
 - i. Will result in grant disbursements being placed on hold, and the inability to upload new cases into the NFMF Program Data Collection System, and
 - ii. May result in serious funding consequences, and the Grantee being

placed on “Suspended” status depending on the seriousness of the findings.

- (e) At this point, or sooner, NFMC Program staff may engage its Regional Offices to assist in soliciting responses from Grantees that are NeighborWorks organizations.
- (2) If after 20 business days from the date of the response was due, or the Grantee has not adequately responded to all the Findings in the compliance Review Results Letter, then the Grantee will be determined to be out of compliance, and NFMC Program staff will provide a “Notice of Event(s) of Default,” and may place the Grantee in “Suspended” status. NFMC Program Quality Control and Compliance staff will work to address the Event of Default with Grantee as described in Section III of this Policy.
- d. Insufficient Response. If Grantee responds to the Compliance Review Results Letter in writing but does not include documentation to validate its Findings are resolved, or documentation does not provide enough detail to resolve the Finding, then the following will occur.
 - (1) Grantee will receive written correspondence from the NFMC Program stating its response requires additional documentation for review. This correspondence will state that Grantee has 10 business days from the date of the written correspondence to provide required documentation, and will offer Grantee an opportunity for a conference call. To ensure delivery, NFMC Program staff will provide overnight delivery with proof of receipt.
 - (2) NFMC Program staff will also reach out to the Grantee to offer a conference call to discuss the Findings and what is required to cure. If the Grantee is a NeighborWorks organization, NFMC Program staff may invite the Regional Vice President, Relationship Manager, and/or Home Ownership Management Consultant to attend the call. If a conference call occurs, NFMC Program staff will provide a written follow up via email that Grantee may confirm with a reply and any clarifications.
 - (3) If within 10 business days the Grantee does not respond to the Compliance Review Results Letter written correspondence will be sent and will include the following.
 - (a) A reminder the response is past due.
 - (b) A reminder that any issues with NFMC Program compliance should be addressed to NMFC.
 - (c) A reminder that assistance is available from NFMC Program staff.
 - (d) Notification regarding a lack of response will result in :
 - i. Grant disbursements being placed on hold, and the inability to upload new cases into the NFMC Program Data Collection System, and
 - ii. May result in serious funding consequences.
 - (4) If after 20 business days the Grantee has still not responded, then further written correspondence will be sent which includes notification that grant disbursements are now on hold, Grantee will not be able to upload cases into the NFMC Program Data

Collection System, and the Grantee will be placed on “Suspended” status depending on the seriousness of the finding.

(a) At this point, or sooner, to assist NeighborWorks organization Grantees in providing needed responses for compliance, NeighborWorks may engage the Regional Offices where the NeighborWorks organization resides.

(5) If after 30 business days the Grantee has not responded, then written correspondence will be sent stating a “Notice of Event(s) of Default” suspension, de-obligation and/or recapture of funds, and other consequences, will begin. NeighborWorks organizations may face consequences such as a change in Organizational Health Rating and consideration of this non-compliance in other NeighborWorks America funding opportunities.

(6) Continued Non-Compliance. A Grantee has failed to provide sufficient compliance when any of the following has occurred:

- (1) Its responses were not in accordance with NFMCC Program guidelines.
- (2) It is not able to provide missing documentation from client files.
- (3) It is not able to show evidence that NFMCC Program policies are being followed.

c. Severe and/or persistent non-compliance may include but is not limited to the following:

- (1) Failures noted in the Compliance Review Results Letter.
- (2) Finances are not accounted for or not directed to the Grantee’s foreclosure counseling program.
- (3) Grantee fails to correct areas of non-compliance after two or more written communications.
- (4) Grantee has committed fraud.
- (5) Grantee has mishandled clients’ personally-identifiable information.
- (6) Grantee has been accused of violating local, state, or federal laws or is the subject of an investigation related to foreclosure intervention counseling or the use of federal funds.

(a) The term “investigation” shall not include a regularly-scheduled review by a government agency (as required for licensure) or any labor or employment matters that do not relate to foreclosure intervention counseling or the use of federal funds.

d. Consequences for Persistent and/or Severe Non-Compliance. If the Grantee’s non-compliance is determined to be severe and/or persistent, then further review will be conducted and any of the following consequences may be invoked.

- (1) NeighborWorks may issue Grantee with a “Notice of Event of Default,” “Notice of Suspension,” or other actions as described in Section III F, “Failure to Remedy Event(s) of Default” of this Policy.
- (2) NeighborWorks may choose to conduct additional limited-scope compliance visits. During this time, the Grantee shall be placed in “Suspended” status until the review is complete and Findings are addressed to the satisfaction of NeighborWorks management.
- (3) Grantee may be required to reimburse the NFMCC Program for funds paid to counsel

the client(s) in question, including a Program Related Support and Operation Oversight, if applicable.

- (4) The NFMFC Program may consider the severity of a Grantee's quality control and compliance Findings and timeliness of correcting such Findings in its grant application process for all Grantees and in its Organizational Health Tracking Systems for NeighborWorks organizations. This could result in decreased awards, or possibly not being awarded future NFMFC Program funding.
- (5) Termination, Recapture and/or De-Obligation. If compliance monitoring or any other investigation uncovers that the Grantee has engaged in misrepresentation about itself or its Sub-grantees, Branches, Affiliates or Contracted Counseling Entities, NeighborWorks may terminate the Grant Agreement and recapture the funds and/or rescind any obligation to disburse funds.

(7) Expanded Testing of Client Files. If, during the Compliance Review in which client files are tested, errors are identified in a population of client files selected for review, NFMFC Program management may use an expanded approach that considers both the error rate and population size to determine if further testing is needed.

(1) Expanded client file testing will be conducted when 50% or more of the files tested contain at least one service-related finding.

(2) NFMFC Program management *may* elect to conduct additional file testing when 25% or more of the files contain findings that are particularly severe.

(3) If expanded client file testing is conducted, NFMFC Program staff will request and test an additional sample of files equal to the number of files tested during the original procedure. During this time, the Grantee may be placed in "Suspended" status until the review is complete and findings are addressed to the satisfaction of NeighborWorks management.

(4) NFMFC Program management shall use its professional judgment to determine if other factors are warranted to expand the need for testing (e.g., consistent identification of errors in file testing, identification of fraud factors, etc.).

b. "Service-Related Finding" will result if the following is not documented according to the appropriate level of counseling.

(1) Level 1 Files

(a) Intake conducted including client name and address, basic demographic information, lender and loan information, and reason for delinquency.

(b) Budget developed for the client based on client's oral representation of their expenses, debts, and available sources of income.

(c) Written Action Plan developed for follow up activities to be taken by the client and review this Action Plan with the client.

(2) Level 2 Files

(a) Budget verification conducted during which the counselor reviews documented evidence to establish true debt obligations.

(b) Steps to obtain a solution outlined in the written Action Plan are taken and documented using counseling notes, and date counseling occurred is indicated.

- (3) Level 4a
 - (a) Verification of Client Loan Source.
 - (b) Document Reason for Referral.
 - (c) Document back end debt-to-income ratio.
 - (d) Establish that budget (including analysis of actual income, debt and expenses). must be tracked over the course of counseling.
 - (e) Create Action Plan that includes a timeline to eliminate unnecessary debt, minimize expenses, increase income, and increase savings.
 - (f) Establish follow-up schedule with counselor, with at least one additional appointment, as required by action plan. It is expected that borrowers will notify their counselors if they have a significant change in circumstances.

- (4) Level 4b
 - (a) Verify income, debt, and expenses.
 - (b) Calculate back end debt-to-income ratio at time of follow-up appointment.
 - (c) Verify status of borrower payment plan adherence on modified loan.
 - (d) Document progress against Action Plan/Status of Borrower's Modified loan.

F. Audit Reviews.

1. Initial Applicant Audit Review

- a. Intermediaries and State Housing Finance Agencies (SHFAs). As part of its grant application process, NFMF Program staff reviews and analyzes complete audit package for all Intermediaries and SHFAs, and includes the following.

- (1) The most recent fiscal years audited financial statements.
- (2) OMB A-133 audit reports.
- (3) Management letters, organizational responses to the management letters, and any clarifying documentation requested.

- b. NeighborWorks organizations (NWOs). NWO audits are regularly reviewed and analyzed as part of NeighborWorks' organizational assessment procedures, but are reviewed again during the NFMF Program grant application process.

2. Audit Ratings. For all applicant types - NWOs, SHFAs and Intermediaries - a team of Financial Analysts reviews the audit opinion and litigation disclosure, as well as any findings identified as material weaknesses or internal control deficiencies. Each Applicant is issued a risk rating of low, medium or high.

- a. LOW. Grantees with no contingencies related to their audits.
- b. MEDIUM. Medium risk ratings are assigned to Applicants that have audits which identify internal control deficiencies that are of concern to the NFMF Program but not severe. Grantees with medium risk ratings are reviewed and discussed by NeighborWorks staff and may be subject to additional measures which may include but are not limited to those items listed in IV(E)(3) below, with consideration given to the following.

- (1) Severity of the findings.

- (2) Whether the findings are related to the NFMC Program or, if not, whether the systems in question span several programmatic areas.
 - (3) How persistent the findings are (i.e., whether the Applicant has a history of similar findings in past audits that have not been corrected).
- c. HIGH. High risk ratings are assigned to Applicants that have severe control deficiencies that may impact the Applicant's management of NFMC funds or ability to comply with program requirements, or less severe findings that have reoccurred over several years' audits. Grantees with high risk ratings must submit financial statements to be reviewed every six months and will be subject to additional measures which may include but are not limited to those items listed in IV(E)(3) below.
3. The NFMC Program has developed the following remedies to mitigate its financial exposure if an Applicant is deemed to have a medium or high risk rating based on its audit but is still worthy of grant funds.
- a. Contingent Award. Grantees are awarded funds contingent upon the submission, review, and satisfactory acceptance of an updated audit; third party assurance that steps taken to address the findings are sufficient; or proof that policies and procedures have been adequately updated.
 - b. Adjusted Disbursement Schedule. Grantees are placed on one of two adjusted disbursement schedule options, dependent upon how severe or persistent the Grantee's challenges are.
 - c. Client File Testing Review Disbursement Schedule. Grantees that are placed on Client File Testing reviews will be notified via email by the NFMC Program staff with instructions to upload randomly selected client files, including the supporting client file documentation to NeighborWorks' secured portal. In the event the disbursement threshold yields less than the minimum random selection requirements, NFMC Program staff will select the subsequent threshold for testing. If the Grantee completes three consecutive Client File Testing reviews during three consecutive disbursement thresholds with no Findings, the Grantee will return to the standard NFMC Program disbursement schedule without the Client File Testing review requirement.
 - (1) Client File Testing review may be increased to if 50% or more of the tested files are cited for service-related findings during the Client File Testing review process. Grantees will have one opportunity to cure Findings at each Client File Testing review. Uncured service-related Findings will result in de-obligation and/or recapture proportionate to the files found to have Findings. The Grant Agreement, Funding Announcement and other related reporting requirements will remain the same.
 - d. Financial Threshold Disbursement Schedule. Grantees that are placed on a Financial Threshold Review Disbursement Schedule will be sent instructions by NFMC Program staff on how to submit to NeighborWorks' secured portal its' most recent income statements (Month to Date, Year to Date), current balance sheet, an explanation of the difference between restricted and unrestricted cash in the balance sheet, and other reasonable financial information. NFMC Program staff will notify the Grantee via email when the Grantee reports enough production to reach the standard disbursement. NeighborWorks' Financial Analyst(s) will review the submitted documents at each of the required thresholds. No funds will be

disbursed until NeighborWorks' Financial Analyst(s) deem the submitted financial documents satisfactory. If the Grantee meets the threshold disbursements more quickly than the availability of its financial documents, and NFMC Program staff has on hand the most recent monthly financial documents, the NFMC Program will make determinations based on the most recent financial information available prior to releasing disbursements.

- e. Program-Related Support (PRS) Documentation Review Schedule. Grantees that are placed on a PRS Documentation Review disbursement schedule will be required to submit documentation of all PRS expenditures at each disbursement threshold. NFMC Program staff will notify Grantees at each disbursement threshold via email with instructions for uploading PRS documentation to NeighborWorks' secured portal for review. NFMC Program staff will not release any of the Grantee's disbursements until all PRS expenditures at each threshold are reviewed and approved by NeighborWorks. Disbursements will be disbursed only after the Grantee has submitted PRS invoices and receipts (or other proof of expenditures) to program staff for eligible expenses. Please refer to the NFMC Funding Announcement for guidance on eligible uses of PRS funds. All other related reporting requirements found in the Grant Agreement and Funding Announcement will remain the same.
 - f. NeighborWorks reserves the right to place Grantees on multiple Adjusted Disbursement Schedules.
4. Responses When Audit Findings Are Severe or Persistent. When Findings are more severe, directly related to NFMC Program funds, and/or persistent, the NFMC program may use one of the remedies below. The NFMC Program may also consider the severity and persistent nature of a Grantee's audit findings in its present or future grant application and in its Organizational Health Tracking System for NeighborWorks organizations.
 - a. Use one of the remedies described in Subsection IV(C)(4) above.
 - b. Not award grant funds.
 - c. Place Grantee in "Suspended" status.
 - d. Freeze current funding.
 - e. Place conditions on the Grantee's grant award that must be satisfied before funds are released.
 - f. Rescind existing grant commitments of the Grantee.

G. Complaints.

From time to time, NFMC Program staff will receive complaints about a Grantee from the parties below. In all cases where complaints emanate from third parties, such as homeowners, employees, media, or affiliates, the NFMC Program requests that complaints be made in writing. Examples of third party complainants are:

- a. Homeowners that received or attempted to receive services from the Grantee
- b. Former or current employees of the Grantee
- c. Current or former Sub-grantees, Branches, Affiliates or Contracted Counseling Entities, of the Grantee
- d. Peer organizations of the Grantee
- e. Media
- f. Whistleblowers

1. Notifying Grantee
 - a. NeighborWorks will contact the Grantee by telephone, notify the Grantee of the complaint whether provided in writing or another means, and then provide a follow up email to schedule a review of the complaint made that includes the nature of the complaint.
 - b. If the complainant is entitled to whistle blower protection under applicable federal (Whistleblower Protection Act) or state laws, these protections are provided.
 - c. If the complainant requests to remain anonymous, but is not subject to the Whistleblower Protection Act, Management will still investigate the claim, but will keep the source anonymous.

2. Review of Complaint
 - a. Discussion. The NFMC Program Senior Director for Quality Control and Compliance (Program Manager) reaches out to both parties to understand the concerns.
 - b. Non-Compliance Allegation. If an allegation of non-compliance is revealed, the Senior Director for Quality Control and Compliance or other staff will investigate and seek documentation from Grantee to determine whether the claim is true.
 - c. Additional Sampling/Testing. NeighborWorks may also choose to conduct limited-scope sampling or testing measures to confirm that the Grantee is not out of compliance or, if it was, to confirm that procedures are in place to assure the reasons for non-compliance have been corrected.

3. Response and Remedies. If the Grantee is determined to be out of compliance, the NFMC Program may provide a “Notice of Event(s) of Default,” place Grantee in “Suspended” status, and work to address the Event of Default with Grantee as described in Section III of this Policy.

H. Common Areas of Non-Compliance.

Grantees are deemed to be out of compliance for any material failure to comply with the terms and conditions of the Grant. This Section details some of the more common reasons why Grantees may enter default. These are examples and not an exhaustive list. Findings and Remedies shall not be limited to those provided in these examples.

1. Non-Discretionary Events of Non-Compliance
 - a. OMB A-133 Filing Requirements
 - (1) Event: The Applicant for NFMC Program funds has not filed its OMB A-133 audit within nine months of the end of its fiscal year, which could result in no grant funds being awarded or an award contingent upon the Grantees’ submission of the report to NeighborWorks.
 - (2) Remedy: Grantee must submit the report and have it accepted by NeighborWorks.

- (3) Special Note for NWOs: NeighborWorks' *Charter Agreement* and *Investment and Grant Agreement* require that they submit audited financial statements and OMB A-133 audits, when applicable, within six months of the end of their fiscal year. NWOs are not eligible for any funding unless these financial reports are submitted or an exception is granted by the Regional Vice President and the Vice President Field Operations.
- b. NFMF Program Quarterly Reports
 - (1) Event: The Grantee is not current on its quarterly reports, and cannot receive disbursements of NFMF Program funds.
 - (2) Remedy: Grantee must submit the report and have it accepted by the NFMF Program.
 - c. Reporting of Sub-grantees
 - (1) Event: The Grantee has not notified NeighborWorks of changes to its list of Sub-grantees, Branches, Affiliates or Contracted Counseling Entities, during the grant round. The NFMF Data Collection System will not allow data for unrecognized/unreported Sub-grantees, Branches, Affiliates or Contracted Counseling Entities to be uploaded.
 - (2) Remedy: Grantee must notify NeighborWorks of changes to its approved list of Sub-grantees, Branches, Affiliates or Contracted Counseling Entities.
 - d. Updated Unaudited Financial Statements
 - (1) Event: A Grantee is not submitting updated unaudited financial statements on an ad-hoc basis as requested by the NFMF Program. Typically, unaudited financial statements are requested because of serious audit deficiencies or if a Grantee has a high risk rating based on its audit review at the time of the most recent application for funds. The Grantee will not receive disbursements of NFMF Program funds.
 - (2) Remedy: The Grantee must submit financial statements and they must be reviewed and accepted by NeighborWorks.
 - e. Mandated Notification to NeighborWorks
 - (1) Event: A Grantee has failed to notify NeighborWorks of an event or act that may be grounds for suspension or termination, including any of the following.
 - (a) Failure to continue as a going concern.
 - (b) Becoming insolvent or filing for bankruptcy.
 - (c) Becoming the subject of - an investigation related to foreclosure intervention counseling or the use of federal funds. *Note:* The term "investigation" shall not include i.) a regularly-scheduled review by a government agency (as required for

- licensure); or ii.) any labor or employment matters that do not relate to foreclosure intervention counseling or the use of federal funds.
- (d) Its director, officers, or senior managers engage in fraud, willful misconduct or gross negligence.
 - (e) Misappropriation of funds.
- (2) Remedy: Failure to notify NeighborWorks is considered a material breach of the Grant Agreement. If NeighborWorks determines that the act constitutes an Event of Default, then NeighborWorks shall proceed as described in Section III of this document. If the action or conduct in question has been satisfactorily resolved and will not impede the Grantee's ability to deliver services as specified in the Grant Agreement, then NeighborWorks may allow continuation or resumption of services.
- f. Matching Funds
- (1) Event: A Grantee fails to secure and apply the match required of the funding they receive from the NFMFC Program, as described in the Funding Announcement.
 - (2) Remedy: Grant disbursements are not made unless the Grantee has provided evidence that it has raised or expended the requisite match. Further, Quality Control and Compliance Reviews tests will determine whether match funds were actually received and credited toward the Grantee's foreclosure program.
- g. Compliance with All Legal Mandates
- (1) Event: A Grantee is in material breach for not complying with all mandated laws and regulations including:
 - (a) Proper use, storage, and disposal of any documentation containing personally-identifiable information
 - (b) Availability of translation services
 - (c) Accessibility for persons with disabilities
 - (2) Remedy: The Grantee must submit documentation or other evidence that it is in compliance.
- h. "Not in Good Standing." The term "Not in Good Standing" is defined as a failure to comply with the laws and regulations that govern the HUD housing counseling program, or the inability of a Grantee to draw down HUD housing counseling grant funds for any reason. Furthermore, Grantees that have received housing counseling grants from HUD in the past are "not in good standing" unless they: (i) continue to be a HUD-Approved Counseling Agency; and (ii) are not under investigation by HUD for possible non-compliance and funds have been withheld by HUD. Any Grantee that is not in good standing with the HUD housing counseling program will be simultaneously suspended from NFMFC Program performance.
- (1) Obligation to Notify. Grantee has an affirmative obligation to notify NeighborWorks in cases where it has been found to be "Not in Good Standing."

- (2) Reinstatement. In order to be reinstated to the NFMC Program, Grantee must provide official communication from HUD confirming that the issues that caused suspension from that program have been resolved and that HUD has removed the hold on disbursements to the Grantee or reinstated the Intermediary status of the Grantee, if applicable.
- i. Specified Variances
 - (1) Event: The Grantee is not performing within the allowable variances specified in the Grant Agreement to meet its service delivery requirements, including: levels of counseling, geographic areas and service to low-income and minority homeowners and zip codes.
 - (2) Remedy: When the Grantee is not within the allowable variances, NeighborWorks notifies the Grantee and requires it to respond with its plan to get back on track. The NFMC Program reviews these plans and works with Grantee until an acceptable plan is submitted. The Grantee must pass a grant disbursement threshold monitored by NFMC Program staff to ensure that production is within the allowable variances. If, at its third disbursement, Grantee has not increased production to be within the variance, NFMC Program staff will review the documented best efforts reported by the Grantee to address the variance and may issue a waiver. Factors that may allow a waiver of the Grant Agreement requirements, even when the geographic area is not an Area of Greatest Need or an Area of Extraordinary Need, include but are not limited to the following.
 - (a) Geographic area is being served satisfactorily by the program overall.
 - (b) Grantee was responsible for less than 15% of the overall proposed production for that geographic area.
 - (c) Production in immediately adjacent MSAs or rural areas of a state make up for the units of counseling not delivered in the contracted geographic area.
 - (d) Documentation shows that clients were served in the under-reported geographic areas but billing was made to another funding source.
 - (e) Documentation shows that specific outreach and other efforts to specified populations and affiliate new Sub-grantees, Branches, Affiliates or Contracted Entities (if applicable) have not produced the required volume of borrowers to allow Grantee to meet its goal.
 - (f) After disaffiliation of underperforming Sub-grantees, Branches, Affiliates or Contracted Entities documentation shows that best efforts were made to substitute new Sub-grantees that serve the same service area, but those efforts have failed.
 - j. Spending Down Grant Award
 - (1) Event: A Grantee is not spending down its grant award within the grant period.
 - (2) Remedy: If a Grantee is not able to spend down its entire grant award during the grant period, NeighborWorks may allow it to request a six month extension, with the following considerations.

- (a) All submitted extension requests must undergo a formal review process by NeighborWorks.
- (b) Grantees that receive an extension will be given a modified and more frequent reporting schedule and production goals to achieve during the extension period.
- (c) If Grantee does not complete its required production within the six-month extension time period, all funds not earned will be recaptured or de-obligated in accordance with the NFMFC Program Recapture and De-obligation Policy.
- (d) NeighborWorks reserves the right to extend the extension period at its sole discretion.

k. Poor Performance

- (1) Event: A Grantee that performs poorly under the NFMFC Program in one or more of the following areas may have its award amounts reduced in subsequent funding rounds:
 - (a) Number and severity of quality control and compliance findings
 - (b) Grantee's inability to spend down grant funds within the grant period
 - (c) Lack of adherence to reporting requirements and deadlines
 - (d) Findings from HUD performance reviews
 - (e) Lack of timely submission of reports and requests for additional information
- (2) Remedy: Timely resolution of findings will help minimize compliance-related funding reductions in the next grant round, as prescribed in the funding rubric in place for that grant round.

V. Appeals of Default Conditions and Determinations of Non-Compliance

Funding Announcements governing each round state that Grant Award decisions are not appealable. This section refers only to appeals of Events of Default (section III) and only when "Consequences for Significant Deficiencies" has occurred (section V)(B)(4) below).

A. Handled by Office of the Chief Executive Officer

- 2. Only One Appeal. A Grantee will have one chance to appeal to the office of the Chief Executive Officer of NeighborWorks.
- 3. Designation to a Senior Officer. The CEO shall have the option to hear the appeal or designate it to a senior officer of NeighborWorks, including the Chief Financial Officer, Chief Operating Officer, or General Counsel.
- 4. Appeal Decisions Are Final. Decisions made by the CEO or designee are final. No further appeals by Grantees to NeighborWorks American shall be allowed.

B. Eligibility.

- 1. Event of Default Finding. Grantees must have had an Event of Default finding determination per Section III, "Events of Default."

2. Good Faith. Whether or not suspension has resulted, Grantees must show good faith in having worked to remedy the Findings that have resulted in an Event of Default.
3. Premature Filing of Appeal. Grantees that are in the process of having their Event(s) of Default remedied are not eligible for appeal, and any request will be deemed premature.
4. Consequences for Significant Deficiencies. Appeals may only be taken when one of the following consequences for significant deficiencies has been taken by NeighborWorks:
 - a. Funds rescinded
 - b. Disbursements held/funding suspended
 - c. Future funding prohibited
 - d. Termination, recapture or de-obligation of funding

C. Grantee Filing of the Request for Appeal

1. All notices of appeal will be sent to the Office of the Chief Executive Officer of NeighborWorks, with a copy to the Vice President of the NFMC Program, via traceable overnight delivery or registered mail, including all required documentation.
2. The Grantee must postmark the Appeal Filing documents to the Office of the CEO within seven calendar days of the Notice of Default date.
3. Submitted appeals must include the following Appeal Filing documentation.
 - a. Summary. A summary of no more than two pages that chronicles the Event(s) of Default that is/are the subject of the appeal, the good faith attempts to remedy the Findings during one or more compliance time frames, the actions taken by NeighborWorks, and the Grantee's defense to the actions taken.
 - b. Notice of Event(s) of Default. The Notice of Event(s) of Default provided by NeighborWorks to the Grantee that is the subject of the appeal.
 - c. Any Other Relevant Documents. This may include other notices, emails, letters or other documents, including those regarding suspension, that have been provided by NeighborWorks to the Grantee and are the subject of the appeal, or are relevant to the appeal.

D. NeighborWorks Process

1. Foreclosure Mitigation Vice President Review
 - a. Grantee File. Once the Grantee's Appeal Filing documents have been received the Foreclosure Mitigation Vice President will provide to the CEO or designee all relevant documents contained in the Grantee's file.
 - b. Summary. The Foreclosure Mitigation Vice President or designee will prepare a summary

answering the steps taken by NeighborWorks to support the Grantee in remedying the Event(s) of Default, whether the Grantee has taken good faith efforts to remedy the Events of Default, and a response to the Grantee's defense against the consequence for significant deficiencies that were taken.

2. CEO or Designee Review

- a. Grantee File and Summary. The CEO or designee will thoroughly review the Grantee Appeal Filings documents and the Foreclosure Mitigation Vice President's Summary.
- b. Discussions. The CEO or designee may review and discuss the appeal with the Grantee, Foreclosure Mitigation Vice President and/or others as follows.
 - (1) Discussion with the Grantee by telephone, email or letter about information provided, to seek responses to questions, or ask for additional information, clarification, or documentation.
 - (2) Discussion of the appeal with the Foreclosure Mitigation Vice President or other relevant NeighborWorks staff and consultants by telephone, email or letter about information provided, to seek responses to questions, or ask for additional information, clarification or documentation.
 - (3) Schedule a meeting by teleconference, in-person at NeighborWorks' office, or on-site at the Grantee's offices, determining the Grantee's managers or staff, and NeighborWorks' staff and consultants, whose participation is required.
- c. The CEO or Designee will consider the following factors:
 - (1) Whether the Appeal was filed in a timely manner
 - (2) Whether the Grantee has provided all required documents and information
 - (3) Whether the Grantee made good faith efforts to remedy Event(s) of Default
 - (4) The defense provided by the Grantee
 - (5) Whether consequences should be rescinded or modified in the best interest of the clientele served by the Grantee
 - (6) Whether consequences can be rescinded or modified without jeopardizing the fiscal, administrative and management standards that must be safeguarded by NeighborWorks per United States Congressional requirements, mandates provided by HUD, or other legal or regulatory mandates

E. CEO or Designee Makes Appeal Determination.

1. All Appeal determinations are final.

2. Within 30 calendar days of receipt of the complete Appeal documentation from Grantee, the CEO or Designee will make Appeal determinations based on a standard of clear and convincing evidence after receiving all documents, including the Grantee Appeal Filing, the NeighborWorks file, the Foreclosure Mitigation Vice President summary, and any conversations or meetings.
3. Possible Determinations
 - a. Filing is Premature. It is determined that Grantee has not remedied compliance measures within the given time frames. Grantee may refile once all eligibility requirements are met.
 - b. Filing is not Timely. Grantee does not submit the Appeal Filing documentation within the seven calendar days of the Notice of Default. Grantee may refile only if the CEO or Designee finds that timely filing was prevented by exigent circumstances that could not have been anticipated.
 - c. Filing is not Complete. Grantee has not submitted all required documents. Grantee may refile only if the CEO or Designee finds that a complete filing was prevented by exigent circumstances that could not have been anticipated.
 - d. No Good Faith Effort to Remedy. Grantee has not demonstrated a good faith effort to remedy the Event(s) of Default in question. Grantee may not refile any appeal.
 - e. Appeal is Denied. Grantee has not demonstrated that the consequences for significant deficiencies are unsupported or unjustified. Grantee may not refile any appeal.
 - f. Appeal is Granted. Grantee has demonstrated that some or all of the consequences for significant deficiencies should not have been determined. The CEO or Designee will notify the Grantee and Foreclosure Mitigation Vice President in writing per Subsection 4 below of the modifications to be made and the time frame in which they are to occur.
4. Written Determination. The CEO or Designee will provide in writing to the Grantee and the Foreclosure Mitigation Vice President the determination and reasons upon which it was made. Further actions by the CEO or Designee may include but are not limited to the following.
 - a. Determine if the Grantee must or should undergo designated training.
 - b. Determine if any NFMCC Program or other NeighborWorks staff or consultants need any guidance or professional development trainings to enhance their work.
 - c. Determine if any additional Grantee monitoring or support is required.

VI. National Industry Standards for Homeownership Counseling

A. Exhibit B: Foreclosure Intervention Counseling Recommended Content for Written Action Plan

National Industry Standards for Homeownership Counseling – Foreclosure Intervention Specialty

EXHIBIT B

Foreclosure Intervention Counseling- Recommended Content for Written Action Plan

Recommended Features of the Action Plan

- State briefly why the homeowner is delinquent or in danger of becoming delinquent, including the involuntary inability to pay, unexpected increase in expenses, decrease in income, loan reset and/or other factor.
- Include an assessment of the property's condition and a discussion and calculation of equity, if any.
- Include a financial assessment that leads to the recommendations for resolving the delinquency (assuming that the client wants to and can afford to keep the house). Otherwise, discuss foreclosure in general, sale of the property, deed in lieu, short sale and possible tax consequences and/or deficiency judgment issues.
- State what steps the homeowner will take to resolve the delinquency and what steps the counselor will take to assist in this process.
- Include other contact information for community referrals which may be able to assist the client.
- Issued within 24 hours of counseling session (and immediately if face-to-face)