

## §214.313

federal and HUD regulations and policies governing assistance programs, including the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545 *et seq.*). If funds become available that are to be competitively awarded, HUD will notify the public through a Notice of Funding Availability (NOFA) in the FEDERAL REGISTER and via the Internet or other electronic media.

(b) *Local funding sources.* HUD recommends that approved agencies seek and secure funding from funding sources that may include local and state governments, private foundations, and lending or real estate organizations. Agencies must assure that such arrangements do not violate the provisions regarding conflicts of interest described in §214.303(e).

### §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

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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 24 CFR 1.6, 24 CFR 84.21, and 24 CFR part 121.

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

#### § 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 parts 84 and 85. HUD must be provided a copy of the audit report within 30 days of completion.

#### § 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.

AUTHORITY: 12 U.S.C. 1715z-1a; 42 U.S.C. 3535(d).

SOURCE: 61 FR 14405, Apr. 1, 1996, unless otherwise noted.

#### § 219.1 Program operations.

Effective May 1, 1996, the Flexible Subsidy Program for Troubled Projects will be governed and operate under the statutory provisions codified at 12 U.S.C. 1715z-1a, under the administrative policies and procedures contained in any applicable HUD Handbooks, and other administrative bulletins and notices as the Department may issue from time to time.

#### § 219.2 Savings provision.

Part 219, as it existed immediately before May 1, 1996, (contained in the April 1, 1995 edition of 24 CFR, parts 200 to 219) will continue to govern the rights and obligations of housing owners, tenants, and the Department of Housing and Urban Development with respect to units and projects assisted under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996. A list of any amendments to this part published after the CFR revision date is available from the Office of the Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.