



**National Foreclosure Mitigation Counseling Program  
Legal Assistance  
Final Funding Announcement**

**September 15, 2008**

**Note: See page 13 for correction made on September 16, 2008**



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# National Foreclosure Mitigation Counseling Program Legal Assistance

## Final Funding Announcement

September 15, 2008

### Purpose of Funding

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In response to the nationwide subprime foreclosure crisis, Congress approved and President George W. Bush signed Public Law 110-289 authorizing \$180 million to the National Foreclosure Mitigation Counseling (NFMC) Program. The legislation was signed on July 30, 2008, and includes a provision allocating \$30 million for grants to counseling intermediaries to hire attorneys who will assist homeowners with legal issues directly related to their foreclosure, delinquency or short sale. Congress selected NeighborWorks® America (as authorized by the Neighborhood Reinvestment Corporation Act, 42 U.S.C. 8101-8107) to administer the National Foreclosure Mitigation Counseling Program and the legal assistance funds.

This is a one-time appropriation designed to support a rapid expansion of foreclosure legal assistance on a short-term basis. Only HUD-approved Housing Counseling Intermediaries, State Housing Finance Agencies (HFAs) and NeighborWorks® organizations applying for NFMC Program general counseling funding in September 2008 are eligible to apply for legal assistance funding. Intermediaries and HFAs can either contract directly with a legal entity or entities, or receive funds for their approved Sub-grantees, Branches and Affiliates to use to contract with a legal entity or entities. NeighborWorks® organizations may contract directly with a legal entity or entities. Utilizing or hiring legal staff is also permitted, however, permanent staffing capacity should not be added with the NFMC Program legal assistance funds unless these positions can be supported with other revenues once the NMFC Program legal assistance funds are expended.

Priority consideration will be given to applicants that (1) provide legal assistance on mortgage foreclosure intervention and loss mitigation efforts in the Metropolitan Statistical Areas (MSAs) with the highest home foreclosure rates (see Exhibit 1 for a list of these areas nationwide) (**NOTE: these MSAs are not the same as the Areas of Greatest Need defined in the NFMC Program Counseling application**) and (2) have the capacity to begin using the financial assistance within 90 days of receipt. Intermediaries, HFAs and NeighborWorks® organizations working outside the MSAs with the highest home foreclosure rates are still eligible to receive legal assistance funding and are encouraged to apply. The target clients are owner-occupants of single-family (one- to four-unit) properties.

Legal assistance funds of the National Foreclosure Mitigation Counseling Program will be awarded to successful Applicants by December 31, 2008, and the grant period is January 1, 2009 – December 31, 2009.

Details about the National Foreclosure Mitigation Counseling Program and the legal assistance funding, including the legislative language that governed the program development and frequently asked questions about the application and funding process, can be found at [www.nw.org/nfmc](http://www.nw.org/nfmc). NeighborWorks® America

reserves the right to make exceptions to the guidelines set forth in this Funding Announcement under extraordinary circumstances.

Any questions about this program should be directed to 202-220-6314 or [nfmc@nw.org](mailto:nfmc@nw.org).

## Funding Available

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This Funding Announcement makes available \$30 million in grant funds to be awarded by December 31, 2008.

**Only HUD-approved Housing Counseling Intermediaries, State Housing Finance Agencies (HFAs) and NeighborWorks® organizations applying for NFMC Program general counseling funding in September 2008 are eligible to apply for legal assistance funding.**

Priority consideration shall be given to counseling intermediaries and legal organizations that (1) provide legal assistance in the MSAs with the highest home foreclosure rates and (2) have the capacity to begin using the financial assistance within 90 days of receipt.

Depending on total demand for available funding, NeighborWorks® America reserves the right to determine award limits during the grant review and award process. Award decisions will be based upon the information provided by the applicants, and on a number of considerations, including (without limitation): (1) the recommendations of grant reviewers with particular attention to the Applicant's application and plan to provide legal assistance as described in their application; (2) ability to start receiving referrals and using funds with 90 days of receipt; (3) coverage in MSAs with the highest home foreclosure rates; and (4) total demand for funding from all Applicants. In making award decisions, NeighborWorks® America may rely on information not contained in Applicant's submitted application, including but not limited to Applicant's production to date in the National Foreclosure Mitigation Counseling Program, findings from NFMC or HUD Housing Counseling performance or compliance reviews, financial audit reviews, and other available relevant information.

## Definitions

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- 1. Affiliate.** An Affiliate is a separately incorporated or organized Housing Counseling Agency connected with an Intermediary or State HFA for the purposes of its housing counseling program. To be eligible for a sub-grant, an Affiliate must be: (1) duly organized and existing as a nonprofit or public entity; (2) in good standing under the laws of the state of its organization; and (3) authorized to do business in the states where it proposes to provide housing counseling services.
- 2. Applicant.** "Applicant" refers to a HUD-approved Housing Counseling Intermediary (Intermediary), State Housing Finance Agency (HFA), or NeighborWorks® America chartered members that have non-provisional charters and are housing counseling agencies (HCA).
- 3. Branch.** "Branch" or "Branch Office" refers to an Applicant's organizational and subordinate unit that is not separately incorporated or organized. A Branch or Branch Office must be in good standing under the laws of the state where it is authorized to do business and where it proposes to provide services. A Branch or Branch Office cannot be an Applicant, Affiliate or Sub-grantee.

- 4. Contracting Legal Entity.** “Contracting legal entity” refers to private attorneys, legal nonprofits, legal law clinics, pro-bono attorneys, or other legal organizations that a Grantee proposes to contract with and refer homeowners to for legal assistance through the NFMC Program legal assistance funding.
- 5. Grantee.** “Grantee” refers to the Intermediaries, State HFAs, or NWOs that receive awards under this National Foreclosure Mitigation Counseling Program Legal Assistance Funding Announcement.
- 6. Housing Counseling Agency (HCA).** A local entity that provides housing counseling services. Only HCAs that are chartered members of NeighborWorks® America as of 8:00 PM EDT September 26, 2008 (the application due date) may apply for National Foreclosure Mitigation Counseling Program legal assistance funds directly. Only HCAs with non-provisional NeighborWorks charters are eligible to apply directly. All other HCAs must be connected to an Intermediary or State HFA.
- 7. Intermediary.** “Intermediary” refers to a HUD-approved national or regional organization that provides housing counseling services through its Branches or Affiliates. Intermediaries must have received HUD-approval on or before 8:00 PM EDT on September 26, 2008 (the application due date) to be considered for funding. See Exhibit 2 for a list of all Intermediaries approved as of the date of this Funding Announcement.
- 8. Legal Staff.** “Legal staff” refers to an attorney, paralegal or support staff currently employed by a Grantee, Sub-grantee, Branch or Affiliate who works with clients on foreclosure related matters, or an attorney, paralegal or support staff hired to assist clients with foreclosure matters through this Program, or an attorney, paralegal or support staff employed or hired by an Intermediary or HFA to assist clients of applicable Sub-grantees.
- 9. Primary Legal Assistance.** “Primary legal assistance” refers to activities in which a contracting legal entity or legal staff directly assists a homeowner or housing counselor. Examples of primary legal assistance include interpreting loan documents, reviewing case files, preparing documents for homeowners for non-civil litigation purposes, and providing advice on rights and options pertaining to foreclosure.
- 10. Secondary Legal Assistance.** “Secondary legal assistance” refers to activities that contracting legal entities or legal staff can undertake to support their program efforts. Examples include creating boiler plate forms and training attorneys.
- 11. State Housing Finance Agency (HFA).** A state HFA is the unique public body, agency, or instrumentality created by a specific act of a state legislature and empowered to finance activities designed to provide housing and related facilities and services, for example through land acquisition, construction or rehabilitation, throughout a state. The term “state” includes the fifty states, Puerto Rico, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and the U.S. Virgin Islands. See Exhibit 2 for a list of all HFAs.
- 12. Sub-grantee.** “Sub-grantee” refers to an organization to which a Grantee awards a sub-grant, and which is accountable to a Grantee for the use of the funds provided. A Sub-grantee may be separately incorporated or organized, but connected with an Intermediary or State HFA for purposes of responding to this Funding Announcement. Intermediaries and HFAs will be held responsible for ensuring that all Sub-grantees, Branches and Affiliates adhere to the standards set forth in this Funding Announcement and agree to oversee the quality of services and adequacy of record keeping for each.  
  
Grantees must provide each sub-grantee’s name, address, contact person name, e-mail, and telephone number before initial grant disbursement will be made. Grantees may amend their Sub-grantee list after awards are made by submitting a written request to NeighborWorks® America and such amendments will be approved at NeighborWorks® America’s sole discretion. Sub-grantees can be a subset of those contained in the Applicant’s application for NFMC Round 2 Counseling funds, but they cannot be new Sub-grantees only for the purpose of the legal assistance funding.

## Funding Time Frame

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Funds will be awarded according to the following schedule. All dates are approximate and subject to change.

<b>September 10, 2008</b>	Briefing with eligible Applicants.
<b>September 15, 2008</b>	Bidders' conferences with eligible Applicants.
<b>September 15, 2008</b>	Applications available in the GrantWorks online application system.
<b>September 26, 2008</b>	Applications deadline 8:00 PM EDT. Applications accepted electronically through GrantWorks only. No late applications will be accepted under any circumstances.
<b>October 1-31, 2008</b>	Applications reviewed, ranked, and award decisions made.
<b>November 12-30, 2008</b>	Award announcements posted on <a href="http://www.nw.org/nfmc">www.nw.org/nfmc</a> . Grant award letters and Grant Agreements distributed.
<b>On or before December 19, 2008</b>	Initial disbursements sent to Grantees (for those who return ratified Grant Agreements by December 8 <sup>th</sup> ).
<b>December 28, 2009</b>	Last day for Applicants to request debriefing meeting with NeighborWorks <sup>®</sup> America. All such requests must be received by NeighborWorks <sup>®</sup> in writing by 5:00 PM EDT on this day.
<b>January 1, 2009</b>	Grant Period begins.
<b>May 1, 2009</b>	First quarterly report required – reporting period from time of receipt of initial disbursement to March 31, 2009.
<b>July 27, 2009</b>	First fund reallocation decisions are made. NeighborWorks <sup>®</sup> America may recapture funds from Grantees that have not made significant progress in meeting goals established in their Grant Agreements.
<b>August 1, 2009</b>	Second quarterly report required – reporting period April 1, 2009 to June 30, 2009.
<b>October 27, 2009</b>	Second fund reallocation decisions are made. NeighborWorks <sup>®</sup> America may recapture funds from Grantees that have not made significant progress in meeting goals established in their Grant Agreements.
<b>November 1, 2009</b>	Third quarterly report required – reporting period July 1, 2009 to September 30, 2009.
<b>January 27, 2010</b>	Third fund reallocation decisions are made. NeighborWorks <sup>®</sup> America may recapture funds from Grantees that have not made significant progress in meeting goals established in their Grant Agreements.
<b>December 31, 2009</b>	Grand Period ends. All funds awarded must be expended or will be subject to recapture.
<b>February 1, 2010</b>	Fourth (and final) quarterly report required – reporting period October 1, 2009 – December 31, 2009.

**February 27, 2010**

Grantees' final programmatic report due.

**Ongoing until  
June 30, 2011**

Grantees must comply with program evaluation requests.

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## **Eligible Applicants**

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For the purposes of these legal assistance funds only, NeighborWorks® America exercises its authority to approve as eligible applicants State Housing Finance Agencies and NeighborWorks® organizations in addition to the Housing Counseling Intermediaries defined by statute as eligible Applicants. In no case will legal assistance funding be awarded to an Applicant who is not awarded NFMC Program counseling funds. There are two categories of eligible Applicants:

- 1) Intermediaries** that have been approved as Housing Counseling Intermediaries by HUD on or before 8:00 PM EDT on September 26, 2008 (the application due date), and **State Housing Finance Agencies (State HFAs)**.

Applicants in this category will (a) apply for funds on behalf of a network of local housing counseling agencies (Sub-grantees and/or Affiliates), each of whom will hire or fund legal staff or contract with a legal entity or entities that will provide legal assistance to referred clients or foreclosure counselors, or (b) distribute grant funds to its own Branches, each of whom will hire or fund legal staff or contract with a legal entity or entities that will provide legal assistance to referred clients or foreclosure counselors, or (c) directly contract with a legal entity or entities that will provide legal assistance to referred clients or foreclosure counselors, or (d) hire or fund legal staff to provide legal assistance to clients or foreclosure counselors for the duration of this program.

Intermediaries and HFAs must demonstrate they have the capacity to distribute funds, communicate with, collect requisite data from, and monitor quality, outcomes, and performance of their Sub-grantees, Branches and Affiliates. In addition, they must demonstrate the ability of their Sub-grantees, Branches and Affiliates to distribute funds, communicate with, collect requisite data from, and monitor quality, outcomes, and performance of their legal staff or contracting legal entity or entities. All eligible Applicants contracting directly with a legal entity must also demonstrate these capabilities.

Intermediaries and State HFAs are permitted to add or remove participating Sub-grantees, Branches, and/or Affiliates during the grant period with proper written notice and approval from NeighborWorks® America. Intermediaries and State HFAs may elect to distribute legal assistance funds to a sub-set of the Sub-grantees, Branches and/or Affiliates identified in their application for counseling funds, but they cannot identify new Sub-grantees, Branches and/or Affiliates only for the purpose of the legal assistance funding, as all clients must receive NFMC Program counseling prior to being referred for legal assistance.

- 2) Existing chartered members of NeighborWorks® America that are housing counseling agencies (HCAs)**.

NeighborWorks® organizations that are chartered members of NeighborWorks with non-provisional charters as of 8:00 PM EDT on September 26, 2008 can apply directly and (a) contract with a legal

entity or entities that will provide legal assistance to referred clients or foreclosure counselors, or (b) hire or fund legal staff to provide legal assistance to clients or foreclosure counselors for the duration of this program.

NeighborWorks® organizations can also participate in this program through affiliations with Intermediaries and HFAs, but they must demonstrate their capacity to track and report activity under multiple applications.

HCAs that are not members of the NeighborWorks® network cannot apply directly but must instead apply through an Intermediary or State HFA.

## Eligible Activities

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**Statutory language requires that no funds made available under the National Foreclosure Mitigation Counseling Program shall be used to provide, obtain, or arrange on behalf of a homeowner, legal representation involving or for the purposes of civil litigation (Public Law No: 110-289, Section 2305).**

**Each Grantee, Sub-grantee, Branch and Affiliate receiving NFMC Program legal assistance funding will certify that the funds shall not be used to provide, obtain, or arrange on behalf of a homeowner, legal representation involving or for the purposes of civil litigation.**

Each homeowner must be counseled at Level 1, 2 or 3 in accordance with the terms of the National Foreclosure Mitigation Counseling Program by a NFMC Program counselor prior to being referred to legal staff or a contracting legal entity. The Grantee, Sub-grantee, Branch or Affiliate must (i.) create a comprehensive client file which shall contain, at minimum, all the mandatory documentation and data required under the National Foreclosure Mitigation Counseling Program and documentation if legal issues that cannot be handled by the foreclosure counselor emerged during the foreclosure counseling engagement; (ii.) share the client file with the legal staff or contracting legal entity; (iii) retrieve additional data on the client (as described below) from the legal staff or contracting legal entity; and (iv) enter the client information into the NFMC Program data collection system.

Clients that are referred to legal staff or a contracting legal entity must sign an authorization form permitting their housing counselor/agency and the legal staff/contracting legal entity to share the client's files where permitted by State Law and Bar Association rules. This authorization form must be kept in the client's file, as well as the following information: name of legal staff or contracting legal entity who assisted client; service(s) provided; number of legal hours spent on client's case; outcome(s) after completion of legal services; whether client had a legal issue outside the parameters of the NFMC Program legal assistance funding and what the issue was; and whether legal staff or contracting legal entity worked with the client directly or with their counselor. A list of reportable services and outcomes will be defined in the Grant Agreement.

The legal staff or contracting legal entity can assist the referred homeowner in a variety of foreclosure prevention and related activities. If the determination is made that the homeowner must pursue civil litigation, no NFMC Program legal assistance funding can be utilized for this client to bring civil litigation. NFMC funds cannot be used to pay for NFMC Program counselors to seek or obtain advice from their legal staff or contracting legal entity on civil litigation; this includes a prohibition on using NFMC funds to seek or receive advice for a client involved in a judicial foreclosure case. The legal staff or contracting legal entity should advise the client at intake that it cannot use NFMC Program legal

assistance funds for civil litigation and that, in the event civil litigation is warranted, they must rely upon an alternate source of funding for such activity. It is permissible for such alternate funding to be provided by the same organization. It will be the responsibility of the legal staff or contracting legal entity to provide the client with a copy of his or her legal file upon request.

### **Award Apportionment**

Grantees will be allowed to utilize up to 5 percent of their legal assistance award for activities related to program oversight. Sub-grantees, Branches and Affiliates which contract directly with legal entities or manage legal staff can use up to an additional 5% of their corresponding legal assistance award for activities related to program oversight. Of the remaining amount, at least 85 percent must be allocated to legal staff or contracting legal entities for Primary Legal Assistance activities with homeowners or foreclosure counselors. No more than 15 percent can be utilized for Secondary Legal Assistance activities, but Grantees can choose to use their entire legal assistance funding for Primary Legal Assistance.

### **Primary Legal Assistance:**

NOTE: A filing of judicial foreclosure is civil litigation. The NFMC Program counselor cannot rely on NFMC legal assistance funds pay for legal advice in connection with or for the purpose of civil litigation, including advice for a client involved in a judicial foreclosure case. In instances where foreclosures are non-judicial proceedings, or in states and instances where foreclosure is a judicial proceeding but the foreclosure filing has not yet occurred, eligible Primary Legal Assistance activities include (but are not limited to):

- Interpreting loan documents
- Reviewing case files
- Providing advice on foreclosure rights and options
- Negotiating with servicers
- Assisting with nullifying rescue scams
- Providing advice and counsel to hotlines of participating counseling agencies
- Working with a counselor to help a homeowner
- Preparing documents for homeowners for non-civil litigation purposes
- In judicial foreclosures, any assistance prior to a foreclosure filing
- Mediation procedures that are non-court related

### **Secondary Legal Assistance:**

Eligible secondary legal assistance activities include, but are not limited to:

- Creating boiler plate forms
- Training of attorneys or legal staff. Grantees and Sub-grantees, Branches and/or Affiliates must contract with entities with experience in foreclosure law to provide trainings. It is in the interest of homeowners facing foreclosure throughout the nation that the availability of attorneys knowledgeable in the area of foreclosure prevention law be increased. Thus, Grantees will be permitted to use their Secondary Legal Assistance award to contract with entities that will provide training on topics within the parameters of the legislation – training cannot be related to the representation of clients for the purpose of civil litigation. Funds may be used for curriculum development or the training itself. Topics can include, but are not limited to:
  - The role and capacity of housing counselors
  - The documentation and other requirements of loan servicers for timely resolution
  - Recent state and federal legislation
  - Refinance and purchase funding programs
  - The lender/investor/servicer relationship

- General mortgage loan servicing requirements
- Loss mitigation options and qualification standards
- Best practices for counselor/realtor interactions with servicers
- Short sales, deed-in-lieu and other transactions
- Foreclosure fraud schemes and resources to prevent them

**Ineligible Activities**

No NFMC Program legal assistance funding can support legal representation involving or for the purpose of civil litigation, including the following activities:

- Representing homeowners in foreclosure proceedings
- Assisting homeowners when they are representing themselves in court
- Filing legal documents on behalf of a homeowner to initiate a civil complaint
- Bankruptcy filings
- Providing advice or counsel on judicial foreclosures if proceedings have begun or documents have been filed with a court

**Fees**

Contracting legal entities and Grantees, Sub-grantees, Branches and Affiliates with legal staff will receive up to \$500 for each client referred to them for Primary Legal Assistance by their partnering counseling agency.

It is not the intent that every legal session should be billed for \$500. Some sessions will be briefer and cost much less than this amount. If a session only costs \$150, it must be attributed accordingly so as to extend the reach of these legal assistance funds. If assistance to a client costs \$500 or more, the legal staff or contracting legal entity can only be reimbursed up to \$500 from the NFMC Program legal assistance funds.

The NFMC Program legal assistance funding is intended to maximize flexibility and optimize resources. Grantees and/or Sub-grantees, Branches and Affiliates will be required to develop a fee schedule before they expend NFMC Program legal assistance funding that includes a negotiated billable rate or presents different fees for various types of legal assistance. NeighborWorks® America reserves the right to request this fee schedule at any time.

Example #1: Intermediary/HFA Award where Sub-grantees, Branches and Affiliates are individually contracting with legal entities or utilizing legal staff: (NOTE: This example is an illustration only. It is not expected that Intermediaries or HFAs evenly distribute their legal assistance funding to their Sub-grantees, Branches and Affiliates)

Total Award:	\$150,000
Operational Oversight retained by HFA/Intermediary	<u>up to \$7,500</u>
Subtotal available to distribute to Sub-grantees, Branches or Affiliates:	\$142,500
Intermediary/HFA distributes evenly to 5 Sub-grantees, each award equals:	\$28,500
Operational Oversight retained by Sub-grantee	<u>up to \$ 1,425</u>
Subtotal	\$27,075
Primary Legal Assistance Activities of each Sub-grantee	at least \$23,014
Secondary Legal Assistance Activities of each Sub-grantee	up to \$ 4,061

Example #2 Intermediary/HFA Award where the Intermediary or HFA contracts directly with legal entities on behalf of its Sub-grantees, Branches and/or Affiliates or utilizes legal staff at the Intermediary/HFA level:

Total Award:	\$150,000
Operational Oversight	up to \$7,500
Primary Legal Assistance Activities	at least \$121,125
Secondary Legal Assistance Activities	up to \$21,375

Example #3 NeighborWorks® Organization Award:

Total Award:	\$65,000
Operational Oversight	up to \$3,250
Primary Legal Assistance Activities	at least \$52,488
Secondary Legal Assistance Activities	up to \$9,262

## Match Requirement

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Consistent with NFMC Program counseling fund requirements, Grantees will demonstrate 20% match for awarded NFMC Program legal assistance funds. Either the Grantee or its contracting legal entity must show documentation that it has provided 20% match. Recognizing the limits of time and financial resources, match requirements are defined as follows:

- Match can be provided by the Grantee, their Sub-grantees, Branches and Affiliates, or contracting legal entity or entities.
- Match can be cash or in-kind (e.g., staff time, office space, volunteer time, donated equipment, etc.). In-kind valuation will be considered consistent with requirements for other federal grant programs. Guidance is posted at [www.nw.org/nfmc](http://www.nw.org/nfmc).
- Match need not be new resources generated for this grant program, but must be related to foreclosure programs or practices.
- Other federal funds, with the exception of Community Development Block Grants (CDBG), may not be counted toward match requirements. Examples of federal funds ineligible for use as match include (but are not limited to) HUD Housing Counseling funds, Department of Justice funds, HOME funds, grants awarded by NeighborWorks® America to its chartered members from Congressionally appropriated dollars, grants awarded by Legal Services Corporation from Congressionally appropriated dollars, NFMC Round 1 grant funds, and funds used to match NFMC Round 1 or Round 2 grant awards.
- Examples of funds that are eligible for match include (but are not limited to): fees received from servicers or lenders for providing foreclosure counseling to clients not counted under this program; funds received to capitalize mortgage rescue funds; Community Development Block Grant (CDBG) funds; foundation and corporate grants received for operating a foreclosure counseling and mitigation program; municipal, county, or state grants for operating a foreclosure counseling and mitigation program (as long as the funds do not have a federal source); contract income; and unrestricted funds or net assets dedicated toward foreclosure efforts.
- The match “window,” or period within which the match must be expended or raised, extends from July 1, 2008 to December 31, 2009. Any expenditures related to the Grantee, Sub-grantee, Branch,

Affiliate, and/or contracting legal entity’s foreclosure mitigation efforts that occur between July 1, 2008 and the date award funds are received are eligible to be counted toward the match.

- All match need not be committed at the time of application, but can include funds expected to be raised during the year and any funds expended since July 1, 2008 related to foreclosure programs or practices. Once grant funds are awarded, draws will be contingent upon the Grantee’s ability to demonstrate at least the amount of match proportional to the draw amount, including the initial disbursement, has been committed or expended. If an applicant requested a match waiver for their NFMC Counseling Funds with their September 2008 application, such requests will be carried over and also considered for their legal assistance request.

**Examples Matching Funds Requirement**

	<b>Award</b>	<b>Necessary Match</b>
Total NFMC Program Counseling Award	\$200,000	\$40,000
Total NFMC Program Legal Assistance Funding Award	\$40,000	\$8,000
Total Amount Requiring Match	\$240,000	\$48,000

These match requirements can be satisfied in three ways:

**Example 1**

Contracting legal entity provides all matching funds for Legal Assistance Award of: \$8,000  
 Grantee, Sub-grantee, Branch or Affiliate provides all matching funds for Counseling Award of: \$40,000

**Example 2**

Contracting legal entity provides partial matching funds for Legal Assistance Award of: \$4,000  
 Grantee, Sub-grantee, Branch and/or Affiliates provides all remaining match funds of: \$44,000

**Example 3**

Grantee, Sub-grantee, Branch and/or Affiliates provides all match funds of: \$48,000

**Draw Requests**

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The draw schedule is designed to provide Grantees, Sub-grantees, Branches and Affiliates with sufficient up-front funds to strengthen their foreclosure legal assistance capacity, while linking future draws to legal assistance production. **NeighborWorks® America reserves the right to adjust individual Grantees’ draw schedules and amounts if funds are being expended more slowly than projected.** Grantees will receive 35 percent of their legal assistance award following execution of the Grant Agreement and receipt of related start-up documents.

The minimum number of clients projected to be served will be established in the grant agreement through a calculation of the estimated Primary Legal Assistance award divided by the maximum billable amount per client (\$500). Draws will also be based on this calculation. When Grantees can demonstrate that they have provided legal assistance to 25 percent of the total number of clients

established in their Grant Agreement, they will be eligible for a second draw. This draw will equal 30 percent of the legal assistance award.

When Grantees can demonstrate that they have provided legal assistance to 60 percent of the total number of clients established in their Grant Agreement, they will be eligible for a third draw. This draw will equal 30 percent of the legal assistance award.

The final 5 percent of the legal assistance award can be drawn after Grantees have achieved 100 percent of their production goal. Half (2.5 percent) will be disbursed upon completion of the final report and half (2.5 percent) upon completion of all the organization’s obligations related to the program evaluation.

Although the draws are tied to the minimum number of clients Grantees commit to serve, Grantees should report all clients referred for legal services using NFMC funds. Doing so will contribute to proper tracking and reporting on the overall effectiveness and impact of the program.

**Example Draw Schedule**

Legal Assistance Funding Award	\$100,000
Operational Oversight	(up to) <u>\$5,000</u>
Remaining Amount	\$95,000
Primary Legal Assistance (at least 85%)	\$80,750
Secondary Legal Assistance (up to 15%)	\$14,250

$\$80,750/\$500 = 162$  MINIMUM clients referred for legal assistance

	<b>Draw 1 (35% of total award)</b>	<b>Draw 2 (30% of total award)</b>	<b>Draw 3 (30% of total award)</b>	<b>Draw 4 (2.5% of total award)</b>	<b>Draw 5 (2.5% of total award)</b>
Number of Clients Referred	0	41	97	162	
Draw Amount	\$35,000	\$30,000	\$30,000	\$2,500	\$2,500
Match Requirement	\$7,000	\$6,000	\$6,000	\$500	\$500

The benefit of this draw schedule is that it can occur more rapidly than a set quarterly schedule in the event that Grantees experience (and respond to) high demand for legal assistance. It is tied to production, not to the calendar. However, after the first draw, Grantees will not be permitted to make additional draws unless they are current on their quarterly programmatic reports and can demonstrate proportionate match funds have been expended or committed.

Legal assistance goals will be included in Grantees’ Grant Agreement. If, in NeighborWorks® America’s sole determination, Grantees do not show substantial production in their reports filed at the end of each quarter, NeighborWorks® America reserves the right to recapture or de-obligate funds.

## Demonstrated Experience

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All applicants for legal assistance funds must certify that their legal staff, contracting legal entity or proposed contracting legal entity has at least one attorney trained in foreclosure-related legal issues and is able to provide quality legal services within 90 days.

Additionally, Intermediaries and HFAs must demonstrate they have the capacity to distribute funds to, communicate with, collect requisite data from, and monitor quality, outcomes, and performance of their Sub-grantees, Branches and Affiliates and their contracting legal entities. In addition, they must demonstrate the ability of their Sub-grantees, Branches and Affiliates to distribute funds to, communicate with, collect requisite data from, and monitor quality, outcomes, and performance of their legal staff or contracting legal entity or entities. All eligible Applicants with legal staff or contracting directly with a legal entity must also demonstrate these capabilities.

Applicant and legal entity understand that the grant period ends December 31, 2009 and, therefore, permanent foreclosure legal capacity cannot be supported with these funds.

It is expected that Grantees and contracting legal entities will make every effort to receive reimbursement for legal services from other sources to increase the sustainability of these services. NFMC Program funds are not meant to replace current or future funding arrangements between legal agencies and servicers, lenders, or other interested parties.

## Geographic Coverage

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If, after an initial review of applications, NeighborWorks<sup>®</sup> America determines that there is insufficient geographic coverage represented by the recommended Grantees, NeighborWorks<sup>®</sup> America shall have the right to grant funding to lower scoring applicants in order to achieve sufficient coverage in the MSAs with the highest home foreclosure rates. Intermediaries, HFAs and NeighborWorks<sup>®</sup> organizations working outside the MSAs with the highest home foreclosure rates are still eligible to receive legal assistance funding and are encouraged to apply.

## Other Program Requirements

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The following requirements must be met to receive NCFM Program legal assistance funding:

- No funds made available through this Funding Announcement shall be distributed to (1) an organization which has been indicted for a violation under Federal law relating to an election for Federal office; or (2) an organization which employs applicable individuals. Applicable Individuals means an individual who (a) is employed by the organization in a permanent or temporary capacity; contracted or retained by the organization; or acting on behalf of, or with the express or apparent authority of, the organization; and (b) has been indicted for a violation under Federal law relating to an election for Federal office.
- Contracting legal entities must certify to Grantee that they are authorized to do business and in good standing under the laws in the states where they propose to provide legal assistance

- Contracting legal entities, or legal staff hired by applicant, must certify to Grantee that all attorneys participating in the NFMC Program are admitted to practice law by the applicable state Bar. **(Note: this is a change as of 9/16/2008 – certification previously read, in error: Contracting legal entities, or legal staff hired by applicant, must certify to Grantee that all attorneys participating in the NFMC Program are members of the Bar Association of the state where they are practicing)**
- Clients receiving legal assistance must be advised at intake that in the event that civil litigation is warranted, they must rely upon an alternate source of funding for such activity.
- Legal services must be accessible to persons with disabilities, as well as to homeowners needing translation services.
- NeighborWorks® America will not permit discrimination by Grantees, Sub-grantees, Branches, Affiliates, or contracting legal entities. Applicant must certify that it will not discriminate against clients on the basis of their gender, race, color, religion, national origin, ancestry, creed, pregnancy, marital or parental status, familial status, sexual orientation, or physical, mental, emotional or learning disability.
- To ensure no financial barriers would prohibit clients from receiving foreclosure mitigation legal assistance, Applicants, their Sub-grantees, Branches and Affiliates, and their contracting legal entities agree not to charge fees (service fees, membership fees or otherwise) to clients in exchange for NFMC Program foreclosure legal assistance.
- Prior to disbursement, Grantees will be required to provide a detailed plan for fund allocation, including disbursement of funds to Sub-grantees, Branches and Affiliates. Intermediaries and State HFAs must certify they can disburse NFMC Program legal assistance funds received within 14 calendar days to their Sub-grantees, Branches and Affiliates. If legal staff at Branch offices are employees of the Applicant corporation, a separate account does not need to be established for each Branch, but Grantee should be able to demonstrate in reports that the funds were allocated and expended at the Branches indicated in their original application. Otherwise, reports should clearly demonstrate that the Grantee has disbursed funds in accordance with this provision.
- All parties must certify that they can reimburse their contracting legal entities within 14 calendar days of receiving an invoice.
- Each homeowner must be counseled at Level 1, 2 or 3 through the terms of the National Foreclosure Mitigation Counseling Program prior to being referred to legal staff or a contracting legal entity.
- No Grantee or contracting legal entity will receive more than \$500 for any one client.
- Clients that are referred to legal staff or a contracting legal entity must sign an authorization form permitting their housing counselor/agency and the legal staff/contracting legal entity to share the client's files where permitted by State Law and Bar Association rules.

## Post-Award Requirements

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- In addition to the data points required for NFMC Program counseling funding, Grantees will be required to collect the following additional information and enter it into the data collection system for each client receiving legal assistance: name of legal staff or contracting legal entity who assisted client; service(s) provided; number of legal hours spent on client's case; outcome(s) after completion of legal services; whether client had a legal issue outside the parameters of the NFMC Program legal assistance funding and what the issue was; and whether legal staff or contracting legal entity worked

with the client directly or with their counselor. Examples of services provided include interpreting loan documents, reviewing case files, and negotiating with servicers. Examples of reportable outcomes include negotiating a deed-in-lieu transaction, referring the client to pursue civil litigation, and negotiating a loan modification with a servicer.

- Quarterly Reports:
  - Quarterly reports must be filed on aggregate activity towards goals established in their Grant Agreement. Quarterly reports will include (but not be limited to) progress against legal assistance goals and provision of client level data.
  - Legal staff and contracting legal entities will be required to provide their partnering counseling agency with the necessary client-level data for all clients referred to them so the counseling agency can accurately complete their quarterly reports.
  - Reports will also include a narrative section on overall program activities, on successes and challenges encountered in helping clients avoid foreclosure or mitigate losses, and efforts to ensure the affordability of mortgages when clients retain their homes.
  - Grantees will also be required to report how they have spent their Secondary Legal Assistance funds, including information on training costs and the number of attorneys trained.
- All Grantees will segregate their National Foreclosure Mitigation Counseling Program legal assistance funding and maintain a separate budget for the funding.
- Upon the completion of the program, all Grantees will be required to report on their experience in the program, and to document expenditures. Intermediaries and HFAs are responsible for monitoring and reporting the expenditures of their Sub-grantees, Branches and Affiliates. Grantees must be able to furnish information on expenditures during the course of the NFMC Program's planned quality control and compliance measures.
- Grantees and contracting legal entities must also comply with a separate evaluation of NFMC Program legal assistance activity and client outcomes, which may occur up to June 30, 2011.
- Legal entities must comply with third-party quality control and compliance measures which may include site visits, file audits, and other measures to ensure compliance with requirements set forth in this Funding Announcement and terms of the Grant Agreement.

All award decisions are final. If Applicants request a debriefing meeting within 45 days of award announcements, NeighborWorks® America shall grant a meeting to discuss Applicant's application.

## Application Summary

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The application must be completed online, using NeighborWorks® America's GrantWorks system. No paper applications will be accepted. The application will utilize short answer questions to help expedite the application process.

The full application will be made available on GrantWorks between September 15, 2008 and September 26, 2008, and will be due September 26, 2008, at 8:00 PM EDT. No late applications will be accepted under any circumstance. The rating factors are summarized below. **Please note this is not the actual application, but is intended to provide potential Applicants with the type of information they will be asked to supply.**

While every effort has been made to write application questions clearly, NeighborWorks® America reserves the right to not score questions if responses indicate they were highly confusing to Applicants, and as a result were not helpful for scoring purposes.

## **Application Rating Factors**

**More specific information about how applications will be evaluated will be posted to [www.nw.org/nfmc](http://www.nw.org/nfmc) on September 15, 2008.**

### **Factor 1: Eligibility Certifications**

This section contains eligibility requirements all Applicants must meet and ensure their Sub-grantees, Branches, Affiliates and contracting legal entities meet in order to receive NFMC Program legal assistance funding. A check mark within each box signifies the Applicant agrees and certifies on behalf of their Sub-grantees, Branches, Affiliates and contracting legal entities that each criteria has been met. If an Applicant cannot certify that all are true, they are not eligible for funding.

### **Factor 2: Service Delivery Model**

In this section, Applicants will be asked for information on how the Applicant, or their Sub-grantees, Branches or Affiliates, will provide Primary Legal Assistance to clients, how they will supervise and collect information from their legal staff or contracting legal entity, how they will utilize their Secondary Legal Assistance funding, whether they will be able to begin utilizing the funds within 90 days, and how they will assist homeowners without using NFMC Program legal assistance funds for civil litigation.

### **Factor 3: Proposed Geographic Service Areas**

According to the statute, priority consideration must be given to organizations that provide legal assistance in the Metropolitan Statistical Areas with the highest rates of home foreclosures. This section will be evaluated based on whether the Applicant can commit to provide 60% or more of its legal services in one or more of these MSAs. Applicants who cannot commit to provide 60% or more of their legal services in the listed MSAs will still be eligible for legal assistance funds.

### **Factor 4: Match**

This section will be evaluated on whether or not the Applicant can document the required match amounts to receive its legal assistance award. The match amount will be based on the Applicant's requested legal assistance funding amount.

### **Request Amount**

Applicants will also be asked how much money they are requesting for legal assistance. To determine this amount, Applicants should multiply the number of clients they anticipate needing legal assistance by \$500, which is the maximum amount they can receive per client, then add the amount they are requesting for Operational Oversight and Secondary Legal Assistance.

## ***Exhibit 1: MSAs with Highest Home Foreclosure Rates***

By statute, priority consideration for the legal assistance funds must be given to the 100 MSAs with the highest home foreclosure rates. The following list was compiled using mortgage performance data provided by McDash Analytics, Inc. The data include both prime and subprime loans that are in the foreclosure process as of March 2008 and includes both the 100 MSAs with the highest percentage of homes in foreclosure and the 100 MSAs with the highest number of homes in foreclosure.

Dothan	AL
Mobile	AL
Montgomery	AL
Tuscaloosa	AL
Jonesboro	AR
Little Rock-North Little Rock	AR
Pine Bluff	AR
Phoenix-Mesa-Scottsdale	AZ
Tucson	AZ
Bakersfield	CA
El Centro	CA
Fresno	CA
Los Angeles-Long Beach-Santa Ana	CA
Madera	CA
Merced	CA
Modesto	CA
Oxnard-Thousand Oaks-Ventura	CA
Riverside-San Bernardino-Ontario	CA
Sacramento--Arden-Arcade--Roseville	CA
Salinas	CA
San Diego-Carlsbad-San Marcos	CA
San Francisco-Oakland-Fremont	CA
San Jose-Sunnyvale-Santa Clara	CA
Stockton	CA
Vallejo-Fairfield	CA
Yuba City-Marysville	CA
Colorado Springs	CO
Denver-Aurora	CO
Bridgeport-Stamford-Norwalk	CT
Hartford-West Hartford-East Hartford	CT
New Haven-Milford	CT
Washington-Arlington-Alexandria	DC-VA-MD
Cape Coral-Fort Myers	FL
Deltona-Daytona Beach-Ormond Beach	FL
Jacksonville	FL

Lakeland-Winter Haven	FL
Miami-Fort Lauderdale-Miami Beach	FL
Naples-Marco Island	FL
Ocala	FL
Orlando	FL
Palm Bay-Melbourne-Titusville	FL
Pensacola-Ferry Pass-Brent	FL
Port St. Lucie-Fort Pierce	FL
Punta Gorda	FL
Sarasota-Bradenton-Venice	FL
Tampa-St. Petersburg-Clearwater	FL
Vero Beach	FL
Albany	GA
Atlanta-Sandy Springs-Marietta	GA
Dalton	GA
Hinesville-Fort Stewart	GA
Macon	GA
Rome	GA
Valdosta	GA
Columbus	GA-AL
Augusta-Richmond County	GA-SC
Des Moines	IA
Boise City-Nampa	ID
Danville	IL
Kankakee-Bradley	IL
Peoria	IL
Rockford	IL
Springfield	IL
Chicago-Naperville-Joliet	IL-IN-WI
Anderson	IN
Bloomington	IN
Elkhart-Goshen	IN
Fort Wayne	IN
Indianapolis	IN
Kokomo	IN
Michigan City-La Porte	IN
Muncie	IN
Terre Haute	IN
Evansville	IN-KY
South Bend-Mishawaka	IN-MI
Topeka	KS
Elizabethtown	KY
Louisville	KY-IN

Alexandria	LA
Baton Rouge	LA
Monroe	LA
New Orleans-Metairie-Kenner	LA
Shreveport-Bossier City	LA
Boston-Cambridge-Quincy	MA-NH
Worcester	MA-NH
Baltimore-Towson	MD
Bangor	ME
Detroit-Warren-Livonia	MI
Flint	MI
Saginaw-Saginaw Township North	MI
Minneapolis-St. Paul-Bloomington	MN-WI
St. Louis	MO-IL
Kansas City	MO-KS
Jackson	MS
Goldsboro	NC
Greensboro-High Point	NC
Raleigh-Cary	NC
Rocky Mount	NC
Charlotte-Gastonia-Concord	NC-SC
Omaha-Council Bluffs	NE-IA
Vineland-Millville-Bridgeton	NJ
Albuquerque	NM
Las Vegas-Paradise	NV
Albany-Schenectady	NY
Buffalo-Niagara Falls	NY
Elmira	NY
Poughkeepsie-Newburgh-Middletown	NY
Rochester	NY
Syracuse	NY
New York-Northern New Jersey-Long Island	NY-NJ-PA
Akron	OH
Canton-Massillon	OH
Cleveland-Elyria-Mentor	OH
Columbus	OH
Dayton	OH
Lima	OH
Mansfield	OH
Sandusky	OH
Springfield	OH
Toledo	OH

Cincinnati-Middletown	OH-KY-IN
Youngstown-Warren-Boardman	OH-PA
Lawton	OK
Oklahoma City	OK
Tulsa	OK
Portland-Vancouver-Beaverton	OR-WA
Erie	PA
Pittsburgh	PA
Allentown-Bethlehem-Easton	PA-NJ
Philadelphia-Camden-Wilmington	PA-NJ-DE
Providence-New Bedford-Fall River	RI-MA
Charleston-North Charleston	SC
Columbia	SC
Greenville	SC
Sumter	SC
Cleveland	TN
Jackson	TN
Nashville-Davidson—Murfreesboro	TN
Chattanooga	TN-GA
Memphis	TN-MS-AR
Austin-Round Rock	TX
Dallas-Fort Worth-Arlington	TX
Houston-Baytown-Sugar Land	TX
San Antonio	TX
Wichita Falls	TX
Salt Lake City	UT
Richmond	VA
Virginia Beach-Norfolk-Newport News	VA-NC
Seattle-Tacoma-Bellevue	WA
Janesville	WI
Milwaukee-Waukesha-West Allis	WI
Racine	WI
Huntington-Ashland	WV-KY-OH
Weirton-Steubenville	WV-OH
Wheeling	WV-OH

***Exhibit 2: HUD-Approved Housing Counseling Intermediaries and State Housing Finance Agencies as of September 15 2008.***

Note: These entities are not automatically qualified agencies by virtue of their names appearing on these lists; rather, they are eligible if their names appear on these lists AND they meet the eligibility criteria outlined in this Funding Announcement.

**HUD-APPROVED HOUSING COUNSELING INTERMEDIARIES**

<b>Agency Name</b>	<b>City</b>	<b>State</b>
AARP	Washington	DC
ACORN HOUSING CORPORATION	Philadelphia	PA
CATHOLIC CHARITIES USA	Alexandria	VA
CITIZENS' HOUSING AND PLANNING ASSOCIATION, INC.	Boston	MA
HOMEFREE - U S A	Washington	DC
HOMEOWNERSHIP PRESERVATION FOUNDATION	Minneapolis	MN
HOUSING PARTNERSHIP NETWORK	Boston	MA
MISSION OF PEACE	Flint	MI
MISSISSIPPI HOMEBUYER EDUCATION CENTER- INITIATIVE	Jackson	MS
MON VALLEY INITIATIVE	Homestead	PA
MONEY MANAGEMENT INTERNATIONAL INC.	Houston	TX
NATIONAL ASSOCIATION OF REAL ESTATE BROKERS- INVESTMENT DIVISION, INC	Oakland	CA
NATIONAL COMMUNITY REINVESTMENT COALITION	Washington	DC
NATIONAL COUNCIL OF LA RAZA	Washington	DC
NATIONAL COUNCIL ON THE AGING	Washington	DC
NATIONAL FEDERATION OF COMMUNITY DEVELOPMENT CREDIT UNIONS	New York	NY
NATIONAL FOUNDATION FOR CREDIT COUNSELING, INC.	Silver Spring	MD
NATIONAL URBAN LEAGUE	New York	NY
NEIGHBORHOOD ASSISTANCE CORPORATION OF AMERICA	Jamaica Plain	MA
NEIGHBORHOOD REINVESTMENT CORPORATION	Washington	DC
NUEVA ESPERANZA	Philadelphia	PA
RURAL COMMUNITY ASSISTANCE CORPORATION	West Sacramento	CA
STRUCTURED EMPLOYMENT ECONOMIC DEVELOPMENT CO	New York	NY
WEST TENNESSEE LEGAL SERVICES, INCORPORATED	Jackson	TN

**STATE HOUSING FINANCE AGENCIES**

- Alabama Housing Finance Authority
- Alaska Housing Finance Corporation
- Arizona Department of Housing/Arizona Housing Finance Authority
- Arkansas Development Finance Authority
- California Housing Finance Agency
- Colorado Housing and Finance Authority
- Connecticut Housing Finance Authority
- Delaware State Housing Authority

District of Columbia Housing Finance Agency  
Florida Housing Finance Corporation  
Georgia Department of Community Affairs/Georgia Housing and Finance Authority  
Hawaii Housing Finance and Development Corporation  
Idaho Housing and Finance Association  
Illinois Housing Development Authority  
Indiana Housing and Community Development Authority  
Iowa Finance Authority  
Kansas Housing Resources Corporation  
Kentucky Housing Corporation  
Louisiana Housing Finance Agency  
MaineHousing  
Maryland Department of Housing and Community Development  
MassHousing  
Michigan State Housing Development Authority  
Minnesota Housing  
Mississippi Home Corporation  
Missouri Housing Development Commission  
Montana Board of Housing/Housing Division  
Nebraska Investment Finance Authority  
Nevada Housing Division  
New Hampshire Housing Finance Authority  
New Jersey Housing and Mortgage Finance Agency  
New Mexico Mortgage Finance Authority  
New York City Housing Development Corporation  
New York State Division of Housing and Community Renewal  
New York State Housing Finance Agency/State of New York Mortgage Agency  
North Carolina Housing Finance Agency  
North Dakota Housing Finance Agency  
Ohio Housing Finance Agency  
Oklahoma Housing Finance Agency  
Oregon Housing and Community Services  
Pennsylvania Housing Finance Agency  
Puerto Rico Housing Finance Authority  
Rhode Island Housing  
South Carolina State Housing Finance and Development Authority  
South Dakota Housing Development Authority  
Tennessee Housing Development Agency  
Texas Department of Housing and Community Affairs  
Utah Housing Corporation  
Vermont Housing Finance Agency  
Virgin Islands Housing Finance Authority  
Virginia Housing Development Authority  
Washington State Housing Finance Commission  
West Virginia Housing Development Fund  
Wisconsin Housing and Economic Development Authority  
Wyoming Community Development Authority