



## FREQUENTLY ASKED QUESTIONS ON LEGAL ASSISTANCE FUNDING

### Q1. Who is eligible to apply?

A. 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. Housing counseling agencies that are not members of the NeighborWorks® network cannot apply directly but must instead apply through an Intermediary of State HFA. Only applicants who are applying for NFMC Program counseling funds in September 2008 (in the second round of applications) will receive legal assistance funding. An applicant will not receive more in legal assistance funding than they have requested in the application.

### Q2. What does it mean that the funds cannot be used for civil litigation?

A. The legislation states 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. Any activity where a client would have interaction with a court (i.e., proceedings or filings) is not eligible for NFMC Program legal assistance funding. Once the determination has been made that the homeowner must pursue civil litigation, no NFMC Program legal assistance funding can be utilized for this client to bring civil litigation.

Counselors and legal staff or contracting legal entities cannot use NFMC funds to represent homeowners in foreclosure proceedings, assist homeowners when they are representing themselves in court, prepare or file legal documents on behalf of a homeowner to initiate a civil complaint, prepare or file legal documents for bankruptcy, or advise or counsel homeowners on judicial foreclosures if proceedings have begun or documents have been filed with a court.

### Q3. I work in a state with judicial foreclosures, what can I use my legal assistance funds for?

A. If a homeowner is facing judicial foreclosure, but it hasn't been filed yet, your legal staff or contracting legal entity can assist that client the same as any other client. Examples of eligible assistance options are interpreting loan documents, reviewing case files, negotiating with servicers, and assisting with nullifying rescue scams (more examples are available in the Funding Announcement).

Once a judicial foreclosure has been initiated, the legal staff or contracting legal entity cannot use NFMC funds to assist the homeowner, and their counselor cannot seek advice from the legal staff or contracting legal entity.

Grantees can use legal assistance funds for other activities as defined in the Funding Announcement, but the funds cannot be used to assist with or initiate a proceeding that involves a court of law.

**Q4. Can legal assistance funds be used to assist a tenant of a property that is in foreclosure?**

A. No. The funds can only be used to assist owner-occupants of single-family (one- to four-unit) properties.

**Q5. Can we hire an attorney with these funds?**

A. Yes; 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 NFMC Program legal assistance funds are expended.

**Q6. Do I need to have a contract with a legal entity in place when I apply?**

A. You do not have to employ legal staff or have a contract with a legal entity in place at the time of application. However, the legislation requires that legal staff or contracting legal entities must be able to start receiving referrals and using funds within 90 days of receipt.

**Q7. What training opportunities will be available for attorneys through this program?**

A. 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. NFMC Program legal assistance funding 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.

**Q8. Can an Intermediary or HFA be billed by their Sub-grantee's legal entity and be responsible for compiling the data they collect from clients, or does the Sub-grantee have to handle these responsibilities at their level?**

A. An Intermediary or HFA can handle the administrative requirements of the legal assistance funds and collect data from the legal entity and oversee their billing. The Intermediary or HFA must ensure that the Sub-grantee who conducted the initial counseling receives copies of all paperwork for each client so that their files are complete. Also, if the Intermediary or HFA is conducting all program oversight, the Sub-grantee will not be eligible for the operational oversight portion of their award that is intended to compensate them for administrative responsibilities.

**Q9. If our legal staff or contracting legal entity conducts a group session, how would this be billed?**

A. A group session would be billed by dividing the number of clients in attendance by the fee of the legal staff or contracting legal entity for conducting the group session. For example, if an attorney charged \$2,000 for leading a session of 15 eligible homeowners, the Grantee would be able to receive \$133 per eligible homeowner in NFMC Program legal assistance funding.

Please note that in order for NFMF Program legal assistance funding to be used in this scenario, each homeowner attending the group session would have previously had to receive counseling from a NFMF Program counselor, who would also have had to create a client file for this homeowner (as all clients eligible for NFMF Program legal assistance funding must receive NFMF Program counseling prior to legal assistance.)

**Q10. Can our legal staff or contracting legal entity assist with mediations?**

A. Yes, as long as it isn't a court-ordered mediation or mediation otherwise sponsored or affiliated with the court.

**Q11. Can the funding be used to help a customer determine whether they qualify for bankruptcy or if bankruptcy is the right option?**

A. The funds can not be used for civil litigation. The funds can be used to help a client determine his or her options. This would include determining if bankruptcy is an option. If it is determined that bankruptcy or other civil litigation will be pursued then other funds must be used to fund such activity.