

Housing Stability Counseling Program Events of Default and Remedies Policy

Adjustments or clarifications since April 20, 2022
are in red font throughout this document

Updated: September 29, 2023

Housing Stability Counseling Program

Events of Default and Remedies Policy for Grantees

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Housing Stability Counseling Program

Events of Default and Remedies Policy

I. Introduction

The Housing Stability Counseling Program (HSCP) was launched in March 2021 with funds appropriated by Congress to deliver housing counseling services directly to households facing housing instability, such as eviction, default, foreclosure, loss of income, or homelessness. The Congressionally-chartered Neighborhood Reinvestment Corporation, doing business as NeighborWorks® America (NeighborWorks), developed and manages the Housing Stability Counseling 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 housing counseling services 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 (CCEs). For the purpose of this Default and Remedy Policy, branches and affiliates are referred to as “Sub-grantees”.

Because HSCP is a federally appropriated program, NeighborWorks and the HSCP Grantees are accountable to Congress, the Office of Management and Budget, and the United States taxpayers. NeighborWorks regularly monitors HSCP progress and compliance of its HSCP Grantees. A Grantee can be found non-compliant through several measures, as outlined in the Funding Announcement and Grant Agreement, which governs HSCP requirements. This Default and Remedy 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 HSCP Events of Default and Remedies Policy (the “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 HSCP 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 and renters 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 HSCP. 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.

Questions regarding this Policy should be addressed to:

NeighborWorks America
Attn: Patricia Channel, Manager, Quality Control and Compliance
counseling@nw.org

II. Conveyance of Compliance Requirements and Resources

A. Conveyance of Requirements. HSCP grantees must follow applicable federal, state and local laws. Specific HSCP grant compliance requirements are outlined in the following documents, which all Grantees agree to adhere to upon acceptance of the HSCP grant award:

1. HSCP Funding Announcement; **and**
2. OMB Uniform guidance circular 2-CFR-200 with the following Subparts; **and**
 - 2-CFR-200 – Subpart B – General Provisions
 - 2-CFR-200 – Subpart E – Cost Principles
 - 2-CFR-200 – Subpart F – Audit Requirements

Grantees can find additional information regarding the guidance at the Federal Register website:
<https://www.federalregister.gov/documents/2013/12/26/2013-30465/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards>.

3. Notice of Intention to Award Funds; **and**
4. HSCP Grant Agreement; **and**
5. All HSCP Guidance Memoranda distributed via email and/or posted on the HSCP Members' Site (e.g., Guidance on Proper Disposal and Protection of Client Information).

Resources. NeighborWorks has a team of staff dedicated to the HSCP grant who will be ensuring the quality of housing counseling provided under the program and supporting Grantee's 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 Grantees and/or new grant management staff to facilitate understanding of program requirements.
2. Access to the HSCP website and links to reference materials as noted under the conveyance of compliance section above; and guidance that includes forms available to counselors to use that comply with HSCP requirements, a sample action plan, documentation checklist, client authorization form, and a checklist for quality control and compliance expectations for program reviews.
3. A series of live and recorded webinar trainings will be held as needed on a variety of compliance topics.

Examples include:

- a. Overview of the programmatic/client file compliance review process
- b. Overview of programmatic and client file findings with related consequences
- c. Regularly updated FAQ on the website

4. Access to a dedicated email inbox (Counseling@nw.org) for compliance-related questions and answers and access to send documents securely through Hightail. A Hightail User guide is provided and can be found on the HSCP website at: <https://www.stablecommunities.org/HSCP/Resources>.

III. Events of Default

This section provides the general process that HSCP 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 HSCP.
 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, HSCP Funding Announcement, applicable Uniform Grant Guidance (OMB Circulars), NeighborWorks-issued guidance memoranda, HSCP audit requirements, Notice of Intention to Award Funds, or warranties and assurances.
 2. Grantee fails to expend funds in accordance with HSCP 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 housing counseling services or the use of federal funds.
 - a. The term “investigation” shall not include a regularly scheduled review by government agency (as required for licensure) or any labor or employment matters that do not relate to housing counseling services 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.
- B. 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 HSCP Quality Control and Compliance reviews (Programmatic and Client File)
 2. Reports of non-compliance by third parties such as media, government agencies, Grantee's clients, and/or whistle blowers
 3. Reviews of audited financial statements and Uniform Grant Guidance (OMB Circular) Single audits.
- C. Notice of Event of Default. If NeighborWorks becomes aware of an Event or Events of Default, NeighborWorks' the HSCP Manager, 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 HSCP 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)
- D. 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 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 Online Reporting System (ORS)
 - b. Freeze disbursements to Grantee
 - c. Place Grantee on "Suspended" status if the Event(s) is considered to be severe and/or persistent.

- E. Successful Remedy of Events of Default. If Grantee is able to address the Event(s) of Default to the satisfaction of NeighborWorks management, HSCP management may lift penalties imposed during the Corrective Action Time Period, allowing the Grantee to resume full participation in HSCP. NeighborWorks will provide the Grantee written notification of 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.
- F. 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 is 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 HSCP 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 15 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 period beyond 15 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 HSCP units of counseling into the Online Reporting System, and
 - (2) All disbursements to Grantee shall be frozen.
2. “Default” Status. If, after being in “Suspended” status for 15 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 15 calendar days. After 15 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, and may be redeployed in accordance with the requirements of the HSCP.
 - (4) Use information learned during the Events of Default process in consideration of future funding decisions.
 - (5) Take other administrative or legal remedies available.

- G. Impact of Default on Further Funding. NeighborWorks may consider Grantee's Suspensions and Defaults, the severity of Grantee's quality control and compliance findings, timeliness and completeness of corrective action, and Organizational Health Ratings (NWOs only) in future grant applications and funding decisions for Grantee. Per the HSCP Funding Announcement, all applicants are permitted to request a debriefing for discussion of all factors contributing to the application review findings and subsequent funding decisions.

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

Reports of non-Compliance and Financial Management Concerns are *typically* raised to HSCP staff in one or more of the following ways that are discussed in more detail in the following Subsections: (A.) Findings are discovered during HSCP on-site or remote Standard Quality Control and Compliance Reviews; (B.) Findings are discovered during HSCP Client File Review; (C.) Review of applicants' audited financial statements, OMB Single 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; or (E.) HUD notifies HSCP management of compliance concerns or suspension from HUD Housing Counseling program.

NeighborWorks and any third-party firm will conduct on-site compliance reviews as long as federal, state, and local protocols regarding COVID restrictions allow for in-person meetings.

A. Standard Quality Control and Compliance Reviews. The HSCP 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 or CCE locations reviewed. Risk ratings determine how often and in what way Grantees receive Compliance Reviews.

Standard Quality Control and Compliance Reviews - may consist of either Onsite or Remote Programmatic Reviews depending on risk rating. Grantees are tested, along with a subset of Sub-grantees and CCEs from every Housing Finance Agency (SHFA), HUD Approved Housing Counseling Intermediary and NeighborWorks organization. Grantor and grantee will cooperate to ensure maximum COVID safety during any in-person contact, including on-site reviews.

Client file reviews - consists of HSCP counseling client file testing, selecting a sample of client files reported to the Online Reporting System that may include both direct Grantee's files and a sample of its Sub-Grantee and/or CCEs counseling files.

1. Risk Rating System Factors. Budget permitting, Grantees will receive either an on-site or remote review. The status of the pandemic may cause all reviews to be remote. 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. Findings from audited financial statements, management letters, OMB Circular Single Audit and litigation disclosure
 - c. Organizational Assessment Rating (NWOs only)
 - d. Experience participating in monitoring and compliance by HUD
 - e. Event Of Default, Suspension, or Default Determination status from grants in which Grantee has been awarded funding
 - f. Number of Sub-grantees or CCEs, 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 HSCP. The following documentation, practices, and procedures are among those reviewed.
- a. Organization and Programmatic Compliance
 - (1) Most recent audited financial statements and OMB Single Audit report.
 - (2) Agency budget and HSCP expenditures.
 - (3) Record Retention Policy.
 - (4) Anti-Discrimination Policy.
 - (5) Ability to provide services in the languages spoken by client populations.
 - (6) Verification of Fidelity Bond Insurance policy or honesty insurance policy naming NeighborWorks as an additional insured for \$100,000 or the amount of the HSCP grant, whichever is less. A State HFA only may request a waiver from this provision by providing a statement in writing that it has comparable insurance covering acts of their employees.
 - (7) Data security/Protection of Personal Identifiable Information.
 - (8) Accessibility for persons with disabilities, as required by the Americans with Disabilities Act and other federal and state regulations.

B. Client File Compliance Reviews. The HSCP conducts an annual Client File review testing a sample of selected client files reported via the Online Reporting System to ensure that Grantees are adhering to the mandated terms of the Grant Agreement. Client File Reviews are conducted remotely and include a sample of files from the direct grantee and their Sub-grantees or CCEs, if applicable. Grantees will be given one opportunity to cure. Risk ratings determine which Grantees receive a Client File Review. Client File testing includes but is not limited to the following:

- (1) Level 1 Testing:
 - a. Intake form – Organization must conduct an intake and collect information including client name and address, basic demographic information, lender and loan information, landlord and lease information, reason for housing instability and other housing instability related documentation. Organization must also collect recent documentation (must be within 30 days of intake date) of all reasonable opportunities for income including but not limited to:

unemployment and other public benefits, tax returns, pay stubs, profit and loss statements and third-party verifications; and expenses, including but not limited to: mortgage statement, rental lease agreement, monthly bills, bank statements, credit card statement and utility bills. Note: a credit report alone does not satisfy the budget requirement. Any client communication with landlord/servicer must also be collected, if applicable, to determine the urgency and severity of the client's need, including but not limited to an eviction notice, Notice of Default, or Notice of Sale.

- i. If during intake, a crisis situation is identified, Level 2 counseling should take place within two (2) business days from the date of intake and initial counseling. The dates of Level 1, and if needed, Level 2 counseling should be noted on the Action Plan along with the date of follow-up. Examples of a crisis situation may include a pending eviction, a pending foreclosure sale date, insufficient funds to cover basic needs such as utilities or medications, or other emergent situations identified by the client and/or agency.
- ii. If a crisis situation is identified, a crisis budget is required to be in the file. The crisis budget should include plans to prioritize immediate needs such as shelter, transportation, medications, utilities, etc.
- b. Disclosure Statement - signed by client or electronic signature. Proof of signatures must be maintained in the file. The disclosure statement must explicitly describe the various types of products and services the organization provides and any financial relationships between the Grantee, Sub-grantee or CCE, and any other industry partners. The disclosure must state clearly that the client is not obligated to receive any other services offered by the Grantee, Sub-grantee or CCE, its exclusive partners, or third-party entities to which a client is referred for additional services. This must be presented to the client at the time of intake.
- c. Authorization. (Revised 11/04/2022) Organizations must collect as signed authorization form from the client or have other legally permissible client authorization on record that will allow the organization to (a) pull a credit report at intake (it is recommended, but not required, that credit scores are procured with the credit report) or opt out of credit being pulled; (b) submit client-level information to the ORS for this grant, (c) allow HSCP to open files to be reviewed for program monitoring and compliance purposes, and (d) allow HSCP to conduct follow-up with the client related to program evaluation.
 - i. Clients may opt out of (a) if the client provides a credit report dated within 30 days of the intake date or if client declines to have their credit pulled. Clients can also opt out of (d) but proof of this must be retained in the client's file. Clients that opt out of (a) and do not have a credit report that was dated within 30 days of the intake date must have a justification in the client file to document why a credit report was not pulled in order to report to the ORS for payment by HSCP. Clients that opt out of (b) or (c) cannot be reported to the ORS for payment by HSCP.

To properly account for the credit report requirement, Grantee must have one of the following in the in the client file:

- a. Credit report dated within 30 days of the intake date; OR
- b. Counselor notes within 30 days of the intake date that documents credit report

- was reviewed. The counselor's notes should include the following:
- i. Source of credit report (Equifax, Transunion, Experian);
 - ii. Name of the client whose credit was pulled;
 - iii. Date of the credit being pulled;
 - iv. What on the credit report was reviewed.
- c. Counselor notes documenting that credit report was not pulled and justification documenting the reason.

Note: Grantees may charge a nominal fee for pulling credit reports if the cost does not deter clients from seeking counseling.

- d. Privacy Policy – signed by client or electronic signature. Proof of signatures must be maintained in the file. Such proof can include a statement signed by the client indicating receipt or an electronic signature, if applicable. If the policy is mailed to the client, the Grantee must keep on file proof that the policy was sent to the client via email or postal mail. Having access to the privacy policy on the organization's website does not satisfy this requirement unless there is affirmative confirmation and documented proof that the client has reviewed the policy in the file. Please note that clients who are given the choice to “opt-out” of the organization's privacy policy provision allowing for the sharing of their information with affiliated third parties and choose to do so cannot be reported to the ORS for payment by HSCP.
- e. Documented proof of service (e.g. Triage, Budget, Action Plan).

Note: NeighborWorks America will accept non-wallet identification as a signature, with the following parameters:

- HSCP documents authorized by the client using non-wallet identifiers must be present in the file and include the date when the non-wallet identifier was received and a copy of the script/language that was used by the counselor to obtain the non-wallet identifier.
- The use of electronic signatures is voluntary. Grantees that utilize electronic signatures must fully comply with all applicable law – including the E-SIGN Act and the Uniform Electronic Transactions Act (UETA). **HSCP will not request or accept recorded client counseling sessions in lieu of wet signatures, e-signatures, and /or non-wallet identification.**

Authorization/Privacy Policy/Disclosure. (Revised 11/04/2022). Obtaining the authorization should have been completed during Level 1 counseling. If it was not obtained, organizations must obtain during Level 2 counseling. Please see guidance in Level 1 for more guidance on Authorization, Privacy Policy, and Disclosure.

Note: it is acceptable for organizations to combine the authorization form, disclosure statement, and privacy policy into a single document as long as the client signs the document, and the agency retains a copy in the client file.

- (2) For level 2 testing:
- a. Authorization – see above for required language.
 - b. Disclosure– see above for required language.
 - c. Privacy Policy– see above for required language.
 - d. Budget Verification – Counselors should take appropriate action to verify the budget. Acceptable budget verification includes:
 - i. Traditional budget verification – Budget verification with supporting

- materials income source (paystubs or third-party income verification) and debt (credit report or other verification of debt).
- ii. Counselor Notes – In cases where the client was provided counseling that met Level 2 requirements and no budget verification PII was maintained in the client file, the counselor must explain and attest via the counselor notes the reason that PII was not maintained. Counselor notes must be dated and maintained in the client file.
 - iii. **Other evidence that the counselor verified the client budget – Validation that the counselor assisted client with a foreclosure/eviction prevention application to a program/benefit that required budget verification. This could include, but is not limited to, email communication between the client and the counselor on the required financial qualifications to apply to the program, calculation of the budget verification, etc. All documentation must be dated and clearly identifiable.**
- e. Verification of Action Steps - Counselors should take appropriate action upon the steps outlined in the written Action Plan created during Level 1 counseling. Counselor must have documented evidence of “action” taken by or on behalf of the client. This requires more than counselor’s notes; it also requires documentation that action took place, which could include but is not limited to the following **acceptable options**:
- i. **Emails or letters corresponding with, or attempting to correspond with, the landlord, servicer, or lender.**
 - ii. Determined eligibility for rent relief, other financial assistance and/or public benefits, including but not limited to unemployment, Medicaid, utility assistance and Paycheck Protection Program (PPP) loans; and help the client complete and submit applications for such relief.
 - iii. Discuss eviction or foreclosure process and general rights; and make a referral to legal assistance when necessary. Referrals require documented evidence in the client file.
 - iv. Document an attempt to contact the landlord, servicer or lender via email, fax transmission receipt, or postal mail receipt. The outcome of all communication must be documented in the client file.
 - v. Help the client draft and submit a hardship letter to the landlord or servicer that describes the client’s situation, reason for delinquency, factors that should be considered when developing a workout plan, an estimate of the housing cost the client can afford to pay, and timeframe for returning to full payments.
 - vi. If a workout is possible, help the client complete and submit forms required by the landlord or servicer to move forward with a workout plan, loan modification or other available program. Verification that documentation was submitted via fax transmission receipt, email, or postal mail must be retained in the client file.
 - vii. Assist in situations where the client elects to pursue new housing options, or must move into temporary or transitional housing, and document the assistance that took place and communication with pertinent parties via emails, fax transmission report, or postal mail. A referral list of real estate agents for a short sale, or other sale options, must include at least three real estate agents and the client’s signature stating they received the referral list. This signed referral list should be retained in the file. Please note that “referring” a client back to the

landlord/servicer/lender is not considered a referral.

(3) Follow-up:

All HSCP clients require a follow-up. The counselor should document the follow-up activities utilizing their Client Management System and in the Online reporting system. The follow-up should also document client close-out or the end of HSCP counseling.

- a. Follow-up – Follow-up activities such as sending the follow-up letter or closing out the file does not need to be conducted by a Housing Counselor as defined in Definition 8 on Page 4 of the funding announcement, however, please note that counseling activities must be conducted by a counselor.
- b. Follow-up may be conducted 30-60 days following Level 1 or Level 2 counseling. Counselor must make a reasonable effort to have follow-up communication with the client to assure that the client is progressing toward their housing goals, to modify or terminate housing stability counseling, to learn and report outcomes, if applicable and to close-out the file.
 - i. The counselor should conduct a follow-up session within the first 30 days following Level 1 or Level 2 counseling. **The letter or email should identify that the Housing Counseling Agency is still available to assist them in achieving their housing goals. A copy should be maintained in the client file.**

C. Sub-grantees, and CCEs. The Direct Grantee is responsible for ensuring compliance of all its Sub-grantees or CCEs 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 the Funding Announcement.

- (1) Ensuring Sub-grantees and/or CCEs are tracking grant funds and HSCP expenditures separately.
- (2) Monitoring Sub-grantees and/or CCEs for compliance HSCP and service quality.
- (3) Ensuring that Sub-grantees and/or CCE, 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.
- (5) Grantee must ensure its Sub-grantees or CCEs complete independent audits within nine (9) months of completion of their most recent fiscal year. If Sub-grantee or CCE has revenues less than \$300,000 annually AND receives less than \$25,000 in HSCP funding, the Sub-grantee or CCE may submit reviewed or compiled financial statements in lieu of independent audited financial statements.

D. Compliance Review Notifications. HSCP Grantees, Sub-grantees and CCEs selected for compliance testing, will receive a Compliance Review notification letter and from HSCP staff or its third-party compliance vendor. HSCP will require an acknowledgement receipt of the Compliance Review notification 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 HSCP 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 HSCP's Quality Control and Compliance staff and/or its third-party HSCP 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 if not addressed.

- a. Findings and Recommendations - if findings are made, they will be a direct result of the following.
 - (1) Missing required HSCP documentation.
 - (2) Missing required language from HSCP documents.
 - (3) Nonconformity with HSCP guidelines, as defined in the Grant Agreement, Funding Announcement, 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 15 calendar 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 HSCP Manager for Quality Control and Compliance.
 - (2) Grantees must respond to all "Findings Noted" and include documented, actual evidence that it is in compliance with HSCP 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 HSCP staff determining that the Grantee is in compliance with HSCP requirements, then HSCP staff will validate that the findings have been resolved by the Grantee, Sub-grantee, or CCE, and notify the Grantee.
- c. Failure to Respond.
 - (1) If within 15 calendar days the Grantee does not respond to the Compliance Notification, the Compliance Review Results Letter or has not adequately responded to all the findings and recommendations in the Compliance Review Results Letter, written correspondence from the HSCP 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 HSCP compliance should be addressed to HSCP Quality Control and Compliance staff.
 - (c) A reminder that assistance is available from HSCP staff.
 - (d) Notification that a lack of response within the next 15 calendar days:
 - i. Will result in grant disbursements being placed on hold, and the inability to upload new cases into the HSCP Online Reporting 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, HSCP staff may engage its Regional Offices to assist in soliciting responses from Grantees that are NeighborWorks organizations.
 - (2) If after 15 calendar days from the date the response was due, or the Grantee has not adequately responded to all findings in the compliance Review Results Letter, then the Grantee will be determined to be out of compliance, and HSCP staff will provide a "Notice of Event(s) of Default," and may place the Grantee in "Suspended" status.

HSCP 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 a 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 correspondence VIA email from the HSCP stating its response requires additional documentation for review. This correspondence will state that Grantee has 15 calendar days from the date of the correspondence to provide required documentation and will offer Grantee an opportunity for a conference call. To ensure delivery, HSCP staff will send email with delivery and read receipts.
 - (2) HSCP 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, HSCP staff may invite the Regional Vice President, Relationship Manager, and/or Home Ownership Management Consultant to attend the call. If a conference call occurs, HSCP staff will provide a written follow up via email that Grantee may confirm with a reply and any clarifications.
 - (3) If within 15 calendar 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 HSCP compliance should be addressed to HSCP.
 - (c) A reminder that assistance is available from HSCP 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 HSCP Online Reporting System, and
 - ii. May result in serious funding consequences.
 - (4) If after 20 calendar days the Grantee has still not responded, then further written correspondence will be sent which will include notification that grant disbursements are now on hold, Grantee will not be able to upload cases into the HSCP Online Reporting 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 calendar 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 HSCP guidelines.
 - (2) It is not able to provide missing documentation from client files.
 - (3) It is not able to show evidence that HSCP policies are being followed.
 - a. 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 housing stability 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 housing 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 housing counseling or the use of federal funds.

b. 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 HSCP for funds paid to counsel the client(s) in question, including Program Related Support and Operational Oversight, if applicable.
- (4) The HSCP 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.
- (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 or CCEs, 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, HSCP 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) HSCP 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, HSCP 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) HSCP 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.).

a. "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 the client's 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 (counseling notes are not sufficient evidence of action taken) and date counseling occurred is indicated.
- (3) Follow-up Files
 - (a) Proof of follow-up letter to the client requesting a follow-up session after Level 1 or Level 2 counseling.

E. Audit Reviews.

1. Initial Applicant Audit Review
 - b. Intermediaries and State Housing Finance Agencies (SHFAs). As part of its grant application process, HSCP staff reviews and analyzes the complete audit package for all Intermediaries and SHFAs and includes the following.
 - (1) The most recent fiscal years audited financial statements.
 - (2) OMB Single Audit reports.
 - (3) Management letters, organizational responses to the management letters, and any clarifying documentation requested.
 - c. NeighborWorks organizations (NWOs). NWO audits are regularly reviewed and analyzed as part of NeighborWorks' organizational assessment procedures but are reviewed again during the HSCP grant application process.
2. Audit Ratings. For all applicant types - NWOs, SHFAs and Intermediaries – the Manager, Quality Control and Compliance along with NeighborWorks Financial Analysts review the audit opinion, litigation disclosure, audit of federal awards report and schedules, and management letters for compliance findings, material weaknesses, significant deficiencies, and other control matters. Each applicant is issued a risk rating of low, medium or high.
 - a. LOW. Low risk ratings are assigned to applicants with an unmodified audit opinion, no contingencies, and no findings related to their audits. If there are other comments in the management letter, they should not be of concern related to the management of the HSCP program.
 - b. MEDIUM. Medium risk ratings are assigned to applicants that have audits which identify internal control deficiencies or other matters identified that are of concern to the HSCP 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 HSCP 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 HSCP 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 yearly 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 HSCP 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 the following adjusted disbursement schedule options, dependent upon how severe or persistent the Grantee's challenges are.
 - (1) Modified Disbursement Schedule. Grantees that are placed on a modified disbursement schedule will have 50% of their payment paid upfront and 50% based on meeting applicable client production.
 - (2) Strictly Reimbursable Schedule. Grantees that are placed on a Strictly Reimbursable schedule will be paid based on meeting applicable client production, not prior to meeting client production thresholds for payment.
 - (3) Client File Testing Review Disbursement Schedule. Grantees that are placed on Client File Testing reviews will be notified via email by the HSCP staff with instructions to upload selected client files, including the supporting client file documentation to NeighborWorks' secured portal. In the event the disbursement threshold yields less than the minimum selection requirements, HSCP staff will select the subsequent threshold for testing. If the Grantee completes one consecutive Client File Testing reviews during one consecutive disbursement thresholds with no findings, the Grantee will return to the standard HSCP disbursement schedule without the Client File Testing review requirement.

Client File Testing review may be increased 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.
 - c. NeighborWorks reserves the right to place Grantees on an Adjusted Disbursement Schedule at its sole discretion.
 - d. If Grantee can address the risks noted in the application review process prior to September 17, 2021, the grantee may request HSCP staff to reconsider the modified or strictly reimbursable grant payment schedules. HSCP management may lift the modified schedule if HSCP staff and NeighborWorks management are satisfied that the risks have been resolved. NeighborWorks will provide the Grantee with written notification of the successful remediation of the risks noted in the application phase. NeighborWorks reserves the right to thereafter ensure continued compliance by placing additional conditions on the Grantee that are appropriate and relevant to the risks noted, 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 risks are remedied
4. Responses When Audit Findings Are Severe or Persistent. When findings are more severe, directly related to HSCP funds, and/or persistent, the HSCP may use one of the remedies below. The HSCP 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. Suspend disbursement of grant funds
 - 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.

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

- a. Clients that received or attempted to receive services from the Grantee
 - b. Former or current employees of the Grantee
 - c. Former or current Sub-grantees or CCE of the Grantee
 - d. Peer organizations of the Grantee
 - e. Media
 - f. Whistleblowers
1. Notifying Grantee
- a. NeighborWorks will send an email to the point of contact that was provided by the Grantee to schedule a telephone call. In the call, NeighborWorks will notify the Grantee of the complaint whether provided in writing or by 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 bower 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 HSCP Manager for Quality Control and Compliance and Program Manager reaches out to both parties to understand the concerns.
 - b. Non-Compliance Allegation. If an allegation of non-compliance is revealed, the Manager 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 HSCP 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.

G. 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 Single Audit Filing Requirements
 - (1) Event: The Grantee for HSCP funds has not filed its OMB Single 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. The nine-month requirement may be adjusted if OMB adjusts the filing deadline.
 - (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 Single Audit, 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. HSCP Program Quarterly Reports
 - (1) Event: The Grantee is not current on its quarterly reports then it cannot receive disbursements of HSCP funds.
 - (2) Remedy: Grantee must submit the report and have it accepted by the HSCP staff.
 - c. Reporting of Sub-grantees
 - (1) Event: The Grantee has not notified NeighborWorks of changes to its list of Sub-grantees or CCEs, during the grant period. The HSCP Online Reporting System will not allow data for unrecognized/unreported Sub-grantees or CCEs to be uploaded.
 - (2) Remedy: Grantee must notify NeighborWorks of changes to its approved list of Sub-grantees or CCEs.
 - 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 HSCP. 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 HSCP 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 housing stability 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 housing stability 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. 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 complying with the law or regulation in question.
- g. "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 HSCP 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. To be reinstated to the HSCP, 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.
- h. 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 populations.
 - (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 HSCP reviews these plans and works with Grantee until an acceptable plan is submitted.

If unforeseen circumstances arise that limit the Grantee's ability to stay within allowable variances of 25 percent of their predetermined goals, the Grantee should proactively communicate via email to counseling@nw.org.
- i. Spending Down Grant Award
 - (1) Event: A Grantee is not spending down its grant award within the grant period and therefore risks recapture or de-obligation of funds.

- (2) Remedy: If a Grantee is not able to spend down its entire grant award during the grant period, remaining grant money can be returned to NeighborWorks.

NeighborWorks reserves the right to adjust individual Grantees' disbursement schedules and amounts at its sole discretion, for reasons including but not limited to if funds are being expended more slowly than projected or if an audit or compliance review provides reasons for a more conservative disbursement schedule to be implemented.

j. Poor Performance

- (1) Event: A Grantee that performs poorly under the HSCP in one or more of the following areas may have its future awards with NeighborWorks reduced:
 - (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 related to future NeighborWorks funding.

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

The Funding Announcement governing the Grant Award states that 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

1. Only One Appeal. A Grantee will have one chance to appeal to the office of the Chief Executive Officer of NeighborWorks.
2. 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.
3. 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 HSCP Manager, Quality Control and Compliance, via email, including all required documentation to counseling@nw.org.

2. The Grantee must email 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. HSCP Manager, Quality Control and Compliance Review
 - a. Grantee File. Once the Grantee's Appeal Filing documents have been received the HSCP Manager, Quality Control and Compliance will provide to the CEO or designee all relevant documents contained in the Grantee's file.
 - b. Summary. The HSCP Manager, Quality Control and Compliance 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 HSCP Manager, Quality Control and Compliance Summary.
 - b. Discussions. The CEO or designee may review and discuss the appeal with the Grantee, HSCP Manager, Quality Control and Compliance and/or others as follows.
 - (1) Discussion with the Grantee by telephone or email about information provided, to seek responses to questions, or ask for additional information, clarification, or documentation.
 - (2) Discussion of the appeal with the HSCP Manager, Quality Control and Compliance or other relevant NeighborWorks staff and consultants by telephone or email 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 (COVID permitting) 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 the 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 HSCP Manager, Quality Control and Compliance summary, and any conversations or meetings.

3. Possible Determinations

Grantee May Refile:

- 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.

Grantee May Not Refile:

- d. No Good Faith Effort to Remedy. Grantee has not demonstrated a good faith effort to remedy the Event(s) of Default in question.
 - 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 HSCP Manager, Quality Control and Compliance 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 HSCP Manager, Quality Control and Compliance 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 HSCP or other NeighborWorks staff or consultants need any guidance or professional development training to enhance their work.
 - c. Determine if any additional Grantee monitoring or support is required.



**Housing Stability Counseling Program
Recapture and De-obligation Addendum to the Default
& Remedy Policy**

NeighborWorks America
Housing Stability Counseling Program
Recapture and De-obligation Policy

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Recapture and De-obligation Policy

I. Purpose of Policy

The Funding Announcements and executed Grant Agreements governing HSCP funding give NeighborWorks the sole determination to recapture and/or de-obligate funds. This document provides additional information about the fund recapture and de-obligation process, including the capitalization and use of these funds.

In the event that counseling demand falls short of the goals projected by HSCP Grantees, or in the event that the Grantee does not comply with the terms and conditions of the grant, as outlined in the Funding Announcement, Notice of Intent to Award Funds, Grant Agreement and other related documents, NeighborWorks may recapture funds already distributed to the Grantee and/or de-obligate un-disbursed awarded funds to the Grantee.

II. Voluntary Return of Funds

Grantees have the option of returning funds disbursed by NeighborWorks America or requesting funds be de-obligated at any time during the grant performance period, due to inability to meet goals set forth in the Grant Agreement because of market conditions or other factors that limit the Grantees' ability to meet its goals. Such requests must be submitted in writing and addressed to:

NeighborWorks America
Attn: Tonya Tyler, VP National Initiatives Operations
counseling@nw.org

III. Triggers for Recapture and De-obligation

The HSCP Funding Announcement, Grant Agreement and the HSCP Default and Remedy Policy specify circumstances which may result in default, recapture and/or de-obligation of all or a portion of the grant award. Some of these causes are listed below.

- Inadequate Performance. If, at NeighborWorks' sole determination, Grantee does not show substantial progress toward meeting their counseling goals, NeighborWorks reserves the right to recapture, de-obligate and/or implement a modified disbursement schedule of the grant award.
- Variances. The HSCP program, as documented in the HSCP Funding Announcement and Grant Agreement, may have cause to recapture or de-obligate HSCP grant funds due to identified variances based on the Grantee's production reporting, not approved by NeighborWorks. HSCP variances are described as:

- A. Grantee is not performing within the allowable variances to meet its contracted counseling units, including levels of counseling, service to targeted geographic areas and service to low-income and minority homeowners and renters:
 - a. Reported units of counseling by Targeted Geographic Area shall not be less than 75% of proposed units of counseling; OR
 - b. Reported units of counseling to minority and low-income populations shall not be less than 75% of proposed units of counseling.
- B. Grantee fails to achieve the contracted counseling units, including levels of counseling, service to targeted geographic areas and service to low-income and minority homeowners and renters.

Unresolved variances in Grantee production may result in recapture and/or de-obligation of the grant award, as determined by NeighborWorks America at its sole discretion.

- Failure to Expend Funds. The HSCP Grant Agreement requires that Grantees expend their full counseling award in dollars, even if this means overproducing their required units after variances are considered. If Grantee does not complete its required production within the grant period, all funds not earned will be recaptured or de-obligated.

Compliance Monitoring. HSCP will conduct both programmatic and client file compliance reviews. Grantees are required to respond with accurate documentation a timely manner. If Findings are noted, grantees may be subject to recapture if services provided did not meet the HSCP documentation and requirements as noted in the HSCP Funding Announcement, Grant Agreement and other related documents.

- Major Findings. As outlined in the Grant Agreement, Grantees may be subject to independent program compliance reviews to assess their compliance with the HSCP requirements such as, but not limited to, programmatic compliance, client file documentation, required notification and communication with NeighborWorks, etc. Major Findings identified during the compliance review will result in recapture or de-obligation of funds and may result in additional client file reviews.

Major Findings for the following levels include:

Level 1 Counseling:

- Signed authorization is not present in the client file
- Credit report or counselor notes containing the following information is not present in the client file:
 - Name of client whose report was pulled
 - Date report was pulled
 - Type of report
 - What was reviewed
- Level 1 budget is not present in the client file
- Action plan is not present or is not tailored to the client's situation

Level 2 Counseling:

- Signed authorization is not present in the client file
- Budget verification not present in the file:
 - **Traditional budget verification.** Budget verification with supporting materials income source (paystubs or third-party income verification) and debt (credit report or other verification)

- of debt).
- **Counselor Notes.** In cases where the client was provided counseling that met Level 2 requirements and no budget verification PII was maintained in the client file, the counselor must explain and attest via the counselor notes the reason that PII was not maintained. Counselor notes must be dated and maintained in the client file.
- **Other evidence that the counselor verified the client budget.** Validation that the counselor assisted client with a foreclosure/eviction prevention application to a program/benefit that required budget verification. This could include, but is not limited to, email communication between the client and the counselor on the required financial qualifications to apply to the program, calculation of the budget verification, etc. All documentation must be dated and clearly identifiable.
 - Note: Please refer to the PII Guidance Memorandum dated March 31, 2021 [here](#).
- Verification of action taken is not present in the client file

Follow-Up

- Proof of follow-up contact not present in the file; OR
 - Proof of appropriate effort toward attempt to follow-up is not present in the client file
- **Minor Findings.** As outlined in the Grant Agreement, Grantees may be subject to independent program compliance reviews to assess their compliance with the HSCP requirements such as, but not limited to, programmatic compliance, client file documentation, required notification and communication with NeighborWorks, etc. Minor findings identified during these reviews will result in available actions to subsequently remedy the finding(s). If no action is taken, this will result in recapture or de-obligation of funds.

Minor findings include but are not limited to the following:

- Disclosure is not present in client file or verbiage is not sufficient
 - Privacy policy is not present in client file or verbiage is not sufficient
- **Misrepresentation.** HSCP may recapture and/or de-obligate funds if it is found that the HSCP Grantee has engaged in misrepresentations about itself and/or its sub-grantees, branches, CCEs or affiliates.
 - **Quarterly/Final Reports.** Failure to timely complete quarterly and final reports.
 - **Membership Fees.** HSCP Grantees may not charge fees (service fees or membership fees) in exchange for HSCP counseling services to ensure no financial barriers prohibit clients from receiving housing stability counseling services.
 - Note: Grantees may charge a nominal fee for pulling credit reports if the cost does not deter clients from seeking counseling.

- Insolvency. In the event that an HSCP Grantee becomes insolvent, defunct, or commences bankruptcy proceedings.
- Discrimination. HSCP Grantees certified in the HSCP application that they comply with HUD's general nondiscrimination and equal opportunity requirements as stated in 24 CFR §5.105. The Grantee, its sub-grantees or CCEs shall not discriminate against clients on the basis of gender, gender identity, race, color, religion, national origin, ancestry, creed, pregnancy, marital or parental status, familial status, sexual orientation, or physical, mental, emotional or learning disability.
- Fraud. If any employee of the Grantee engages in fraud, willful misconduct, gross negligence, or misappropriates any grant award funds.

IV. Default and Remedy Policy

NeighborWorks provides the *Housing Stability 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. The Default and Remedies 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 and it includes when recapture and/or de-obligation for non-compliance will occur.

V. Recapture or De-obligation Notification and Timeline

NeighborWorks will provide written notice to the Grantee of its intention to recapture or de-obligate funds. This notice shall include:

- a statement noting the finding(s) and circumstances under which the decision was made;
- the amount of recapture or de-obligation under consideration;
- a plan with specific dates to recover or stop future disbursements, if applicable and
- instructions for response from Grantee, including steps to resolve deficiency, if applicable.

VI. Appeal and Review of Recapture or De-obligation

In making a decision to recapture or de-obligate funds, NeighborWorks will consider whether triggers were due to factors beyond the Grantee's control and the Grantee's plan to adequately address the situation within a reasonable timeframe. NeighborWorks will provide Grantees with 15 calendar days from the date of receipt of the receipt of the notice to recapture or de-obligate funds.

In some instances, NeighborWorks may choose to engage an independent third party to evaluate the circumstances of the recapture or de-obligation and the amount of the adjustment at the sole discretion of NeighborWorks.

If a third-party reviews the recapture or de-obligation, NeighborWorks will provide written notification to the Grantee regarding their final decision within 15 calendar days of receiving the Grantee's response.

VII. Recapture and De-obligation Formulas

A recapture/de-obligation template is on the HSCP website at <https://www.stablecommunities.org/HSCP/Resources>;

*De-obligation Formula
for funds awarded but
not yet disbursed to
grantee*

HSCP grant amount awarded to Grantee
less: grant amount disbursed
= **Total amount to be de-obligated**

*Breakdown of Total
Funds Earned*

Total Funds (Counseling, PRS and OO, if applicable) earned =
Counseling Funds Earned (by level of counseling)
+ PRS (30% of counseling funds earned)
+ OO (7% of counseling funds earned)

Recapture Formula

Amount Disbursed
less: **Total Funds (Counseling, PRS and OO, if applicable) earned**
= **Amount Owed to NeighborWorks**
(if the amount equals is negative, it would be due to the Grantee)

VIII. Use of Recaptured and De-obligated Funds

NeighborWorks reserves the right to make additional awards under the applications solicited by this Funding Announcement, giving priority to Grantees that have met or exceeded their goals for providing housing stability counseling services to minority and low-income populations facing housing instability and/or in neighborhoods having high concentrations of minority and low-income populations.

IX. How to Obtain Recaptured or De-obligated Funds

Specific instructions concerning the award of recaptured and de-obligated funds will be published at a later date, if any become available.

X. Questions

Questions regarding this procedure should be directed to Patricia Channel, Program Manager, HSCP Quality Control and Compliance:

NeighborWorks America
Attn: Patricia Channel; Manager, Quality Control and Compliance
counseling@nw.org