

# Housing Counseling Grantee Disclosure & Privacy Act Notice

REQUIRED ELEMENTS AND BEST PRACTICES

MINNESOTA HOUSING & MINNESOTA HOMEOWNERSHIP CENTER

## Contents

|  |           |
|--|-----------|
| <b>I. Introduction .....</b>   | <b>2</b>  |
| <b>II. Understanding Program Disclosure Requirements .....</b>                                   | <b>2</b>  |
| <b>III. Questions and Answers about Program Disclosure Policies.....</b>                         | <b>4</b>  |
| <b>IV. Understanding the Combined Privacy Act Notice and Tennessee Warning Requirements.....</b> | <b>5</b>  |
| <b>Appendix A: Program Disclosure Form Sample.....</b>   | <b>6</b>  |
| <b>Appendix B: Privacy Act Notice and Tennessee Warning Sample.....</b>                          | <b>9</b>  |
| <b>Appendix C: Sample Homeownership Advisor – Client Agreement.....</b>                          | <b>11</b> |

## I. Introduction

The Minnesota Housing Finance Agency (“Minnesota Housing”), the Minnesota Homeownership Center and the U.S. Department of Housing and Urban Development (HUD) and other funders require Grantees to provide legal disclosures to their counseled clients. Disclosures help protect clients from unscrupulous practices and protect organizations from potential legal claims arising from the provision of counseling and education services. The Program Disclosure primarily informs clients of organization programs and services and about conflict of interest policies.

This Guide informs Grantees about the disclosure requirements, discusses best practices concerning disclosure use and recordkeeping, and includes a sample organization disclosure form for customization and use.

## II. Understanding Program Disclosure Requirements

| <b>Understanding Program Disclosure Requirements</b>                  |   |
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| <b>What should Grantees include in their Program Disclosure form?</b> | <ul style="list-style-type: none"> <li>• Identify the Organization/Grantee name</li> <li>• Explicitly describe the various types of services provided by the organization, staff, contractors or volunteers; as well as any exclusive financial or other relationships between the organization and other industry partners that may be relevant to the client.</li> <li>• Include a clear statement indicating the client is not obligated to receive any other services or products offered by the organization or its exclusive partners.</li> <li>• Include additional information on alternative services, programs and/or products available in the area. Providing alternatives allows clients choice when selecting services. See Program Disclosure Form Sample in <b>Appendix A</b>.</li> </ul> |
| <b>Who is required to receive a Program Disclosure?</b>               | <ul style="list-style-type: none"> <li>• All counseling clients (e.g. homebuyer, financial wellness, foreclosure, post-purchase, reverse mortgage, etc.)</li> <li>• All group education clients</li> </ul>  |
| <b>What programs or funders require a Program Disclosure?</b>         | <ul style="list-style-type: none"> <li>• HUD Housing Counseling Program</li> <li>• Homeownership Education, Counseling and Training Fund (HECAT)</li> <li>• Homeownership Capacity</li> <li>• Minneapolis Financial Wellness</li> <li>• National Industry Standards</li> <li>• Possibly other funders</li> </ul>  |

|   |  |
|---|--|
| <b>When should clients receive a Program Disclosure form?</b>                       | <ul style="list-style-type: none"> <li>• Program Disclosures should be provided to clients at Intake or during the client screening process.</li> </ul>  |
| <b>What is the preferred format for the Program Disclosure form?</b>                | <ul style="list-style-type: none"> <li>• Face to Face clients – provide a written/paper Program Disclosure for the client to sign.</li> <li>• Clients receiving services remotely (e.g. phone, skype or other format) – The Homeownership Advisor should read the Program Disclosure to the client, sign and date to verify the verbal Program Disclosure was provided, and retain a copy in the client file. An electronic or written/paper Program Disclosure should be sent to the client after verbal approval is provided by the client.</li> </ul> |
| <b>How should organizations record the Program Disclosure provided to clients?</b>  | <ul style="list-style-type: none"> <li>• Written/paper Program Disclosures – should be signed and dated by the client and retained in the counseling/coaching or group education file.</li> <li>• Verbal Program Disclosures – should be signed and dated by the Homeownership Advisor providing the verbal Program Disclosure and retained in the client file.</li> </ul>   |
| <b>How often should Program Disclosure forms be reviewed for necessary updates?</b> | <ul style="list-style-type: none"> <li>• Program Disclosures should be reviewed and updated annually at a minimum. Any change in financial relationships with industry partners or services provided should be noted on the Program Disclosure form as soon as possible.</li> </ul>  |
| <b>How do funders monitor compliance with Program Disclosure requirements?</b>      | <ul style="list-style-type: none"> <li>• Review of client files during performance reviews (i.e. monitoring).</li> <li>• May request copy of the Program Disclosure form during quarterly reporting, at time of funding application, or any other time during the grant year.</li> </ul>   |

At first glance, Program Disclosure requirements may appear complex or difficult to implement. However, it is important to understand that the Program Disclosure requirements are designed to preserve and protect the relationship between the client and the Grantee.

Additional questions and answers are provided below to help illuminate Program Disclosure policies.

III. Questions and Answers about Program Disclosure Policies

| Questions and Answers about Program Disclosure Policies   |   |
|---|---|
| <b>Should my organization provide Program Disclosures for every person who calls my organization?</b>   | No. Program Disclosures should only be provided to callers who are interested in participating in any of the programs included on the Program Disclosure form.  |
| <b>Why should my organization provide information for “alternative services, programs, and products”?</b>   | <p>Funders recognize that Grantees provide more than just housing counseling services and conflict of interest policies should not limit a Grantee from providing additional related services. Alternatives help to prevent client steering and to give clients full range of options so that the organization fully represents the best interests of the client. Program Disclosures inform clients that they are not obligated to receive or utilize any of the organization’s services and that similar services are available elsewhere.</p> <p>During counseling, alternatives specific to the client’s situation should be provided and documented. The goal is to provide the client with choice at every step in the process.</p>   |
| <b>If my organization’s Homeownership Advisor refers a client to a particular lender for a first-time mortgage and my organization receives a fee from the lender, is that considered a conflict of interest?</b> | <p>A conflict of interest occurs if the Homeownership Advisor made the referral to the lender because of the financial interest, or if the Homeownership Advisor received a fee or other consideration from the lender for making the client referral.</p> <p>Remember, HUD and other funders allow organizations to receive alternate funding sources, including charging fees to clients and accepting fees from lenders. If your organization accepts fees from lenders this information must be included on the Program Disclosure form. Disclosing the fee and offering choices to clients in advance of providing services helps to protect the integrity of the organization and applicable programs. It also allows clients the opportunity to make a choice when selecting services.</p> |
| <b>Is a Homeownership Advisor – Client Agreement required?</b>  | A Homeownership Advisor-Client Agreement is a recommended best practice and is particularly useful in defining the counseling/coaching process, clarifying roles and responsibilities and reducing liabilities associated with housing counseling activities. A sample Homeownership Advisor-Client Agreement is provided in <b>Appendix C</b> .  |

**IV. Understanding the Combined Privacy Act Notice and Tennessee Warning (“Privacy Policy”) Requirements**

| Understanding Combined Privacy Act Notice and Tennessee Warning Requirements |  |
|--|--|
| <b>What is a Privacy Policy?</b>   | <ul style="list-style-type: none"> <li>In the housing counseling context, a Privacy Policy is a legal document that states how an organization collects, manages and discloses both public and personal/private client data.</li> </ul>  |
| <b>What is included in the Privacy Policy?</b>                               | <ul style="list-style-type: none"> <li>Grantees should list the entities to whom they disclose client information (e.g. Minnesota Housing, Minnesota Homeownership Center, HUD).</li> </ul>  |
| <b>Is a Privacy Policy form required?</b>                                    | <ul style="list-style-type: none"> <li>Yes. The Combined Privacy Act Notice and Tennessee Warning form is provided in <b>Appendix B</b>.</li> </ul>  |
| <b>Who should receive the Privacy Policy?</b>                                | <ul style="list-style-type: none"> <li>All counseling clients (e.g. homebuyer, financial wellness, foreclosure, post-purchase, reverse mortgage, etc.)</li> <li>All group education clients</li> </ul>   |
| <b>When should clients receive the Privacy Policy?</b>                       | <ul style="list-style-type: none"> <li>The Privacy Policy should be provided to clients at Intake or during the client screening process.</li> </ul>   |
| <b>What is the preferred format for the Privacy Policy?</b>                  | <ul style="list-style-type: none"> <li>Face to Face clients – provide a copy of the written/paper Privacy Policy for the client to sign.</li> <li>Clients receiving services remotely (e.g. phone, skype or other format) – the Homeownership Advisor should read the Privacy Policy to the client, sign and date to verify the verbal Privacy Policy was provided, and retain a copy in the client file. An electronic or written/paper Privacy Policy should be sent to the client after verbal approval is provided by the client.</li> </ul> |
| <b>How should Grantees record the Privacy Policy provided to clients?</b>    | <ul style="list-style-type: none"> <li>Written/paper Privacy Policies should be signed and dated by the client and retained in the client file.</li> <li>Verbal Privacy Policy – should be signed and dated by the Homeownership Advisor providing the verbal Privacy Policy and retained in the client file.</li> </ul>   |
| <b>How do funders monitor compliance with Privacy Policy requirements?</b>   | <ul style="list-style-type: none"> <li>Review of client files during performance reviews (i.e. monitoring).</li> <li>May request copy of the Combined Privacy Act Notice and Tennessee Warning form during quarterly reporting, at time of funding application, or any other time during the grant year.</li> </ul>  |

## Appendix A: Program Disclosure Form Sample

**[ORGANIZATION NAME]**

### Housing Counseling Program Disclosure

*NOTE: If you have an impairment, disability, language barrier, or otherwise require an alternative means of completing this form or accessing information about housing counseling, please communicate with your Homeownership Advisor about arranging alternative accommodations.*

About Us and Program Purpose: [ORGANIZATION NAME] is a [ENTER ORGANIZATION TYPE for example nonprofit, HUD-approved housing counseling organization]. We serve all clients regardless of income, race, color, religion/creed, sex, national origin, age, familial status, marital status, disability, status with regard to public assistance, sexual orientation or gender identity. We administer our programs in conformity with local, state, and federal antidiscrimination laws, including the federal Fair Housing Act (42 USC 3600, et seq.), title VIII of the Civil Rights Act, as well as the Human Rights Act.

Description of Services: [Note to Organization: Edit list below to include services offered and appropriate description for your organization. Information below is intended to be used as a template.]

**Financial Wellness** In depth, one-on-one program designed to increase successful homeownership and household stability through intensive financial empowerment and coaching. Homeownership Advisors analyze your current financial situation, review credit and debt, and assist in setting goals to help you become mortgage-ready.

**Home Buyer Education** A course offered in a group setting designed to prepare you for the process of purchasing a home.

**Homebuyer Counseling** Homeownership Advisors work one-on-one with you to look at what you can afford, explain mortgage terms, and how to prepare and what to expect at closing. Advisors also help analyze your current financial situation, review credit and debt, and assist in setting goals to help you achieve homeownership.

**Closing Cost and Down Payment Assistance** A program designed to help clients fulfill the entry cost requirements of home buying.

**Reverse Mortgage Counseling** Assists seniors by explaining how reverse mortgages work and their implications, the appropriateness of a reverse mortgage for your personal and financial situation, and possible financial alternatives to reverse mortgages.

**Foreclosure Counseling** Assists homeowners who have fallen behind or are in danger of falling behind on their mortgage. Homeownership Advisors guide homeowners through workout options relevant to the particular situation. In cases where foreclosure is unavoidable, Homeownership Advisors help organize an effective exit strategy.

Organization Conduct: No [ORGANIZATION NAME] employee, director, volunteer, contractor or agent shall undertake any action that might result in, or create the appearance of, administering counseling operations for personal or private gain, provide preferential treatment for any person or organization, or engage in conduct that will compromise our organization's compliance with federal or state regulations and our commitment to serving the best interests of our clients.

Organization Relationships: [ORGANIZATION NAME] has a financial affiliation or professional affiliation with [Insert names such as; The US Department of Housing and Urban Development (HUD), Minnesota Housing Finance Agency, Minnesota Homeownership Center, Greater Minnesota Housing Fund, Family

Housing Fund, United Way, and banks including North Shore Mortgage, US Bank Home Mortgage and Wells Fargo Home Mortgage.]

**It is our duty to inform you that [ORGANIZATION NAME] can and may receive payment for the following services:** [Insert programs where payment is received such as: Homebuyer education, down payment and closing cost assistance, rehab/home improvement loans, Community Land Trust home purchase.] If you choose to utilize any of these services, [ORGANIZATION NAME] will disclose any associated fees prior to your commitment.

**Alternative Services, Programs and Products:** [ORGANIZATION NAME], as appropriate, refers clients to other community service organizations. These organizations provide services such as emergency shelter, financial assistance, utility assistance and access to other locally available resources.

While you may learn about the advantages/disadvantages of specific services, programs, and products during the education or counseling sessions, you are free to choose the services, programs, and products of your own choosing regardless of the recommendations made by the educator/counselor. You are not obligated to receive, purchase, or utilize any services offered or referred to by [ORGANIZATION NAME] or its partners. It is your responsibility and based on decisions made of your own free will to determine which services, programs, or products best meet your needs.

[Note to Organization: Provide a separate referral list appropriate for the type of counseling or include a brief list within this paragraph].

**Quality Assurance:** In order to assess client satisfaction and in compliance with grant funding requirements, [ORGANIZATION NAME], or one of its partners, may contact you during or after the completion of your housing counseling service. You may be requested to complete a survey asking you to evaluate your client experience. Your survey data may be confidentially shared with [ORGANIZATION NAME] funders such as HUD, the Minnesota Homeownership Center and/or the Minnesota Housing Finance Agency.

**Errors and Omissions and Disclaimer of Liability:** I/we agree [ORGANIZATION NAME], its employees, agents, and directors are not liable for any claims and causes of action arising from errors or omissions by such parties, or related to my participation in [ORGANIZATION NAME] counseling; and I hereby release and waive all claims of action against [ORGANIZATION NAME] and its affiliates. I have read this document, understand that I have given up substantial rights by signing it, and have signed it freely and without any inducement or assurance of any nature and intend it to be a complete and unconditional release of all liability to the greatest extent allowed by law. If any provision of this document is unenforceable, it shall be modified to the extent necessary to make the provision valid and binding, and the remainder of this document shall remain enforceable to the full extent allowed by law.





## Appendix B: Privacy Act Notice and Tennessee Warning Sample

[Organization Name]

### Combined Privacy Act Notice and Tennessee Warning

We at (insert Organization Name) value your trust and are committed to the responsible management, use and protection of personal information. This notice describes our policy regarding collection and disclosure of personal information. The following programs are funded in part by state, federal government agencies and local agencies:

- Financial Wellness Counseling;
- Homeownership Capacity;
- Homebuyer Education;
- Homebuyer Counseling;
- Home Equity Conversion Mortgage Counseling or Reverse Mortgage Counseling;
- Post Purchase and/or Refinance Counseling;
- Foreclosure Counseling.

These agencies receive the information described below.

#### **Social Security Numbers**

The Privacy Act of 1974 makes it unlawful for any Federal, State, or local government agency to deny your participation in the above referenced programs if you refuse to provide your social security number. If you do not voluntarily provide your social security number services to you may be more limited, but you will continue to be eligible to receive the services we can provide without a social security number.

#### **Other Private Data**

Under Minnesota Statutes, your name and address may be public data. All other data we may ask about you is private data on individuals. Agreeing to share your public data is mandatory for participation in the above referenced programs. Sharing your private data is not mandatory for participation in the program. However, if you do not provide private information (such as income, debts, and assets) services to you may be more limited.

We collect private data for the purposes of service delivery, program management, compliance, monitoring, research, and program evaluation.

We collect your private information from the following sources:

- Information we receive from you on applications or other forms,
- Information about your transactions with us, and
- Information we receive from a consumer credit reporting agency.

We may disclose private information about you which may include your name, address, social security number, employer, assets, debts, income, credit bureau reports, your credit history and your creditworthiness.

We may disclose your private information to the following entities or their representatives identified below or to other entities properly authorized under law to review it.

- Staff at this organization and its partners operating in this program who need it to work on your case;
- Staff of the HECAT funders: Minnesota Housing Finance Agency, Family Housing Fund, Greater Minnesota Housing Fund, and the Minnesota Homeownership Center;
- Staff of the United States Department of Housing and Urban Development (HUD);
- Staff of the Homeownership Capacity funder: Minnesota Housing Finance Agency.

By signing below you agree to allow us to collect and share information as described above; please indicate your approval with your signature, below.

\_\_\_\_\_  
Client Signature Date

\_\_\_\_\_  
Client Signature Date

**Verbal acknowledgement is acceptable if information was provided to client in non-face-to-face session.**

The undersigned verifies that verbal authorization for release of above confidential information has been given. The client was fully informed of the information contained in this document and understood its nature and intended use of the released information.

\_\_\_\_\_  
Client Name Homeownership Advisor/Coach's Signature Date

**NOTE:** A copy of this notice with Homeownership Advisor/Coach's signature has been mailed to the client.

## Appendix C: Sample Homeownership Advisor – Client Agreement

### [Organization Name] Homeownership Advisor – Client Agreement

#### Homeownership Advisor Roles & Responsibilities

- Providing services confidentially, honestly and respectfully.
- Reviewing your housing goal and your finances; including income, debts, assets, and credit history.
- In partnership with you, developing a household budget to assist you with managing your debt, expenses, and savings.
- In partnership with you, creating a client action plan with steps that you and your Homeownership Advisor will take in order to achieve your housing goal.
- Presenting reasonable options available based on your current situation.
- Offering referrals to needed resources.
- Providing guidance and education in support of your goal.
- Neither your Homeownership Advisor nor [Organization Name], employees, agents, contractors, or directors may provide legal advice.

#### Client Roles & Responsibilities

- Providing accurate information about your income, debts, expenses, credit and employment.
- Attending meetings, returning calls, and promptly providing requested paperwork.
- Being an active participant in the creation and completion of steps on your Action Plan.
- Notifying [Organization Name] or your Homeownership Advisor if your housing situation or goal changes.
- Attending educational workshops (i.e. Homebuyer Education) as recommended.
- Retaining an attorney if seeking legal advice and/or representation in matters such as foreclosure or bankruptcy protection.

**Termination of Services:** You or the advisor may terminate counseling services at any time. Reasons the advisor may terminate services include, but are not limited to, no progress on the agree-upon Action Plan steps, not responding to an advisor’s attempt to contact you, or missing scheduled appointments.

#### Signatures

\_\_\_\_\_

Client

\_\_\_\_\_

Date

\_\_\_\_\_

Client

\_\_\_\_\_

Date

\_\_\_\_\_

Homeownership Advisor/Coach

\_\_\_\_\_

Date