

ATTACHMENT 1

Brown, Amy L

From: Brown, Amy L
Sent: Friday, September 21, 2018 10:33 AM
To: Shaffer, Julie; Saunders, Elissa O
Subject: RE: Ask the Underwriter: Why is HUD privately discouraging lenders from making FHA loans to DACA borrowers?

She told Brian she didn't say it.

Amy L. Brown
Assistant General Counsel
Single Family Mortgage Division

Confidential and Privileged - Attorney-Client Communication and/or Attorney Work Product
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From: Shaffer, Julie
Sent: Friday, September 21, 2018 10:29 AM
To: Saunders, Elissa O <Elissa.O.Saunders@hud.gov>; Brown, Amy L <Amy.L.Brown@hud.gov>
Subject: RE: Ask the Underwriter: Why is HUD privately discouraging lenders from making FHA loans to DACA borrowers?

About a week ago, someone emailed the secretary and Brian asking about DACA. Joe sent me the email.

Stacey said that she is saying that she didn't say it. I was in DC and walked into the conference room. She was doing the Santa Ana lender roundtable remotely via video teleconference and she was answering questions. She did answer this question.

From: Saunders, Elissa O
Sent: Friday, September 21, 2018 10:27 AM
To: Brown, Amy L <Amy.L.Brown@hud.gov>; Shaffer, Julie <julie.shaffer@hud.gov>
Subject: RE: Ask the Underwriter: Why is HUD privately discouraging lenders from making FHA loans to DACA borrowers?

It wouldn't be private if she would just post the freaking DACA FAQ.

From: Brown, Amy L
Sent: Friday, September 21, 2018 9:26 AM
To: Shaffer, Julie <julie.shaffer@hud.gov>; Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Subject: RE: Ask the Underwriter: Why is HUD privately discouraging lenders from making FHA loans to DACA borrowers?

Yeah – the Secretary called Brian yesterday about this while we were in his office. The other blogs actually name Gisele.

Amy L. Brown
Assistant General Counsel

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From: Shaffer, Julie
Sent: Friday, September 21, 2018 9:03 AM
To: Saunders, Elissa O <Elissa.O.Saunders@hud.gov>; Brown, Amy L <Amy.L.Brown@hud.gov>
Subject: Ask the Underwriter: Why is HUD privately discouraging lenders from making FHA loans to DACA borrowers?

Ask the Underwriter: Why is HUD privately discouraging lenders from making FHA loans to DACA borrowers?

And why is HUD refusing to publicly address the policy?

September 20, 2018

[Dani Hernandez](#)

KEYWORDS [Ask the Underwriter](#) [DACA](#) [FHA](#) [HUD](#) [LendingLife](#)

[Editor's note: LendingLife readers emailed HousingWire (examples below) to report inconsistent feedback from HUD, after the publication of [this earlier](#) Ask The Underwriter piece, which indicated that there is no official policy to decline an FHA-backed loan to a DACA borrower. The following article is a follow-up from expert underwriter Dani Hernandez.]

This week's Ask the Underwriter is doing something different. We're trying to get the **Department of Housing and Urban Development** to Answer the Underwriter.

As you will see documented in this article, HUD has refused to respond to private requests for clarification on the eligibility of DACA borrowers for **Federal Housing Administration** financing.

So, now I am making a public request to HUD:

Dear HUD,

In May, during a HUD training session, the HUD single family deputy assistant secretary verbally communicated that DACA recipients are not eligible. On August 24th, the Atlanta HOC stated, in writing, that DACA recipients are not eligible. But on August 27th, HUD's public relations specialist refuted both, stating in writing that there is no specific policy regarding DACA borrowers. Is HUD's policy that of the secretary and Atlanta HOC, or is the official from your public relations office correct?

If there is a specific HUD policy excluding DACA recipients -

DACA recipients meet all of the eligibility requirements outlined in HUD Handbook 4000.1 II.A.1.b.ii.(A)(8)-(9), so why is this class of non-resident aliens being singled out at this time as being ineligible for FHA financing? When was this decision made? Who made this decision? When will this policy be put in writing? When will FHA stop insuring loans made to DACA recipients?

If there is not a specific HUD policy excluding DACA recipients -

Why are HUD officials and HOCs telling lenders that DACA recipients are not eligible for FHA financing? Have HOCs been instructed to tell lenders false information by HUD officials? Will HUD direct HUD officials and HOCs to stop misinforming lenders? Will HUD issue clarification stating that DACA recipients are eligible for FHA financing according to current guidelines?

It is imperative that HUD issue a definitive answer on this question, because refusing to do so is creating chaos and uncertainty for thousands of borrowers and causing mortgage lenders to lose millions of dollars in revenue by having to turn down loans out of fear that FHA will not insure those loans.

Sincerely,

Ask the Underwriter

Let me explain why this public request to HUD has become necessary. Since publishing [this article](#) in April 2018, which explained that based on FHA guidelines, DACA borrowers are eligible for FHA Loans, I have received tons of emails from loan officers and other lender representatives telling me that they have been told by HUD officials that DACA borrowers are no longer eligible for FHA loans.

One such email stated that HUD Single Family Deputy Assistant Secretary Gisele Roget told a group of lenders at a conference in Santa Ana that DACA borrowers are no longer eligible for FHA loans. Furthermore, all homeownership centers have been instructed to communicate this to lenders that are asking for clarification on this topic.

Every lender that I have spoken to tells the same story: HUD/FHA has verbally communicated that DACA borrowers are not eligible for FHA financing, but HUD has refused to publicly communicate on the topic. HUD, now is your chance. Thank you.

ATTACHMENT 2

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CHIEF DEPUTY WHIP

HOUSE DEMOCRATIC STEERING
AND POLICY COMMITTEE



PETE AGUILAR
CONGRESS OF THE UNITED STATES
31ST DISTRICT, CALIFORNIA

COMMITTEE ON APPROPRIATIONS

VICE CHAIRMAN

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SUBCOMMITTEE ON HOMELAND SECURITY

SUBCOMMITTEE ON TRANSPORTATION, HOUSING
AND URBAN DEVELOPMENT, AND RELATED AGENCIES

COMMITTEE ON HOUSE ADMINISTRATION

SUBCOMMITTEE ON ELECTIONS

May 8, 2019

The Honorable Ben Carson
Secretary
U.S. Department of Housing and Urban Development
451 7th Street, SW
Washington, DC 20410

Dear Secretary Carson:

On April 3, 2019, you testified before the Appropriations Subcommittee on Transportation, Housing and Urban Development (THUD). At the hearing, I asked you about the eligibility of Deferred Action for Childhood Arrivals (DACA) recipients to access insured mortgage loans through the Federal Housing Administration (FHA). You confirmed that HUD's policy on allowing non-citizens to access FHA-backed loans has not changed and that there are "plenty of DACA recipients who have FHA mortgages." Given your assurances in both public and private, I was alarmed by official correspondence from FHA that was forwarded to my office in which FHA states that DACA recipients are ineligible for FHA-backed loans. The correspondence contradicts your testimony and pre-dates your appearance at the hearing. DACA recipients deserve clarity on whether they are eligible for FHA-backed mortgages. It is shocking and disappointing to see that there is either severe miscommunication between staff and administrators at HUD or that high-ranking officials are spreading misinformation about agency policies.

On five separate occasions HUD officials communicated to me and my staff that HUD has not changed its policy that allows DACA recipients to access FHA-backed loans. On February 12, 2019, FHA Administrator Montgomery testified before the Appropriations Subcommittee on THUD stating, "The [FHA] policy has been unchanged for many years. The current policy was developed in 2003 and it was codified into the new FHA handbook in 2015 in the previous administration. That policy is exactly what we are following today." Mr. Montgomery later said that he is unaware of FHA staff advising lenders not to work with DACA recipients. On February 20, 2019, we met for dinner in California. You confirmed with me that DACA recipients are eligible for FHA-insured loans. On March 6, 2019, staff from my office had a phone call with HUD's congressional liaison office as a follow-up to Acting Administrator Montgomery's testimony. Staff confirmed that HUD's policy has not changed and that the agency's interpretation of the policy has not changed. On April 3, 2019, you testified before the Appropriations Subcommittee on THUD. During the hearing I asked you again for clarification on whether DACA recipients are eligible for FHA-insured loans. It was encouraging to hear you testify that you would be surprised if HUD staff told lenders that DACA recipients are ineligible for FHA-insured mortgages. I also specifically asked if you were aware of any changes in the

interpretations of existing policy, to which you replied, "I inquired of the appropriate people, including the FHA Commissioner, and no one was aware of any changes that had been made to the policy whatsoever. I am sure we have plenty of DACA recipients who have FHA mortgages."

I was alarmed and frustrated when I learned that FHA sent official correspondence to at least one lender that contradicts your testimony. A private lender with Northwest Mortgage shared official correspondence from FHA that clearly states that DACA recipients are ineligible for FHA-insured loans. The emails were sent before you testified and include conflicting messages on DACA recipients' eligibility for FHA-insured loans. On March 11, 2019, the lender received an email stating "HUD has not implemented any policy changes during the current Administration, either formal or informal, with respect to FHA eligibility requirements for Deferred Action for Childhood Arrivals (DACA) recipients" and referred him to FHA's Single-Family Housing Handbook 4000.1A.1.b.ii(A)(8)-(9). Under the Obama Administration, DACA recipients were eligible for FHA-backed loans. You and Acting Secretary Montgomery clarified that FHA's policies have not changed as codified under the Obama Administration. This directly contradicts the following email that the lender received.

On March 20, 2019 the lender received an email from FHA that states, "individuals in the United States under the Deferred Action Childhood Arrival (DACA) program, EAD Category Code C33, are not considered to have lawful status. Therefore, the borrower(s) are not eligible for an FHA-insured mortgage." This correspondence conveys a different message than what you shared while testifying before the Appropriations Subcommittee on THUD. After receiving emails from the private lender, staff from my office confirmed with another government office that FHA sent correspondence in March 2018 stated that DACA recipients are ineligible for FHA-backed loans.

It is incredibly problematic that you and FHA Administrator Montgomery spread factually incorrect information about the operations of the FHA program. It is unsettling that HUD would change its policy with such lack of transparency. Many lenders advertise FHA loans to DACA recipients. However, HUD denied DACA recipients' loans because of their immigration status, which is a departure from previous practice. Changes to this type of policy should be made after input from the public. Modifications to policies without input from industry leaders and the public creates uncertainty for lenders, realtors, borrowers and the housing industry.

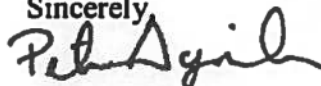
As an appropriator, I am committed to keeping agency officials accountable and holding them to their word. You and Acting Administrator Montgomery said that HUD's policies, and interpretation of policies, related to DACA recipients' eligibility for FHA-backed loans has not changed since the policy was codified in 2013. However, it has been proven that this is not true. To provide clarity to lenders, realtors and prospective borrowers with DACA status, please answer the following questions:

- 1) Please explain why you were unaware of DACA recipients' current ineligibility for FHA loans. If you were aware, please explain why you did not make that clear during your testimony on April 3, 2019.

- 2) Were changes in the FHA's policy communicated to supervisors? Was the change in policy made by mid-level or senior-level staff?
- 3) Is it possible that officials from other departments or agencies could have changed this policy without your knowledge? Is it possible that staff at HUD or the White House could have made the change in policy without your knowledge?
- 4) How many lenders received written correspondence indicating that DACA recipients are ineligible for FHA loans?
- 5) How many lenders received vague correspondence from FHA indicating that the agency's policy on DACA recipients' eligibility for FHA loans has not changed, formally or informally?
- 6) Will FHA continue to make qualified DACA recipients eligible for FHA-backed loans?
- 7) What other changes has FHA made to existing policy without putting those changes in writing?
- 8) What protocols does FHA plan to put in place to ensure that future changes to existing policy in the FHA's Single-Family Housing Policy Handbook will be clearly communicated to lenders?

Please provide answers to my questions no later than May 24, 2019. If you have any questions, please contact my Legislative Director, Stephanie Cuevas, at 202-225-3201.

Sincerely,



Pete Aguilar
Member of Congress

ATTACHMENT 3

United States Senate

WASHINGTON, DC 20510

December 18, 2018

The Honorable Ben Carson
Secretary
U.S. Department of Housing and Urban Development
451 7th Street, S.W.
Washington, DC 20410

Dear Secretary Carson:

We are extremely alarmed about recent reports that the Department of Housing and Urban Development (HUD) has implemented an unofficial policy of denying Federal Housing Administration (FHA) insured loans to Deferred Action for Childhood Arrivals (DACA) recipients.¹ We are appalled that the Trump Administration would exploit a federal government program to deny Dreamers an opportunity of owning their own home, a cornerstone of the American dream.

As you know, Hispanics have been responsible for 59 percent of homeownership growth in the U.S. over the past five years, and are the only demographic to have consecutively increased their homeownership rates over the last three years.² Moreover, immigrants who are not citizens have a homeownership rate of 39.3 percent.³ Any policy change to disqualify the approximately 800,000 individuals approved for DACA from FHA-insured mortgage loans unfairly denies access to affordable homeownership and hinders growth in the U.S. housing market.

While federal courts have currently stopped President Trump from expelling DACA recipients from the country, this is yet another example of the Administration adopting underhanded tactics to punish DACA recipients for remaining in the United States. According to recent reporting, HUD has privately instructed mortgage lenders to reject FHA mortgage loan applications from DACA recipients. HUD reportedly instructed lenders to reject these loans based on the Department's new unofficial policy that DACA Employment Authorization Documents are no longer valid for purposes of substantiating work status.⁴ If these reports are accurate, this informal policy means that DACA recipients who would otherwise qualify for an FHA-insured mortgage loan, are now being unjustly rejected. Yet, when pressed for answers about reports

¹ Nidhi Prakash, "The Trump Administration is Quietly Denying Federal Housing Loans to DACA Recipients," *Buzzfeed*, December 14, 2018, <https://www.buzzfeednews.com/article/nidhiprakash/daca-trump-denied-federal-housing-loans>.

² Marisa Calderon, "State of Hispanic Homeownership," Report, Hispanic Wealth Project, February 2018, <http://hispanicwealthproject.org/shhr/2017-state-of-hispanic-homeownership-report.pdf>

³ *Id.*

⁴ Nidhi Prakash, "The Trump Administration is Quietly Denying Federal Housing Loans to DACA Recipients," *Buzzfeed*, December 14, 2018, <https://www.buzzfeednews.com/article/nidhiprakash/daca-trump-denied-federal-housing-loans>.

that lenders had received instruction from HUD to reject applications from DACA recipients, a HUD spokesman provided no explanation.⁵

We find it extremely problematic that HUD would implement such a policy in an unofficial and haphazard manner and with no public input. And while we find this particular change to be abhorrent, we expect that any policy change that makes certain borrowers ineligible for FHA-insured mortgage loans would only be issued after sound and unambiguous legal reasoning, an opportunity for public input, and communication to FHA-approved lenders. Anything less unfairly leaves borrowers, lenders, and real estate professionals in a state of limbo.

Finally, HUD's new policy specifically singles out a portion of the American public that the Trump Administration has continually targeted. Such ill-advised policies have ripple effects through immigrant communities, striking fear that interactions with financial institutions and government agencies may impact one's ability to remain in the country. By communicating to lenders that they are to reject mortgage loan applications from DACA recipients, the Administration is sending a clear message that the benefits of affordable homeownership should not accrue to those who were not born in the United States. If that is not the message that HUD intends to send, it should immediately clarify its policy.

As such, please provide answers to the following questions no later than December 21, 2018:

- (1) Has HUD developed a policy regarding DACA recipients' eligibility for FHA-insured mortgage loans?
 - (a) If so, on what date did HUD first implement its current policy? Has this policy changed since DACA was first announced in 2012?
 - (b) If so, please provide all relevant documents related to HUD's current policy and any prior policies. Please clarify which, if any, documents were provided to FHA-approved lenders or to HUD's Homeownership Centers as well as the date of any such transmissions.
 - (c) If HUD has not developed a policy, please promptly provide clear and written guidance to FHA-approved lenders clarifying that as long as applicants would otherwise qualify, a borrower's DACA status will not affect his or her eligibility for an FHA-insured mortgage loan. Please provide a copy of any such guidance or communication.
- (2) Please provide a detailed explanation and justification for the current policy, including any statutory or regulatory authority upon which such policy change relies.
- (3) Which staff members and offices at HUD were involved in approving any such policy?

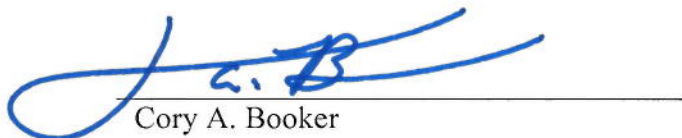
⁵ *Id.*

- (4) Did the Office of General Counsel provide input and/or approval for this or any such previous policy?
- (5) Have any HUD officials or staff communicated with any outside organizations about such a policy? If so, please identify the names of the organizations as well as the dates and participants of any meetings.
- (6) Have any HUD officials or staff discussed FHA eligibility of DACA recipients with officials from the White House, the Office of Management and Budget, the Department of Homeland Security, or any other executive branch agency? If so, please identify the agencies as well as the dates and participants of any meetings.
- (7) Did any of the agencies cited in response to question 6 provide input and/or approval for HUD's current interpretation of DACA recipient eligibility for FHA loans? If so, please provide all related documents.
- (8) Please provide information from FHA-approved lenders on how many applicants have been rejected for FHA-insured mortgage loans pursuant to any such policy change.
- (9) Please explain how this policy will affect existing FHA borrowers who are DACA recipients.
- (10) Does HUD have any other plans to disqualify applicants from FHA-insured mortgage loans based on their immigration status? If so, please provide detailed explanations, including any relevant statutory or regulatory authority.

Sincerely,


Robert Menendez


Catherine Cortez Masto


Cory A. Booker

ATTACHMENT 4

----- Forwarded message -----

From: **DoNotReplyFHA** <DoNotReplyFHA@hud.gov>

Date: Mon, Apr 23, 2018 at 12:16 PM

Subject: Thank you for contacting the FHA Resource Center, RE: CAS-7024379-R7C9G3

To: Danielle Hernandez <dani@newcastle.loans>

Dear Danielle Hernandez,

Thank you for contacting the FHA Resource Center. The information you requested in response to the above referenced service request number is provided below.

If the information does not fully address your question, please forward this email (do not reply) to answers@hud.gov, and provide additional information so that we may better serve you. You may also speak directly to a customer service representative by calling 1-800-CALL-FHA (1-800-225-5342) or visit our online knowledge base at www.hud.gov/answers, 24 hours/7 days a week.

Your question was regarding DACA Recipients. FHA will insure loans made to DACA Recipients as long as they meet the following requirements.

Do borrowers have to be U.S. citizens to qualify for FHA financing?

United States (U.S.) citizenship is not required for eligibility. The lender must determine the residency status of the borrower based on information provided on the application and other applicable documentation. In no case is a Social Security card sufficient to prove immigration or work status.

A borrower with lawful permanent resident alien status may be eligible provided the borrower satisfies the same requirements, terms and conditions as those for U.S. citizens. The file must include evidence of the permanent residency and indicate that the borrower is a lawful permanent resident alien on the Uniform Residential Loan Application (URLA). The U.S. Citizenship and Immigration Services (USCIS) within the Department of Homeland Security provides evidence of lawful, permanent residency status.

A borrower who is a non-permanent resident alien may be eligible provided:

- the property will be the borrower's principal residence;
- the borrower has a valid Social Security Number (SSN), except for those employed by the World Bank, a foreign embassy, or equivalent employer identified by HUD;
- the borrower is eligible to work in the U.S., as evidenced by the Employment Authorization Document issued by the USCIS; and
- the borrower satisfies the same requirements, terms and conditions as those for U.S. citizens.

The Employment Authorization Document is required to substantiate work status. If the Employment Authorization Document will expire within one year and a prior history of residency status renewals exists, the lender may assume that continuation will be granted. If there are no prior renewals, the lender must determine the likelihood of renewal based on information from the USCIS.

A borrower residing in the U.S. by virtue of refugee or asylee status granted by the USCIS is automatically eligible to work in this country. The Employment Authorization Document is not required, but documentation substantiating the refugee or asylee status must be obtained. Non-U.S. citizens without lawful residency in the U.S. are not eligible.

For additional information see Handbook 4000.1 II.A.1.b.ii.(A)(8)-(9) available at https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsgq

Sincerely,

FHA Customer Service Team

DISCLAIMER: All policy information contained in this knowledge base article is based upon the referenced HUD policy document. Any lending or insuring decisions should adhere to the specific information contained in that underlying policy document.

See us online at newcastle.loans. Call us at 855-610-1112. NewCastle Home Loans, 1700 W. Cortland St, Chicago, IL 60622. Lic#150580. Equal housing lender. This message may contain confidential, proprietary and privileged info. If you're not the intended recipient, please delete it and contact the sender by return email.



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ATTACHMENT 5

From: Herrity, Theresa M
Sent: 14 Sep 2017 20:09:33 +0000
To: Allen, Neal F
Cc: Stevens, Kevin L
Subject: EAD and DACA

The question is:

In light of President Trump's announcement that the DACA program is ending, what is the FHA stance on EAD cards with DACA codes & expiration dates w/in the year? Are we still able to use the history of previous renewals? Should this category be denied until there is a plan if there will be any renewals allowed?

POLICY

4000.1

Non-Permanent Resident Aliens

A Borrower who is a non-permanent resident alien may be eligible for FHA-insured financing provided:

- the Property will be the Borrower's Principal Residence;
- the Borrower has a valid SSN, except for those employed by the World Bank, a foreign embassy, or equivalent employer identified by HUD;
- the Borrower is eligible to work in the United States, as evidenced by the Employment Authorization Document issued by the USCIS; and
- the Borrower satisfies the same requirements, terms and conditions as those for U.S. citizens.

The Employment Authorization Document is required to substantiate work status. If the Employment Authorization Document will expire within one year and a prior history of residency status renewals exists, the Mortgagee may assume that continuation will be granted. If there are no prior renewals, the Mortgagee must determine the likelihood of renewal based on information from the USCIS.

Theresa Herrity

Credit Policy Specialist

U.S. Department of Housing and Urban Development

Office of Single Family Program Development

Home Mortgage Insurance Division

ATTACHMENT 6

From: Jana Holmstrup
Sent: 27 Aug 2018 19:41:46 -0700
To: Rose, Thomas A;Roget, Gisele G
Subject: DACA and FHA

Hello Tom and Gisele,

I recently attended the Lender Roundtable in Santa Ana where you unequivocally stated that DACA status is ineligible for FHA financing. Due to the fact that I was invited and attended – and heard you say it – we now find ourselves at a competitive disadvantage. My largest competitors, Alterra, American Pacific, Country Club, etc., continue to offer FHA financing because they haven't 'heard you say it'.

This from one of my Branch Managers:

"great because some of our competitors have stated that HUD has not sent out any mortgagee letter stating that, and I could not find it myself. Competitors are stating no investor overlay and HUD has not come out with a rule, that's why they are able to do them."

Confusion around the web: (you can google if unable to open links)

<https://www.housingwire.com/blogs/1-rewired/post/43208-ask-the-underwriter-are-daca-recipients-eligible-for-fha-loans>

<https://www.google.com/amp/amp.mortgagenewsdaily.com/article/862965>

<https://fairlendingdiversity.com/daca-status-has-mortgage-lenders-in-a-catch-22/>

Everyone in the Mortgage Industry is at odds on this subject and your policy needs to be announced officially. The Handbook is extremely vague and I would argue (as I did) that DACA meets the Handbook requirements of a non-permanent resident. DACA itself affords them the right to reside here legally until some undetermined future date... Is this an item that falls under "Underwriter Discretion" since it's not clearly addressed? Or will you officially address it to the industry as a whole? I understand that HUD does not like to address things that they feel have not changed – but this is a huge change! Just about every lender representative at the roundtable had wide eyes & a puzzled look on their face when you stated it, knowing they had been closing FHA DACA loans for years.

If this is a hard and fast rule, we need hard and fast guidance sent to all HUD-approved Lenders. Last thing I want is a Fair Lending issue because we are saying No and competition is saying Yes.

Thank you so much for your time and consideration. If I can answer any questions on this subject, please let me know.

Jana Holmstrup
Chief Executive Officer
Kings Mortgage Services, Inc.
tel 559-713-1200
cell (b)(6)

"What you do Today matters most" – unknown

ATTACHMENT 7

NK

Burgos, Juan M

From: Brown, Amy L
Sent: Wednesday, April 11, 2018 1:53 PM
To: Burgos, Juan M; HAWKINS, DORIAN S; Tolbert, Sherece; Davis, Elizabeth M; Lee, Chung-Yiu
Subject: FW: DACA and FHA eligibility

FYI - If a question comes in on DACA – USCIS has stated that the DACA program is a deferred prosecution action that does not change the individual’s legal status. FHA’s policies require lawful residency for eligibility. So, if residency is unlawful – even if DACA is applied – the individual is not eligible.

FHA is clarifying the existing FAQ to (b)(5) Client Privilege; (b)(5) Deliberative Privilege
(b)(5); (b)(5) Attorney Work-Product Privilege .

From: Saunders, Elissa O
Sent: Wednesday, April 11, 2018 1:45 PM
To: Brown, Amy L <Amy.L.Brown@hud.gov>; Roget, Gisele G <Gisele.G.Roget@hud.gov>; Brown, Christina M <Christina.M.Brown@hud.gov>
Subject: RE: DACA and FHA eligibility

That would make sense. We can move this sentence to the top of the FAQ. Are you ok with that Gisele?

(b)(5) Client Privilege; (b)(5) Deliberative Privilege

(b)(5) Client Privilege; (b)(5) Deliberative Privilege

From: Brown, Amy L

Sent: Wednesday, April 11, 2018 11:24 AM

To: Saunders, Elissa O <Elissa.O.Saunders@hud.gov>; Roget, Gisele G <Gisele.G.Roget@hud.gov>; Brown, Christina M <Christina.M.Brown@hud.gov>

Subject: RE: DACA and FHA eligibility

Can we pull the (b)(5) Client Privilege; (b)(5) Deliberative Privilege

(b)(5) Client Privilege; (b)(5) Deliberative Privilege

<https://hudgov.prod.parature.com/link/portal/57345/57355/Article/2964/Do-borrowers-have-to-be-U-S-citizens-to-qualify-for-FHA-financing>

From: Brown, Amy L

Sent: Wednesday, April 11, 2018 11:22 AM

To: Saunders, Elissa O <Elissa.O.Saunders@hud.gov>; Roget, Gisele G <Gisele.G.Roget@hud.gov>; Brown, Christina M <Christina.M.Brown@hud.gov>

Subject: RE: DACA and FHA eligibility

We believe there is may be (b)(5) Client Privilege; (b)(5) Deliberative Privilege and may be the source of all this confusion.

From: Saunders, Elissa O

Sent: Wednesday, April 11, 2018 10:58 AM

To: Roget, Gisele G <Gisele.G.Roget@hud.gov>; Brown, Amy L <Amy.L.Brown@hud.gov>; Brown, Christina M <Christina.M.Brown@hud.gov>

Subject: RE: DACA and FHA eligibility

Hi Gisele,

It copied a little weird but the handbook language is the text below the link. They highlighted the pertinent section.

(a) Lawful Permanent Resident Aliens (i) Standard A Borrower with lawful permanent resident alien status may be eligible for FHA-insured financing provided the Borrower satisfies the same requirements, terms and conditions as those for U.S. citizens. (ii) Required Documentation The mortgage file must include evidence of the permanent residency and indicate that the Borrower is a lawful permanent resident alien on the URLA. The U.S. Citizenship and Immigration Services (USCIS) within the Department of Homeland Security provides evidence of lawful, permanent residency status. (b) Non-Permanent Resident Aliens A Borrower who is a non-permanent resident alien may be eligible for FHAinsured financing provided: • the Property will be the Borrower's Principal Residence; • the Borrower has a valid SSN, except for those employed by the World Bank, a foreign embassy, or equivalent employer identified by HUD; • the Borrower is eligible to work in the United States, as evidenced by the Employment Authorization Document issued by the USCIS; and • the Borrower satisfies the same requirements, terms and conditions as those for U.S. citizens. The Employment Authorization Document is required to substantiate work status. If the Employment Authorization Document will expire within one year and a prior history of residency status renewals exists, the Mortgagee may assume that continuation will be granted. If there are no prior renewals, the Mortgagee must determine the likelihood of renewal based on information from the USCIS. A Borrower residing in the U.S. by virtue of refugee or asylee status granted by the USCIS is

automatically eligible to work in this country. The Employment Authorization Document is not required, but documentation substantiating the refugee or asylee status must be obtained. (c) Non-U.S. Citizens without Lawful Residency Non-U.S. citizens without lawful residency in the U.S. are not eligible for FHA-insured Mortgages.

From: Roget, Gisele G
Sent: Wednesday, April 11, 2018 10:54 AM
To: Brown, Amy L <Amy.L.Brown@hud.gov>; Brown, Christina M <Christina.M.Brown@hud.gov>
Cc: Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Subject: RE: DACA and FHA eligibility

Thanks Amy. Please share this handbook language.

From: Brown, Amy L
Sent: Wednesday, April 11, 2018 10:53 AM
To: Roget, Gisele G <Gisele.G.Roget@hud.gov>; Brown, Christina M <Christina.M.Brown@hud.gov>
Cc: Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Subject: RE: DACA and FHA eligibility

Actually, the handbook is clear from a legal perspective. The requirement is lawful residency. DACA does not convey legal status, but merely delays prosecution of action to remove individuals without legal status.

From: Roget, Gisele G
Sent: Wednesday, April 11, 2018 10:37 AM
To: Brown, Amy L <Amy.L.Brown@hud.gov>; Brown, Christina M <Christina.M.Brown@hud.gov>
Cc: Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Subject: DACA and FHA eligibility

I'm getting a number of inquiries on whether DACA residents are eligible for FHA mortgages. Can you provide guidance here? The FHA Handbook language isn't clear on this.

Do we need to update the Handbook?

A lender sent me this language from a government website:

What Is DACA

On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several guidelines may request consideration of deferred action for a period of two years, subject to renewal. They are also eligible for work authorization. Deferred action is a use of prosecutorial discretion to defer removal action against an individual for a certain period of time. Deferred action does not provide lawful status.

<https://www.uscis.gov/archive/consideration-deferred-action-childhood-arrivals-daca>

- (a) Lawful Permanent Resident Aliens (i) Standard A Borrower with lawful permanent resident alien status may be eligible for FHA-insured financing provided the Borrower satisfies the same requirements, terms and conditions as those for U.S. citizens. (ii) Required Documentation The mortgage file must include evidence of the permanent residency and indicate that the Borrower is a lawful permanent resident alien on the URLA. The U.S. Citizenship and Immigration Services (USCIS) within the Department of Homeland Security provides evidence of lawful, permanent residency status. (b) Non-Permanent Resident Aliens A Borrower who is a non-permanent resident alien may be eligible for FHAinsured financing provided:
- the Property will be the Borrower's Principal Residence;
 - the Borrower has a valid SSN, except for

those employed by the World Bank, a foreign embassy, or equivalent employer identified by HUD; • the Borrower is eligible to work in the United States, as evidenced by the Employment Authorization Document issued by the USCIS; and • the Borrower satisfies the same requirements, terms and conditions as those for U.S. citizens. The Employment Authorization Document is required to substantiate work status. If the Employment Authorization Document will expire within one year and a prior history of residency status renewals exists, the Mortgagee may assume that continuation will be granted. If there are no prior renewals, the Mortgagee must determine the likelihood of renewal based on information from the USCIS. A Borrower residing in the U.S. by virtue of refugee or asylee status granted by the USCIS is automatically eligible to work in this country. The Employment Authorization Document is not required, but documentation substantiating the refugee or asylee status must be obtained. (c) Non-U.S. Citizens without Lawful Residency Non-U.S. citizens without lawful residency in the U.S. are not eligible for FHA-insured Mortgages.

ATTACHMENT 8

From: Roget, Gisele G
Sent: 4 Apr 2019 16:52:19 +0000
To: MDB;Garvin, John L;Gormley, Joseph M
Cc: Greenbaum, Elie
Subject: Fwd: VA DACA policy

Gisele Roget
Deputy Assistant Secretary, Single Family
Federal Housing Administration

From: London, Jeffrey, VBAVACO <jeffrey.london@va.gov>
Sent: Thursday, April 4, 2019 12:44 PM
To: Roget, Gisele G
Subject: RE: VA DACA policy

Hi Gisele,

Sorry for the delayed response as I was out of the office Mon-Wed. As you know our program is for eligible Veterans and Congress has specific criteria in statute since the VA home loan is an entitlement/benefit. If the Veteran meets eligibility requirements and they are also using spousal income, the individual has to be a lawful resident and point lenders to the following website for residency requirements: <https://www.uscis.gov/tools/glossary/lawful-permanent-resident>

I hope this helps.

Jeff

From: Roget, Gisele G <Gisele.G.Roget@hud.gov>
Sent: Tuesday, April 02, 2019 9:28 AM
To: London, Jeffrey, VBAVACO <jeffrey.london@va.gov>
Subject: [EXTERNAL] VA DACA policy

Hi Jeff,

Does VA have a policy on mortgage eligibility for DACA recipients. FHA's Single Family Handbook states non-citizens without lawful residency are not eligible.

Thanks,

Gisele

Gisele Roget
Deputy Assistant Secretary, Single Family Housing
Federal Housing Administration
202.402.5290
gisele.g.roget@hud.gov

ATTACHMENT 9

From: Roget, Gisele G
Sent: 3 Apr 2019 19:28:30 +0000
To: MDB;Garvin, John L;Gormley, Joseph M
Cc: Greenbaum, Elie
Subject: FW: RHS DACA policy

From: Anderson, Curtis - RD, Washington, DC <Curtis.Anderson2@wdc.usda.gov>
Sent: Wednesday, April 03, 2019 9:25 AM
To: Roget, Gisele G <Gisele.G.Roget@hud.gov>
Subject: RE: RHS DACA policy

This is our position:

Individuals with “Temporary Resident-Temporary Employment Authorized” status as determined by the Department of Homeland Security are not eligible for USDA Single Family Direct and Guaranteed housing programs.

From: Roget, Gisele G <Gisele.G.Roget@hud.gov>
Sent: Tuesday, April 2, 2019 9:28 AM
To: Anderson, Curtis - RD, Washington, DC <Curtis.Anderson2@wdc.usda.gov>
Subject: RHS DACA policy

Hi Curtis,

Does RHS have a policy on mortgage eligibility for DACA recipients. FHA’s Single Family Handbook states non-citizens without lawful residency are not eligible.

Thanks,

Gisele

Gisele Roget
Deputy Assistant Secretary, Single Family Housing
Federal Housing Administration
202.402.5290
gisele.g.roget@hud.gov

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ATTACHMENT 10

From: Greenbaum, Elie
Sent: 21 Sep 2018 15:04:42 +0000
To: Roget, Gisele G
Subject: RE: Reach out to Alfred re DACA

Will do. And sending Amy edits now to review

From: Roget, Gisele G
Sent: Friday, September 21, 2018 11:04 AM
To: Greenbaum, Elie <Elie.Greenbaum@hud.gov>
Subject: Reach out to Alfred re DACA

Can you ask Alfred about whether FHFA allows DACA loans?

Gisele Roget
Deputy Assistant Secretary, Single Family
Federal Housing Administration

ATTACHMENT 11

(b)(7)(A)

October 18, 2018

RE: Letter of Explanation FHA Lender Review System Case (b)(7)(A)

Borrower Name (b)(6)

Property Address

Finding: unacceptable BE.10.A – UNACCEPTABLE

Lender Response:

(b)(7)(A) has called the Denver HOC on this topic on a number of occasions. We were told that they would not speak to specific EAD classification but that we need to follow the guideline and if the borrower has an Employment Authorization card and meets the other guidelines outlined in the Non-Permanent Resident Alien Section we should proceed. We even asked the question whether or not HUD has made an update one way or the other specifically regarding the C33 classification in light of the political climate and we were told no. Had has not come out with any opinion on the matter.

Hud Handbook 4000.1, ii., a., 1., b. states the following:

(b) Non-Permanent Resident Aliens: A Borrower who is a non-permanent resident alien may be eligible for FHA-insured financing provided:

- the Property will be the Borrower's Principal Residence;
- the Borrower has a valid SSN, except for those employed by the World Bank, a foreign embassy, or equivalent employer identified by HUD;
- the Borrower is eligible to work in the United States, as evidenced by the Employment Authorization Document issued by the USCIS; and
- the Borrower satisfies the same requirements, terms and conditions as those for U.S. citizens.

The Employment Authorization Document is required to substantiate work status. If the Employment Authorization Document will expire within one year and a prior history of residency status renewals exists, the Mortgagee may assume that continuation will be granted. If there are no prior renewals, the Mortgagee must determine the likelihood of renewal based on information from the USCIS.

A Borrower residing in the U.S. by virtue of refugee or asylee status granted by the USCIS is automatically eligible to work in this country. The Employment Authorization Document is not required, but documentation substantiating the refugee or asylee status must be obtained.

This borrower and loan meets all of the bullet point requirements. We also have an Employment Authorization Document to substantiate work status. His card was expiring within one year at the time of closing so we also provided proof of prior renewals which allowed us per the written guideline to assume that continuation will be granted. Additionally, the USCIS is still currently renewing C33 Employment Authorization Cards. USCIS also states that the C33 designation allows individuals to be lawfully present and working in the United States.

(b)(7)(A)

(b)(7)(A)

Lender: (b)(7)(A)
FHA Case Number: (b)(6)
Borrower Name: (b)(6)
Property Address: (b)(6)

BE Finding
BE.10.A
Source: Other
Cause: Eligibility

U.S. Citizenship and Immigration Services (“USCIS”) has stated that DACA does not convey legal status, but does not state that DACA beneficiaries are unlawfully present; as clearly addressed on the USCIS website updated as of March 2018, the USCIS states that DACA beneficiaries will not accrue unlawful presence time in the United States while they are in this deferred action status. In addition, as found on the USCIS frequently asked questions page, “Individuals granted deferred action are not precluded by federal law from establishing domicile in the U.S.... Lawful presence, lawful status, and similar terms are used in various other federal and state laws.”

The February 2018 injunction, which can also be found on the USCIS website, ordered the DACA program to be reinstated on the same terms and conditions promulgated as before the Rescission Memo. Before the Rescission Memo the DACA program was implemented. Additionally, the February 2018 injunction stated that because the rescission had a system-wide impact the court would impose the system-wide remedy, but confirmed that DACA renewal requests could be adjudicated at renewal on a case-by-case basis for each renewal request. In the United States, the term “alien” is defined within the immigration laws to refer to a citizen of another country. However, the terms “resident alien” and “non-resident alien” are terms defined in the Federal Tax Code, as opposed to the immigration laws. The tax code defining resident alien defines a resident alien in terms of both permanent resident alien and the substantial presence criteria.

The Texas Administrative Code Title 19 Education, Part 1, Chapter 21, Subchapter B, Rule 21.24, defines residency in terms of physical presence and documentation criteria. In subsection (d) the statute defines that certain non-U.S. citizens are eligible to establish and maintain domicile in the state of Texas, including a “nonimmigrant who holds a type of visa that allows domicile.”

In addition, the Texas Transportation Code Title 7, Subtitle B, Chapter 521, Subchapter A defines residency of Texas as lawful presence in the state.

This borrower is a lawful resident of the State of Texas that would be defined as a resident alien through the Federal Taxation substantial presence criteria. As such, the non-permanent resident alien underwriting criteria would be applicable. Further, within the non-permanent resident alien underwriting criteria, the probability of renewal requirement would be met by the February 2018, legal injunctive declaration that revocation is on an individual basis.

ATTACHMENT 12

From: Bice, Scott E
Sent: 13 Jun 2018 18:01:48 +0000
To: Roget, Gisele G
Subject: FW: DACA

From: Ruth Green <rgreen@primeres.com>
Sent: Wednesday, June 13, 2018 11:41 AM
To: Bice, Scott E <Scott.E.Bice@hud.gov>
Cc: Burton Embry <hembry@primeres.com>
Subject: DACA

Scott,

I wanted to thank you for hosting the FHA Lender Roundtable in Denver yesterday. We appreciate the opportunity to meet with the leadership at FHA to discuss current issues and understand your challenges and priorities for the program. Please share our thanks with your team at the HOC as well as Gisele and her team at Headquarters.

I had a note to follow up with you on Deferred Action for Childhood Arrivals or DACA. As we discussed, there is quite a lot of confusion in the industry regarding whether this status is eligible for FHA financing or not. Our company has reviewed the issue on a number of occasions and concluded that borrowers with DACA status are not lawful residents and therefore, not eligible for FHA financing. However, I get calls several times a month from our sales staff citing lenders who are allowing them. Even Wells Fargo has advised us they are eligible and will purchase loans if they have an EAD and meet the Non-Permanent Resident Alien requirements.

When we contact the resource center, they quote two sections of the handbook. We've even had calls that were escalated where they indicate that as long as we meet all the bullet points in (b) Non-Permanent Resident Aliens, then they are eligible. DACA borrowers usually meet all the requirements in part (b) Non-Permanent Resident Aliens.

(b) Non-Permanent Resident Aliens A Borrower who is a non-permanent resident alien may be eligible for FHA-insured financing provided:

- the Property will be the Borrower's Principal Residence;
- the Borrower has a valid SSN, except for those employed by the World Bank, a foreign embassy, or equivalent employer identified by HUD;
- the Borrower is eligible to work in the United States, as evidenced by the Employment Authorization Document issued by the USCIS; and
- the Borrower satisfies the same requirements, terms and conditions as those for U.S. citizens.

The Employment Authorization Document is required to substantiate work status. If the Employment Authorization Document will expire within one year and a prior history of residency status renewals exists, the Mortgagee may assume that continuation will be granted. If there are no prior renewals, the

Mortgagee must determine the likelihood of renewal based on information from the USCIS.

A Borrower residing in the U.S. by virtue of refugee or asylee status granted by the USCIS is automatically eligible to work in this country. The Employment Authorization Document is not required, but documentation substantiating the refugee or asylee status must be obtained.

(c) Non-U.S. Citizens without Lawful Residency

Non-U.S. citizens without lawful residency in the U.S. are not eligible for FHA-insured Mortgages.

We believe part (c) may preclude DACA borrowers from being eligible for FHA financing. However, the USCIS website seems to have conflicting information on whether borrowers with DACA status are lawful residents or not.

This link seems to indicate they do not have lawful status:

<https://www.uscis.gov/humanitarian/deferred-action-childhood-arrivals-response-january-2018-preliminary-injunction>

Deferred action is a discretionary determination to defer a removal action of an individual as an act of prosecutorial discretion. Further, deferred action under DACA does not confer legal status upon an individual and may be terminated at any time, with or without a Notice of Intent to Terminate, at DHS's discretion. DACA requests will be adjudicated under the guidelines set forth in the June 15, 2012 DACA memo (PDF)

This link seems to indicate they do have lawful status:

<https://www.uscis.gov/ilink/docView/6CFR/HTML/6CFR/0-0-0-1/0-0-0-4972/0-0-0-5012.html#0-0-0-647>
6cfr \ TITLE 6 - HOMELAND SECURITY (6 CFR) \ 6 CFR PART 37--REAL ID DRIVER'S LICENSES AND IDENTIFICATION CARDS (Part 37 added effective 3/31/08; \ § 37.3 Definitions.



Lawful status : A person in lawful status is a citizen or national of the United States; or an alien: lawfully admitted for permanent or temporary residence in the United States; with conditional permanent resident status in the United States; who has an approved application for asylum in the United States or has entered into the United States in refugee status; who has a valid nonimmigrant status in the United States; who has a pending application for asylum in the United States; who has a pending or approved application for temporary protected status (TPS) in the United States; who has approved deferred action status; or who has a pending application for lawful permanent residence (LPR) or conditional permanent resident status. This definition does not affect other definitions or requirements that may be contained in the Immigration and Nationality Act or other laws.

I hope this helps to illustrate why lenders are confused and continue to reach out to FHA for guidance. I feel definitive guidance from FHA is needed in order to ensure borrowers are treated fairly and consistently by lenders participating in the FHA program.

Thank you!



Ruth Green | SVP | Operations
Primary Residential Mortgage, Inc.
1480 No. 2200 W. | Salt Lake City | Utah | 84116
Toll Free **1.800.255.2792 ext. 1000104**
www.primaryresidentialmortgage.com | rgreen@primeres.com

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ATTACHMENT 13

From: Brown, Purtilla O
Sent: 14 Jun 2018 13:33:55 +0000
To: Calamese, Leslie M;Garcia, Volky A;Higgins, John S;Metellus, Ludger;Murray, Nancy A;Ross, Mark;White-Chiselom, Monique R
Subject: FW: SFH Weekly Update for the Chief of Staff Report, June 13, 2018
Attachments: 6.13.18.SFH.COS Report.docx

FYI

From: Donahoe Jr, Gerard P
Sent: Thursday, June 14, 2018 8:17 AM
To: Allen, Neal F <Neal.F.Allen@hud.gov>; Bice, Scott E <Scott.E.Bice@hud.gov>; Borland, Bobbi L <Bobbi.L.Borland@hud.gov>; Calamese, Leslie M <Leslie.M.Calamese@hud.gov>; Dumont, Glenn L <Glenn.L.Dumont@hud.gov>; Gargano, Stephen F <stephen.f.gargano@hud.gov>; Glavin, William A <William.A.Glavin@hud.gov>; Hadley, Joy <joy.hadley@hud.gov>; Himes, Ivery W <Ivery.W.Himes@hud.gov>; Leslie, Barbara A <Barbara.A.Leslie@hud.gov>; Malec, Mark E <Mark.E.Malec@hud.gov>; Malles, Donny M <Donny.M.Malles@hud.gov>; Mayfield, Graham B <Graham.B.Mayfield@hud.gov>; Roberts, Elaine A <Elaine.A.Roberts@hud.gov>; Rogers III, Dan <Dan.RogersIII@hud.gov>; Roget, Gisele G <Gisele.G.Roget@hud.gov>; Rose, Thomas A <thomas.a.rose@hud.gov>; Ross, Mark <Mark.A.Ross@hud.gov>; Sampedro, Wanda L <Wanda.L.Sampedro@hud.gov>; Saunders, Elissa O <Elissa.O.Saunders@hud.gov>; Shaffer, Julie <julie.shaffer@hud.gov>; Stevens, Kevin L <Kevin.L.Stevens@hud.gov>; Sullivan, Mary Jo <MaryJo.Sullivan@hud.gov>; Tasca, Charles P <Charles.P.Tasca@hud.gov>; Triolo, Anthony T <Anthony.T.Triolo@hud.gov>; Walker, Cherylayne B <CHERYL.B.WALKER@hud.gov>
Cc: Brown, Purtilla O <Purtilla.O.Brown@hud.gov>; Douglas, Darlene F <Darlene.F.Douglas@hud.gov>; Hamilton, Devawn <Devawn.Hamilton@hud.gov>; Martin, Kelly R <Kelly.R.Martin@hud.gov>; Nogic, Amanda J <Amanda.J.Nogic@hud.gov>; Smith-Florence, Evelyn G <Evelyn.G.Smith-Florence@hud.gov>
Subject: SFH Weekly Update for the Chief of Staff Report, June 13, 2018
Weekly Update (for Chief of Staff Report)

June 13, 2018

Housing Program Office: Single Family

FHA/Housing

Major Policy Work

This past week

- N/A

The following 30 days

- **Advanced Notice of Proposed Rulemaking**

Non Responsive Record

Schedule of Major Events/Upcoming Travel (DAS/ADAS Only)

This Week

Speeches and Events

- On June 12, 2018 Single Family Housing Deputy Assistant Secretary Gisele Roget attended Denver Homeownership Center's Lender Roundtable via VTC. Over twenty participants discussed issues included FHA IT systems, FHA credit box, eligibility of DACA recipients for FHA loans and quality assurance.

Non Responsive Record

Key Decisions or Guidance Requests

Current

- FHA lenders have flagged that there is ambiguity concerning the eligibility of DACA recipients for FHA loans. FHA has drafted a proposed FAQ to address ambiguity.

The following 30 Days

- N/A

Key Concerns

Budget

Non Responsive
Record

Disaster Recovery

- Non Responsive Record

Non Responsive Record

EnVision Centers

- Non Responsive Record

ATTACHMENT 14

From: Hadley, Joy
Sent: 1 Aug 2018 13:29:43 +0000
To: Higgins, John S
Subject: FW: Lender Roundtable Minutes from New York and Richmond
Attachments: Lender Round Table-NYC 7.19.18.docx, Lender Round Table-Richmond 6.27.18.docx

From: Shaffer, Julie
Sent: Friday, July 27, 2018 10:12 AM
To: Roget, Gisele G <Gisele.G.Roget@hud.gov>
Cc: Triolo, Anthony T <Anthony.T.Triolo@hud.gov>; Cianci, Andrew <ANDREW.CIANCI@hud.gov>; Cahall, Elizabeth M <Elizabeth.M.Cahall@hud.gov>; Roe, Kathleen E <KATHLEEN.E.ROE@hud.gov>; Rose, Thomas A <thomas.a.rose@hud.gov>; Gargano, Stephen F <stephen.f.gargano@hud.gov>; Rogers III, Dan <Dan.RogersIII@hud.gov>; Dumont, Glenn L <Glenn.L.Dumont@hud.gov>; Bice, Scott E <Scott.E.Bice@hud.gov>; Roberts, Elaine A <Elaine.A.Roberts@hud.gov>; Hadley, Joy <joy.hadley@hud.gov>; Saunders, Elissa O <Elissa.O.Saunders@hud.gov>; Himes, Ivery W <Ivery.W.Himes@hud.gov>; Shindelar, Stacey L <stacey.l.shindelar@hud.gov>

Subject: Lender Roundtable Minutes from New York and Richmond

Please find the attached notes from the half day roundtables in Richmond and New York. Please let me know if you need anything additional.

Thanks!

Julie

Julie A. Shaffer

Director

Philadelphia Homeownership Center

U.S. Department of Housing and Urban Development

P: 215.861.7216 | Email: Julie.Shaffer@hud.gov

HUD/Lender Round Table Discussion
Thursday, July 19, 2018
New York, NY

HUD Representatives: Julie Shaffer, Director, Philadelphia Homeownership Center
Andrew Cianci, Director, SF PUD, Philadelphia HOC
Eric McDowel, Senior Underwriter, SF PUD, Philadelphia HOC

Introduction by HUD:

- HUD explained the purpose of the round table as an open discussion format for lenders to ask questions, offer suggestions and voice concerns.
- It was announced that HUD has a new FHA Housing Commissioner, Brian Montgomery, who also served as Commissioner under a previous administration. He was confirmed May 23, 2018 and is in the process of transitioning back to HUD/FHA.

Topics of Discussion:

FHA Resource Center and Customer Service:

Non Responsive Record

HUD's IT Systems:

• Non Responsive Record

Loan Review System (LRS):

• Non Responsive Record

•

Non Responsive Record

-

Electronic Case Binders/Electronic Case Binder Submission:

Non Responsive Record

-

-

-

Electronic Appraisal Delivery System (EAD):

Non Responsive Record

-

-

-

-

AUS/TOTAL Mortgage Scorecard Issues:

Non Responsive Record

-

CAIVRS:

Non Responsive Record

-

-

Gift Guidelines:

- Non Responsive Record
-
-
-
-
-

Delinquent Federal Non-Tax Debt and Delinquent Federal Tax Debt

- Non Responsive Record

Student Loans:

- Non Responsive Record
-

Third Party Asset Verification:

- Non Responsive Record

Income Calculation Guidelines:

- Non Responsive Record

203(k):

- Non Responsive Record
-
-

MIP:

- Non Responsive Record

The False Claims Act:

- Non Responsive Record

Use of Collateral DE Underwriter:

- Non Responsive Record

Dual Employment/Conflicts of Interest:

- Non Responsive Record
-

Non Responsive Record

REO Inventory:

- Non Responsive Record

HUD/Lender Round Table Discussion
Wednesday, June 27, 2018
Richmond, VA

HUD Representatives: Julie Shaffer, Director, Philadelphia Homeownership Center
Andrew Cianci, Director, SF PUD, Philadelphia HOC
John Phillips, Supervisory Underwriter, SF PUD, Philadelphia HOC
Steven Mares, Housing Program Officer, SF PSD, Philadelphia HOC

Introduction presented by HUD:

- HUD explained the purpose of the round table as an open discussion format for lenders to ask questions, offer suggestions and voice concerns.

Topics of Discussion:

FHA Resource Center and Customer Service:

Non Responsive Record

Lender Review System (LRS):

Non Responsive Record

Electronic Case Binders/Electronic Case Binder Submission:

Non Responsive Record

Indemnifications:

Non Responsive Record

Borrower Eligibility:

DACA:

- Discussion on DACA and legal residency. HUD explained that only individuals with legal residency are eligible for FHA-insured loans.
- A valid Employment Authorization Document (EAD Card) is required. The 4000.1 Handbook defines a legal resident. FHA requires legal residency status in the U.S. to be eligible, with continuance likely. The lender is responsible for documenting a track record of renewals if the EAD Card is nearing expiration. Lenders cannot assume that an extension will be granted if an extension has not been granted in the past. An EAD Card that has expired, but an extension request has been filed, is not acceptable to HUD.
- A lender mentioned that Micronesians do not receive EAD Cards, nor do individuals from Palau. Lenders should pay attention to U.S. government guidance about residents from certain nations that had been granted temporary residency that is not being extended.

Green Card:

- A current card is required.

Nigerian Diplomatic Immunity:

- Diplomatic immunity is not considered to be legal residency. Therefore, the individual is not eligible for an FHA-insured mortgage.

Gifts of Equity:

- Non Responsive Record

-

Gift Funds:

- Non Responsive Record

-

Cash on Hand:

- Non Responsive Record

Disputed Account verbiage:

- Non Responsive Record

Instrumentality of Government (IOG) Secondary Financing Documentation:

- Non Responsive Record

e-Verification:

- Non Responsive Record
-

Bridal Registries:

- Non Responsive Record
-

Grossing Up Income:

- Non Responsive Record
-

Documented Income Exceptions:

- Non Responsive Record

Insufficient Funds (NSF):

- Non Responsive Record

Derogatory Events:

- Non Responsive Record

Transfer of Title Date:

- Non Responsive Record

Property Flipping – Resales occurring 90 days or fewer after acquisition:

- Non Responsive Record

Property eligibility and waivers of distance requirements:

- Non Responsive Record

Amendatory Clause:

- Non Responsive Record

Repair Escrow:

- Non Responsive Record
-

Good Neighbor Next Door:

- Non Responsive Record

From: Bond, Renee
Sent: 13 Nov 2018 15:02:46 +0000
To: Stevens, Kevin L;Higgins, John S
Cc: Metellus, Ludger;Rose, Thomas A;Gargano, Stephen F
Subject: FW: Loan officer complaint about social media ads for FHA loans to DACA DREAMERS

Hi Team:

Just an FYI on this issue.

During our HOC lender roundtable last year, Gisele advised the lenders that the DACA dreamers were not eligible.

Kind Regards,

Renee

From: Hamilton-Capra, Cathy

Sent: Friday, November 09, 2018 8:29 AM

To: Bond, Renee <renee.bond@hud.gov>

Subject: Loan officer complaint about social media ads for FHA loans to DACA DREAMERS

Good morning. I received a CRM CAS-7352934-V9Q2Z4 from adriana@tobiasteam.com Adriana Diaz at Fairway Mortgage. She has seen advertisements from Citi Mortgage saying they can make loans to DACA Dreamers and quote the rule for non-permanent resident aliens. She wanted to report the issue. I didn't locate a City Ad, and can't load the one in her email. I did find and Ask the Underwriter article below, so I am forwarding this to you, in case you are interested.

<https://www.housingwire.com/blogs/1-rewired/post/43208-ask-the-underwriter-are-daca-recipients-eligible-for-fha-loans>

Take care,

Cathy

ATTACHMENT 15

From: Higgins, John S
Sent: 28 Jun 2018 16:38:20 +0000
To: Stevens, Kevin L
Subject: FW: DACA

Just FYI. We never said it was ok. A few lenders explained how they had interpreted the work authorization policy (EAD section) to somehow supersede the legal status policy in the case of DACA recipients. Scott, Gisele and I expressed understanding, but otherwise confirmed that DACA recipients were ineligible. I think Gisele said we would take their concerns back and consider an FAQ or other written clarification.

Jack

From: Higgins, John S
Sent: Thursday, June 28, 2018 12:33 PM
To: 'Carrie Goldman' <cgoldman@ulc.com>; Bice, Scott E <Scott.E.Bice@hud.gov>
Cc: Brad Groves <BGROVES@ulc.com>
Subject: RE: DACA

Hi Carrie,

My apologies if there was a misunderstanding during the roundtable in Denver. During the discussion on EAD and DACA, we acknowledged that certain aspects of the respective sections of Handbook 4000.1 could be clearer. We also understand that the industry would benefit from an FAQ or other written clarification from FHA on this issue. That is all still subject to internal discussion/clearance processes. What other lenders have been told by the HOCs is accurate: Borrowers with DACA status are not eligible for FHA financing per current policy in HUD Handbook 4000.1.

If Universal has specific cases that you want us to consider from an enforcement perspective (LRS reviews with indemnification requests, etc.), then please reach out to me with specifics.

Thank you,

Jack Higgins

Federal Housing Administration
Director | Quality Assurance Division
202-402-6730

From: Carrie Goldman <cgoldman@ulc.com>
Sent: Wednesday, June 27, 2018 1:12 PM
To: Higgins, John S <John.S.Higgins@hud.gov>; Bice, Scott E <Scott.E.Bice@hud.gov>
Cc: Brad Groves <BGROVES@ulc.com>
Subject: DACA

Dear Jack and Scott,

Thank you for allowing me to participate at the Denver HOC Lender Roundtable on June 12, 2018.

We discussed the H1B visas and it was clear that this status was not acceptable to FHA. We also discussed the EAD documentation as it relates to non-permanent resident aliens. In particular, there were no restrictions on the acceptable categories of employment authorization documents. DACA was specifically noted as an acceptable category so long as the non-permanent resident alien guidelines were followed. Subsequent to this meeting we have heard from other lenders that their representative HOC office has stated that DACA is an unacceptable category of employment authorization. They were told that DACA does not allow for lawful residency therefore DACA people are not eligible for FHA financing.

We don't understand that logic as the EAD card clearly documents the individual is legal in the United States and able to work lawfully so long as the document has not expired. Based on the

USCIS website documents it is clear to us that unexpired DACA recipients are currently in a lawful residency status. The screenshot below specifically notes that if your DACA and authorization expires then at that point upon expiration you will begin to accrue unlawful presence once again. This means you used to have unlawful presence/residency, you are lawful during the time your authorization was not expired, but you would become unlawful once again upon expiration without renewal (see below).

Your guidelines are clear as they relate to expiration dates of the EAD. Expirations within one year that have a history of renewals meet FHA guidelines. Expirations within one year without a history of renewals also meet FHA guidelines since the USCIS website clearly notes that DACA renewals are currently being accepted (please note screenshot from USCIS website below).

Please confirm that there have been no policy changes at FHA since the roundtable on June 12, 2018 and that DACA loans are still eligible.

Thank you for your time.

DACA Renewal

- In September 2014, the first individuals who received deferred action from USCIS will begin to have their DACA and employment authorization expire.
- If your DACA and employment authorization expire, you will revert to having no employment authorization or deferred action and, for admissibility purposes, you will begin to accrue unlawful presence time once again.
- To request a renewal, DACA recipients should submit Form I-821D, Form I-765 and Form I-765WS (Worksheet), along with the I-765 filing fees, 120-150 days before their current DACA is set to expire.
- USCIS is currently accepting requests for both initial and renewal DACA.

ATTACHMENT 16

From: DiMarino, Deanna B
Sent: 25 Oct 2018 23:47:51 +0000
To: Channing, Christina M
Subject: FW: EAD project W:

Hi Christina,

I just looked at this again and wanted to be sure you didn't feel like I was being short with you😊! It's been a really long day since my (b)(6)

(b)(6) I do appreciate your efforts, but on this issue, I turned it upside down trying to get information – it was really difficult and frustrating and I just didn't want you to spend time on something that had already spent a lot of time working on without much success..

Here is the blip I have on DACA from USCIS – so Jack/Kevin are satisfied that it specifically states that it does not provide lawful status. They feel this is sufficient to support the lawful residency requirement for an FHA loan.

What Is DACA

On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several guidelines may request consideration of deferred action for a period of two years, subject to renewal. They are also eligible for work authorization. Deferred action is a use of prosecutorial discretion to defer removal action against an individual for a certain period of time.

Deferred action does not provide lawful status.

Please know that I appreciate your efforts!

Have a good rest of your day,

Deanna

From: DiMarino, Deanna B
Sent: Thursday, October 25, 2018 6:45 PM
To: Channing, Christina M <Christina.M.Channing@hud.gov>
Subject: RE: EAD project W:

Thanks again Christina. I have (b)(6) in am, but should be in around 11:30.

I also tried going to different (b)(5) Deliberative Privilege

(b)(5) Deliberative Privilege

I don't want you to spin your wheels as I really spent a lot of time researching this and wanted Jack to give it back to HMID to resolve, but it didn't happen that way once we got on the phone with Kevin.

It is going to be a (b)(5) Deliberative Privilege

(b)(5) Deliberative Privilege

Talk to you soon,

Deanna

From: Channing, Christina M
Sent: Thursday, October 25, 2018 6:39 PM
To: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>
Subject: Re: EAD project W:

Yes- you may have to right click and then click on open hyperlink. There are not many that actually come out and say lawful residency or not. For example- the DACA page says it doesn't provide "legal status." This is the same with other deferred actions or temporary stays of deportation. The person is allowed to be here temporarily due to the circumstances, but the program doesn't provide a path to lawful residency like many of the other non-immigrant statuses.

Hopefully that makes sense. Let me know if you want to talk through it tomorrow. I found this page on the MN State Human Services site and it seemed to help me wrap my head around things a little better:

- **PAROLE:** The United States Attorney General has authority to parole non-citizens into the United States when it is in the public interest or for humanitarian reasons. Parole is usually granted for a specific time period, but in some instances it may be indefinite. Humanitarian parole is usually for the purpose of medical treatment that is not available in a non-citizen's home country. Parole may also be used while other applications are pending, such as asylum applications. Parole is often used for people from refugee-producing countries, such as Vietnam or the former Soviet Union, when they do not qualify as refugees but have family members already in the United States.
- **LAWFUL TEMPORARY RESIDENT (LTR):** Under the Immigration Reform and Control Act (IRCA) of 1986, certain undocumented non-citizens were allowed to legalize their status, first to Lawful Temporary Resident (LTR), and then to Lawful Permanent Resident (LPR). There is no current provision to allow undocumented non-citizens to apply for legalization to LTR. A small number of LTRs were unable to adjust to LPR, mostly because of the English language and civics testing requirements.
- **FAMILY UNITY:** A program resulting from problems that arose due to the Immigration Reform and Control Act (IRCA) of 1986, which allowed the spouses and children of people who legalized their status, to remain in the United States. Most Family Unity cases should be pending adjustment to LPR and the numbers should be decreasing.
- **TEMPORARY PROTECTED STATUS (TPS):** Certain countries may be designated as temporarily unsafe to return to because of armed conflict or natural disaster. Residents of those countries who are present in the United States at that time may apply for TPS. TPS is granted for a

specified time (6 to 18 months). At the end of the specified time period, U.S. Citizenship and Immigration Services (USCIS) will conduct a review to determine if it is safe for the people to return or if TPS should be extended.

- **OTHER DISCRETIONARY CLASSIFICATIONS:** There are several classifications used to permit non-citizens to remain in the United States for humanitarian or other public policy reasons. These classifications include:

- Deferred enforced departure (DED).
- Deferred action.
- Voluntary departure.

Stay of deportation.

- **PEOPLE WITH PENDING IMMIGRATION STATUS:** Under certain circumstances a person may be considered to be lawfully residing in the United States while his or her application is still being processed. This would specifically include:

- The spouse or child of a United States citizen whose visa petition has been approved and who has a pending application for adjustment of status to LPR.
- An applicant for asylum or withholding of deportation who has been granted employment authorization.

From: DiMarino, Deanna B

Sent: Thursday, October 25, 2018 4:27:23 PM

To: Channing, Christina M

Subject: RE: EAD project W:

Thanks Christina. Let me look at a few of these to see if that will work. I've done all of this research and we are not going to find a (b)(5) Deliberative Privilege. Kevin/Jack determined they wanted us to go with whether or not USCIS stated on the website that the status indicated "lawful residency". All of the codes are temporary as the only people with legal residency status are people with green cards. The whole thing is a (b)(5) Deliberative Privilege

(b)(5) Deliberative Privilege

On the links on the attached document, if I click on the link, will that take me to the USCIS page for that particular code?

Thanks again,
Deanna

From: Channing, Christina M
Sent: Thursday, October 25, 2018 6:17 PM
To: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>
Subject: Re: EAD project W:

Ok, here's what I've come up with today. Our HB language is (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege This could be interpreted to mean (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege, which I don't think was the (b)(5) Deliberative Privilege. I think what we're really looking for is (b)(5) Deliberative Privilege

So, I categorized the codes by lawful non-immigrant status- "Y", "N", and "N/A". (I did pull quite a few of them up and added references, just in case.)

Yes means the EAD holder meets the term non-immigrant, is an allowed family member, or is/was provided a path to legal permanent residency based on their EAD code.

No means the EAD holder does not meet the term non-immigrant, may have been granted a stay of deportation, but is not provided a path to legal permanent residency as a result.

N/A means the EAD holder is an asylee, refugee, or a parolee not required to meet the term non-immigrant because they are allowed to stay in the US anyway.

Hopefully this helps and we can fill in more references later if we need to. Let me know what you think.

Christina

From: DiMarino, Deanna B
Sent: Thursday, October 25, 2018 2:13:18 PM
To: Channing, Christina M
Subject: RE: EAD project W:

Hi Christina,

Thanks for trying. I understand, I spent almost two weeks after this first came up in the SFPD/HOC call trying to find sufficient information just on (b)(5) Deliberative Privilege and trying to get "Emma" or anyone on the phone at USCIS to assist is next to impossible! For our purposes and to meet our basic guidance, we probably will only need to (b)(5) Deliberative Privilege (b)(5) Deliberative Privilege. On the ones you were able to check, were you able to capture any screen shots that stated whether or not the status was a (b)(5) Deliberative Privilege? The page explaining DACA clearly states that it is not a lawful residency status. I think we only plan to address (b)(5) Deliberative Privilege (b)(5) Deliberative Privilege. If you weren't able to get any screen shots, no problem – I can go through and capture some between now and Tuesday to make the

determination on (b)(5) Deliberative Privilege Of course, all of this could (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege

Thanks,
Deanna

From: Channing, Christina M
Sent: Thursday, October 25, 2018 2:04 PM
To: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>
Subject: Re: EAD project W:

I feel like I'm going in (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege

It seems to me that (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege I don't think (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege

From: Channing, Christina M
Sent: Thursday, October 25, 2018 7:50:31 AM
To: DiMarino, Deanna B
Subject: Re: EAD project W:

Good Morning Deanna 😊

This is no problem, honestly! I don't think it will take me all that long. I'll touch base a little later today.

(b)(6)

Christina

From: DiMarino, Deanna B
Sent: Wednesday, October 24, 2018 4:25:08 PM
To: Channing, Christina M
Subject: EAD project W:

Hi Christina,

I just wanted to say thank you for looking up the EAD codes for me. I really do appreciate it and it is really helpful right now!

BUT – please, I don't want you to do this if you have other things that are a priority. I'm thrilled to just have you as someone to consult about stuff and I don't want you to ever worry that you will let me down if you don't have time to help!! I know in time things will settle out and become more routine and

we'll both have a better feel for what you will have time to help with, etc. I also know that Jack is sending some policy type questions to you now in addition to the projects he's assigned. All of that has to be your priority over anything I might ask and I just want to be sure you know I understand that.

Getting ready to log off for the day. Have a good rest of your day😊

Deanna

From: DiMarino, Deanna B

Sent: Wednesday, October 24, 2018 3:32 PM

To: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>

Subject: FW:

From: DiMarino, Deanna B

Sent: Wednesday, October 24, 2018 1:45 PM

To: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>

Subject: FW:

From: DiMarino, Deanna B

Sent: Wednesday, October 24, 2018 11:51 AM

To: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>

Subject: FW:

From: DiMarino, Deanna B

Sent: Wednesday, October 24, 2018 10:09 AM

To: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>

Subject: FW:

From: DiMarino, Deanna B

Sent: Wednesday, October 24, 2018 8:00 AM

To: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>

Subject:

ATTACHMENT 17



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-0500

OFFICE OF GENERAL COUNSEL

MEMORANDUM FOR: Gisele Roget, Deputy Assistant Secretary for Single Family Housing, HU

FROM: Amy L. Brown, Associate General Counsel for Insured Housing, CAHA

SUBJECT: Eligibility of DACA Recipients to Obtain FHA-insured Mortgages Under Existing HUD Policy

Over the last several months, FHA mortgagees have sought clarification as to whether Deferred Action for Childhood Arrivals (“DACA”) status recipients are eligible for FHA-insured mortgages.

(b)(5) Deliberative Privilege

Please contact Dorian Hawkins at ext. 5969 if you have any questions.

Internal HUD Distribution:						
	CAHAB Chron – 9240					
CAHAB Brown – 9240	CAHAB Decimal -					
CAHAB Tolbert- 9240	CAHAB Lee – 9240					
Identification Lines:						
J:\GAHAB\1. Single Family Insurance Programs\A. General\Origination (25.0)\Clearance Items\Comment memo DI 7148 HDMA sfogc 6.11.18 and DI-7148—83i Supporting Statement sfogc redline 6.11.18						
Correspondence Code	Originator CAHAB	Concurrence CAHAB	Concurrence CAHAB	Concurrence	Concurrence	Concurrence
Name	Lee	Tolbert				
Date	06.11.2018	06.11.2018				

ATTACHMENT 18

Brown, Amy L

From: Brown, Amy L
Sent: Thursday, March 08, 2018 10:11 AM
To: Saunders, Elissa O; Stevens, Kevin L
Subject: FW: DACA and FHA eligibility

FYI – we agree – not eligible.

From: Lee, Chung-Yiu
Sent: Thursday, March 08, 2018 9:39 AM
To: Brown, Amy L <Amy.L.Brown@hud.gov>
Subject: RE: DACA and FHA eligibility

Amy:

Section II.A.1.b (“General Mortgage Insurance Eligibility”) states that U.S. citizenship is not required to be a borrower. It allows those with lawful permanent residence and non-permanent resident aliens to obtain a FHA mortgages. The handbook expressly states “Non-US citizens without lawful permanent residency in the United States are not eligible for FHA-insured mortgages.”

The Deferred Action for Child Arrivals (DACA) does not appear to provide those individuals granted DACA legal status. DACA is a non-Congressional authorized administrative program that grants deferred prosecutorial action against persons who came in the United States as juveniles meeting certain conditions. DACA recipients are not granted any specific legal status, although they are given work authorization for a 2 year period. There has been attempts to provide legal status to DACA individuals through the Development, Relief and Education for Alien Minors Act (“DREAM Act”), but the DREAM Act has never passed.

The President sought to terminate the DACA program in September 2017 and multiple lawsuits challenging the termination followed. Currently, two courts have enjoined the termination and ordered USCIS to continue accepting DACA renewals. DOJ sought to fast track the case to the Supreme Court but cert was denied.

Based on my understanding of DACA, it appears the answer is DACA recipients would NOT be eligible for FHA Single Family mortgage insurance.

Let me know if need any additional research.

Andrew

ATTACHMENT 19

Tolbert, Sherece

From: Brown, Amy L
Sent: Thursday, March 07, 2019 11:35 AM
To: Tolbert, Sherece
Cc: HAWKINS, DORIAN S; Davis, Elizabeth M
Subject: RE: SOHUD congressional testimony

(b)(5) Deliberative Privilege

Check with Lisa on how far back they traced this policy, but I think at least 2002 or 2003.

Amy L. Brown
Associate General Counsel
Office of Insured Housing

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From: Tolbert, Sherece <Sherece.Tolbert@hud.gov>
Sent: Thursday, March 07, 2019 11:27 AM
To: Brown, Amy L <Amy.L.Brown@hud.gov>
Cc: HAWKINS, DORIAN S <DORIAN.S.HAWKINS@hud.gov>; Davis, Elizabeth M <Elizabeth.M.Davis@hud.gov>
Subject: RE: SOHUD congressional testimony

Revised:

DACA

(b)(5) Deliberative Privilege

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-
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(b)(5) Deliberative Privilege

CONDO

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Sherece Tolbert
Assistant General Counsel
Single Family Mortgage Division

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From: Brown, Amy L <Amy.L.Brown@hud.gov>
Sent: Thursday, March 07, 2019 10:32 AM
To: Tolbert, Sherece <Sherece.Tolbert@hud.gov>
Cc: HAWKINS, DORIAN S <DORIAN.S.HAWKINS@hud.gov>; Davis, Elizabeth M <Elizabeth.M.Davis@hud.gov>
Subject: RE: SOHUD congressional testimony

We do need to add a bullet on DACA that we defer to USCIS as to whether DACA recipients are considered lawful residents. There are competing interpretations of this and we need to be clear that HUD does not decide what programs or policies of USCIS convey lawful residency because we have no authority to make that call. Only USCIS can decide what their policies and programs do.

Also, there will be a question – no doubt – as to why someone from HUD would have told people DACA recipients are not eligible. And we need to have a response that ties back to the policy and USCIS without getting bogged down in the question of why someone would have said that.

For Condo – how about this:

CONDO

Non Responsive Record

Amy L. Brown
Associate General Counsel
Office of Insured Housing

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From: Tolbert, Sherece <Sherece.Tolbert@hud.gov>
Sent: Wednesday, March 06, 2019 4:52 PM
To: Brown, Amy L <Amy.L.Brown@hud.gov>
Cc: HAWKINS, DORIAN S <DORIAN.S.HAWKINS@hud.gov>; Davis, Elizabeth M <Elizabeth.M.Davis@hud.gov>
Subject: RE: SOHUD congressional testimony

DACA

(b)(5) Deliberative Privilege

Amy – Not sure if this came up in your discussions on the Hill but you may want to add a bullet point that states that (b)(5) Deliberative Privilege

(b)(5) Deliberative Privilege

CONDO

Non Responsive Record

-
-
-

Sherece Tolbert
Assistant General Counsel
Single Family Mortgage Division

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From: Brown, Amy L <Amy.L.Brown@hud.gov>
Sent: Wednesday, March 06, 2019 2:56 PM
To: Tolbert, Sherece <Sherece.Tolbert@hud.gov>; Davis, Elizabeth M <Elizabeth.M.Davis@hud.gov>; HAWKINS, DORIAN S <DORIAN.S.HAWKINS@hud.gov>
Subject: RE: SOHUD congressional testimony

Please send to me before sending to Joe. Thanks.

Amy L. Brown
Associate General Counsel
Office of Insured Housing

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From: Tolbert, Sherece <Sherece.Tolbert@hud.gov>
Sent: Wednesday, March 06, 2019 2:33 PM
To: Davis, Elizabeth M <Elizabeth.M.Davis@hud.gov>; HAWKINS, DORIAN S <DORIAN.S.HAWKINS@hud.gov>
Cc: Brown, Amy L <Amy.L.Brown@hud.gov>
Subject: FW: SOHUD congressional testimony

Liz – can you do condo?
Dorian – can you do DACA?

I will send you sample bullet points from prior administration testimony on this topic.

Sherece Tolbert
Assistant General Counsel
Single Family Mortgage Division

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From: Grassi, Joseph J <Joseph.J.Grassi@hud.gov>
Sent: Wednesday, March 06, 2019 2:30 PM
To: Brown, Amy L <Amy.L.Brown@hud.gov>; Tolbert, Sherece <Sherece.Tolbert@hud.gov>
Cc: Simon, Ammon G <Ammon.G.Simon@hud.gov>
Subject: SOHUD congressional testimony

Amy and Sherece – we are being asked to pull together a few bullet points on topics of interest that could come up at the Secretary’s hearing. By the end o the day tomorrow could you (or someone in your group) pull together the bullets for items ##3 and 4? I will take care of GSE reform and FCA. Thanks

1. GSE reform
2. False Claims Act
3. DACA
4. Condo

Joseph J. Grassi, III
Principal Deputy General Counsel
United States Department of
Housing and Urban Development
451 7th Street S.W.
Room 10110
Washington, D.C. 20410
Tel. (office) 202 402 3317
(mobile) (b)(6)
Joseph.J.Grassi@hud.gov

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ATTACHMENT 20

ESCALATION REVIEW COMMITTEE – DISCUSSION TOPICS

Topic #1 – Employment Authorization Document (EAD Card) – Category Codes to Determine Lawful Residency (HQ QAD)

Discussion:

During the August 30, 2018 ERC meeting, the Committee discussed guidance issued during the SFPD/HOC Credit Policy conference call held on August 8, 2018, to ensure that borrowers with Employment Authorization Documents (EAD Cards) also meet FHA's lawful residency eligibility requirements. Specifically, instructions were provided to cross-reference the category code appearing on the EAD card with a list distributed by HMID containing immigration category codes that would also indicate lawful residency status. Except for category codes designated for refugees or asylees, HQ QAD delayed enforcement of this requirement due to difficulty in determining lawful residency status designations for the codes appearing on the list. Note - reviews for borrowers with refugee or asylee designations are not affected by the EAD category code enforcement guidance as borrowers with these designations are not required to have an EAD card, only documentation to support the designation.

After further discussion with SFPD, HQ QAD attempted to locate clearly defined lawful residency designations for each category code on the USCIS website. After significant research by HQ QAD, it was determined that there were too many variables and/or parameters for most category codes to make a definite determination for lawful residency not practicable. However, since the USCIS website clearly states that persons with a Deferred Action Childhood Arrival (DACA) designation, category code C33, do not have lawful residency status, HQ QAD proposes that [REDACTED]

(b)(5) Deliberative Privilege

[REDACTED] may be included in the future.

The finding when borrower(s) are DACA recipients should be cited under Borrower Eligibility (BE) using the following language:

FHA Single Family Housing Policy Handbook, 4000.1 II.A.1.b.ii(A)(9)(c), requires non-US citizens to have lawful residency. Per USCIS, individuals in the United States under the Deferred Action Childhood Arrival (DACA) program, EAD Category Code C33, are not considered to have lawful status. Therefore, the borrower(s) are not eligible for an FHA-insured mortgage and indemnification is required. Only users with the "Indemnification Submission" role in FHA Connection can access the Indemnification button to sign an Indemnification Agreement in LRS. Please refer to the LRS Lender User Manual for step-by-step instructions:

https://www.hud.gov/program_offices/housing/sfh/lender/loan_review_system

Considerations continued on next page.

Considerations:

4000.1 II.A.1.b.ii(A)(9)(b)

(b) Non-Permanent Resident Aliens

A Borrower who is a non-permanent resident alien may be eligible for FHA-insured financing provided:

the Property will be the Borrower's Principal Residence;

the Borrower has a valid SSN, except for those employed by the World Bank, a foreign embassy, or equivalent employer identified by HUD;

the Borrower is eligible to work in the United States, as evidenced by the Employment Authorization Document issued by the USCIS; and

the Borrower satisfies the same requirements, terms and conditions as those for U.S. citizens.

The Employment Authorization Document is required to substantiate work status. If the Employment Authorization Document will expire within one year and a prior history of residency status renewals exists, the Mortgagee may assume that continuation will be granted. If there are no prior renewals, the Mortgagee must determine the likelihood of renewal based on information from the USCIS. A Borrower residing in the U.S. by virtue of refugee or asylee status granted by the USCIS is automatically eligible to work in this country. The Employment Authorization Document is not required, but documentation substantiating the refugee or asylee status must be obtained.

4000.1 II.A.1.b.ii(A)(9)(c)

() Non-U.S. Citizens without Lawful Residency

Non-U.S. citizens without lawful residency in the U.S. are not eligible for FHA-insured Mortgages.

Decision Points:

1. (b)(5) Deliberative Privilege

Decision Minutes continued on next page

Decision Minutes:

The ERC agreed to only cite borrowers with EAD category code C33, DACA recipient, for not meeting lawful residency requirements for non-US citizens. As lawful residency status for other EAD category codes is satisfactorily determined, staff will be advised. As a reminder, refugee and asylee category codes are not subject to this policy.

The finding when borrower(s) are DACA recipients should be cited under Borrower Eligibility (BE) using the following language:

FHA Single Family Housing Policy Handbook, 4000.1 II.A.1.b.ii(A)(9)(c), requires non-US citizens to have lawful residency. Per USCIS, individuals in the United States under the Deferred Action Childhood Arrival (DACA) program, EAD Category Code C33, are not considered to have lawful status. Therefore, the borrower(s) are not eligible for an FHA-insured mortgage and indemnification is required. Only users with the "Indemnification Submission" role in FHA Connection can access the Indemnification button to sign an Indemnification Agreement in LRS. Please refer to the LRS Lender User Manual for step-by-step instructions: https://www.hud.gov/program_offices/housing/sfh/lender/loan_review_system

For reference purposes, the web-link to the USCIS page, along with the page entry stating that deferred status does not provide lawful residency status is provided below:

<https://www.uscis.gov/archive/consideration-deferred-action-childhood-arrivals-daca>

What Is DACA

On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several guidelines may request consideration of deferred action for a period of two years, subject to renewal. They are also eligible for work authorization. Deferred action is a use of prosecutorial discretion to defer removal action against an individual for a certain period of time. Deferred action does not provide lawful status.

ATTACHMENT 21



OFFICE OF HOUSING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

MEMORANDUM FOR: Nancy A. Murry, Secretary, Mortgagee Review Board, HULM
FROM: Jack Higgins, Director, Quality Assurance Division, HULQ
DATE: February 14, 2019
SUBJECT: (b)(7)(A)

On November 11, 2018, the Atlanta HOC completed an origination/underwriting review of the subject case. The Atlanta HOC's review cited (b)(7)(A) for not meeting FHA's borrower eligibility guidelines related to non-permanent resident aliens.

Specifically, although the borrower was in possession of the FHA required Employment Authorization Document (EAD Card), the C33 category code on the document indicates that the borrower is a Deferred Action Childhood Arrival (DACA) recipient. FHA has issued internal guidance via the Escalation Review Committee on November 27, 2018, confirming that DACA recipients do not meet FHA's lawful residency requirements as stated in Handbook 4000.1 II.A.1.b.ii(A)(9)(c). This determination is further supported by a statement posted on the U.S. Citizenship and Immigration Services (USCIS) website that reads: "Deferred action does not provide lawful status".

(b)(7)(A) is challenging the lawful residency status of DACA recipients and will not execute the indemnification agreement. Therefore, we are referring this case to the MRB for further action.

(b)(7)(A) has been an approved Mortgagee since July 8, 1996 and has a net worth of \$3,552,239 as of December 31, 2017.

Included with the referral is the following:

- Referral Memorandum
- LRS Summary Report
- Lender response(s) that had been uploaded to LRS
- Escalation Review Committee Minutes – November 27, 2018 for Topic 1
- Draft of the Notice of Violation (NOV)
- Hard copy case binder

Internal HUD Distribution:						
Identification Lines:						
Correspondence Code	Originator	Concurrence	Concurrence	Concurrence	Concurrence	Concurrence
	HULQ	HULQ	HULQ			
Name	Deanna DiMarino	Valorie Wright	Ludger Metellus			
Date						

Official Record Copy

U.S. Department of Housing and Urban Development
 Previous edition is obsolete.

form HUD-713.1 (02/03)

ATTACHMENT 22

ESCALATION REVIEW COMMITTEE – DISCUSSION TOPICS

Topic #1 – Employment Authorization Document (EAD Card) – Category Codes to Determine Lawful Residency (HQ QAD)

Discussion:

During the August 30, 2018 ERC meeting, the Committee discussed guidance issued during the SFPD/HOC Credit Policy conference call held on August 8, 2018, to ensure that borrowers with Employment Authorization Documents (EAD Cards) also meet FHA’s lawful residency eligibility requirements. Specifically, instructions were provided to cross-reference the category code appearing on the EAD card with a list distributed by HMID containing immigration category codes that would also indicate lawful residency status. Except for category codes designated for refugees or asylees, HQ QAD delayed enforcement of this requirement due to difficulty in determining lawful residency status designations for the codes appearing on the list. Note - reviews for borrowers with refugee or asylee designations are not affected by the EAD category code enforcement guidance as borrowers with these designations are not required to have an EAD card, only documentation to support the designation.

After further discussion with SFPD, HQ QAD attempted to locate clearly defined lawful residency designations for each category code on the USCIS website. After significant research by HQ QAD, it was determined that there were too many variables and/or parameters for most category codes to make a definite determination for lawful residency not practicable. However, since the USCIS website clearly states that persons with a Deferred Action Childhood Arrival (DACA) designation, category code C33, do not have lawful residency status, HQ QAD proposes that

(b)(5) Deliberative Privilege

may be included in the future.

The finding when borrower(s) are DACA recipients should be cited under Borrower Eligibility (BE) using the following language:

FHA Single Family Housing Policy Handbook, 4000.1 II.A.1.b.ii(A)(9)(c), requires non-US citizens to have lawful residency. Per USCIS, individuals in the United States under the Deferred Action Childhood Arrival (DACA) program, EAD Category Code C33, are not considered to have lawful status. Therefore, the borrower(s) are not eligible for an FHA-insured mortgage and indemnification is required. Only users with the “Indemnification Submission” role in FHA Connection can access the Indemnification button to sign an Indemnification Agreement in LRS. Please refer to the LRS Lender User Manual for step-by-step instructions:

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Considerations continued on next page.

Considerations:

4000.1 II.A.1.b.ii(A)(9)(b)

(b) Non-Permanent Resident Aliens

A Borrower who is a non-permanent resident alien may be eligible for FHA-insured financing provided:

- the Property will be the Borrower’s Principal Residence;
- the Borrower has a valid SSN, except for those employed by the World Bank, a foreign embassy, or equivalent employer identified by HUD;
- the Borrower is eligible to work in the United States, as evidenced by the Employment Authorization Document issued by the USCIS; and
- the Borrower satisfies the same requirements, terms and conditions as those for U.S. citizens.

The Employment Authorization Document is required to substantiate work status. If the Employment Authorization Document will expire within one year and a prior history of residency status renewals exists, the Mortgagee may assume that continuation will be granted. If there are no prior renewals, the Mortgagee must determine the likelihood of renewal based on information from the USCIS. A Borrower residing in the U.S. by virtue of refugee or asylee status granted by the USCIS is automatically eligible to work in this country. The Employment Authorization Document is not required, but documentation substantiating the refugee or asylee status must be obtained.

4000.1 II.A.1.b.ii(A)(9)(c)

(c) Non-U.S. Citizens without Lawful Residency

Non-U.S. citizens without lawful residency in the U.S. are not eligible for FHA-insured Mortgages.

Decision Points:

1.

(b)(5) Deliberative Privilege

Decision Minutes continued on next page

Decision Minutes:

The ERC agreed to only cite borrowers with EAD category code C33, DACA recipient, for not meeting lawful residency requirements for non-US citizens. As lawful residency status for other EAD category codes is satisfactorily determined, staff will be advised. As a reminder, refugee and asylee category codes are not subject to this policy.

The finding when borrower(s) are DACA recipients should be cited under Borrower Eligibility (BE) using the following language:

FHA Single Family Housing Policy Handbook, 4000.1 II.A.1.b.ii(A)(9)(c), requires non-US citizens to have lawful residency. Per USCIS, individuals in the United States under the Deferred Action Childhood Arrival (DACA) program, EAD Category Code C33, are not considered to have lawful status. Therefore, the borrower(s) are not eligible for an FHA-insured mortgage and indemnification is required. Only users with the "Indemnification Submission" role in FHA Connection can access the Indemnification button to sign an Indemnification Agreement in LRS. Please refer to the LRS Lender User Manual for step-by-step instructions: https://www.hud.gov/program_offices/housing/sfh/lender/loan_review_system

For reference purposes, the web-link to the USCIS page, along with the page entry stating that deferred status does not provide lawful residency status is provided below:

<https://www.uscis.gov/archive/consideration-deferred-action-childhood-arrivals-daca>

What Is DACA

On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several guidelines may request consideration of deferred action for a period of two years, subject to renewal. They are also eligible for work authorization. Deferred action is a use of prosecutorial discretion to defer removal action against an individual for a certain period of time. Deferred action does not provide lawful status.

ATTACHMENT 23

From: DiMarino, Deanna B
Sent: 22 Feb 2019 15:27:34 +0000
To: Hadley, Joy;DiMarino, Deanna B
Subject: Conversation with Hadley, Joy

DiMarino, Deanna B 10:25 AM:

Hi Joy - Sorry for delay - just wanted to be sure. We ARE citing for category code C33 DACA only at this time as per November 2018 ERC decision. Will try to include the ERC decision in next IM in case you need it.

Hadley, Joy 10:25 AM:

We're good. That is responsive.

DiMarino, Deanna B 10:27 AM:

Thanks.

From: Hadley, Joy
Sent: 22 Feb 2019 15:18:26 +0000
To: Hadley, Joy;Higgins, John S
Subject: Conversation with Hadley, Joy

Hadley, Joy 10:05 AM:

Are y'all citing DACA violations or treating them like you do DPA...collecting info

Higgins, John S 10:07 AM:

Citing

From: Ross, Mark
Sent: 3 Apr 2019 18:20:17 +0000
To: Hadley, Joy;Ross, Mark;Higgins, John S
Subject: Conversation with Hadley, Joy, Ross, Mark

Ross, Mark 2:01 PM:

per Lisa S. Secretary in Buzz Feed article said something about FHA doing DACA loans.

Ross, Mark 2:02 PM:

we are citing? she is probably going to call you.

Higgins, John S 2:11 PM:

Thanks. Just saw an email from here. We are citing based on lots of discussion with Kevin and a decision documented through ERC

ATTACHMENT 24

From: Higgins, John S
Sent: 15 Mar 2019 12:52:42 +0000
To: Hadley, Joy
Subject: DACA answer

Forgot to print this out for you yesterday. Here's what I have so far.

The question is about DACA — Deferred Action for Childhood Arrivals — and whether DACA recipients are eligible for FHA loans. The answer is no. They are not eligible and they never have been. Any information to the contrary is inaccurate and based on an incomplete reading of our Handbook.

FHA has no specific policy regarding DACA. What we have is long-standing policy that predates the DACA program, which says that “Non-U.S. citizens without lawful residency in the U.S. are not eligible for FHA-insured Mortgages.” It is not sufficient to focus on our policy under the non-permanent residents heading. You have to read to the bottom of the page — subsection C.

The next question is whether DACA recipients have lawful residency. U.S. Citizenship and Immigration Services does make certain allowances for DACA recipients within the context of future inadmissibility based upon unlawful presence, but outside of that specific context they state that “deferred action does not confer lawful status upon an individual.”

Deferred action does not confer lawful status upon an individual and non-U.S. citizens without lawful residency in the U.S. are not eligible for FHA loans.

FHA policy did not change. What happened is that lenders asked the specific question — are DACA recipients eligible for FHA loans — and we needed to determine a specific answer grounded in existing policy. That answer is no.

So when you have a potential borrower who's a non-permanent resident, you need to pay close attention to the category code on their EAD card. If it's C33, then that borrower is not eligible for an FHA loan.

ATTACHMENT 25

From: Saunders, Elissa O
Sent: 17 Dec 2018 16:13:45 +0000
To: Higgins, John S;Metellus, Ludger
Subject: Re: DACA

Great. Thanks.

Get [Outlook for iOS](#)

From: Higgins, John S
Sent: Monday, December 17, 2018 8:26:40 AM
To: Saunders, Elissa O; Metellus, Ludger
Subject: Re: DACA

Hi Lisa,

We're citing it as an incurable finding and the HOCs are supposed to be requesting indemnification every time. They got that direction during a SFPD monthly call and we reinforced it through ERC discussion/minutes.

Jack

From: Saunders, Elissa O
Sent: Friday, December 14, 2018 2:16:02 PM
To: Higgins, John S; Metellus, Ludger
Subject: DACA

Hi guys,

I wanted to see what you all are doing about DACA? We are seeing more and more advertising saying it is ok for FHA. I know we do not have an FAQ on the subject published but the policy is clear, if a little out of order. Still pushing on the FAQ but we are not getting any movement.

Thanks,

Lisa

ATTACHMENT 26

Burgos, Juan M

From: Tolbert, Sherece
Sent: Thursday, September 27, 2018 11:40 AM
To: Burgos, Juan M
Subject: RE: DACA eligible for FHA?

You were on all the emails I sent last week regarding this.

Sherece

From: Burgos, Juan M
Sent: Thursday, September 27, 2018 11:39 AM
To: Tolbert, Sherece <Sherece.Tolbert@hud.gov>
Subject: RE: DACA eligible for FHA?

What do you want me to tell you? The issue arose again based on some language from ICE polices.

Juan M. Burgos
Attorney-Advisor
U.S. Department of Housing and Urban Development
Office of General Counsel | Single Family Mortgage Division
451 Seventh Street, SW, Room 9240
Washington, DC 20410
202-402-6641
juan.m.burgos@hud.gov

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From: Tolbert, Sherece
Sent: Thursday, September 27, 2018 11:33 AM
To: Burgos, Juan M <Juan.M.Burgos@hud.gov>
Subject: RE: DACA eligible for FHA?

Ummm, we know that. That was in the literature and emails I sent to you.

Sherece Tolbert
Deputy Assistant General Counsel
Single Family Insured Mortgage Division

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From: Burgos, Juan M
Sent: Tuesday, September 25, 2018 9:04 AM
To: Brown, Amy L <Amy.L.Brown@hud.gov>; Tolbert, Sherece <Sherece.Tolbert@hud.gov>
Cc: Lee, Chung-Yiu <Chung-Yiu.Lee@hud.gov>
Subject: Fwd: DACA eligible for FHA?

Amy, Sherece,

FYI re. DACA does not result in legal status.

Juan M. Burgos
Attorney-Advisor
U.S. Department of Housing and Urban Development
Office of General Counsel | Single Family Mortgage Division
451 Seventh Street, SW, Room 9240
Washington, DC 20410
202-402-6641
juan.m.burgos@hud.gov

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From: Lee, Chung-Yiu <chung-yiu.lee@hud.gov>
Sent: Tuesday, September 25, 2018 7:43 AM
To: Burgos, Juan M
Subject: DACA eligible for FHA?

Juan:

I was researching something else and saw this on the USCIS website

Look at Q5:

Q5: If my case is deferred, am I in lawful status for the period of deferral?

A5: No. Although action on your case has been deferred and you do not accrue unlawful presence (for admissibility purposes) during the period of deferred action, deferred action does not confer any lawful status.

According to 4000.1, it says that "Non-US citizens without lawful residency in the U.S. are not eligible for FHA-insured mortgages." So although DACA recipients do have work authorization (presumably SSNs) and are under deferred action, they are technically still without lawful status. An argument can be made that DACA individuals are not eligible for FHA.

Is that where FHA landed on this or is it still up in the air ?

=====
Chung-yiu "Andrew" Lee
Attorney-Advisor
Office of General Counsel
Single Family Insured Mortgage Division
U.S. Dept. of Housing and Urban Development

Phone: (202) 402 – 6190

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ATTACHMENT 27

From: DIPIETRO, Andy V
Sent: 28 Nov 2018 14:38:32 +0000
To: DiMarino, Deanna B
Subject: RE: Sent from Snipping Tool

Thanks for the explanation, no rush on my issue. I spoke to Joyce on it just now too and she agrees with me that we should mitigate it, because it was an on the fence issue that could go either way.

Andy 😊

Andy DiPietro

Director

Quality Assurance Division

Philadelphia Homeownership Center

215-861-7220

From: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>
Sent: Wednesday, November 28, 2018 8:16 AM
To: DIPIETRO, Andy V <Andy.DIPIETRO@hud.gov>
Subject: RE: Sent from Snipping Tool

Hi Andy,

I'll be happy to look at this one for you – will do so sometime today and get back to you with my thoughts. I was out most of last week and Monday, so with being in a lot of meetings yesterday, still have some catching up to do today😊

On the asylee piece – it is my understanding that for refugees and asylees, they receive some type of documentation that supports that they were permitted to enter the country with that status and that is all that we require to meet our policy guideline. From my research, all of these status types prior to receiving LPR are considered “temporary” and that is where the issue comes in for determining being in the country in a “lawful residency status”. Our policy guidance permits refugee and asylee status to get an FHA loan – assuming that the thinking is that they will eventually receive LPR status at some point if they met the requirements needed to qualify for refugee or asylee status. Some of the other status types on the list seem to indicate that they would be here lawfully, but when trying to find something that specifically says that, it's almost impossible. Because we did find a statement on USCIS that specifically addressed that DACA recipients are not considered to have lawful residency status, the decision was made to enforce around that only at this time. Although our policy has always been that they must have lawful residency to qualify for an FHA mortgage, we never used the category codes on the EAD card to determine this and I think everyone just assumed they had lawful status if they had an EAD card (makes sense – why would USCIS issue a card if the person wasn't lawfully allowed in the country??). So since we are now enforcing using the category code, we need to be sure we can back up the lawful residency piece via USCIS, which has been a major challenge to do – very difficult to get information from them or to find information on their web-site (lots of hours spent already trying).

Talk to you soon – hope your days is good!

Deanna

From: DIPIETRO, Andy V <Andy.DIPIETRO@hud.gov>
Sent: Wednesday, November 28, 2018 7:44 AM
To: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>
Subject: Sent from Snipping Tool

Deanna,

Would you mind taking a look at this case in LRS for me. The issue has to do with OT and I am thinking the lender met at least 75% of what they needed to get for OT. They are making some assumptions, but I am really not sure which way I want to go on this one. Are you able to pull the case up if it is assigned to me, it is an HQ Esc 1 case?

Curious and interested in your thoughts. I am not sure this would hold up under scrutiny by MRB, if they decide to not execute the Indem. Not a rush on this, since it just popped up in my workload yesterday.

Andy

PS: Regarding Asylee, I had to look it up, I had never heard that term before, USCIS website states that an Asylee is not granted legal residency until they have physically resided in this country for one year. We may want to add that to the ERC notes. Up to Jack and Kevin...*U.S. immigration law allows asylees to apply for lawful permanent resident (LPR) status after they have been physically present in the U.S. for at least one year since being granted asylum.*

ATTACHMENT 28

From: Smith, Vicky C
Sent: 13 Oct 2018 01:11:47 +0000
To: Roget, Gisele G;Himes, Ivery W;Saunders, Elissa O;Shaffer, Julie;Higgins, John S;Stevens, Kevin L;Leslie, Barbara A;Gormley, Joseph M;Kasper, Maren M;Drayne, Michael R
Cc: Malles, Donny M;Tasca, Charles P;Glavin, William A;Greenbaum, Elie;Shindelar, Stacey L;Matthews, Tawanna D
Subject: Office of Single Family Attendee Briefing Book - MBA Annual Convention and Expo 2018
Attachments: FINAL_MBA Annual Convention Briefing Book.pdf

All:

Attached is the Office of Single Family Housing's Briefing Book that was developed for the MBA Annual Convention and Expo 2018, which starts on Sunday, October 14th and runs through Wednesday, October 17th at the Walter E. Washington Convention Center in Washington, DC. The Book is in PDF format so you can read it on any mobile device and also access any of the links embedded within the document. The information contained within is for confidential and for Internal Use only. You are responsible for maintaining the integrity of the information contained within this document should you decide to print a version of it.

A lot of effort went in to producing this convention Briefing Book, and I want to thank Tawanna Matthews for her help in creating it.

If you have any questions, you can email me or call me on my cell at 301-385-7152.

Have a wonderful convention experience.

Vicky

Vicky Choice Smith

Marketing and Outreach Advisor
Department of Housing and Urban Development
Office of Single Family Housing
Program Support Division (PSD)
(202) 402-4556 - direct



FEDERAL HOUSING ADMINISTRATION

OFFICE OF SINGLE FAMILY HOUSING



**U.S. Department of Housing and Urban Development
FHA Office of Single Family Housing (OSFH)
Attendee Briefing Book**

**Mortgage Bankers Association
Annual Convention & EXPO 2018**

**WALTER E. WASHINGTON CONVENTION CENTER
WASHINGTON, D.C.
October 14 – 17, 2018**



FEDERAL HOUSING ADMINISTRATION

OFFICE OF SINGLE FAMILY HOUSING



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FEDERAL HOUSING ADMINISTRATION

OFFICE OF SINGLE FAMILY HOUSING



D. Hot Topics

Issue	
Deferred Action for Childhood Arrivals (DACA)	<p>Are non-permanent resident aliens that have been granted deferred action under DACA eligible for an FHA mortgage?</p> <p>FHA's longstanding policy has been that Non-U.S. citizens without lawful residency in the U.S. are not eligible for FHA insured mortgage. According to the USCIS, the Deferred Action for Childhood Arrivals (DACA) program is an administrative program that grants deferred prosecutorial action against persons who came to the United States as juveniles meeting certain conditions. DACA recipients are not granted lawful residency status, although they are given work authorization for a 2 year period and therefore are not eligible for FHA financing.</p>
Downpayment Assistance	Non Responsive Record
Condo Rule	
Handbook Update	

ATTACHMENT 29

Policy Topics**1. Employment Authorization; E2 Visa – Kevin Stevens**

Email from lender- Should we decline FHA loan requests whenever an applicant does not have an actual EAD card?

ANSWER: If the Visa allows the borrower to work it is not enough. Policy requires the actual Employment Authorization Document which is an actual form from USCIS. So even though these individuals are authorized to work in the US with a Visa, it is only for one employer and from a risk standpoint it is different than someone who has an EAD who can work for any employer. So if they lost their job they can go find another job just like any other citizen or a permanent resident alien. Where a Visa holder with an E-2 or H-1-2 similarly it is just one employer and they don't meet our policy for legal residence.

2. Employment Authorization; Expiration Date– Kevin Stevens

PDCC Question: EAD

(1) Since each Country's TPS has an expiration date, how can we establish that the borrower's EAD card is likely to be renewed? The renewal of the EAD is dependent on the renewal of the TPS. In most cases, the borrower takes the necessary steps to obtain actual Non-Permanent Resident Alien status (so they no longer need the TPS in order to remain in the US), but there is no way to be certain if they will apply or if it will be granted.

ANSWER: Somewhat related to that is the expiration date of the EAD and we do have some guidance in the same section of the HB: The Employment Authorization Document is required to substantiate work status. If the Employment Authorization Document will expire within one year and a prior history of residency status renewals exists, the Mortgagee may assume that continuation will be granted. If there are no prior renewals, the Mortgagee must determine the likelihood of renewal based on information from the USCIS, but we don't go in to detail as to what that needs to be. The lender needs to do their due diligence and provide whatever they did on their due diligence in the case binder and you must have an explanation why. I want to make it clear that it does not have to be any particular item to determine the likelihood of continuance of employment.

The other hot button item - are individuals that are here under the DACA protections eligible for FHA loans? That answer is no because while they have the authority to work in the US they are not legal residents. I am sure you have all heard of the Dream Act and then it would change because it would grant them legal status and then would be eligible. We are actually drafting an FAQ on that. OGC signed off on it and it will go to the Resource Center.

ATTACHMENT 30

Tolbert, Sherece

From: Tolbert, Sherece
Sent: Tuesday, December 18, 2018 12:44 PM
To: HAWKINS, DORIAN S
Subject: FW: DACA FAQ

FYI

Sherece Tolbert
Assistant General Counsel
Single Family Mortgage Division

CONFIDENTIALITY NOTICE: This message is only for the use of the intended recipients. It may contain information that is attorney-client PRIVILEGED, attorney work product or otherwise CONFIDENTIAL and exempt from disclosure under law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, printing or copying of this communication is strictly prohibited. If you received this communication in error, please return the original message to the sender and delete the original message and any copies of it from your computer systems. If you have any questions about whether the message may be subject to privilege or may be forwarded, acted upon, or disclosed, please contact the Office of the General Counsel.

From: Tolbert, Sherece
Sent: Tuesday, December 04, 2018 2:06 PM
To: Grassi, Joseph J <Joseph.J.Grassi@hud.gov>
Subject: DACA FAQ

Joe,

We reviewed a FAQ for Housing to publish regarding DACA, however, Gisele decided that it should not be published.

Sherece

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ATTACHMENT 31

Philadelphia HOC 12/11/2018 Update

Need Action

- No reportable items

INFORMATIONAL UPDATES

- **CONTRACTUAL BREAK** Non Responsive Record
Non Responsive Record
- **HECM Mortgagee Letter 2018-06 Automated Process.** Non Responsive Record
Non Responsive Record
- **HECM Mortgagee Letter 2018-06 Update as of December 10, 2018:**
 - Non Responsive Record
 -
 -
 -
- **NSC Customer Service Transition to the FHA Resource Center:** Non Responsive Record
Non Responsive Record

Non Responsive Record

- **FAQs awaiting review and approval from Headquarters:**

- Non Responsive Record
-

- DACA Is a non-permanent resident alien that has been granted deferred action under DACA eligible for an FHA mortgage? Submitted to SFDAS for her review on May 10, 2018. Both the SME and OGC have reviewed and approved.

- **Approved Positions for PHOC. Status of current active positions:**

	PIN	Position Grade & Title	Job Posting Open/Close Date	Status	Selection/ Onboard Date
1.	Non Responsive Record				
2.					
3.					
4.					
5.					
6.					
7.					

- **OIG Audit LBP Inspections** - Non Responsive Record
- Non Responsive Record

Non Responsive Record

- **Update – Presidentially Declared Major Disaster Areas (PMDA):**

- Non Responsive Record
-
-

- **Handbook Updates** Non Responsive Record

Non Responsive Record

Milestones / Accomplishments

- Non Responsive Record
-

Non Responsive Record

Upcoming External Communications

- No reportable items

External Engagements

- Non Responsive Record
-
-
-

IT Updates

- Non Responsive Record

Key Leave

- Non Responsive Record
-
-
-
-
-
-

Key Travel

- Non Responsive Record

ATTACHMENT 32

From: Stevens, Kevin L
Sent: 7 Dec 2018 18:55:49 +0000
To: Allen, Neal F
Subject: FW: DACA

See below

From: Smith, Vicky C <Vicky.C.Smith@hud.gov>
Sent: Thursday, October 11, 2018 10:59 AM
To: Stevens, Kevin L <Kevin.L.Stevens@hud.gov>
Cc: Matthews, Tawanna D <tawanna.d.matthews@hud.gov>; Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Subject: RE: DACA

Thanks, Kevin!

From: Stevens, Kevin L
Sent: Thursday, October 11, 2018 10:02 AM
To: Smith, Vicky C <Vicky.C.Smith@hud.gov>
Cc: Matthews, Tawanna D <tawanna.d.matthews@hud.gov>; Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Subject: RE: DACA

Here is the FAQ we had done, re-tooled for use as a talking point.

Are non-permanent resident aliens that have been granted deferred action under DACA eligible for an FHA mortgage?

FHA's longstanding policy has been that Non-U.S. citizens without lawful residency in the U.S. are not eligible for FHA insured mortgage. According to the USCIS, the Deferred Action for Childhood Arrivals (DACA) program is an administrative program that grants deferred prosecutorial action against persons who came to the United States as juveniles meeting certain conditions. DACA recipients are not granted lawful residency status, although they are given work authorization for a 2 year period and therefore are not eligible for FHA financing.

Kevin

From: Smith, Vicky C
Sent: Wednesday, October 10, 2018 2:09 PM
To: Stevens, Kevin L <Kevin.L.Stevens@hud.gov>
Cc: Matthews, Tawanna D <tawanna.d.matthews@hud.gov>
Subject: DACA

Kevin:

I need information for the Briefing Book and what is our official stance. Can you please provide this as soon as possible this afternoon? Thanks, Kevin.

Vicky

Vicky Choice Smith

Marketing and Outreach Advisor
Department of Housing and Urban Development
Office of Single Family Housing
Program Support Division (PSD)
(202) 402-4556 - direct

ATTACHMENT 33

From: Saunders, Elissa O
Sent: 3 Apr 2019 19:23:36 +0000
To: Shaffer, Julie
Subject: Re: Can you send the FAQ you send when you are asked about DACA please ASAP

No but they are going to. Trying to get ahead of it. Know what we ar working with. Gisele is in spin mode. Will call you in a few. Thanks for getting the info.

Get [Outlook for iOS](#)

From: Shaffer, Julie <julie.shaffer@hud.gov>
Sent: Wednesday, April 3, 2019 3:22 PM
To: Saunders, Elissa O
Subject: RE: Can you send the FAQ you send when you are asked about DACA please ASAP
Did the DACA questions start again?

From: Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Sent: Wednesday, April 03, 2019 3:12 PM
To: Shaffer, Julie <julie.shaffer@hud.gov>
Subject: Re: Can you send the FAQ you send when you are asked about DACA please ASAP
Cool. Thanks.
Get [Outlook for iOS](#)

From: Shaffer, Julie
Sent: Wednesday, April 3, 2019 3:03:29 PM
To: Saunders, Elissa O
Subject: FW: Can you send the FAQ you send when you are asked about DACA please ASAP

Lisa,

Please find a list of HOC Responses to CRM Inquiries into the FHA Resource Center. They went back to March 11, 2019, if you need additional dates just let me know. We have to go into each individually to pull out the Activities (responses). If you need any additional information, please let me know.

ATTACHMENT 34

CHRIS VAN HOLLEN
MARYLAND

SH-110 HART SENATE OFFICE BUILDING
WASHINGTON DC 20510
OFFICE (202) 224-4654
FAX (202) 228-0629

United States Senate

COMMITTEES
APPROPRIATIONS
BANKING, HOUSING, AND URBAN
AFFAIRS
BUDGET
ENVIRONMENT AND
PUBLIC WORKS

December 19, 2018

The Honorable Benjamin Carson
Secretary
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410-0001

Dear Secretary Carson:

I am writing on behalf of my constituent (b)(6) (SSN: (b)(6) DOB: (b)(6)), regarding the recent denial of her Federal Housing Administration (FHA) loan application with Direct Mortgage Loans. She advised me that a Direct Mortgage Loans representative, Mr. Mark Lewis, told her that the lender's decision was based solely on her Deferred Action for Childhood Arrivals (DACA) status.

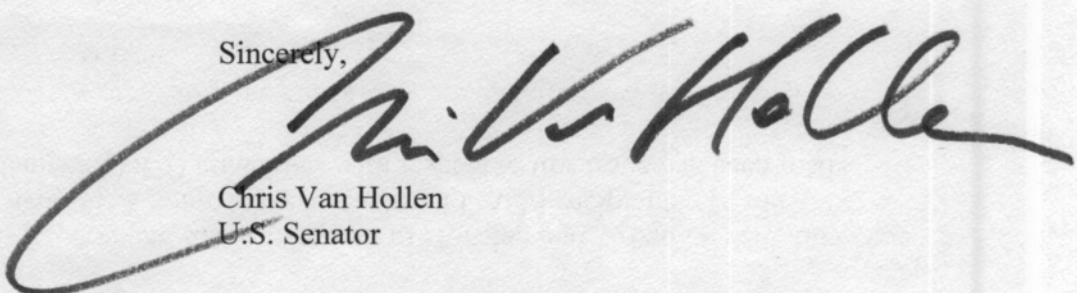
I am concerned by reports that the Department of Housing and Urban Development has been advising lenders to deny FHA home loans to qualified DACA recipients. To my knowledge, no official change to HUD guidelines with respect to this issue has been made.

I would appreciate your reviewing the attached documentation and advising me in writing of your findings. **This matter is time-sensitive.** All correspondence can be sent to me at the following address:

111 Rockville Pike, Suite 960
Rockville, MD 20850
FAX: (301) 545-1512

If you need additional information, please contact Mr. Brent Girard of my staff at (667) 212-4610 or at brent_girard@vanhollen.senate.gov.

Sincerely,


Chris Van Hollen
U.S. Senator

STATE OFFICES

MONTGOMERY COUNTY
111 ROCKVILLE PIKE
SUITE 960
ROCKVILLE, MD 20850
PHONE (301) 545-1500
FAX (301) 545-1512

ANNE ARUNDEL &
SOUTHERN MARYLAND
60 WEST STREET
SUITE 107
ANNAPOLIS, MD 21401
PHONE (410) 263-1325

EASTERN SHORE
204 CEDAR STREET
SUITE 200C
CAMBRIDGE, MD 21613
PHONE (410) 221-2074

BALTIMORE REGION
1900 NORTH HOWARD STREET
SUITE 100
BALTIMORE, MD 21218
PHONE (667) 212-4610

WESTERN MARYLAND
32 WEST WASHINGTON STREET
SUITE 203
HAGERSTOWN, MD 21740
PHONE (301) 797-2826

PRINCE GEORGE'S
COUNTY
1101 MERCANTILE LANE
SUITE 210
LARGO, MD 20774
PHONE (301) 322-6560

DFF IG Letter 00125

**SENATOR CHRIS VAN HOLLEN'S
PRIVACY RELEASE**

The Privacy Act of 1974, Title 5, U.S. Code Section 552a, provides that as of September 27, 1975, disclosure of information of a personal or confidential nature of an individual will no longer be released to third parties without written consent of the individual concerned. Therefore, I hereby grant Senator Chris Van Hollen and his staff my written permission to intercede on my behalf. I also duly authorize that any information that is contained in my records and necessary to provide a substantive response may be disclosed to the Office of Senator Van Hollen.

Name: Mr./Ms./Mrs./Miss/Dr. (b)(6)
Address: (b)(6)
Email Address: (b)(6)
Telephone Numbers: Home: _____
Work: _____
Mobile: (b)(6)
Fax: _____

PLEASE STATE THE NATURE OF YOUR REQUEST, PROBLEM OR COMPLAINT AND HOW YOU WOULD LIKE THE SENATOR TO ASSIST YOU. PLEASE BE SPECIFIC AND, IF NECESSARY, ATTACH A SHORT LETTER AND/OR COPIES OF ANY RELEVANT DOCUMENTS OR NOTICES.

Have you contacted any other elected official(s) about your issue? If so, please list their name(s):

(no)
Social Security Number (if applicable): _____

Case/Account Number/ (if applicable): _____

Date of Birth: _____

Passport Ref. No./Destination/Travel Date (if applicable): _____

(b)(6)
I authorize the Office of Senator Chris Van Hollen to make inquiries on my behalf.

(b)(6)
Signature _____ Date _____

PLEASE RETURN THIS SIGNED FORM AND ALL SUPPORTING MATERIAL TO:

Senator Chris Van Hollen
111 Rockville Pike, Suite 960
Rockville, MD 20850
FAX: 301-545-1512
assistance@vanhollen.senate.gov

Rev. 06/07/017

I was sent to this country when my Mom was dying. I came to live with my older sister. After a while, I married (b)(6) when I was 17. (b)(6) is a US citizen and while I was married I didn't need to worry about a work permit. This marriage didn't last. When I moved out, (b)(6) didn't send the work permit renewal to me. It took me over twelve years to get a new one. During that time, I worked, paid my taxes, supported my children, and did everything I could to get my work permit back. I was a loan processor, but when I lost my work permit the only work, I could get was with a restaurant. I'm still at the restaurant. I work as a server, and a manager. I have 5 children and I worked hard to increase my credit score, and income. Everything was finally coming together for me and my family. I went to the Hagerstown Home Store to work on the grants. I was told (and have the paperwork) that I was approved for \$11,000, but they couldn't do anything more until I had a ratified contract. I found a house and ratified a contract. The Home Store then told me that I didn't qualify for the entire \$11,000, I only qualify for \$5,000. This also increased my interest rate. My family is so excited about this house we are giving up Christmas, and I pawned all my jewelry to get the money to buy the house. Because the lender said everything looked good, I gave my landlord notice that I would be leaving the end of December. Now I find out that because I have DACA, I don't qualify to buy a house with FHA. I found a lender, but I need \$3,600 to purchase the house. I don't have the money to do this. I'm legal to be here, I have a social security number, and I pay taxes. I've been in this country for over 20 years, and I would be a citizen if it was possible.
Please help me!

Thank you for your time and concerns with these issues,

(b)(6)



Letter

Denied letter

I'll have it from the underwriter on Monday

Mark is there any way i can have today im sorry im running out of time

And is because i have Daca that is the only reason

Reason

Ok, I'll see what the underwriter says - and yes, that's the reason

Monday 1:59 PM

Mark

I need the letter that says that you guys denied me because i have Daca

ATTACHMENT 35

From: DiMarino, Deanna B
Sent: 29 Nov 2018 22:19:50 +0000
To: Higgins, John S
Cc: Metellus, Ludger
Subject: DACA Issue FW: LRS Case # (b)(6)
Attachments: FHA+(b)(6) USCIS Comment.pdf

Hi Jack,

Please see attached letter AHOC received back on the case we discussed about DACA where they said it was their belief that USCIS did support lawful residency for DACA recipients. Per Valerie, this case is being escalated to the HQ exceptions list, so not sure if you want to have this assigned to me to hold for now. I saw an article that Ludge sent me from Housing Wire that is calling HUD out over this issue in an open letter and referenced a meeting where Gisele publicly stated HUD would not insure loans for DACA recipients (assuming Ludge has shared with your, but if not, let me know and I'll forward).

Do you want me to forward this to Kevin and or OGC for further review/guidance?

Thanks,
Deanna

From: Williams, Valerie D <Valerie.D.Williams@hud.gov>
Sent: Thursday, November 29, 2018 4:45 PM
To: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>
Cc: Mujica, Agustin <Agustin.Mujica@hud.gov>
Subject: RE: LRS Case # (b)(6)

Hi Deanna,

Hope you had a nice Thanksgiving!

I am completing Wrap Up on this case and it will move to the HQ exceptions list. Just thought you (and maybe Jack and/or Kevin) might be interested in the response. If we hold fast to our current stance, I think this is likely to be the type of rebuttal that we receive. On another note, other lenders have executed the indemnification agreement when we reference residency.

Have a great evening!

From: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>
Sent: Monday, November 05, 2018 4:24 PM
To: Williams, Valerie D <Valerie.D.Williams@hud.gov>
Cc: Mujica, Agustin <Agustin.Mujica@hud.gov>
Subject: RE: LRS Case # (b)(6)

Thanks Valerie.

It was my understanding from speaking with Gus that your HOC has been citing this as a finding for some time now for those with a DACA designation. If you should receive information that is contrary to what we are seeing in USCIS, please let us know.

Deanna

From: Williams, Valerie D
Sent: Monday, November 05, 2018 4:19 PM
To: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>
Cc: Mujica, Agustin <Agustin.Mujica@hud.gov>
Subject: RE: LRS Case # (b)(6)

Hi Deanna,

I have another case – same situation. It is at HQ Escalation 1. I will proceed with the same verbiage as below. Case Number (b)(6)

Thank you!

Valerie D. Williams

Director, Processing & Underwriting Division
Atlanta Homeownership Center
Phone: (678) 732-2741
Fax: (202) 485-9066

Technical Questions should be emailed to: answers@HUD.gov

From: DiMarino, Deanna B
Sent: Monday, October 29, 2018 3:44 PM
To: Mujica, Agustin <Agustin.Mujica@hud.gov>
Cc: Williams, Valerie D <Valerie.D.Williams@hud.gov>
Subject: RE: LRS PETR FHA Case # (b)(6)

Hi Gus,

As discussed, we would like you to respond back to the lender as follows below. Please let me know once you hear back from the lender, especially is they provide any documentation from USCIS to support lawful status for DACA. The only information I can find on USCIS clearly states that DACA is not a lawful status.

Please let me know if you have any questions.

Thanks,
Deanna

Per USCIS, individuals in the United States under the DACA program, Category Code C33, are not considered to have lawful status. Absent documentation from USCIS to support that the borrower is in lawful status, the borrower would not be eligible for an FHA-insured mortgage. Please execute the indemnification agreement.....(Gus/Valerie -complete with details you would normally include for instructions).

From: Mujica, Agustin
Sent: Monday, October 29, 2018 1:19 PM
To: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>
Subject: RE: LRS PETR FHA Case # (b)(6)

Sure, I am acting for Valerie today, so I will be in all afternoon. Just call me when you are available. I am working on the evaluations.

Agustin "Gus" Mujica, Branch Chief

Single Family Insuring, Processing & Underwriting Division
Atlanta Home Ownership Center ☎: (678) 732-2707



From: DiMarino, Deanna B
Sent: Monday, October 29, 2018 11:44 AM
To: Mujica, Agustin <Agustin.Mujica@hud.gov>
Cc: Williams, Valerie D <Valerie.D.Williams@hud.gov>
Subject: RE: LRS PETR FHA Case # (b)(6)

Hi Gus & Valerie,

A last minute decision was made to pull this topic from the ERC for October. As of now, this will be addressed during the November ERC. However, Jack would like me to have you move forward with responding to the lender since we have already cited the finding.

I would like to discuss if a bit with you before you sustain the finding with the lender. Would you be available later this afternoon for 5 – 10 mins between 2:30 – 4:00? If not, would tomorrow morning work for you before 10:00 a.m?

Thanks,
Deanna

From: Mujica, Agustin

Sent: Wednesday, October 24, 2018 2:35 PM

To: Higgins, John S <John.S.Higgins@hud.gov>

Cc: DiMarino, Deanna B <Deanna.B.Dimarino@hud.gov>; Adkins, Alexander <Alexander.X.Adkins@hud.gov>; Taylor, Derek J <Derek.J.Taylor@hud.gov>; Williams, Valerie D <Valerie.D.Williams@hud.gov>

Subject: LRS PETR FHA Case # (b)(6)

Good Afternoon. As per August ERC meeting instructions, the above referenced review has been rated unacceptable due to BA and BE findings. It is at the Escalation 2 level with a due date of 10/30/2018. The BE finding is in relation to the borrower having a code C33, DACA, on his EAD Card.

Please advise on how to proceed.

Thank you.

Agustin “Gus” Mujica, Branch Chief

Single Family Insuring, Processing & Underwriting Division
Atlanta Home Ownership Center ☎: (678) 732-2707



ATTACHMENT 36

From: Shaffer, Julie
Sent: 29 May 2018 14:59:45 +0000
To: Roget, Gisele G
Subject: FW: Request for DAS Review and Approval on the attached FAQ on DACA and FHA Eligibility
Attachments: Request for DAS review and approval on DACA FAQ.docx

Gisele,

I am following up on the DACA FAQ. Several lenders have inquired about DACA and FHA loans. Single Family Program Development along with Amy Brown have approved this FAQ. Can we post yet?

Julie

From: Shaffer, Julie
Sent: Thursday, May 10, 2018 5:21 PM
To: Roget, Gisele G <Gisele.G.Roget@hud.gov>
Cc: Triolo, Anthony T <Anthony.T.Triolo@hud.gov>; Litty, Lance L <Lance.L.Litty@hud.gov>
Subject: Request for DAS Review and Approval on the attached FAQ on DACA and FHA Eligibility

Gisele,

We have received approval for the attached FAQ for DACA and FHA eligibility from Single Family Program Development along with Amy Brown. The FAQ is being staged as draft in the knowledgebase at the present time. If you could review and approve this, we will get the FAQ posted.

Please note that we have received complaints from lenders that some lenders are not originating DACA loans and some of our lenders are originating the loans. Lenders want clarification so they are on an equal playing field.

If you have any questions or need additional information, please let us know.

Julie

ATTACHMENT 37



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

ASSISTANT SECRETARY FOR CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

DEC 21 2018

The Honorable Maxine Waters
U.S. House of Representatives
Washington, DC 20515

Dear Representative Waters:

On behalf of Federal Housing Commissioner Brian D. Montgomery, thank you for your letter regarding a recent press report concerning borrower eligibility requirements for loans insured by the Federal Housing Administration (FHA). The following information is from the Department of Housing and Urban Development's (HUD) Office of Housing.

The Department wants to be very clear that it has not implemented any policy changes during the current Administration, either formal or informal, with respect to FHA eligibility requirements for Deferred Action for Childhood Arrivals (DACA) recipients. HUD has longstanding policy regarding eligibility for non-U.S. citizens without lawful residency. Those policies have not been altered.

Since at least October 2003, FHA has had a published policy that non-U.S. citizens without lawful residency are ineligible and required lenders to verify the residency status of applicants from documentation provided by the prospective borrower.¹ This policy was continued and incorporated into the Single Family Housing Policy Handbook (Handbook) in September 2015, under the previous Administration, and made clear that "[n]on-U.S. citizens without lawful residency in the U.S. are *not eligible* for FHA-insured mortgages."²

The Handbook also includes instruction on eligibility requirements for applicants seeking FHA-insured financing. While it indicates that U.S. citizenship is not required for mortgage eligibility,³ it also clearly articulates residency requirements for prospective borrowers who are not U.S. citizens.⁴ For instance, a prospective borrower with lawful permanent resident alien status may be eligible for FHA-insured financing—the mortgage file "must include evidence of the permanent residency," which is provided by the U.S. Citizenship and Immigration Services within the Department of Homeland Security.⁵ The Handbook also provides eligibility requirements for prospective borrowers who are non-permanent resident aliens.⁶

¹ See Revision 5 of Handbook 4155.1, Mortgage Credit Analysis for Mortgage Insurance, One to Four Family Properties, ch. 2-2(B) (Oct. 20, 2003), <https://www.hud.gov/sites/documents/41551C2HSGH.PDF>.

² Single Family Housing Policy Handbook 4000.1 § II.A.1.b.ii(A)(9)(c) (Sept. 14, 2015), <https://www.hud.gov/sites/documents/40001HSGH.PDF> (emphasis added).

³ *Id.* at § II.A.1.b.ii(A)(8).

⁴ See generally *id.* at § II.A.1.b.ii(A)(9).

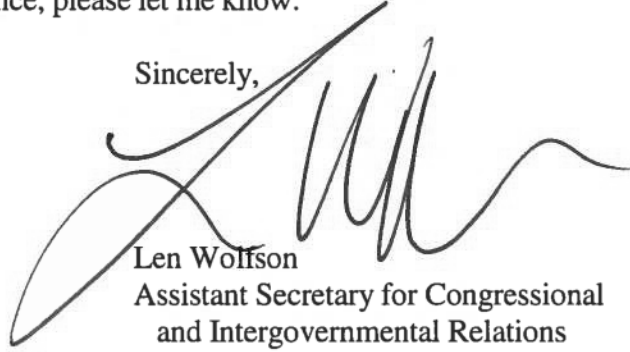
⁵ *Id.* at § II.A.1.b.ii(A)(9)(a).

⁶ *Id.* at § II.A.1.b.ii(A)(9)(b).

Following publication of the most recent Handbook in September 2015, indicating again that non-U.S. citizens without lawful residency are ineligible for FHA financing, there have been no changes, nor have any efforts been made by HUD to revise FHA's eligibility requirements as they relate to that policy.

If I can be of further assistance, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Len Wolfson', written over the typed name and title.

Len Wolfson
Assistant Secretary for Congressional
and Intergovernmental Relations

ATTACHMENT 38

From: Montgomery, Brian D
Sent: 10 Jul 2018 14:00:03 +0000
To: Roget, Gisele G
Cc: Glavin, William A
Subject: Re: DACA eligibility

What section?

Sent from my iPhone

On Jul 10, 2018, at 9:18 AM, Roget, Gisele G <Gisele.G.Roget@hud.gov> wrote:

(c) Non-U.S. Citizens without Lawful Residency Non-U.S. citizens without lawful residency in the U.S. are not eligible for FHA-insured Mortgages.

From: Montgomery, Brian D
Sent: Tuesday, July 10, 2018 9:18 AM
To: Roget, Gisele G <Gisele.G.Roget@hud.gov>; Glavin, William A <William.A.Glavin@hud.gov>
Subject: RE: DACA eligibility

What does the Handbook say about residency/citizenship?

From: Roget, Gisele G
Sent: Tuesday, July 10, 2018 9:10 AM
To: Montgomery, Brian D <BrianD.Montgomery@hud.gov>; Glavin, William A <William.A.Glavin@hud.gov>
Subject: Fwd: DACA eligibility

Sent this earlier.

Gisele Roget
Deputy Assistant Secretary, Single Family
Federal Housing Administration

From: Roget, Gisele G <gisele.g.roget@hud.gov>
Sent: Tuesday, July 10, 2018 8:44 AM
Subject: Fwd: DACA eligibility
To: Sullivan, Brian E <brian.e.sullivan@hud.gov>, Wade, Dana T <dana.t.wade@hud.gov>
Cc: Thompson, Amy C <amy.c.thompson@hud.gov>, Gormley, Joseph M <joseph.m.gormley@hud.gov>

See below for language and fha handbook cite

Gisele Roget
Deputy Assistant Secretary, Single Family
Federal Housing Administration

From: Stevens, Kevin L <kevin.l.stevens@hud.gov>
Sent: Thursday, June 14, 2018 1:26 PM
Subject: RE: DACA eligibility
To: Sullivan, Brian E <brian.e.sullivan@hud.gov>, Saunders, Elissa O <elissa.o.saunders@hud.gov>
Cc: Wade, Dana T <dana.t.wade@hud.gov>, Roget, Gisele G <gisele.g.roget@hud.gov>

If you want the citation for the HB reference below, it is:
Handbook 4000.1 II.A.1.b.ii.(A)(9)(c)

Kevin

From: Stevens, Kevin L
Sent: Thursday, June 14, 2018 12:55 PM
To: Sullivan, Brian E <brian.e.sullivan@hud.gov>; Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Cc: Wade, Dana T <Dana.T.Wade@hud.gov>; Roget, Gisele G <Gisele.G.Roget@hud.gov>
Subject: RE: DACA eligibility

Brian-

FHA requires borrowers to have legal residency status. Below is the excerpt from our Handbook.

(c) Non-U.S. Citizens without Lawful Residency Non-U.S. citizens without lawful residency in the U.S. are not eligible for FHA-insured Mortgages.

According to the USCIS, the Deferred Action for Childhood Arrivals (DACA) program is an administrative program that grants deferred prosecutorial action against persons who came to the United States as juveniles meeting certain conditions. DACA recipients are not granted lawful residency status, although they are given work authorization for a 2 year period. Therefore they would not be eligible for an FHA mortgage.

Kevin

From: Sullivan, Brian E
Sent: Thursday, June 14, 2018 11:21 AM
To: Stevens, Kevin L <Kevin.L.Stevens@hud.gov>; Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Cc: Wade, Dana T <Dana.T.Wade@hud.gov>; Roget, Gisele G <Gisele.G.Roget@hud.gov>
Subject: DACA eligibility

Oddly phrased below but I think his question is essentially, are 'dreamers' (those who's legal residency falls under the *Consideration of Deferred Action for Childhood Arrivals*) eligible FHA borrowers?

From: George Brooks <gbrooks@imfpubs.com>
Sent: Thursday, June 14, 2018 11:02 AM
To: Sullivan, Brian E <brian.e.sullivan@hud.gov>
Subject: DACA eligibility

Hi, Brian: Are DACA recipients eligible for an FHA-insured loan? I hear FHA lenders are split on the issue. Thanks.

ATTACHMENT 39

From: MDB
Sent: 13 Sep 2018 12:23:27 +0000
To: Brown, Amy L;Roget, Gisele G;Gormley, Joseph M
Subject: Fwd: DACA - FHA-INSURED MORTGAGES - BRIAN MONTGOMERY

Read below. We should all discuss this topic as it comes up all the time. I think under their definition any foreign National hereBon a passport would qualify for an FHA mortgage since they are “legally” here.
Joe: please schedule a meeting.
Thanks.
Brian

Sent from my iPhone

Begin forwarded message:

From: Diego Hernandez <dhernandez@financeofamerica.com>
Date: September 12, 2018 at 5:50:11 PM EDT
To: "Laura.A.Thrower@Hud.Gov" <Laura.A.Thrower@Hud.Gov>, "Brian.d.montgomery@hud.gov" <Brian.d.montgomery@hud.gov>, "ben.s.carson@hud.gov" <ben.s.carson@hud.gov>
Subject: DACA - FHA-INSURED MORTGAGES - BRIAN MONTGOMERY

Good Afternoon all,

The purpose of this email is regarding Deferred Action of Childhood Arrivals and the availability of insurability by FHA.

Question submitted to FHA
Number CAS ^{(b)(6)}
May 25,2018
The response from HUD was the following, “DACA- Individuals with employment authorizations under DACA are NOT ELIGIBLE for FHA insured financing. DACA allows individuals to work legally in the U.S. but they are NOT considered to have legal residency status.”
HUD’s Handbook 4000.1 II. A. 1.b.ii.(A)(9)(c) states: “Non-U.S. citizens without lawful residency in the U.S. are not eligible for FHA-insured Mortgages.”

I asked the question again for further clarification and to see if HUD had changed its stance, this time I included the definitions of USCIS (DHS) for DACA applicants.

Question submitted to FHA
Number CAS ^{(b)(6)}
August 9 ,2018
<u>This time the response from HUD was in the form of a phone call and I spoke to the representative of HUD who informed me that DACA was still not eligible because LEGAL RESIDENCY was not acceptable to HUD, I asked the HUD representative if there were any written memo's or bulletins that have been issued in this regard, I was told that this was not the case, the FHA Commissioner has given guidance. I assume that this is verbal guidance from FHA Commissioner Brian Montgomery.</u>

Has the FHA Commissioner issued verbal guidance? If this is the case is it common place for the FHA commissioner to issue verbal guidance on 4000.1 Handbook guidelines?

USCIS does not have a definition of **LEGAL RESIDENCY STATUS**, this is inconsistent with being **LAWFULLY PRESENT** as determined by USCIS. I have included the definition from their FAQ website.

Q1: What is deferred action?

A1: Deferred action is a discretionary determination to defer a removal action of an individual as an act of prosecutorial discretion. For purposes of future inadmissibility based upon **unlawful presence**, an individual whose case has been deferred is not considered to be unlawfully present during the period in which deferred action is in effect. **An individual who has received deferred action is authorized by DHS to be present in the United States, and is therefore considered by DHS to be lawfully present during the period deferred action is in effect.**

Also for considerations:

Definitions of the Term Lawfully Present in the United States for purposes of Applying for Title II Benefits

under Section 401(b)(2) of Public Law 104-193 [61 FR 47039] [FR56-96]

<https://www.uscis.gov/ilink/docView/FR/HTML/FR/0-0-0-1/0-0-0-22452/0-0-0-25044/0-0-0-25404.html>

Please reconsider the stance FHA has taken with regards toward DACA applicants, also the repercussions this has for existing insured financing by FHA for previously closed DACA clients.

You may contact me directly



Diego Hernandez

Mortgage Advisor
NMLS-1097859

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f: (855) 617-5979

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FOAmortgage.com/dhernandez

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ATTACHMENT 40

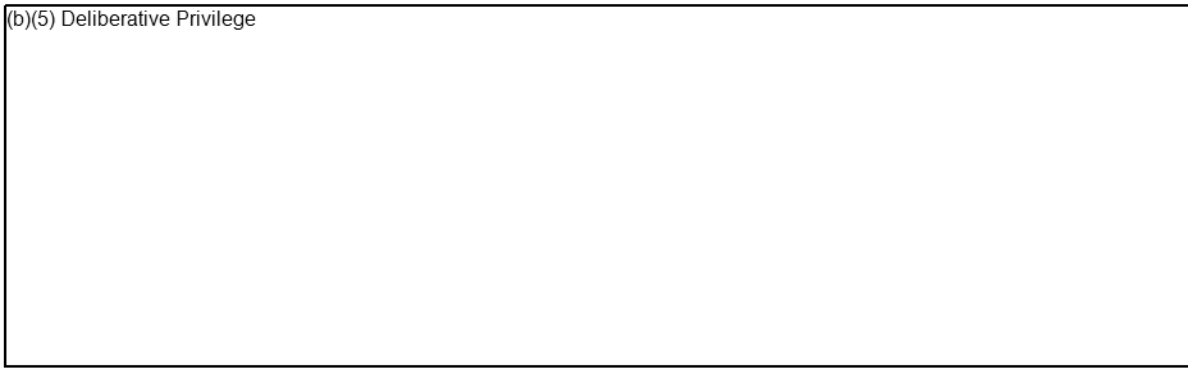
From: Roget, Gisele G
Sent: 19 Dec 2018 04:55:39 +0000
To: MDB;Greenbaum, Elie;Gormley, Joseph M
Subject: Draft DACA FAQ

Brian-career staff developed this draft FAQ on DACA. It was reviewed by program counsel but I do not know if it was shared with OGC leadership.

FAQ

Is a non-permanent resident alien that has been granted deferred action under DACA eligible for an FHA mortgage?

(b)(5) Deliberative Privilege



Gisele Roget
Deputy Assistant Secretary, Single Family
Federal Housing Administration

ATTACHMENT 41

From: Saunders, Elissa O
Sent: 7 Mar 2019 22:16:26 +0000
To: Stevens, Kevin L;Malles, Donny M
Subject: FW: Q&A Needed for SOHUD Hearing on FY 2020 Budget
Attachments: FY2020 THUD Hearing - SFPD3.5.19.ks.docx

From: Saunders, Elissa O
Sent: Tuesday, March 05, 2019 6:22 PM
To: Greenbaum, Elie <Elie.Greenbaum@hud.gov>
Subject: RE: Q&A Needed for SOHUD Hearing on FY 2020 Budget
With DACA.

From: Greenbaum, Elie <Elie.Greenbaum@hud.gov>
Sent: Tuesday, March 05, 2019 4:45 PM
To: Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Subject: RE: Q&A Needed for SOHUD Hearing on FY 2020 Budget
Yes. And that was sarcasm about me seeing Neal today

From: Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Sent: Tuesday, March 5, 2019 1:46 PM
To: Greenbaum, Elie <Elie.Greenbaum@hud.gov>
Subject: RE: Q&A Needed for SOHUD Hearing on FY 2020 Budget
I know he is physically here but Gisele has him working for her so I have to do all of his work for my office plus my work.
We can add a DACA question. Can I get it to you by the end of the day?

From: Greenbaum, Elie <Elie.Greenbaum@hud.gov>
Sent: Tuesday, March 05, 2019 1:14 PM
To: Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Subject: RE: Q&A Needed for SOHUD Hearing on FY 2020 Budget
Neal is here. I saw him today...

These are good. But can you put a question in there about DACA? I thought you may already have an answer for that, but if not, can you just review what Brian said to the subcommittee last month when asked this and model a response that way?

From: Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Sent: Tuesday, March 5, 2019 1:09 PM
To: Greenbaum, Elie <Elie.Greenbaum@hud.gov>
Subject: RE: Q&A Needed for SOHUD Hearing on FY 2020 Budget
And then a personnel issue that I had to address immediately because Neal is not available. See attached.

From: Greenbaum, Elie <Elie.Greenbaum@hud.gov>
Sent: Tuesday, March 05, 2019 12:27 PM
To: Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Subject: RE: Q&A Needed for SOHUD Hearing on FY 2020 Budget
Yup, I figured that was a contributing factor.
Thanks Lisa!

From: Saunders, Elissa O <Elissa.O.Saunders@hud.gov>
Sent: Tuesday, March 5, 2019 12:26 PM
To: Greenbaum, Elie <Elie.Greenbaum@hud.gov>
Subject: RE: Q&A Needed for SOHUD Hearing on FY 2020 Budget

Will have these in a few minutes. Delayed due to the network issues.

-----Original Appointment-----

From: Greenbaum, Elie <Elie.Greenbaum@hud.gov>

Sent: Tuesday, February 26, 2019 11:13 AM

To: Greenbaum, Elie; Roget, Gisele G; Hadley, Joy; Saunders, Elissa O; Himes, Ivery W; Allen, Neal F; Shindelar, Stacey L

Subject: Q&A Needed for SOHUD Hearing on FY 2020 Budget

When: Tuesday, March 05, 2019 12:00 PM-12:05 PM (UTC-05:00) Eastern Time (US & Canada).

Where: N/A

Importance: High

Hi all,

I'm putting this on everyone's calendar to let you know that the Secretary will be testifying on the proposed FY2020 budget before Congress, and that leg affairs is asking for potential Q&A. If you can think of a few questions in your respective areas, I think that'll be good for now to share with CIR. I also think a key focus for SFH will be on IT needs, so Lisa, please prepare some Q&A for that (while borrowing from previously created documents to make this task easier).

Thanks,

Elie

Elie Greenbaum

Senior Advisor, Single Family Housing

Federal Housing Administration

(202) 402-6111

elie.greenbaum@hud.gov

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From: Gormley, Joseph M <Joseph.M.Gormley@hud.gov>

Sent: Monday, February 25, 2019 6:31 PM

To: Roget, Gisele G <Gisele.G.Roget@hud.gov>; Seats, Christopher L <Christopher.L.Seats@hud.gov>; Lukoff, Roger M <Roger.M.Lukoff@hud.gov>; Gerecke, Sarah S <Sarah.S.Gerecke@hud.gov>; Payne, Teresa L <Teresa.L.Payne@hud.gov>

Cc: Garvin, John L <John.Garvin@hud.gov>; Lyons, Eileen F <Eileen.F.Lyons@hud.gov>; Greenbaum, Elie <Elie.Greenbaum@hud.gov>; Lukoff, Roger M <Roger.M.Lukoff@hud.gov>; Olin, Paul M <Paul.M.Olin@hud.gov>; Carmon, Danberry <Danberry.Carmon@hud.gov>

Subject: Q&A Needed for SOHUD Hearing on FY 2020 Budget

Importance: High

All,

See below request from CIR.

Please send your draft questions and responses to Paul Olin no later than **COB on March 6.**

Thank you,

Joe

From: O'kane, Colleen M <Colleen.M.OKane@hud.gov>

Sent: Monday, February 25, 2019 2:06 PM

To: Seats, Christopher L <Christopher.L.Seats@hud.gov>; Olin, Paul M <Paul.M.Olin@hud.gov>;

Gormley, Joseph M <Joseph.M.Gormley@hud.gov>

Cc: Dendas, Michael W <Michael.W.Dendas@hud.gov>; Kelley, Michael J <Michael.J.Kelley@hud.gov>; Rios, Eric C <Eric.C.Rios@hud.gov>; Rugar, Christopher J <Christopher.J.Rugar@hud.gov>; DREUTH, JOSHUA R <Joshua.R.Dreuth@hud.gov>

Subject: House and Senate THUD Hearings - April 3, 2019

Lamar/Paul/Gormley-

Secretary Carson will be testifying before both the House THUD and Senate THUD Subcommittees on Wednesday, April 3 regarding HUD's proposed FY 2020 budget.

CIR / ALD is reaching out to all program offices to request information to help with preparation for these hearings.

As you are aware, the hearing is likely to focus on the rationale and assumptions for the proposed FY 2020 funding levels. Further, it is likely that members will ask about the projected operational impact of these funding levels. We recommend working with your program budget offices to provide budget specific Q&A. **To assist in this process, please send your budget specific Q&A to Eric Rios in the CFO Appropriations Liaison Division (copied on this email).** The CFO Budget office will review your Q&A and provide feedback and assistance as needed.

Additionally, as we have done in past, **we ask that you put together your Top 5-10 policy questions (i.e. Hot Topics) aside from the budget and your program's recommended response.**

Can you provide **Housing's budget specific Q&A and Hot Topics by Monday, March 11?**

Please let me know if you have any questions.

Thanks,

Colleen



Colleen O'Kane

Congressional Liaison

Office of Congressional & Intergovernmental Relations

U.S. Department of Housing and Urban Development

T: (202) 402-4598 | C: (b)(6)

Questions:

- 1) Why is HUD requesting additional funding for FHA IT infrastructure upgrades?
- 2) What is the total estimated cost and timeline for making the needed technology updates at FHA (HUD's Office of Single Family Housing)?
- 3) What is FHA's plan for the dedicated Single Family IT funds?
- 4) How will the Technology Modernization Fund (TMF) funding HUD received in 2019 replace lesser systems?
- 5) What has Single Family accomplished with the \$20 million in IT funds from FY2019?
- 6) How is FHA preparing for the possibility of another downturn in the housing market?
- 7) What is the latest status on FHA's Condominium Rule?
- 8) What is the status of the reverse mortgage program and the new appraisal requirements?
- 9) Why does HUD require certified appraisers and not allow licensed appraisers to conduct appraisals for FHA?
- 10) Is HUD going to allow homeowners to purchase private flood insurance instead of NFIP?
- 11) Has FHA taken any action to clarify regulations for outside organizations offering Downpayment Assistance?
- 12) What is the policy regarding the eligibility of individuals with Deferred Action for Childhood Arrival (DACA) immigration status for FHA insured financing?

1. Why is HUD/FHA requesting additional funding for FHA IT infrastructure upgrades?

Non Responsive Record

2. What is the total estimated cost and timeline for making the needed technology updates at FHA's Office of Single Family Housing?

Non Responsive Record

11. Has FHA taken any action to clarify regulations for outside organizations offering Downpayment Assistance?

Non Responsive Record

12. What is the policy regarding the eligibility of individuals with Deferred Action for Childhood Arrival (DACA) immigration status for FHA insured financing?

FHA's longstanding policy is that Non-U.S. citizens without lawful residency in the U.S. are not eligible for FHA insured mortgages. This policy was published in HUD Handbook 4155.1 in 2003 and now found in HUD Handbook 4001. HUD defers to the US Citizenship and Immigration Services as to the status conveyed to individuals granted Deferred Action for Childhood Arrivals (DACA).