



HAP Funding and Closing Instructions *for both Lenders and Closing Agents*


A certified HAP closing agent is required to close all transactions receiving HAP funds.

General HAP Funding and Closing Requirement:

- A. A file with a non-certified HAP closing agent designated will result in HAP file submission rejection. (see the HAP Sanctions Policy for details).

NOTE: The HAP file NOT assigned nor processed is this instance resulting in borrower ineligibility and/or significant delay in receipt of HAP funds for which HAP is NOT responsible. Lender WILL be sanctioned for this occurrence.

- B. HAP is NOT responsible for delays caused by file submissions that cannot be immediately assigned for processing at time of initial intake and compliance review. Both submitting MLO and designated closing agent are responsible for communicating delays to relevant, involved parties upon notification.
- C. HAP is NOT responsible for delays caused by certified HAP closing agents who do not submit complete and/or compliant documents required for HAP funding. ALSO, HAP may mandate a contract extension in these instances where designated ***closing agent*** is cause for delay in HAP funding request.
- D. Only borrowers that are designated on the first mortgage lender commitment (thereby HAP documents and HAP Commitment) may be listed on the purchase contract and Closing Disclosure/ Settlement Statement(s).
- E. If there is more than one DAP (Down-payment Assistance Program) involved in borrower(s) financing, then the names of all borrower(s) MUST BE EXACTLY IDENTICAL on each loan document.
- F. Upon receipt by the lender of HAP Commitment Letter from assigned HAP Loan Manager, all relevant lender fees and charges MUST be immediately disclosed to closing agent.
- G. ALL conditions noted on the HAP Commitment MUST be received and approved by assigned HAP Loan Manager or designee before HAP funds are requested.
- H. HAP funds are disbursed by the Miami-Dade County Finance Department (Finance). Finance does NOT send wire transfers. HAP Closing Agent MUST agree to receive funds via ACH direct deposit. NOTE: Initial disbursement after Closing Agent set-up for ACH deposits is made via check.

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- I. Miami-Dade County has a new funding/disbursement system that will now take 5-7 BUSINESS DAYS for a closing agent to receive HAP funds. HAP does NOT control this funding process.
 - J. HAP Funding & Closing Instructions are sent along with current Housing Counseling Agencies (HCAs) List at time of HAP file assignment email (i.e., on every file that is submitted for HAP funding).
 - 1. MLO:** HAP certified MLO lender is responsible for ensuring all persons involved in closing the transaction receive a copy of these instructions.
 - 2. Closing Agent:** HAP closing agent is responsible for ensuring all company staff involved in the closing and post-closing process receive a complete copy of these HAP instructions to complete their tasks and for closing coordination with lender.
 - K. MLO, relevant lender staff, closing agent and HAP contacts included on file assignment email MUST be included on ALL emails pertaining to HAP funding and loan closing. There WILL be repercussions for not following this practice.
 - L. Tracking for compliance and proper completion of documents and procedures is being maintained by HAP and sanctions will be levied on the closing agent and/or MLO-lender for non-compliant submissions.

Pre-closing HAP Funding Requirements

- A. **Issued title insurance IS required on a HAP Loan at the lowest permissible and possible cost.**
 - NOTE 1: Endorsements are NOT required on HAP policy. Title policy must be issued via ALTA Loan Policy. Short Form policies are NOT acceptable.
 - NOTE 2: Payment of current and previous real estate taxes must be noted on the CD, OR on the title commitment section B-1 stated as “Paid” and include the amount(s).
- B. HAP loan must be designated on Schedule A and B-1 – See last page for endorsements verbiage.
- C. Prior to sending a HAP funding request, the HAP Loan Manager must receive Title Commitment AND Preliminary Closing Disclosure (CD)/ Settlement Statement.
- D. **Closing Disclosure (CD)/ Settlement Statement Requirements:**
 - A single preliminary CD is required to complete the HAP funding process. IF necessary to avoid confusion or HAP funds requests delays, only the HAP Loan Manager needs to receive this required HAP funding CD.

- ALL lender and closing agent fees and charges MUST be included on preliminary CD sent to HAP including projected escrow set-up and real estate taxes payment.

E. HAP Funding CD must also designate line items for HAP title policy fee; Docs Stamps for HAP Loan; HAP mortgage recording fee; HAP – HCA Payout Initiative designation to HCA as noted on HAP Commitment.

NOTE: See HAP Housing Counseling Agencies List and below HCA notations in red for further details.

You will be advised on HAP Commitment regarding the \$250.00 Housing Counseling Agency (HCA) payout which needs to read “HAP - HCA Payout” to (insert HCA name) in Section H of the Closing Disclosure (CD) for both preliminary AND final CD/ Settlement Statement(s).

NOTE: Please use HCA list for reference and check mailing purposes – DO NOT send HCA check to HAP – You WILL be sanctioned for sending a check. Please send copies of ALL CDs with HCA Payout check directly to HCA.

- F. **It is the lender's sole decision as to the number of final CD(s) /settlement statements completed at time of actual closing (based on RESPA and/or TRID, compliance etc. as stipulated by the first mortgage lender).**
REMEMBER: This is NOT to be done until the actual day of closing DO NOT confuse this with the requirements for the HAP preliminary funding CD (section E. above) or you WILL hold up your closing!!!
- G. The closing agent must send all CDs/settlement statements as lender has designated with the initial post-closing package to HAP.
- H. Only borrowers listed on lender's first mortgage commitment and documents (thereby HAP documents) may be listed on the CD/settlement statement.
- I. You DO charge for Doc Stamps, but DO NOT charge the Intangible Tax on HAP loans. Please confer with other Miami-Dade County or compatible Down-payment Assistance Programs (DAPs) for their requirements in this regard.
- J. Under no circumstances are borrowers allowed to get cash back at closing. **Do not forward any CD showing cash “To” borrowers to HAP.**
- K. “HAP 2nd mortgage” or HAP 2nd mortgage must be specifically noted as CD line item reference (This is Page 3 on a CD).
- L. Verification of HAP-required borrower minimum 1% or 3% contribution is required for HAP compliance purposes.
- M. Please notify the HAP Loan Manager after preparation of the Final CD(s) if ANY loan amounts change OR for any significant change in cash to close (e.g., IF the borrower HAP minimum contribution is affected OR cash “To” borrower results).

HAP Loan Closing Instructions

- A. **Certified Closing Agent:** Closing agents must be certified to receive funds for HAP closings, including but not limited to in-person HAP Certification Workshop attendance along with receipt of a completed HAP Closing Agent Participation Agreement, W-9 (matching sunbiz.org record), and ACH Direct Deposit forms.
- B. **Sunbiz:** A www.sunbiz.org record is required.
- C. **Advance Closings:** It is against HAP policy to close a loan in advance of closing agent receipt of HAP funds unless a written request from closing agent AND lender for an exception to this provision is made AND request is acknowledged in writing by authorized HAP staff.

Files should close within 15 days of receipt of HAP funds by closing agent.

- D. **Unused HAP Funds:** Funds must be returned to HAP by closing agent if not used. IF this occurs, closing agent MUST advise HAP Loan Manager AND state the actual date AND by which type of mail delivery method funds are being returned when applicable. **Closing agent is to amend CD(s) and HAP Note and Mortgage accordingly adding applicable cents to borrower cash to close (HAP loan is to be stated in whole dollars).**
- E. **HAP Templates:** HAP Note and HAP Mortgage templates are sent to closing agents in conjunction with completion of HAP Participation Agreement and submission of other required documents. HAP WILL NOT SEND CLOSING PACKAGES. **Closing agents are now to submit the completed HAP Note and HAP Mortgage to the HAP Loan Servicing Manager or designee for review AND approval at time of HAP funding request OR prior to the scheduled closing date.**
 - *HAP 5th or 6th liens are done on a case-by-case basis: There are no templates for such liens (contact HAP Administration). Other entities will not supply HAP Note or Mortgage.*

ALLOWABLE FEES:

- A. **No HAP Qualifying Fee:** No fee may ever be charged to any borrower or prospective borrower in conjunction with qualifying, processing, submitting and/or closing a HAP file. There are no application or any other type of fee associated with the MDEAT HAP.
- B. **Lender Limitations:** Lenders/Mortgage Brokers Fee limitations is based on sales price of subject property.
 - 1. **Max Fees:** Maximum combined total is 2% of sales price* inclusive of all lender, mortgage broker and/or developer fees (as applicable).
 - 2. **Third Party Fees:** 3rd Party fees may be paid out only if listed as a separate line item on the CD.

** Exceptions are made for loans with lower sales prices.*

C. **Closing Agent Limitations:** Closing agent fee limitation from borrower(s) HAP funds are the following:

1. \$975.00 maximum payout directly to closing agent outside of fees and charges listed above
2. Title Insurance – Promulgated Rate (A Simultaneous Issue must be used whenever allowed or possible)
3. Endorsements – Not required on HAP loan. IF charged, MUST be at minimum permitted rates
4. Recording Fees – \$10.00 for first page and \$8.50 for each additional page
5. Survey, Septic Tank & Home Inspection Fees – Prevailing vendor cost
6. 3rd Party Fees – At actual cost listed as a separate line item on the CD
 - NOTE: Please be advised that IF the 3rd party company is an affiliate or owned in whole or part by the designated closing agent, then that fee(s) MUST also be included in the \$975.00 maximum payable to the “closing agent of record”.
 - This is considered as a violation of HAP policy thereby subject to sanction, AND an “Affiliated Business Disclosure” WILL be required as part of HAP Participation requirements.
 - **Outside of what is stated above, HAP policy regarding fees is simply stated as “reasonable and customary”. Any interpretation of and/ or request for clarification is solely and completely made at the discretion of HAP staff and administration.**

Completion of HAP Template Documents

Any breach of the template completion process or procedure will result in possible forfeiture of HAP funding. Additionally, the closing agent will be responsible for any remedies necessary to correctly and accurately reflect the monetary and lien transactions involved in conjunction with the HAP loan submitting lender/mortgage loan officer.

- A. The required information listed for completion of HAP Note and Mortgage templates MUST be typewritten. Handwritten HAP Note and Mortgage documents are not permitted.
- B. Any HAP Mortgage received with post-closing docs that is not properly completed will require correction and re-recording at closing agent expense.
- C. Please make sure all appropriate personnel in your office receive this information. This is the only notice you will receive before sanctions are enforced per HAP policy.

NOTE: HAP Notes and Mortgages are lien (position) specific and closing agents must agree and are required to complete BOTH (HAP) Note and Mortgage templates:

- D. **Dates** (as applicable)
- E. **HAP Loan Number** (from HAP Commitment Letter)
- F. **HAP Borrower Name(s)** – MUST match and be typed EXACTLY as indicated per lender and HAP docs) on both HAP Note and Mortgage.
 - i. The marital status MUST also be printed on HAP Mortgage. **NOTE: IF the borrower is married, the joinder spouse MUST be included in the HAP Mortgage.**
 - ii. **Only borrower(s) on first mortgage and HAP loan sign the HAP Note.**
 - iii. Borrower's Name(s) MUST also be printed below signature line on signature page.
- G. **HAP Loan Amount** (alphabetically and numerically where indicated **in its entirety. The HAP loan amount must be in whole dollars.**
- H. **Property Information** (street address and legal description) as indicated.
- I. **Notary Acknowledgment MUST be completed, executed and stamped accurately.**

Regarding Completion of the HAP Note:

- Payment information is in the first paragraph of [Section 3 ** of HAP Note](#) (“Payments”) and should be entered as the actual HAP loan amount. Forgiven verbiage is in the second paragraph.

** Payments

Principal payment shall be deferred for ten (10) years from the date of the Promissory Note. In the event that within ten (10) years of the date of this Promissory Note, I sell, transfer, give, convey by voluntary act, or involuntarily convey by operation of law or otherwise, or if I am divested of title by judicial sale, levy or other proceeding or if a foreclosure action is instituted against my home or if I rent or lease my home, then I agree to immediately pay the entire sum due under this Note. My total payment shall be U.S. \$ (**enter the HAP loan amount here**). I will make my payment at Lender’s address as stated in Section I above, or at a different place if required by the Note Holder.

**** However, if I use and occupy my home as my primary residence for ten (10) years from the date of this Promissory Note, the entire principal sum of the Promissory Note shall be forgiven and I will not be required to repay it.**

Regarding Completion of the HAP Mortgage

- HAP loans are forgiven at maturity (i.e., at the end of 10-year term if stated conditions have been met). Therefore, the balance due upon maturity of the HAP/MMAP-HAP balloon mortgage is zero (\$0.00). **This section is found at the top of the 1st page and Signature Pages of the HAP Mortgage.** See just below for an **example**.

THIS IS A BALLOON MORTGAGE WHERE THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$0.00, NOTWITHSTANDING ACCRUED INTEREST, ONLY IF APPLICABLE WITH ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS MORTGAGE.

- **Any HAP Mortgage received that does not properly reflect amount as \$0.00 will require correction and re-recording at closing agent expense.**

HAP Closing Agent Post-Closing Process

Within 3 business days of closing, please submit these documents to the HAP office:

- A. The ORIGINAL HAP Promissory Note
 - B. **Certified** COPY of the HAP Mortgage
 - C. An ORIGINAL or **Certified COPY of the** FINAL CD(s)
 - Only actual Closing Disclosures are acceptable **
 - **NOTE: As closing agent, you must send ALL Closing Settlement Statements (CDs) and as per lender stipulation) with your initial post-closing package.**
 - ** Real estate transactions governed by RESPA and CFPB only accept CDs**
 - D. COPY of paid insurance binders (Hazard, Flood, if applicable, and Title) w/ proper HAP endorsements IF paid prior to closing
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Within 4 weeks of closing, the following documents must be mailed to MDEAT HAP.

- A. THE RECORDED HAP Mortgage
- B. AN ORIGINAL TITLE INSURANCE POLICY (Naming HAP as a Mortgagee)

Insurance Policy Endorsements

HAP must be named as an additional insured and HAP Loan Number must be listed on all Homeowner Hazard/ Windstorm/ Flood policies, as applicable.

**** NOTE:** The below noted address does NOT need to be included on title commitment or title policies BUT MUST be included on insurance and other docs requiring HAP mortgagee clause – Thank you for your cooperation.

THE MORTGAGEE CLAUSE SHOULD READ:

Miami-Dade Economic Advocacy Trust, An Agent and Instrumentality of Miami-Dade County, ISAOA, ATIMA – 111 NW 1st Street, Suite 2032 (20 Floor), Miami, FL 33128.

THE ABOVE IS ALSO USED FOR TITLE COMMITMENT AND TITLE POLICY ENDORSEMENT