April 9, 2012

National Mortgage Foreclosure Settlement

Request For Proposals:
Settlement Administration Services[1]

The Monitoring Committee of the multistate group of 50 attorneys general (the "Monitoring Committee")[2] which recently announced a national mortgage foreclosure settlement (the "Settlement") with the five largest mortgage loan servicers ("Servicers")[3] is seeking proposals from settlement administration companies to provide services and expertise in the administration of a claims process to benefit certain foreclosure victims.

WRITTEN PROPOSALS ARE DUE BY APRIL 30, 2012 at 5:00 p.m. (PT) and should be submitted to the following Assistant Attorneys General via email: AAG David Huey (Washington) (DavidH3@ATG.WA.GOV) and AAG Joseph Chambers (Connecticut) (joseph.chambers@ct.gov). Based on the written proposals, the Monitoring Committee will select finalists to make live presentations. Finalists should also be prepared to facilitate simultaneous web presentations to those Monitoring Committee members unable to attend the live presentations. The Monitoring Committee anticipates that administration of the claims process will begin in June 2012 and will conclude in early 2013.

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[1] This RFP is available online at http://www.nationalmortgagesettlement.com/

[2] The Monitoring Committee consists of the attorneys general and staff from the following states: Arizona, California, Colorado, Connecticut, Florida, Illinois, Iowa, Michigan, Nevada, North Carolina, Ohio, Oregon, Texas, Washington, a representative of the state mortgage regulator for the State of Maryland, a representative of the Secretary of the U.S. Department of Housing and Urban Development, and a representative of the U.S. Department of Justice.

[3] Bank of America, Wells Fargo, CitiGroup, JP Morgan Chase, and Ally.

I. OVERVIEW OF PROGRAM

One component of the Settlement is the Payments to Borrowers Program (the "Program"). A qualified settlement fund ("QSF") of approximately $1.5 billion, comprised of monies paid by each servicer under the Settlement, will be placed in a Custody Account overseen by Northern Trust or other qualified bank custodian to be paid out to eligible claimants at the direction of the Settlement Administrator selected by the Monitoring Committee. Eligible borrowers in the District of Columbia and 49 states will be eligible to participate in the Program.[4]

The Program will provide each claimant who meets certain eligibility criteria a set, flat payment. The exact payment amount will depend on the total number of eligible claimants. The Monitoring Committee estimates that there will be approximately 750,000 to 1 million eligible claimants who will receive payments in the range of $1500 to $2000. Participating states may also choose to allocate a portion of their own settlement funds to increase the payment received by eligible borrowers in their state.

Claimants *will not* be required to release any private legal claims against the Servicers – so claimants may sue individually or join a class action even if they receive a payment under the Program. In addition, claimants may also avail themselves of the separate Office of the Comptroller of the Currency claims review process.

II. ELIGIBILITY

A. Baseline Eligibility:

To be eligible to participate in the Program, borrowers must meet the following criteria:

- Borrower had a mortgage loan secured by an owner-occupied, one-to-four unit residential property.
- Borrowers' mortgage loan was serviced by one of the five Servicers.

[4] The Oklahoma Attorney General is not participating in the Settlement and, therefore, Oklahoma borrowers are ineligible for the Program.

- Borrowers made at least 3 payments on the mortgage loan.
- Borrower lost home to a foreclosure sale (including strict foreclosure) between January 1, 2008, and December 31, 2011.
- The property securing the mortgage loan was not abandoned by the homeowner or condemned prior to the time of the foreclosure sale.
- Unpaid principal balance of the first mortgage loan did not exceed the GSE conforming loan limits (1 unit - $729,750; 2 units - $934,200; 3 units - $1,129,250; and 4 units - $1,403,400).

B. Borrower Certifications:

In addition to the baseline eligibility criteria listed above, eligible claimants must also complete a claim certification form[5] in which they certify under penalty of perjury to the following:

- Borrower lost the home to foreclosure while attempting to save the home through a loan modification or other loss mitigation effort.
- Servicer errors or misconduct in the loss mitigation or foreclosure processes affected the borrower's ability to save the home.

III. PROCESS

The Monitoring Committee will select and retain the Settlement Administrator to design and facilitate the Program claims process. Each Servicer will provide the Settlement Administrator with relevant contact information for each eligible borrower. In addition, many states are collecting information from potentially eligible borrowers and will provide such information to the Settlement Administrator.

The Settlement Administrator will promptly establish a dedicated toll-free number that potential claimants may contact directly to provide updated address information and ask questions regarding the claims process. The Settlement Administrator will also design, and provide in a compatible format, information

[5] The Monitoring Committee has created a working draft of the claim certification form.

regarding the claims process for posting on the National Foreclosure Settlement website. See http://www.nationalmortgagesettlement.com/

The Settlement Administrator will issue notices to each eligible borrower who meets the baseline eligibility criteria listed above. Notices will likely be sent on the letterhead of the Attorney General from the eligible borrower's state. Whenever necessary, the Settlement Administrator will engage in "skip tracing" to determine the current addresses of eligible borrowers. The Settlement Administrator will facilitate an optional online claims process to minimize the costs associated with direct mailings. It is anticipated that administration will involve at least three mailings. Claimants will be required to complete and return the claims form by a certain deadline; e.g. 90 days.

The Settlement Administrator will then determine the total number of eligible claimants and the amount of the flat payment each will receive. In addition, the Settlement Administrator will work with any state that chooses to use its own settlement funds to increase the payment received by borrowers in that state. Next, the Settlement Administrator will work with the Monitoring Committee and the bank serving as the QSF Custody Account custodian to expeditiously distribute checks to eligible claimants as soon as practicable or as directed by the Monitoring Committee. The Settlement Administrator will also coordinate with the Monitoring Committee's tax counsel and include relevant tax information with the check distributions.[6]

IV. SELECTION OF THE SETTLEMENT ADMINISTRATOR

The Monitoring Committee will base its selection of the Settlement Administrator on a variety of factors, including, but not limited to the following:

- Past experience handling similar claims processes.
- Ability to foresee and ameliorate potential problems.

[6] The Settlement Administrator will also be required to comply with the terms relating to the Borrower Payment Program set forth in Exhibit C to each of the Consent Judgments filed in U.S. District Court for the District of Columbia. See United States v. Bank of America Corp. *et al.,* No. 1:12-cv-00361-RMC (D. D.C.).

- Ability to design and implement an effective Program.
- Ability to establish call center to handle toll-free calls from claimants.
- Ability to engage in "skip tracing."
- Ability to implement and process online and hard copy claim forms.
- Ability to maximize claims return rate.
- Ability to accurately and expeditiously validate claims.
- Ability to distribute checks accurately and expeditiously.
- Ability to adhere to time and reporting requirements.
- Ability to provide efficiency and value.

Written proposals from interested settlement administration companies should contain information that will enable the Monitoring Committee to assess these factors. In addition, candidates should provide specific responses regarding the following:

(1) Past matters similar in type, size, and scope handled by the settlement administration company;

(2) Initial Program design plan, including anticipated project management and staffing, operations infrastructure, security and confidentiality, scope of work, IT systems, types of notice, claims processing, distribution, quality assurance, and reporting;

(3) Description of the options and associated costs for distribution of checks to claimants; (e.g., How will the Settlement Administrator coordinate with the bank serving as the QSF Custody Account custodian? Will QSF funds be held by the Settlement Administrator at any time or will the Settlement Administrator simply print and distribute checks which will be drawn on a retail financial institution selected by the bank serving as the QSF Custody Account custodian?);

(4) Estimate of fees and expenses, including a "not to exceed" amount;

(5) Qualifications and relevant experience of key personnel who will manage the case;

(6) Description of internal controls to eliminate employee fraud;

(7) Description of E & O insurance coverage and insured amounts;

(8) Description and recommendation regarding bonding options and estimate of bonding costs;

(9) Certifications, audits, and processes relevant to secure handling of claimant information, including compliance with privacy laws;

(10) Description of data storage and processing of claimant information;

(11) Disclosure regarding potential use of third-party vendors for any aspect of the Program;

(12) Disclosure regarding potential use of any operations and/or personnel located outside the United States for any aspect of the Program;

(13) Description of the ownership structure of the settlement administration company, including whether any foreign person or entity has an ownership stake;

(14) Disclosure and description of any affiliations, associations, and contractual relationships that the settlement administration company has with the following entities and/or affiliates of the following entities: Bank of America, Wells Fargo, CitiGroup, JP Morgan Chase, and Ally/GMAC;

(15) Description and effectiveness of EEO, ethics, and employee concerns programs.

The Monitoring Committee looks forward to receiving written proposals from interested settlement administration companies. Please contact Assistant Attorney General David Huey or Assistant Attorney General Joseph Chambers via email (see email addresses above) if you have any questions regarding this RFP.

Washington Attorney General Rob McKenna

Connecticut Attorney General George Jepsen