

*Federal Housing Finance Agency
400 7th St SW, Washington, DC 20024
Delivered via electronic mail
January 12, 2022*

Dear Acting Director Thompson,

We, the undersigned civil rights, consumer, and housing organizations, write to encourage FHFA to rededicate itself to improving language access in mortgage origination and servicing. Many of our organizations have been working collaboratively with FHFA to improve access for Limited English Proficient (LEP) borrowers since 2015 and have served as members of FHFA's Language Access Working Group. FHFA has shown commendable leadership on language access in the past, but despite these efforts, the nearly 26 million LEP consumers in the U.S. still struggle to obtain accurate and timely information in their language throughout the life of their mortgage.

Today, FHFA has an opportunity to lead the mortgage industry forward on better serving LEP customers. To do so, we suggest FHFA take the following actions¹:

Instruct the GSEs to require their lenders and servicers to collect and track language preference data for all loans purchased by the Enterprises. To achieve this, FHFA should instruct the GSEs to require use of the Supplementary Consumer Information Form (SCIF) for all loan applications, include language preference data in the Uniform Mortgage Data Program, and require that language preference data be transferred to (and when necessary collected by) servicers for the life of the loan. FHFA should also assess opportunities to reincorporate the language preference and housing counseling questions into the Uniform Residential Loan Application (URLA). Those questions were developed and vetted during the most recent update to the URLA, so they already exist in a format that has been through regulatory approval.

Analyze barriers to industry utilization of translated documents and take action to encourage their use. FHFA has already done a commendable job translating many critical mortgage documents into the top 5 languages and posting them on its Mortgage Translations Clearinghouse, but by all indications these resources are not commonly used by lenders and servicers. There are likely multiple reasons for this underutilization, but progress can be made. For example, if servicers are reluctant to use translated model servicing documents because they must modify the forms before they are used, the GSEs should provide guides for making common modifications in the most common languages. The GSEs could create tools that allow lenders or servicers to make FHFA's translated materials easily available on their own websites.

¹ Additional details on the need for improved language access and our recommendations can be found in comments submitted by the National Consumer Law Center and many of our other organizations on Federal Housing Finance Agency's Request for Input on the Enterprise Equitable Housing Finance Plans, available at https://www.nclc.org/images/pdf/foreclosure_mortgage/FHFA_Equitable_Hsg_Finance_RJ_LEP.pdf

The GSEs should also continue translating additional documents and consider expanding their translations to the top 8 languages spoken by LEP consumers, consistent with the CFPB.

Work collaboratively with CFPB and HUD as necessary to clarify industry’s legal obligations. While we believe industry’s legal concerns about providing language services are significantly overstated, and that there appear to be legal risks associated with *not* providing language access, additional clarity on this topic could give lenders and servicers comfort and guidance that would spur progress. Lenders and servicers should also take comfort in the CFPB’s January 2021 LEP Statement, which provides a framework by which financial institutions can better serve LEP consumers.²

Given the close relationship between LEP status and national origin, we believe the activities discussed here will further FHFA’s objective of advancing equity in housing finance. As such, we believe FHFA’s Office of Fair Lending Oversight would provide valuable input to these agencies and other FHFA Divisions’ language access work. As some of us have argued previously, we also believe that the activities described in this letter would be appropriate for inclusion in each Enterprise’s Equitable Housing Finance Plan.

Require Enterprise lenders and servicers to create and implement Language Access Plans. Despite the importance of setting high standards for language access, industry participants cannot feasibly offer all services, in even the most common languages, overnight. As such, FHFA should require lenders and servicers to create and implement Language Access Plans that consider the languages most commonly spoken by their LEP customers, the most important information for these customers to understand, and steps they can take to improve language access given available resources and costs.³ Language Access Plans would work well to help satisfy fair lending obligations of mortgage lenders and servicers, and appear consistent with the CFPB’s recent Statement.

As the industry’s language access practices improve, FHFA should also instruct the GSEs to require their lenders and servicers to meet a minimum standard of in-language service, such as providing high quality oral translation and in-language documents when they have been translated by the GSEs, CFPB, HUD, or other government agencies.

Monitor and make public information about lender and servicer language services. We encourage FHFA and the GSEs to publish data on borrowers with Limited English Proficiency. We also encourage the GSEs to monitor the language services provided by their counterparties, including by assessing performance on key metrics, such as call wait times for borrowers who require translation services. In addition, elevating examples of industry participants who are successfully providing language services can help encourage others to do so, so we encourage

² Consumer Fin. Prot. Bureau, Statement Regarding the Provision of Financial Products and Services to Consumers with Limited English Proficiency at 13 (Jan. 13, 2021), available at https://files.consumerfinance.gov/f/documents/cfpb_lep-statement_2021-01.pdf

³ See Dep’t of Housing and Urban Dev’t, Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 72 Fed. Reg. 2732, 2745 (2007) (describing the content of Language Access Plans).

FHFA to publish reports about lender and servicer language access practices, perhaps in coordination with the CFPB.

We look forward to continuing to work with FHFA to accomplish the important goal of improving access for LEP mortgage customers. We will follow up shortly to request a meeting with agency staff to discuss these recommendations.

Sincerely,

Administration of Resources and Choices
Americans for Financial Reform Education Fund
CAARMA (Consumer Advocates Against Reverse Mortgage Abuse)
California Reinvestment Coalition
Center for Community Progress
Center for Responsible Lending
Central American Resource Center - CARECEN
CHES, Inc.
CLUES - Comunidades Latinas Unidas en Servicio
Community Legal Services of Philadelphia
Congreso de Latinos Unidos
Connecticut Fair Housing Center
Consumer Action
Consumer Federation of America
Cuban American National Council (CNC)
DevNW
El Centro de la Raza
El Paso Community Action Program Project BRAVO, Inc.
Empire Justice Center
Hispanic Unity of Florida
Homes on the Hill CDC
Housing and Education Alliance, Inc.
Instituto de Educación Práctica-Puerto Rico Bar Association
Integrated Community Solutions, Inc.
Jacksonville Area Legal Aid, Inc.
La Fuerza Unida, Inc.
Lawrence CommunityWorks
Lawrence CommunityWorks, Inc.
MICAH- Metropolitan Interfaith Council on Affordable Housing
Mountain State Justice
National CAPACD- National Coalition for Asian Pacific American Community Development
National Coalition for the Homeless
National Community Stabilization Trust
National Consumer Law Center (on behalf of its low-income clients)
National Fair Housing Alliance
National Housing Law Project
National Housing Resource Center
National Urban League
Northwest Side Housing Center
One Stop Career Center of PR, Inc.
Poverty and Race Research Action Council

Prosperity Now
Revolving Door Project
The Brighton Park Neighborhood Council
The Leadership Conference on Civil and Human Rights
UnidosUS