

CHFA Down Payment Assistance (DPA) Second Mortgage Loan faqs

The information below addresses some frequently asked questions regarding the CHFA Down Payment Assistance (DPA) Second Mortgage Loan. The answers are only applicable to the delivery of CHFA DPA Second Mortgage Loans to CHFA and are provided as a courtesy. They are not a substitute for the advice of your compliance department or legal counsel. CHFA will not advise lenders on disclosure requirements, nor how particular sections of the disclosures should be completed, but rather relies on Participating Lenders to ensure those are properly completed. Participating Lenders should consult with their legal counsel and compliance department regarding disclosure requirements.

1. Do CHFA DPA Second Mortgage Loans qualify for the partial exemption from the TILA-RESPA Integrated Disclosure Rule (TRID)?
 - a. There is an exemption available for certain housing assistance second mortgage loans that meet the partial exemption criteria under 12 CFR 1026.3(h). CHFA will rely on Participating Lenders to determine if the CHFA Down Payment Assistance Second Mortgage Loan qualifies for the partial exemption under 12 CFR 1026.3(h).
2. Can lenders combine disclosures or disclose the CHFA DPA Second Mortgage Loan information on the CHFA First Mortgage Loan disclosures in lieu of providing separate disclosures?
 - a. No. The CHFA DPA Second Mortgage Loan must have separate disclosures and should contain the information and fees associated with the CHFA DPA Second Mortgage Loan.
3. For CHFA DPA Second Mortgage Loans, does CHFA require lenders to use specific disclosures?
 - a. CHFA will rely on Participating Lenders to determine the required disclosures and disclosure contents under the TILA-RESPA Disclosure Rule (TRID) and RESPA. Generally, the TRID Amendment provides lenders the option to use the TRID Disclosures (Loan Estimate and Closing Disclosure) for DPA Loans which meet the partial exemption criteria under 12 CFR 1026.3(h). Federally related mortgage loans not subject to the TILA disclosure requirements in 12 CFR §1026.19(e), (f), and (g) must continue to provide the RESPA disclosures where the partial exemption criteria in 12 CFR §1026.3(h) is not satisfied. Lenders should follow their company's compliance and/or legal guidelines regarding the disclosure requirements under TRID and RESPA. *

**CHFA believes the TILA-RESPA Integrated Disclosure (TRID) forms are appropriate for CHFA DPA HomeAccess second mortgage loans.*

4. Do lenders have to use CHFA's disclosure forms?
 - a. CHFA will permit lenders to generate their own disclosures for CHFA second mortgage loans. As a courtesy CHFA has provided disclosures as applicable for Participating Lenders unable to generate disclosures through their own systems. These forms are made available for our Participating Lenders to use at their own discretion.

Participating Lenders must use CHFA Form 305, CHFA DPA Second Mortgage Loan Promissory Note, and CHFA Form 310, CHFA DPA Second Mortgage Loan Deed of Trust, for all CHFA DPA Second Mortgage Loans as referenced in question 9.

5. Does CHFA have any overlays regarding the content of the disclosures?
 - a. CHFA relies on its Participating Lenders to complete the CHFA DPA Second Mortgage in compliance with TRID. Please consult with your compliance department or legal counsel for additional information and guidance in completing required disclosures. Please keep in mind the following:
 - i. The CHFA DPA Second Mortgage Loan is structured as a balloon with payment deferred 30 years or until maturity in accordance with the terms of the CHFA DPA Second Mortgage Loan Promissory Note.
 - ii. The CHFA DPA Second Mortgage Loan is not assumable.
 - iii. The CHFA DPA Second Mortgage Loan does not have a negative amortization feature.
6. What fees are lenders allowed to charge in connection with the CHFA DPA Second Mortgage Loan?
 - a. Although CHFA does not require a settlement fee, originators are permitted to pass through third-party settlement fee charges in connection with the CHFA DPA Second Mortgage Loan. CHFA will also allow the total charges to record and index the CHFA DPA Second Mortgage Loan.
7. Can lenders charge a processing or administration fee on the CHFA Second Mortgage Loan?
 - a. No. However, CHFA allows the lender to pass through the third-party settlement fee charges and recording fees as referenced in question 6.
8. Is the borrower allowed to receive cash back on the CHFA DPA Second Mortgage Loan?
 - a. The intent of the downpayment assistance loan is to provide the borrower with the funds necessary to close the transaction. The downpayment assistance funds should not result in cash back to the borrower in accordance with applicable investor/insurer/guarantor requirements.
9. Do lenders have to use CHFA's Second Mortgage Loan Promissory Note and Deed of Trust?
 - a. Yes. Participating Lenders must use CHFA Form 305, CHFA DPA Second Mortgage Loan Promissory Note, and CHFA Form 310, CHFA DPA Second Mortgage Loan Deed of Trust, for all CHFA DPA Second Mortgage Loans.**

*** CHFA HomeAccess Second Mortgage Loans use CHFA Forms 305H and Form 311H.*