

Wisconsin Foreclosure Mediation Network & Metro Milwaukee Foreclosure Mediation Program



2015-2016 Funding Request and Proposal

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Executive Summary

In July, 2014, the Metro Milwaukee Foreclosure Mediation Program celebrated five years of successful operations, and its statewide counterpart, the Wisconsin Foreclosure Mediation Network marked its second year anniversary. With funding provided by the Wisconsin Department of Justice, the Metro Milwaukee Mediation Services, Inc., (which administers these two programs) has resolved residential foreclosures throughout the state of Wisconsin by employing a mediation process that enhances communication between mortgagors and their lenders, in a structured confidential environment overseen by a neutral mediator, and accountable to the Wisconsin civil courts.

Through mediation, homeowners, who have unsuccessfully sought to cure their mortgage loan default, qualify for loan modifications under the national HAMP (Home Affordable Modification Program), or other modification programs. Foreclosure mediation prevents avoidable foreclosures, and the otherwise resulting glut of empty and unsalable homes that devalues neighborhood property and creates a public safety hazard. None of this would have been possible without the support of Attorney General J.B. Van Hollen and the Wisconsin Department of Justice.

Unfortunately, our current contract with the Wisconsin Department of Justice ends June 30, 2015, and we learned from the new administration, under Attorney General Brad Schimel, that there are no further DOJ funds available for the Wisconsin Foreclosure Mediation Network or the Metro Milwaukee Foreclosure Mediation Program.

The demand for foreclosure mediation services persists, with applications to the program increasing in past months. In March 2015 alone, the program received 63 requests for mediation, 36 of which were from Milwaukee County, with 30 of those cases in the City of Milwaukee. This is the highest single month of applications since January 2013. Further, although the level of new foreclosure filings followed a downward trend in 2014, the first quarter filings of 2015 are comparable to first quarter of 2014. In Milwaukee County, first quarter filings have only dropped by 3% as compared to first quarter 2014. Notably, Milwaukee County first quarter 2015 filings exceed the quarterly totals of quarters 2, 3, and 4 of 2014.

With a very lean staff of four full-time employees, numerous volunteer attorneys and law students, and the use of technology to gain efficiencies, we are able to keep operating costs low. We seek additional funding so we can continue serving the ongoing need for foreclosure prevention services in our community. Included in this proposal is our 2015 Expense Budget reflecting a shortfall of approximately \$131,000.00. Our annual expenses for 2015 are projected at just over \$284,000.00. Our immediate need is reflected by the budget shortfall. Our secondary need is to secure funding for our annual expenses in 2016.

History of Foreclosure Mediation in Wisconsin

In response to the looming foreclosure crisis in Milwaukee, Marquette University Law School, in partnership with the United States Department of Housing and Urban Development and the Urban Economic Development Association convened a Task Force in early 2007 whose members consisted of government regulators, lenders, and consumer representatives. By September of 2008, Milwaukee Mayor Tom Barrett launched the Milwaukee Foreclosure Partnership Initiative (MFPI) to strengthen the work of the Task Force and consolidate it with a city led effort to address the foreclosure crisis in Milwaukee. MFPI formed three working groups (Prevention, Intervention and Stabilization) to craft recommendations to respond to the foreclosure crisis. In its final report to MFPI, the Intervention Workgroup reported,

“A key to stemming the number of foreclosure filings resulting in sheriff sale is to ensure that the lender or loan servicer and the homeowner communicate for the purposes of reviewing the potential for loan modification or workout. When successful, these efforts allow the homeowners to retain their homes, protect their credit and achieve long-term affordability.”

Based upon this finding, both the Intervention and the Stabilization workgroups recommended the launch of a court-based foreclosure mediation program. The primary program goals were:

1. Increase the number of homeowners who negotiate a settlement alternative with their lender by facilitating information flow and decision-making authority through mediation;
2. Reduce the adverse social and economic consequences of foreclosures on Milwaukee families and the community; and
3. Stabilize property values and neighborhoods by reducing the number of vacant or abandoned foreclosed homes in Milwaukee neighborhoods.

The MFPI Steering Committee adopted these recommendations and asked that a Foreclosure Mediation Committee be formed to develop and implement a mediation program in Milwaukee County. Based on a survey of model programs in other jurisdictions, the Foreclosure Mediation Committee concluded that a successful program should include several core characteristics: voluntariness, neutrality, confidentiality, housing counseling and information referral, and a scope broad enough to address retention as well as transition options. The Committee decided upon a model that would provide administrative screening and support as well as staff mediators, a volunteer recruitment effort, a housing counseling referral network, and an option for independent legal counsel through the Legal Aid Society of Milwaukee.

Marquette University Law School, with its established Alternative Dispute Resolution program, was selected to administer the program. Seed money to launch the Milwaukee Foreclosure Mediation Program was provided by the City of Milwaukee through a special resolution of the Common Council and an agreement with the Department of City Development. Operational funding was allocated to Marquette by the Wisconsin Attorney General, J.B. Van Hollen, from settlements with national mortgage servicing companies. To ensure program sustainability and participant commitment to the mediation process, a small fee was assessed both parties once the mediation was approved.

The program launched in July of 2009 through a Directive from Judge Jeffrey Kremers, Wisconsin Court District One Chief Judge, requiring that all residential foreclosure Summons

include a Notice and Application for Mediation. Program staff was housed at the Milwaukee County Courthouse through the support of John Barrett, Clerk of Circuit Court. Waukesha County followed with its own Judicial Order in January, 2010.

Marquette University Law School served as the program administrator until February of 2012, having built a self-sufficient staff and referral network, engaged volunteers, and facilitated more than 1500 mediations. During this time, MFMP Chief Mediator worked with the federal bankruptcy court in the Eastern District of Wisconsin to establish a voluntary foreclosure mediation program for residential homeowners in bankruptcy proceedings. The Western District program came on line in August, 2013. Metro Milwaukee Mediation Services, a 501(c)(3) not-for-profit organization, was created to manage the foreclosure mediation programs with the same core staff beginning in March of 2012.

The Program's success, as well as the ongoing need for foreclosure mediation services, resulted in the allocation of funding support by the Wisconsin Attorney General from the National Mortgage Settlement Fund in the fall of 2012. This Department of Justice dedicated funding has sustained operations through 2014.

Additional funding was approved by the Department of Justice to replicate a refined model of the Milwaukee Foreclosure Mediation Program throughout the State of Wisconsin and to provide support to existing mediation programs in other areas of Wisconsin. The Wisconsin Foreclosure Mediation Network was officially launched on December 21, 2012.

2012 Expansion: The Wisconsin Foreclosure Mediation Network

As of July 2014, more than 50,000 residential foreclosure actions remain open in Wisconsin. Each foreclosure that's avoided is estimated to save local communities and stakeholders in excess of \$40,000, leading to an estimated \$2 billion or more impact to the state. The Wisconsin Foreclosure Mediation Network (the Network), operated by Metro Milwaukee Mediation Services, Inc., and administered through the Milwaukee County Clerk of Circuit Courts, is a comprehensive statewide response to the foreclosure crisis in Wisconsin. Under the Joint-State Federal Mortgage Servicing Settlement announced in early 2012 involving the nation's five largest mortgage servicers, Attorney General J.B. Van Hollen allocated \$458,550 for the continuation and expansion of the network's foreclosure mediation services. A renewed memorandum of agreement continues support for the MMFMP beginning March 1, 2012 to December 31, 2014, and committed additional funds to work on the expansion of the program statewide beginning October 1, 2012.

HOW IT WORKS: STATEWIDE FORECLOSURE MEDIATION PROCESS MODEL

The Wisconsin Network Model adopts the successful features of the original Marquette University Law School Program (the Milwaukee Foreclosure Mediation Program – MFMP):

- Voluntary entry for both homeowner and lender
- Participants' Fees are balanced, \$150 each, with due dates appropriately sequenced.
- Mediator role is as facilitator, not a decision maker, and is neutral and impartial in all respects
- All communications are confidential and privileged
- Scope of mediation topics include retention options or graceful exit strategies

New features of the 2012 model included:

- Limited withdrawal from the mediation process, allowing for a resolution with assistance of mediator
- Use of a secure online portal (DMM) to transmit modification packages and messages

There are now six Regional Administrators throughout the state available to accept applications for foreclosure mediation from any residential mortgage foreclosure litigant in the State of Wisconsin. The administrators meet monthly to share best practices, compare trends and provide support. They utilize a shared data base, uniform forms, and offer a consistent high quality mediation product, which is of value to both local and national mortgage servicers.

Program Results

Since its inception in 2009, Metro Milwaukee Mediation Services, Inc., and its predecessor, the Milwaukee Foreclosure Mediation Program, have helped more than 4,500 families with crucial foreclosure and referral information, and mediated approximately 1,500 residential foreclosure cases. On average, 50% of all mediated cases resolve the foreclosure action with a loan modification, giving homeowners a fresh start and lenders a performing loan. Since inception, there have been 752 retention outcomes for just the cases administered by the Metro Milwaukee Mediation Program. This does not include any of the cases mediated by the Regional Administrators.

When home retention is not a viable option, the programs provide resources and facilitate transitional options so borrowers have a dignified exit and soft landing. A survey, which included both lender's counsel and homeowners, found that 98% of program participants would recommend the program to others in foreclosure.

GETTING CASES TO A DECISION

Most homeowners in mediation complain that they have been trying to qualify for a loan modification for a long time, and submitted many applications, numerous documents, often repeatedly, and waited for a decision, only to be told their papers have become stale and they have to start the process all over again. Many servicers complain that homeowners fail to supply the documents necessary to be considered for a work-out option, and they have no choice but to proceed with the foreclosure. Thus, one of the key goals of mediation is to shepherd cases through the information collection/review process to a decision by the servicer. When a homeowner does not qualify for a retention avenue, mediation affords them the sense that they truly have exhausted all efforts and they can begin to consider relinquishment plans in an environment where they have access to the information needed for sound planning.

TAKING STOCK: HOW MEDIATION PROGRAMS REDUCE HOME FORECLOSURES

Foreclosure mediation programs serve as effective controls to help reduce improper foreclosures. This table documents how this program resolves some of the most common problems homeowners encounter when applying for loan modification programs.¹

¹ http://www.nclc.org/images/pdf/foreclosure_mortgage/mediation/report-foreclosure-meditation.pdf

Servicer Difficulty	NCLC Mediation Reported Solution	Wisconsin Mediation Network Solution
1. Lost documents ²	Rules/orders specify documents needed and time lines for exchanges	Exchange of all documents and messages are tracked by the program through mandatory use of the shared DMM Portal files
2. Failure to follow time frames for reviewing applications	Set time frames and penalties for failing to adhere to deadlines	Program rules establish set time frames and court is notified when the servicer's review is pending
3. Failure to comply with notice requirements	Servicer must document all decisions in accordance with mediation rules	Servicer is required to send all notices and communications through the mediation program
4. Inconsistent or invalid denial of loan modifications	Servicer must document basis for decisions, including calculations and borrower data used	After decision is rendered, there is a mediation conference to explore the basis of the decision and supply answers to homeowner's questions. Homeowner can appeal decision.
5. Ineffective reviews	Servicer complies with program rules or risks ability to foreclose and penalties	Mediation remains open until complete and effective review occurs, and court is notified that mediation is still open.
6. Foreclosing while reviewing application (dual track)	Foreclosure is barred while negotiations are active	Court is notified that review is open and servicers generally self-regulate and comply with the CFPB prohibition against dual tracking

Foreclosure mediation programs provide the structure and oversight to overcome the obstacles in the loan review process. And in cases where modifications cannot create a credible and sustainable resolution to a delinquent mortgage, more-expedient exits from homeownership, such as deeds-in-lieu of foreclosure or short sales, can help reduce transaction costs and minimize negative effects on communities.

MMFMP Decisioned Cases and Outcomes

A breakdown of the cumulative program totals (applications and outcomes) since July 2009 follows, separating out Milwaukee County cases and City of Milwaukee cases. It is conservatively estimated that each avoided foreclosure saves stakeholders and communities \$40,000.00. This translates to over \$18 million in savings in the City of Milwaukee alone, based on the numbers below.

² In survey after survey, housing counselors report that mortgage servicers lost loan modification application documents. Counselors must constantly resend the same documents, sometimes up to six times. Homeowners acting alone, without the help of experienced housing counselors, inevitably fare much worse. Servicers routinely delay application decisions, and then demand updates of financial information already sent because earlier documents are no longer current. This process repeats itself again and again. Variations of the behavior include demands for redundant and unnecessary paperwork from borrowers, such as documents not required under the rules of a particular loss mitigation program. The Government Accountability Office has noted that the documents runaround was a major reason for HAMP trial plan cancellations.⁴¹ After foreclosures have occurred, it is often impossible to untangle what happened to these thwarted applications. Rebuilding America ©2012 National Consumer Law Center www.nclc.org.

Cumulative MMFMP Application Totals – March 1, 2015

4500	All Counties administered by MMFMP	
3560	Milwaukee County (subset of All Counties)	79% of all applications
2634	City of Milwaukee (subset of Milwaukee Co.)	58.5% of all applications & 74% of Milwaukee Co. applications

Cumulative MMFMP Mediated Case Totals – March 1, 2015

1500	All Counties administered by MMFMP	
1144	Milwaukee County	76% of all mediated cases
835	City of Milwaukee (subset of Milwaukee Co.)	56% of all mediated cases & 74% of Milwaukee Co. mediated cases

Cumulative MMFMP Agreements (Including Retention, Deed-in-Lieu, and Short Sale)

674	Milwaukee County	
500	City of Milwaukee (subset of Milwaukee Co.)	

Cumulative MMFMP Retention Agreements – Subset of Agreements

613	Milwaukee County	
462	City of Milwaukee (subset of Milwaukee Co.)	

Metro Milwaukee Mediation Services, Inc.
Profit & Loss Budget Overview
January through December 2015

	TOTAL
	Jan - Dec 15
Ordinary Income/Expense	
Income	
1000 · Non Profit Income	105,168.00
1100 · Services	48,000.00
Total Income	153,168.00
Gross Profit	153,168.00
Expense	
1110 · Refunds of Fee Income	12,000.00
2000 · Salaries & Wages	160,499.14
2100*OE · Payroll Taxes & Insurance	22,690.72
2300 · Online Software	17,991.18
2400 · Insurance	4,740.59
2500 · Utilities	6,715.96
2600 · Legal & Professional Fees	5,840.00
2700 · Bank Charges	1,032.00
2800 · Other Professional Fees	799.00
3000*OE · Office Expenses	6,962.00
3100 · Licenses & Regulatory Fees	110.00
3200 · Purchases	3,000.00
3300 · Travel	1,800.00
3900*OE · Sub-awards	40,000.00
Total Expense	284,180.59
Net Ordinary Income	-131,012.59
Net Income	-131,012.59

	Jan	Feb	Mar	Apr	May	Jun	6 mos total	Jul	Aug	Sep	Oct	Nov	Dec	2014 Total
Applications Received	49	33	43	36	45	26	232	34	36	41	48	37	19	447
Total Case Closures	38	46	28	47	42	20	221	45	28	35	42	24	27	422
Ineligible	3	1	1	4	0	0	9	1	2	0	2	0	0	14
no foreclosure filed - 40	1	0	0	0	0	0	1	0	2	0	0	0	0	3
not primary residence / more than 4 units - 41	1	1	1	0	0	0	3	0	0	0	0	0	0	3
non-participating county - 42	0	0	0	0	0	0	0	0	0	0	0	0	0	0
non-mortgage foreclosure - 43	1	0	0	4	0	0	5	1	0	0	1	0	0	7
bankruptcy - 44	0	0	0	0	0	0	0	0	0	0	1	0	0	1
Decline	6	20	7	5	5	2	45	7	4	0	5	8	5	74
foreclosure dismissed - 33	0	0	0	1	0	1	2	1	0	0	2	0	0	5
direct loss mit efforts - 31	1	6	4	1	3	1	16	4	1	1	0	1	3	26
outside program parameters - 32	2	1	0	2	1	0	6	0	1	0	1	2	1	11
prior loss mit efforts failed - 35	0	0	0	0	0	0	0	0	0	0	0	0	0	0
no reason stated - 30	2	10	2	1	1	0	16	2	2	0	1	2	3	26
presumed declined - 34	0	0	0	0	0	0	0	0	0	0	0	0	0	0
no retention options available - 36	1	3	1	0	0	0	5	0	0	0	0	1	0	6
Incomplete Application Withdrawn	4	6	2	19	13	3	47	18	5	17	11	0	4	102
Duplicate Files	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Transferred Administration	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Accepted to med w/ outcome reported	25	19	18	19	24	15	120	19	17	18	24	16	18	232

	Jan	Feb	Mar	Apr	May	Jun	6 mos total	Jul	Aug	Sept	Oct	Nov	Dec	2014 Total
Accepted to med w/ outcome reported	25	19	18	19	24	15	120	19	17	18	24	16	18	232
Pre-mediation outcomes	8	8	4	2	12	4	38	4	3	7	6	3	74	74
Pre-mediation settlement - 03	0	0	0	1	1	1	3	1	1	1	2	1	0	8
Direct loss mit negotiations-02	0	0	0	0	3	0	3	0	0	0	0	0	0	3
Cancel for Bankruptcy - 05	0	0	0	0	0	0	0	1	0	1	0	1	1	4
Cancel for failure to proceed-04	1	0	0	0	8	0	9	1	1	1	0	1	0	13
Homeowner withdrawal - 01	6	8	3	0	0	2	19	0	0	3	11	2	2	37
Lender withdrawal - 00	1	0	1	1	1	0	4	1	1	2	0	1	0	9
Mediated outcomes	17	11	14	17	12	11	82	15	14	11	11	10	15	158
Perm Mod - 16	0	0	0	2	2	0	4	2	1	0	1	0	0	4
DOJ Mod	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Trial Mod - 15	6	0	0	0	0	0	6	0	0	0	0	0	0	6
MHA conting - 13	0	1	0	0	2	1	4	5	1	2	1	2	4	19
Traditional conting - 14	1	4	6	6	5	5	27	3	5	3	3	2	0	43
Forbearance - 17	0	0	0	0	0	0	0	0	0	1	0	1	0	2
Refinance - 20	0	0	0	1	0	0	1	0	0	0	0	0	0	1
Reinstatement	0	0	0	0	1	1	2	0	0	0	0	0	0	2
Repayment Plan	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Ongoing direct negot - 22/23	0	1	1	1	1	0	3	0	3	0	0	2	0	8
Pursuing short sale - 19	1	0	0	0	0	1	2	2	1	0	2	1	1	9
Friendly foreclosure - 18	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Relinquishment - 24	1	0	1	0	0	0	2	0	0	0	0	1	1	4
No agreement - 21	8	5	6	7	4	3	33	4	3	5	4	2	5	56
Post-Mediation Retention - 25	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Pre-mediation Retention	0	0	0	0	1	1	3	1	1	1	0	2	1	8
Mediated Retention	7	5	6	9	8	7	42	9	7	6	6	5	4	81
Total Retentions	7	5	6	10	9	8	45	10	8	6	6	7	5	89
Cumulative Total Program Retentions	657	662	668	678	687	695	691	705	713	719	726	731	739	739

	Jan	Feb	Mar	Apr	May	Jun	6 mos total	Jul	Aug	Sep	Oct	Nov	Dec	2015 Total
Applications Received	37	31	64				132							132
Total Case Closures	25	77	36		0	0	138	0	0	0	0	0	0	138
Ineligible	3	1	1	1	0	0	0	5	0	0	0	0	0	5
no foreclosure filed - 40	3	1	0				4							4
not primary residence / more than 4 units - 41	0	0	0	0			0	0						0
non-participating county - 42	0	0	0	0			0	0						0
non-mortgage foreclosure - 43	0	0	0	1			1	1						1
bankruptcy - 44	0	0	0	0			0	0						0
Decline	2	10	6	0	0	0	0	18	0	0	0	0	0	18
foreclosure dismissed - 33	0	0	0	0			0	0						0
direct loss mit efforts - 31	2	1	1	1			4	0						4
outside program parameters - 32	0	1	1	1			2	0						2
prior loss mit efforts failed - 35	0	0	0	0			0	0						0
no reason stated - 30	0	5	4				9	0						9
presumed declined - 34	0	1	0				1	0						1
no retention options available - 36	0	2	0				2	0						2
Incomplete Application Withdrawn	2	40	11	0	0	0	0	53	0	0	0	0	0	53
Duplicate Files	1	0	0	0	0	0	1	1	0	0	0	0	0	1
Transferred Administration	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Accepted to med w/ outcome reported	17	26	18		0	0	61	0	0	0	0	0	0	61

	Jan	Feb	Mar	Apr	May	Jun	6 mos total	Jul	Aug	Sept	Oct	Nov	Dec	2015 Total
Accepted to med w/ outcome reported	17	26	18		0	0	0	61	0	0	0	0	0	61
Pre-mediation outcomes	6	21	9		0	0	0	36	0	0	0	0	0	36
Pre-mediation settlement - 03	0	1	2				3							3
Direct loss mit negotiations-02	0	0	0	0			0	0						0
Cancel for Bankruptcy - 05	1	0	0	0			1	0						1
Cancel for failure to proceed-04	0	14	0	0			14	0						14
Homeowner withdrawal - 01	5	2	7				14	0						14
Lender withdrawal - 00	0	4	0	0			4	0						4
Mediated outcomes	11	5	9				25	0						25
Perm Mod - 16	0	0	0	0			0	0						0
DOJ Mod	0	0	0	0			0	0						0
Trial Mod - 15	0	0	0	0			0	0						0
MHA conting - 13	1	0	1				2	0						2
Traditional conting - 14	3	2	3				8	0						8
Forbearance - 17	0	0	0	0			0	0						0
Refinance - 20	0	0	0	0			0	0						0
Reinstatement	0	0	0	0			0	0						0
Repayment Plan	0	0	0	0			0	0						0
Ongoing direct negot - 22/23	0	1	2				3	0						3
Pursuing short sale - 19	0	0	0	0			0	0						0
Friendly foreclosure - 18	0	0	0	0			0	0						0
Relinquishment - 24	0	0	0	0			0	0						0
No agreement - 21	7	2	3				12	0						12
Post-Mediation Retention - 25	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Pre-mediation Retention	0	1	2		0	0	0	3	0	0	0	0	0	3
Mediated Retention	4	2	4		0	0	0	10	0	0	0	0	0	10
Total Retentions	4	3	6		0	0	0	13	0	0	0	0	0	13
Cumulative Total Program Retentions	743	746	752	752	752	752	752	691	752	752	752	752	752	752