****

**Lunch & Learn**

***Script for Gift Funds & Gift of Equity***

**Approximate Length: 30-45 Minutes with Questions**

**References:** Mortgage Currentcy has created a reference that you should bring with you to answer questions. We also suggest that you type “gift funds” and “gifts of equity” into our search bar and read through some of the questions and answers from our experts on this topic.

We also recommend that you become familiar with the Interested Party Contribution limits. Mortgage Currentcy has a chart on this as well and you can find it in the Charts & Checklists section under Universal.

***“Gift Funds & Gift of Equity Chart”*** is found in the Charts & Checklists section under Universal. This should **NOT** be shared with your audience. These charts are meant for ***your reference only*** to guide you in answering questions. Charts are updated frequently and contain details that a novice may find confusing. If you pass these out, you run the risk of having old information with your referral sources and that can turn into a contract based on outdated information. Not good!

***Hand Out*** – To accompany this course, we created a ***Mortgage Talking Points™ –*** ***Gifts – Mortgage Loan Program Comparison.***

***Script Tip:*** Scripts are meant to be used as a guide for talking points and not read to your audience. Make sure that you understand the talking points and put this script into your own words. Be sure to add your Information, logos, NMLS # and Other Company Required Disclaimers to your presentation. Also, check your company overlays. We base our Lunch & Learn programs on agency requirements, and some lenders overlay requirements that may be different from the information in our presentation.

***Embellish and make this presentation your own.*** Your audience will love hearing your “real life” stories and how you solved those problems using the information you are presenting. Those stories in addition to the presentation will help position you as the “go to” mortgage person in your community.

**Slide One:**

Hello everyone, my name is *[your name]* with *[your company]* and I thank you for attending today’s session on Gifts & Gifts of Equity. One would think that if someone was willing to give another person a gift to buy a home, the lender would be head over heels in love with that idea. While this is true most of the time, it is unfortunate that a few bad apples who abused gift giving caused “rules” for the rest of us to follow. As we will discuss, there are differences between the loan programs that can work to the borrower’s advantage or disadvantage. This is why it is important to discuss all loan structuring prior to taking the time to tour homes.

**Slide Two:**

Today we’re going to talk about how to properly structure gifts and gifts of equity to help you assist more buyers and sellers! Whether it is a gift from a parent or other relative, or a financial planning structure to assist a seller, gifts and gifts of equity can be used to create a positive outcome for all parties involved. This is an area where your knowledge of real estate and my knowledge of mortgage rules make the perfect team for the buyer or seller.

**Slide Three:**

Gifts are just what the word implies. It’s a monetary gift to help someone buy a home.

Gifts of Equity are also gifts, but instead of cash someone is gifting all or part of their equity in a property to someone else. There are many reasons for this, such as estate planning.

**Slide Four:**

When a lender considers the person giving the gift, one of their first considerations is whether or not a person is an “Interested Party” to the transaction. Interested parties are those that are deemed to have a strong interest in the transaction occurring. Examples of interested parties are the real estate agent, builder, developer or other third party such as a non-profit. It’s basically anyone that would benefit as a result of the contribution. What is important to understand is that being an interested party is not a bad thing, and it does not mean that a gift cannot happen. It simply means that a lender may have some restrictions on that gift which we will talk about later.

**Slide Five:**

Many times, lenders define “Who is family,” and this will sometimes vary depending on the loan product. Yet on other programs there is no “Family Status” requirement, which means that anyone can give the gift. Knowing the differences can make or break a transaction.

**Slide Six:**

A lender may also limit the amount of gift allowed depending on the loan program. For instance, there may be limits on the total amount of the gift, or gift of equity, that can only be used for closings costs. Or, gifts that can be used for both closing costs and down payment.

We then have to consider whether the gift giver is an interested party and what those restrictions may be. In some cases, a type of property where a gift can be received is limited, or even the amount of money that the borrower has to contribute from their own funds to their down payment or closing costs may be a requirement. For instance, gift funds cannot be used on investment properties, but they can be used on primary residences and second homes.

There are many facets to consider, which is why understanding the differences between the programs is what helps your clients find the right loan for them!

**Slide Seven:**

Before I go into the different types of program requirements, here are a few fun facts that you can use to your buyer or seller’s advantage.

Freddie Mac is the most flexible conventional option IF there is an interested party giving the gift. However, they do apply limits to that gift, which I’ll discuss in a moment.

Neither Freddie Mac or Fannie Mae allow a gift from an Interested Party to be used for a down payment. That doesn’t mean it cannot be applied to closing costs, just not the down payment.

Freddie Mac does not require a borrower’s own funds on 1-4 Unit Properties, unless the gift contributor is an Interested party.

Additionally, if the borrower is using the HomePossible® Program, and purchasing a 2-4 Unit owner occupied property, then the HomePossible® requires 3% of the borrower’s own funds. This is different than the standard Freddie Mac loan which requires no borrower’s own funds. It appears that Freddie sees this program as a higher risk than their standard program as it has lower mortgage insurance coverage combined with a borrower who may be a landlord for the first time. This may be why they require a “borrower’s own funds requirement” that cannot come from a gift or gift of equity.

Now here’s a great one for wedding season, and also one that I think is not utilized enough. Freddie Mac will allow wedding gifts deposited within 60 days of the date of marriage. We only need to provide a copy of the marriage license, and all of those gifts count regardless of family status!

FHA will allow a real estate agent who is also an eligible family member to gift their real estate commission to the borrower. This can be used for down payment and closing costs!

FHA used to be the “go to” loan for wedding gifts, but not anymore. Their new guidelines are silent on this subject, so many lenders don’t allow wedding gifts as a source of funds. As I just mentioned, wedding gifts are definitely Freddie Mac’s domain now.

And here is something mind-blowing to me. FHA does not consider a Fiancé or Fiancée to be a family member, but they do allow for a domestic partner. Since domestic partner status is defined by state, this could mean different things. In general, it means proving that couples have resided together for a period of time. Yet Fannie Mae and Freddie Mac allow the Fiancé or Fiancée or Domestic Partners to gift a gift. See how confusing it can get? This is why when we work together, we can work out all of the issues before a contract is signed.

USDA and VA keep things simple. If you get a gift, that’s great. No family ties need to be established!

Next, I’d like to go through the general guidelines of the different types of programs.

**Slide Eight:**

Fannie Mae and Freddie Mac are conventional loans that are for the most part pretty close in what they allow. However, there are some differences, so let’s look at those.

***Family Status:*** Both agencies are aligned on family status. As long as the gift is coming from a borrower’s spouse, Fiancé or Fiancée, domestic partner, child or other dependent of any individual related by blood, marriage, adoption of legal guardianship, they meet the requirements for family status. It will be interesting to see if the agencies start to allow the DNA tests that have become so popular. 😊

Now, when we get to how gifts & gifts of equity can be used, we have some similarities and some differences.

Both agencies will allow gifts and gifts of equity on a borrower’s primary residence. They also do not require that any of the money come from the borrower’s own funds on 1-units. However, Fannie gets a little tougher when we are talking about 2-4 units. In this case, Fannie Mae will require 5% of the borrower’s own funds and Freddie will not.

Now here is something a lot of people don’t know. Even though Fannie Mae requires 5% of a borrower’s own funds for 2-4 Unit properties, If the borrower receives a gift from a relative or domestic partner who has lived with the borrower for the last 12 months, or from a fiancé or fiancée, *the gift is considered the borrower’s own funds* and may be used to satisfy the minimum borrower contribution requirement as long as both individuals will use the home being purchased as their principal residence.

So, if a borrower doesn’t meet the definition of having their own funds and is relying on a gift or gift of equity on a multi-unit property, then Freddie Mac is the way to go because they do not require a borrower’s own funds!

Gifts and Gifts of equity can also be used on second home purchases! However, for both agencies, if the loan to values is more than 80% then the borrower must have 5% of their own funds.

And neither agency allows for Investment properties!

On the interested party contribution issue, Freddie Mac is a bit more flexible. If the seller has no affiliation with the other interested parties, for example, a non-profit, then they do not consider the gift or gift of equity an interested party contribution!

And the last tidbit to know is that Fannie Mae and Freddie Mac do not distinguish differences between a gift of cash or a gift of equity. It’s the same to them.

Now let’s move onto FHA.

**Slide Nine:**

It used to seem like anyone that needed a gift used FHA financing, but that is no longer the case since Fannie Mae and Freddie Mac have adjusted their guidelines.

FHA has a different definition of Family Status and tend to define these statuses a bit more specifically. They allow a child, foster child, parent or grandparent to give a gift. Yet remember we talked about the Fiancé vs. the Fiancée status that Fannie Mae and Freddie Mac allow? With FHA loans, they only define Spouse or Domestic Partner. They will also allow legally adopted son or daughter, brother, stepbrother, sister, stepsister, Uncle, Aunt and in-laws. So whereas Fannie Mae and Freddie Mac leave a bit of latitude in their guidelines by saying Any Individual Related by Blood, Marriage, Adoption or Legal Guardianship, FHA defines this in more detail. It’s little nuances like this that need to be vetted out when structuring a client’s loan.

FHA DOES make a distinction between gifts and gifts of equity whereas Fannie Mae and Freddie Mac do not. This distinction can cause a lot of issues, so let’s take a look at that.

FHA says that gifts of cash can be used for a primary residence, 1-4 units and no minimum investment is required by the borrower. So, all down payment and closing costs can come from a gift. This gift must be documented and no cash on hand is accepted. Lenders must show the donor’s ability from their bank statement and then document the transfer. FHA also allows a **donor** to borrower the gift money. Either way the lender has to document that the gift donor has the available funds to gift.

Now here is an important technical item to note. Fannie Mae and Freddie Mac do not require a copy of the donor’s bank statement! They only require the lender to verify the donor’s gift was deposited into the account. Aha! So, whereas FHA checks the donor’s funds to give the gift, Fannie Mae and Freddie Mac do not.

The only other condition is that gifts cannot be used to fulfill reserve requirements. An example of when a file may be required to have reserves requirements, which is additional funds in their account after closing cost and down payment are deducted, is a manually underwritten loan.

Okay, let’s move on to Gifts of Equity. For some reason, FHA is pretty tight on gifts of equity. They must have had fraud issues that popped up as a result of gifts of equities. If you have a gift of equity, the LTV is limited to 85% UNLESS the Borrower purchases the principal residence of another family member [***remember how family is defined***], OR, a purchasing family member has been renting the residence for 6 months prior to the sales contract date.

Example: Let’s say the parents are spending more time at their second home in another state because they are nearing or at retirement. Yet, they still haven’t sold their former home. One of their children decides to rent it and care for it while the parents are elsewhere. If that child rents the home for 6 months prior to contract, then the parents can gift as much equity as they want to the child renting the property. If it is less than 6 months, or the child has not paid rent, then the loan to value is limited to 85%, which means the borrower needs a 15% down payment. Unfortunately, I’ve seen this happen too many times, which is why planning this out before a contract is signed is important.

Now let’s move onto the easiest programs for gifts and gifts of equity, USDA and VA.

**Slide Ten:**

Neither VA nor USDA have a Family Status requirement. Their only requirement is that the gift or gift of equity does not come from an affiliated person in the transaction. So, related real estate agents donating their commission or other funds means that you cannot help out on a VA or USDA because you would be an interested party. However, as we discussed earlier you can gift on other programs. See how they are flexible, but another program may be better for a borrower based on a certain circumstance?

Cash gifts can be used for anything, but USDA does not allow gifts to be used for required reserves if any are required.

For gifts of equity, VA has no guidance on this, but USDA simply states that the appraiser must be aware of the gift of equity and the borrower may not receive cash back at closing.

**Slide 11:**

I hope that you enjoyed our time together today, and that you learned some tips that help you in your business. Today we demonstrated how subtle differences in programs can make or break the borrower’s ability to get a loan, so let’s make sure we work together before your clients go house hunting so that everyone ends up satisfied! I’m happy to answer any questions that you have, or stay for a bit to discuss a question one on one. Thanks again for your time today!

*[Note to presenter: After you answer questions, immediately set a date with the person in charge for the next lunch and learn. This is your time to take advantage of the good feelings in the room. Your goal is to do at least one per month, so at the end of each session, set the next one!]*