

# HOMEBUYER ASSISTANCE PROGRAM (HAP) GUIDELINES



*City of Galveston*



**GRANTS & HOUSING DEPARTMENT  
HOME INVESTMENT PARTNERSHIPS PROGRAM**



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## ***WELCOME HOME!!***

*The City of Galveston has developed a housing tool that will enable low to moderate-income individuals or families to own their own home. Through the use of Home Investment Partnerships (HOME) Program funds, provided by the U.S. Department of Housing and Urban Development (HUD), the City of Galveston has established the Homebuyer Assistance Program (HAP).*

*The program provides down payments and closing costs assistance to first time homebuyers purchasing a home within the corporate city limits of Galveston. The assistance is secured as a forgivable second mortgage loan at zero (0%) percent interest.*

*HAP is available to assist individuals, families and households earning 80% or less of the Area Median Income (AMI), for the Galveston area, to purchase their first home. Income of the homebuyers is calculated as the gross annual current and anticipated income to be received by all persons who will occupy the home as their primary residence.*

*Homebuyers must be able to qualify for a mortgage loan with a mortgage lender and contribute a minimum of \$500.00 toward the purchase of the house. The homebuyers must occupy the assisted home as their primary residence for the duration of the affordability period as well as participate in the HAP Annual*

*Verification of Residency confirmation, which is conducted every year throughout the month of June. Homebuyers are also required to attend an eight-hour homebuyer education class.*



## ***WHERE DOES THE FUNDING COME FROM?***

*Annually, Congress appropriates funds to be administered by HUD, for a variety of established programs that provide annual grants on a formula basis to entitled cities, urban counties and states for development of viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons.*

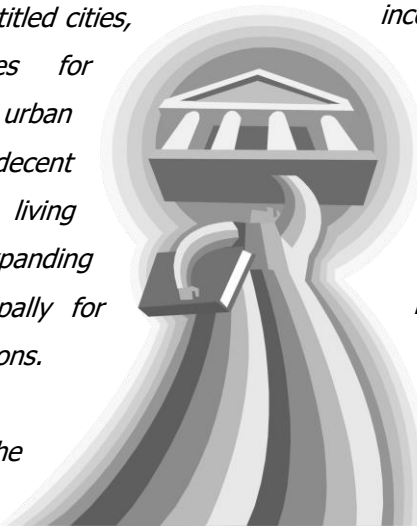
*The economic expansion of the 1990s obscured certain trends and statistics that point to an increased, not decreased, need for affordable housing. HUD's definition of affordability is for a household to pay no more than 31% of its annual income on housing. Families who pay more than 31% of their income for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation and medical care. At the tail end of the nation's longest economic expansion, 12 million renter and homeowner households paid more than 50 percent of their annual incomes for housing costs.*

*The expansion of the supply of affordable housing for low-income families is at the very core of HUD's mission. HUD's Office of Affordable Housing Programs (OHAP) bring federal resources directly to the state and local*

*level for use in the development of affordable housing units, or to assist income-eligible households in purchasing, rehabilitating, or renting safe and decent housing. The HOME Program helps to expand the supply of decent, affordable housing for low and very low-income families by providing grants to States and local governments called participating jurisdictions (PJs).*

*Since 1996, the City of Galveston has received federal funding from HUD through the Home Investment Partnerships Act-HOME Program, as a participating jurisdiction. The*

*Grants & Housing Department has a great deal of flexibility in designing the local HOME program activities and is responsible for using the HOME grant to fund housing programs meet local needs and priorities, within the guidelines established by the HOME program statute and final rule (24 CFR Part 92). A need was identified to assist homebuyers with down payment and closing cost assistance, thus the creation of the City of Galveston Homebuyer Assistance Program (HAP).*



## ***HOW IS THE PROGRAM***

### ***ORGANIZED?***

HAP provides eligible home buyers with down payment and closing cost assistance through the form of a forgivable second mortgage loan at zero percent (0%) interest. The buyer repays the assistance by occupying the house, as their primary residence, for a minimum of five years based on the total amount of HOME funds the buyer uses.

HAP funds are allocated to eligible buyers, on a first-come first-serve basis, through a formal application process. An application packet, which consists of several documents, is submitted to the Grants & Housing Department for consideration and eligibility determination for HAP participation.

Once eligibility has been determined, funds will be set-aside for the home buyer(s). Buyers must work with a Real Estate Agent and a financial institution/mortgage lender to obtain a mortgage. The buyers have 180 days to purchase a home; otherwise, the funds will be returned to the HAP fund pool for further distribution to eligible buyers.

Buyers are required to purchase a home within the city limits of Galveston and all houses must meet specific housing guidelines. Once a house is selected by the buyer(s), a Grants & Housing Staff Member will inspect the property to ensure it meets the Minimum Property Standards. The seller must repair all items noted on the inspector's report. HAP funds may not be used for making repairs to the house.

After all repairs have been completed and the loan closing is scheduled, a representative from the Grants & Housing Department will attend the closing and bring the check providing the HAP assistance. Homebuyers will also sign a Deed of Trust and Promissory Note, executing the start of the required residency period known as the affordability period.

***The City of Galveston  
Wishes You the Best in  
your Home Buying  
Endeavor!!!!***



## WHO IS A FIRST TIME HOMEBUYER?

A First Time Homebuyer is an individual, family or household who is looking to buy their first home within the corporate city limits of Galveston.

Requirements for this program are:

- 1) The buyer(s) must be a Legal Resident/Citizen of the United States.<sup>1</sup>
- 2) The buyer(s) must meet credit eligibility requirements and be able to qualify for a Mortgage Loan through a mortgage lender (*Sub-prime lenders are subject to additional verification and documentation*).
- 3) The buyer(s) cannot have owned a home or property in the past three (3) years.
- 4) The buyer(s) are obligated to occupy the home purchased, as a primary residence, for a period of five (5) years.



administered by the U.S. Department of Housing and Urban Development (HUD) and is based on two primary factors; the "total" number of household members, and the gross annual income expected to

be received by those members for the upcoming twelve months.

- 1) A household member is considered to be one who will reside/live in the house as their primary residence.<sup>2</sup>

***The following household members and income received from them IS NOT to be considered in determining Program Eligibility:***

- ***foster children***
- ***live-in aids and children of live-in aids***
- ***unborn children***
- ***children being pursued for legal custody or adoption, which are not currently residing at home<sup>3</sup>***

## HOW CAN I QUALIFY FOR THE PROGRAM?

Qualifying for assistance through the HOME Program is governed by regulations

<sup>1</sup> ALL members of the household are required to be those who are lawfully present in the United States. An "alien not lawfully present in the United States" means an alien who is not "lawfully present" as defined in 8 CFR 103.12 and includes: (1) An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act and whose stay in the United States has not been authorized by the United States Attorney General, and (2) An alien who is present in the United States after the

expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

<sup>2</sup> Primary Residence is defined as "residency exceeding 21 calendar days from the date of arrival".

<sup>3</sup> A child that is subject to a shared-custody agreement in which the child resides with households at least 50 percent of the time can be counted as a household member.

2) The buyer's gross annual income for the next 12 months cannot exceed 80% of the Area Median Income as determined by the U.S. Department of Housing and Urban Development (HUD).

Gross Annual Income to the household is determined by current and anticipated income from all household members, subject to 24 CFR 5.609 definition of Gross Household Income as adjusted, according to the number of household members as shown on the HOME Income Limit Chart for all persons who will use the home as their primary residence.

- ***ALL income to the household, current and anticipated, from the persons who will occupy the home as their primary residence, and as defined by 24 CFR 5.609 unless specifically excluded, will be considered to determine the applicant(s) eligibility to participate in HAP.***
- ***ALL income received on a regular basis must be disclosed and verified whether or not it is to be considered***

*\*Child Support will be counted at the value that is Court Ordered regardless of receipt of payment.*

**as a basis for repayment of the primary loan.**

- ***Any real property owned by participant(s) will be included in the income calculations based upon its income potential.***
  - ***Co-borrowers/Co-mortgagors will not be permitted.***

To determine gross annual income for the household for HAP eligibility, the definition includes:

- Wages (Bonuses and Commissions)
- Salaries (including Overtime Pay)
- Tips
- Child Support\*
- Taxable Interest
- Dividends
- IRA Distributions
- Pensions
- Annuities
- SSI and Social Security, Disability
- Unemployment Compensation
- Other income received on a regular basis

**HOME Program Income Limits**  
 GALVESTON, COUNTY – 167  
 MSA = Galveston-Texas City, TEXAS

AREA MEDIAN INCOME LEVEL	HOUSEHOLD SIZE / # PERSONS IN HOUSEHOLD							
	1	2	3	4	5	6	7	8
<b>30% AMI</b>	<b>\$16,650</b>	<b>\$19,000</b>	<b>\$21,400</b>	<b>\$23,750</b>	<b>\$25,650</b>	<b>\$27,550</b>	<b>\$29,450</b>	<b>\$31,350</b>
<b>50% AMI</b>	<b>\$27,750</b>	<b>\$31,700</b>	<b>\$35,650</b>	<b>\$39,600</b>	<b>\$42,800</b>	<b>\$45,950</b>	<b>\$49,150</b>	<b>\$52,300</b>
<b>80% AMI</b>	<b>\$44,350</b>	<b>\$50,700</b>	<b>\$57,050</b>	<b>\$63,350</b>	<b>\$68,450</b>	<b>\$73,500</b>	<b>\$78,600</b>	<b>\$83,650</b>

**Effective June 1, 2021**



# UNDERWRITING STANDARDS

It is the City's intent to ensure that the prospective homebuyer is not in an untenable situation due to the financial assistance received through the HAP Program and that the home is affordable.

Affordability will be determined as follows:

- The City will calculate and provide the homebuyer with the affordable amount of monthly payment including principal and interest of a mortgage loan, property taxes, homeowner's insurance, and mortgage insurance. The affordability is calculated as follows:

$$\text{Maximum Monthly Payment} = \frac{\text{Gross Monthly Income}}{100} \times 31\%$$

(HUD's Recommended Affordability Amount)

**Front-End Ratio:** A ratio that indicates what portion of an income is used to make mortgage payments. It is calculated as an individual's monthly housing expenses divided by his or her monthly gross income and is expressed as a percentage which should not exceed 31%, as recommended by the U.S. Department of Housing and Urban Development (HUD). Monthly gross income is simply annual income divided by 12 (months). Lenders use the front-end ratio in conjunction with the back-end ratio to approve mortgages.

$$\text{Front-End Ratio} = \frac{\text{Monthly Housing Expense}}{\text{Monthly Income}}$$

**Back-End Ratio:** A ratio that indicates what portion of a person's monthly income goes towards paying debts. Total monthly debt includes expenses such as mortgage payments (made up of PITI), credit-card payments, child support and other loan payments. This ratio should not exceed 43% as recommended by the Federal Housing Administration (FHA). Lenders use this ratio in conjunction with the front-end ratio to approve mortgages.

$$\text{Back-End Ratio} = \frac{\text{Total Monthly Debt Expenses}}{100 \text{ Gross Monthly Income}} \times$$

- Lender will provide the applicant and the City with the mortgage approval amount. The specified monthly payment on the Good Faith Estimate should not exceed the Maximum Monthly Payment, this amount includes Principal, Interest, Taxes, and Insurance (PITI). In all cases, the ratio should not exceed 31/43.

**Applicant household's assets may not exceed \$15,000.00.** Any amount over \$5,000.00 will be used towards the purchase and subtracted from the City's contribution (will be reviewed on a case by case basis). This includes gifts; liquidation of 401k's and funds from the sale of personal property. Retirement funds are not included.

Applicant may not receive any gift funds towards the downpayment of a home in conjunction with the City's assistance.

## **ADDITIONAL QUALIFYING ISSUES...**

In receiving the federal assistance through the HOME Program, buyer(s) and household members must be dedicated to the commitment required by HAP.

This commitment, made by the buyer(s), consists of:

- House payment cannot exceed 31% of the buyer's calculated gross monthly income.
- Contributing a minimum of \$500, to be used as earnest money for the purchase of the home.
- Eight (8) hours of homebuyer education classes.
- Participating in the Annual Verification of primary residence, and
- Occupying the home for the required length of time, known as the affordability period
- The Buyer must maintain Flood, Fire, and Windstorm & Hail Insurance on the property for the duration of the Period of Affordability.

*The buyer(s) commitment will be acknowledged by signature on the program information disclosure form.*

The maximum allowed P.I.T.I. cannot exceed 31% of the buyer's gross monthly income as calculated by HAP.

The contribution of funds for earnest money will be deposited with the title

## **ELIGIBLE HOUSES**

<sup>4</sup> A Deed of Trust and Promissory Note will be filed with Galveston County placing a second lien on the property assisted with the federal Home Investment Partnerships Program funds.

company or "closing agent" at the time a contract for sale is executed.

A minimum of eight hours of pre-purchase homebuyer education is required before closing.

All buyers must confirm, with the HOME Program, that they are maintaining the house as their primary residence by signing and returning the verification card each year in the month of June.

The required length of time the buyer must live in the house, as a primary residence, will be for five (5) years.

The HAP assistance is secured as a second lien<sup>4</sup> against the property, with a Deed of Trust and Promissory Note. In the event that the house is sold within the first five years from date of purchase, the buyer(s) must repay the entire amount of the HAP assistance to the City of Galveston Grants & Housing Department. Failure to occupy the house as a primary residence<sup>5</sup> will also result in the buyer repaying the HAP assistance to the City of Galveston Grants & Housing Department.

If repayment of the assistance is required, the buyer(s) must make the payment, due in full, within 30 days of notice from the program.

**OBTAINING A PRE-QUALIFICATION LETTER FROM THE GRANTS & HOUSING DEPARTMENT DOES NOT GUARANTEE YOU WILL SECURE OUTSIDE FINANCING FOR THE PURCHASE OF A HOME. IT JUST ENSURES YOU HAVE MET OUR PRELIMINARY GUIDELINES TO PROCEED WITH THE PROGRAM.**


<sup>5</sup> Rental or leasing of the unit, at any time during the first five years constitutes non-compliance, triggering repayment of the entire amount of assistance.


Every house assisted by HAP must be located within the corporate city limits of Galveston, meet specific minimum property standards, be inspected by Grants & Housing Staff, and have certain program required repairs made before the buyer(s) can actually purchase the house. These details are outlined and prescribed in the following paragraphs.

### **HOUSING TYPES AND WHERE TO FIND THEM...**

The acceptable type of housing for HAP consists of single family, detached, conventional construction dwellings ONLY. Modular, Mobile and Manufactured housing is not allowed. Since the City of Galveston Grants & Housing Staff or HAP does not act as a real estate agent or broker, the buyer(s) must rely on a Real Estate Agent to assist in identifying available houses in the local real estate market.

The City of Galveston may provide HAP funds to assist the buyer(s) in the purchase of a house being leased, under the following conditions:

 The buyer and tenant are the same, or

 Prior to leasing and occupying the property, the current tenant must have been provided with written notification of the possible sale of the property AND that relocation assistance would not be provided *(Required to be in written form from the Property Owner to the Tenant).*

Due to regulations established by HUD and the City of Galveston's Federally assisted housing programs, ALL homes to be purchased through the Homebuyer Assistance Program, MUST meet the requirements set forth in the HOME Program Housing Guideline and at a minimum 24 CFR 982.401 (Minimum Property Standards), and the City of Galveston Code of Ordinances. These standards ensure a safe, structurally sound, decent and healthy environment for all inhabitants of the home. HAP funds can assist the buyer(s) in purchasing a new or existing house provided it meets the required criteria.



# **MINIMUM PROPERTY STANDARDS, HOME INSPECTIONS & RE-INSPECTIONS, and REQUIRED REPAIRS**

The Minimum Property Standards set the standard for approved dwellings. Minimum Dwelling Space requirements prohibit overcrowding and are applied to each assisted dwelling unit. There is a minimum amount of space required in Sleeping Rooms, which requires every dwelling unit of two or more rooms, and every room occupied for sleeping purposes by one occupant to contain at least seventy (70) square feet of floor space, and every room occupied by more than one occupant to contain a minimum of an additional fifty (50) square feet of floor space for every occupant thereof.

## ***HOUSES BUILT PRIOR TO 1978...***

Structures built before 1978 must be free from lead based paint hazards. These structures are subject to a Lead-Based Paint Health Hazards Addendum and inspection to determine the amount of lead on the property and in the home. Acceptable levels of lead may be present, as regulated by HUD, the HOME Investment Partnerships Act, 24 CFR Part 35 Subpart K, or the Texas Department of Health.

ALL homes assisted through the program that are built prior to 1978 are required to have a visual assessment for Lead Based Paint Hazards. If any hazards are discovered, they will have to be addressed in accordance with the Federal, State and Local regulations.

A Contractor trained in safe – work practices must perform the necessary repairs and at completion a clearance test must be performed to ensure the lead levels are at an acceptable level. All



components of the lead-based paint test and stabilization/abatement/reduction and clearance test MUST be performed under contract by licensed, certified workers and is subject to approval by the Texas Department of Health. HAP will not pay for the stabilization, reduction, and abatement of Lead Based Paint Hazards.

## **ENVIRONMENTAL REVIEW COMPLIANCE**

The City must conduct the Regulatory Required Environmental Review Process. This process must be completed prior to committing any HOME Program funds towards the downpayment and closing cost of the eligible property.

## **PROGRAM REQUIRED REPAIRS...**

Once the "HAP Inspection" has been completed, a letter will be issued providing NOTIFICATION OF REQUIRED REPAIRS (if applicable), itemizing ALL REQUIRED REPAIRS to the unit in order for the buyer(s) to receive the federal funding from the City of Galveston Homebuyer Assistance Program. These repairs will be considered as "lender required" repairs. If all repairs are not completed, as required by the program, the buyer cannot use the HAP assistance to purchase the house.

The "Required Repairs" letter will be forwarded to the Buyer, Buyer's Real Estate Agent/Broker, and Mortgage Lender. When ALL repairs have been completed, the buyer will need to notify the Grants & Housing Department to conduct the required re-inspection of the home, which will confirm that all required repairs have been completed.




## **AMOUNT OF ASSISTANCE AND ELIGIBLE USES**

### **AMOUNT OF ASSISTANCE TO THE BUYER(S)**

<sup>6</sup> A Deed of Trust and Promissory Note will be filed with the county placing a second lien on the property

Once the buyer(s) has been determined eligible for the assistance, and have agreed to the occupancy and affordability commitment, the City of Galveston will provide the buyer(s) with a loan<sup>6</sup> for down payment closing costs assistance for the purchase of the house.

 **Up to \$14,500** to eligible participants whose income is up to 80% of the Area Median Income as adjusted for household size

The total amount of assistance, which is determined by the number of household members and the anticipated gross annual income of the household, cannot exceed the allocated amount.

- ❖ **HAP funds cannot be used to pay for repairs to the house.**
- ❖ **HAP funds cannot be used to pay for lender required debt relief.**

### **ELIGIBLE USES OF ASSISTANCE**

HAP funds can be used for **Closing Costs and Prepaid items and Down Payment assistance** with the following restrictions:

#### **1. Closing Costs and Prepaid Items:**

HAP can be used to pay for the buyer(s) customary closing costs Discount points are an eligible cost under HAP.

All of the following closing costs are eligible for financing, in some degree, through HAP:

- ✓ **application fee**
- ✓ **loan origination fee**
- ✓ **title insurance**
- ✓ **title search**

*assisted with the federal Home Investment Partnerships Program funds.*

- ✓ **credit report fee**
- ✓ **courier fees**
- ✓ **appraisal fee**
- ✓ **lender's inspection fee**
- ✓ **survey fee**
- ✓ **recording fees**
- ✓ **attorney's fees**
- ✓ **home warranty**
- ✓ **document preparation fee**
- ✓ **discount points**
- ✓ **settlement or closing fee**

***Limitations on Closing Costs and Prepaid Items: (Maximum)***

- ✓ 30 days interest
- ✓ 14 months hazard insurance
- ✓ Three (3) months property taxes
- ✓ Market rate for Independent Home Inspection and Re-Inspection fees.
- ✓ \$85 for a Pest Inspection, Maximum.

**2. Down Payment:** The downpayment amount cannot exceed

- the maximum HAP allocation amount; or
- the minimum amount allowable under the financing program (i.e., FHA), whichever is less.

In some instances, a mortgage loan does not require a down payment, HOWEVER, under the HAP program, the buyer is required to contribute a minimum of \$500 toward the purchase of the house.

**RELATIVE ISSUES... FROM OTHER ASSISTANCE PROGRAMS**

There are plenty of homebuyer assistance programs available offering a variety of assistance to first time buyers (i.e., State of Texas Department of Housing and Community Affairs (TDHCA)) periodically offers a mortgage loan program that is made available through the sale of tax-exempt bonds with the proceeds being

provided, to income eligible households, as a reduced interest rate mortgage loan to first time homebuyers. Often times, this program will include additional funds for down payment and or closing costs equal to a set percentage. TDHCA also offers a down payment and closing cost assistance program providing \$7,500).

Because these programs may be funded through federal sources, buyers are not allowed to "stack" funds from multiple funding programs.

Buyers may use the "bond mortgage" program offered through the state or local housing finance corporation in conjunction with the HAP assistance.

Under no circumstances will the City of Galveston over subsidize assistance provided to a buyer. The program only provides what is necessary to close the loan.

**USE A PARTICIPATING MORTGAGE LENDER**

Now that you have decided to purchase your first home, it is important that you work with a mortgage lending institution (mortgage lender) that will help you secure the loan for your new home. In general, contacting multiple mortgage lenders will not provide you with "more buying power". Your monthly income and your monthly debt (how much money you make and how much you pay to creditors) will determine the amount of money you can borrow to purchase a house.

When contacting a lender, you will need the basic information about your household income and expenses including the most recent pay stub from your employer, statement from Social



Security/SSI, Child Support Court Order, Retirement, Disability, etc.; bank statements and most recent income tax return. (This is not an all-inclusive list and additional documents may be required.) Most lenders require a small fee to cover the cost of the credit report.

If, after the mortgage lender issues the buyer(s) a commitment letter, and the buyer(s) decides to change mortgage lenders/companies, the buyer(s) MUST IMMEDIATELY NOTIFY the Grants & Housing Department. The transaction is halted until the buyer(s) provides a COPY of the new loan application, mortgage analysis/qualifying worksheet and good faith estimate to the Grants & Housing Department. At such time the Grants & Housing Department will transfer the assistance to the new lender providing the mortgage loan.

## **RESPONSIBLE LENDING**

For the homebuyers protection the following restrictions are placed on loan programs that the City will participate.

- Adjustable rate mortgage are not allowed;
- No no-interest no-asset loans and negative amortization loans are allowed;
- "Interest only loans" are not allowed;
- No balloon notes;
- Interest rate is restricted to no more than 1.0% above "A paper" market rate for the same loan programs;
- Closing cost are not to exceed 6% of the sales price unless an exception is approved. The 6% includes loan fees paid at closing,

prepays, escrows and title company charges, but DOES NOT include discount points or financed mortgage insurance; and

- The HAP program has the right to deny funding if the buyer's current financial position represents too much of a credit risk, or that the first lien program is not in the best interest of the buyer.

## **LENDERS AGREEMENT**

Any Mortgage Lender can participate in the City of Galveston's Homebuyer Assistance Program, but must agree to the following terms:

1. Lender will uphold its "Fiduciary Duties and Responsibilities to Client" regardless of company representation.
2. Lender will keep confidential any discussions, facts or information about the homebuyer that should not be revealed to others.
3. Lender will be accountable for monies received from the homebuyer.
4. Lender will adhere to codes of ethics.
5. Lender will refer potential participants in the program to the City's Homebuyer Assistance Program.
6. Lender will uphold the spirit of the program, which is to help low to moderate income persons purchase homes, by providing loan programs and interest rates that compliment the program and benefit the client. Lender will become familiar with the list of unacceptable loan programs.

7. Lender will pre-approve the client as a pre-requisite to issuance of funds from the Homebuyer Assistance Program.
8. Lender will charge normal and customary loan fees and closing costs or less. The total settlement charges, less discount points, MIP, and items paid by seller or lender should not exceed 6% of the sales price. The homebuyer's ratios as calculated by the lender shall not exceed 31/43.
9. Lender will understand that the City will not accept less than a 2<sup>nd</sup> lien position.
10. Lender will provide the City with a copy of an approval letter, the Good Faith Estimate, the Mortgage Loan Application, and the appraisal of the property.
11. Lender understands that participation in the program can be disallowed if any of the above terms or not followed or if any action taken by the Lender is not in the best interest of the homebuyer. The prior sentence contains the sole and exclusive remedy available to the City against the Lender under this Lender Agreement.

## **RESALE PROVISIONS**

Activity Types - Resale provisions as outlined in 24 CFR Part 92.254(a)(5)(i)(A) and (B) shall be required or encouraged in the following cases:

- Resale provisions shall be required when the HOME subsidy is provided in the form of a development subsidy in which HOME funds are divided among each HOME-assisted unit and not

provided as a direct subsidy to the homebuyer

- Resale provisions shall be required when the HOME subsidy is provided in the form of a direct subsidy to the homebuyer and a developer, CHDO, Community Land Trust or other similar entity maintains ownership of the HOME-assisted property to ensure its continued affordability in perpetuity.
- Resale provisions shall be required when the HOME subsidy is provided in the form of a direct subsidy to the homebuyer and it is determined that the property is located in a highly appreciating market for the purpose of maintaining the unit's affordability throughout the entire period of affordability.

Methods – The resale option ensures that the HOME-assisted unit remains affordable over the entire period of affordability. All HOME-assisted units "designated as affordable units" shall meet the following criteria:

- The new purchaser must be low-income, meeting the HOME Program definition, and occupy the property as the family's principal residence.
- The sales price must be "affordable" to the new purchaser. In this instance, affordability of the new purchaser is defined as the income-eligible household's maximum mortgage capacity as defined by a mortgage lender using generally-accepted underwriting criteria.
- Under no circumstances may the "affordable" sales price exceed 95% of the median purchase price for the area.



- Net proceeds from the sale must provide the original homebuyer, now the home seller, and a “fair return” on their investment (including any downpayment and capital improvement investment made by the owner since purchase). In general, the City of Galveston shall consider “fair return” to be the maximum sales price as calculated using the following formula:

Maximum  
Permitted Resale  
Price

=  $\frac{\text{The Initial Sales Price to the Owner}}{\text{Initial Area Median Income}}$

X Resale Area Median Income

Initial Median Income is defined as the Area Median Income corresponding to a household size equivalent to 1.5 times the number of bedrooms in the Home at the time of the Owner’s purchase of the Home rounded to the nearest whole number.

Resale Area Median Income is defined as the Area Median Income corresponding to a household size equivalent to 1.5 times the number of bedrooms in the Home at the time of the Owner’s Notice of Intent, rounded to the nearest whole number.

Individual projects/ programs may apply for changes in the above formula for application to that specific project/program with the approval of Community Development Staff. The formula for “fair return” must be included in the contract between City of Galveston and the project/program partner.

Enforcement Mechanisms - Resale requirements shall be enforced through deed restriction, covenant, land use restriction agreement, or other similar

mechanism filed with the Galveston County Clerk’s Office and the requirements within shall be triggered upon sale or transfer of the HOME-assisted property.

## RECAPTURE PROVISIONS

Activity Types - Recapture provisions as outlined in 24 CFR Part 92.254(a)(5)(ii)(A)(1) through (7) shall be enforced in cases where HOME funds are provided as a direct subsidy to the homebuyer as downpayment and/or purchase-price assistance.

Methods – The recapture option allows the City of Galveston to recapture the entire HOME subsidy, subject to net proceeds, if the HOME recipient decides to sell the unit within the period of affordability at whatever price the market will bear. All HOME-assisted unit sales under the recapture option shall meet the following criteria:

- The homebuyer may sell the property to any willing buyer.
- The sale of the property during the period of affordability triggers repayment of the direct HOME subsidy, subject to net proceeds, to the City of Galveston that the buyer received when he/she originally purchased the home.

Enforcement Mechanisms - Recapture provisions shall be enforced through a mortgage, note and Recapture Agreement filed with the Galveston County Clerk’s Office, and the requirements within shall be triggered upon sale or transfer of the HOME-assisted property.

Amount of Repayment – the City of Galveston requires that when the recapture requirement is triggered by a

sale (whether voluntary or involuntary), it will recapture the HOME investment up to the total net proceeds remaining after the sale as modified by program specific choices under 24 CFR Part 92.254(a)(5)(ii)(A)(1) through (4). Net proceeds are the sales price minus the superior loan repayment (other than HOME funds) and any closing costs. The specific method of recapture as capped by net proceeds may be one of the four choices outlined in 24 CFR Part 92.254(a)(5)(ii)(A)(1) through (4). These options include:

- Recapture the entire amount - the City of Galveston may recapture the entire amount of the HOME investment from the homeowner, with total collections capped by net proceeds;
- Reduction during the affordability period the City of Galveston may elect to reduce the HOME investment amount to be recaptured on a pro rata basis for the time the homeowner has owned and occupied the housing measured against the required affordability period;
- Shared Net Proceeds - When the net proceeds (i.e., the sales price minus loan repayment, other than HOME funds, and closing costs) are insufficient to repay the direct HOME subsidy and the homebuyer's investment, the net proceeds shall be shared according to the following formula. Recapture of the HOME funds is based on the ratio of the HOME subsidy to the sum of the homeowner's investment (including downpayment and any capital improvement investment, made by the owner since purchase), plus the HOME subsidy:

HOME Subsidy  
HOME Subsidy + Homeowner Investment

X Net Proceeds = HOME Recapture

Owner investment returned first - the City of Galveston will not permit the homebuyer to recover the homebuyer's entire investment (downpayment and capital improvements made by the owner since purchase) before recapturing the HOME investment.

Staff shall select one of these four options based on the specific project/program in consultation with the project/program sponsor.

Mortgage Release - Upon receipt of recaptured funds, the City of Galveston shall file a "Release" document with the Galveston County Clerk's Office to release the original HOME-assisted homebuyer from the requirements of the mortgage or other similar mechanism.

Repayments - Repayments of recaptured funds shall be remitted directly to the City of Galveston to be utilized for HOME-eligible activities only.

## **LOAN SUBORDINATION**

At closing, a second lien promissory note and deed of trust must be signed by the applicant. This lien will be subordinate to the lender's lien on the property. However, the City will not further subordinate the loan unless the first mortgage is being refinanced. The City will not subordinate for debt consolidation/home equity loans, unless the debts being consolidated are for housing expenses, without taking cash out, and the total amount of the lien is less than the appraised value of the house.

The City will not approve refinancing for the purpose of the homeowner receiving any equity (cash out) from the home such action would constitute a payoff of the outstanding homebuyer loan amount.

If the City approves a refinance option, the homeowner will be responsible for paying all the fees associated with refinancing the loan and lien documents up to \$200.00 to cover the administrative cost and filing fees incurred by the City.

## **CHOOSE A KNOWLEDGABLE REAL ESTATE PROFESSIONAL**

The purchase of a home is one of the largest purchases in your lifetime, it is important that you choose a Real Estate Professional that is right for you.

A caring, patient person who is familiar with Homebuyer Assistance Programs is the key to a successful, uncomplicated

quest of finding the home that accommodates you and your family's immediate needs. This person is one who has a vast knowledge of the various types and sizes of homes on the market; who is familiar with several types of loan programs, and who can answer questions first time homebuyers often have. The State of Texas requires an agent or broker to be licensed and trained in buying and selling property, and also requires continuous updates to their education of Real Estate laws and practices for the state of Texas.

A state licensed real estate agent or broker must represent all HAP buyers.

## **ENTERING INTO A CONTRACT AND CONTRACT REQUIREMENTS**

All homebuyers will be required to enter into a purchase agreement contract with the seller of a house known as an Earnest Money Contract. This contract is a negotiable agreement between the buyer and seller, committing each party to specific duties with regards to the purchase and sale of the property.

Once all involved parties (Buyer, Seller, Agent/ Broker and Lender), have agreed upon the contract, the lender will issue a summary of the eligible transaction for the home the buyer(s) have selected. This summary, known as a Closing Disclosure, will provide the buyer with an estimated total amount of money that they can borrow for the home loan; the estimated amount of the monthly house payment, and the estimated amount of any additional costs involved in the purchase.

The Closing Disclosure will also state a tentative closing date.

## **CONTRACT REQUIREMENTS**

The City of Galveston Homebuyer Assistance Program requires that specific conditions and provisions be included as part of the purchase contract.

To meet program requirements, each contract must contain the following conditions:

1. The interest rate must be present and not exceed the prevailing market rate.
2. The contract must allow for an independent home inspection by a state licensed inspector.
3. To protect the buyer, the contract must state:

***"This contract is subject to the City of Galveston Homebuyer Assistance Program"***

4. For ALL homes built prior to 1978 the contract must include an addendum relative to lead based paint.
5. The Contract MUST be properly endorsed by all parties to the sale with any changes dated and initialed.
6. The NOTICE TO SELLER OF REAL PROPERTY (City of Galveston document) must accompany the contract with an original signature from the seller(s). This document meets Federal Uniform Relocation Act requirements. *(The document can be obtained through the City of Galveston Grants & Housing Department.)*
7. The contract must also contain the broker's name, address, and telephone number; and the listing

agent's name, address, telephone, and fax number.

## **THE APPLICATION PROCESS**

To determine program eligibility, the buyers must submit a formal application packet with the items on the Pre-Approval checklist form.

When you have all of the required documents then you will need to contact the Grants & Housing Department and schedule an appointment to turn in the application packet.

After the Grants & Housing Department has determined your income eligibility, you will need to submit the items on the Underwriting Requirements checklist form. Upon meeting the Underwriting Requirements, you will need to schedule a Homebuyer Education course. This information must be submitted before a closing is scheduled.

The application packet consists of several documents, some provided as forms from this booklet, some from the mortgage lender and finally, some items that the buyer(s) must provide from their personal documents or records.

After a complete application packet is submitted, the Grants & Housing Department Staff will thoroughly review the documents and determine if the applicant(s) meet the eligibility criteria<sup>7</sup>. "Walk – ins" will not be permitted. During the appointment, the application packet will be briefly reviewed to ensure that the entire minimum required documents are

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<sup>7</sup> This review and eligibility determination is in compliance with HUD and the HOME Investments Partnerships Program Regulations.

present. During the appointment and brief review, if the application packet is incomplete, the entire packet will be returned to the buyer(s) along with instructions on what documents are missing and who or where the documents will need to be obtained. Once the additional/missing documents are obtained, the buyer(s) will need to contact the Grants & Housing Department to reschedule an appointment to turn in the packet. It is imperative that the buyer(s) submit a complete application packet to ensure immediate processing and allocation of the limited funds.

Generally the review is completed within 72 hours (excluding weekends and holidays) from the time the complete packet is received. In some instances, the buyer(s) may be asked to confirm certain circumstances within the household. This confirmation may include providing the program with additional documentation that is needed to confirm program eligibility.

After program eligibility has been determined, the Grants & Housing Department will issue a Preliminary Pre-Approval or Denial Letter that will be sent to:

- the Buyer by U.S. Mail or email\*

At this time, the HAP allocation will be set-aside in the qualifying applicant(s) name and the buyer(s) can proceed with the purchase of an eligible housing unit.

**\*If you have not received an Income and Eligibility Pre-Approval letter...then you have not been approved to receive assistance through this program.**

**Please do not give notice of your move to your current landlord until**

**you are sure of your closing date. HAP suggests that you plan for a minimum of 8 weeks between the time you are pre-approved for HAP and the time that you actually close on the mortgage loan.**

**TIME ALLOTMENT FOR EXPENDITURE** is 180 days, from the date the application packet is pre-approved and an allocation is set aside. The buyer(s) must enter into a purchase agreement and close the loan on the home. In the event that the property is not transferred to the buyer(s) by the specified date, the allocation will be lost and the applicant's file will be closed. The buyer(s) may reapply to the program, which requires a repeat of the application process and the submission of a new application and income documentation.

**APPEALS CONCERNING THE ELIGIBILITY DECISION** are required to be in written form with a cover letter requesting "Reconsideration of Eligibility" and contain a minimum of three (3) additional items of proof substantiating the reason the application packet should be reconsidered. The appeal is required to be forwarded by U.S. Mail to:

**City of Galveston  
Grants & Housing Department  
HAP Appeal  
2508 Ball Avenue  
Galveston, TX 77550**

***The Interim Director of Grants & Housing will have ten (10) business days from receipt, to reply to the appeal. Applicants will be notified by mail of the final decision.***

## **PREPARING FOR CLOSING**

Upon review and pre-approval of all of the necessary documents, the Grants & Housing Department will issue a Final Funding Approval Letter to the Lender, the Agent and the Buyer.

At this time, the HAP DEED OF TRUST and PROMISSORY NOTE will be prepared and the assistance funds will be requested from the City of Galveston Finance Department.

The Grants & Housing Department Staff will attend the closing. The program assistance funds (check) will be presented to the closing agent. The Buyer(s) will sign the program Deed of Trust and Promissory note and all other documents required for the mortgage loan and for the legal transfer of the property to the buyer(s) name(s).

After all of the documents are signed they will be filed with Galveston County clerk who will officially record and file them in the county records. The buyer(s) will receive a copy of these documents in about 4-8 weeks.

## **Let's Review...**

- 1. Always start with a Mortgage Lender who will determine how much "buying power" you have and how much money you can borrow to purchase your home with.**
- 2. Always work with a licensed real estate agent, one who is knowledgeable of the requirements of the HAP Program.**
- 3. Schedule the appointment to turn in your application packet, and ensure that you have all of the required documents ready and in**

**"package" form when submitting for HAP assistance.**

**What to do next... Once you have received the "eligibility and allocation" letter from HAP, you are ready to continue in the buying process.**

- 4. Prepare to make an offer on purchasing the home you want to buy.**
- 5. Insure that the home is safe, structurally sound, and a healthy environment for you and your family.**
- 6. Wait...until all of the HAP required repairs (if applicable) have been completed. Once the repairs are complete, call the Grants & Housing Department to have a re-inspection performed confirming that all repairs have been completed as required.**
- 7. In preparation for closing, you will need to allow for plenty of time so that you can read through ALL of the documents you will be signing.**





# **Definition of Gross Annual Income and Net Family Assets as used to Determine Program Eligibility**

## 24 CFR 5.609

Annual Income means all amounts, monetary or not, which:

(a)(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An

allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(ii) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph (b)(6)(ii) shall be the amount resulting from one application of the percentage;

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section).

**(c) Annual income does not include the following:**

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the

tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in 24 CFR Sec. 5.403;

(6) The full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8)(i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a *Plan to Attain Self-Sufficiency (PASS)*;

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;



(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment-training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child

## **Annual Income from Family Assets**

### **Inclusions:**

- 1.** Cash held in savings accounts, checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average 6-month balance.
- 2.** Cash value of revocable trusts available to the applicant(s).
- 3.** Equity in rental property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs (e.g., broker fees) that would be incurred in selling the asset. Under HOME, equity in the family's primary residence is not considered in the calculation of assets for owner-occupied rehabilitation projects.
- 4.** Cash value of stocks, bonds, Treasury bills, certificates of deposit and money market accounts.
- 5.** Individual retirement and Keogh accounts (even though withdrawal would result in a penalty).
- 6.** Retirement and pension funds.
- 7.** Cash value of life insurance policies available to the individual before death (e.g., surrender value of a whole life or universal life policy).

- 8. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
- 9. Lump sum or one-time receipts, such as inheritances, capital gains, lottery winnings, victim's restitution, insurance settlements and other amounts not intended as periodic payments.
- 10. Mortgages or deeds of trust held by an applicant.

**Exclusions:**

- 11. Necessary personal property, except as noted in number 8 of Inclusions, such as clothing, furniture, cars and vehicles specially equipped for persons with disabilities.
- 12. Interest in Indian trust lands.
- 13. Assets not effectively owned by the applicant. That is, when assets are held in an individual's name, but the assets and any income they earn accrue to the benefit of someone else who is not a member of the household

and that other person is responsible for income taxes incurred on income generated by the asset.

- 14. Equity in cooperatives in which the family lives.
- 15. Assets not accessible to and that provide no income for the applicant.
- 16. Term life insurance policies (i.e., where there is not cash value).
- 17. Assets that are part of an active business. "Business" does not include rental of properties that are held as an investment and not a main occupation.

**Count as income:**

- 1. Actual income from assets if total assets are \$5,000 or less;
- 2. If assets are more than \$5,000, the greater of
  - I. Actual income from assets, or
  - II. Total assets multiplied by the passbook rate

## **CONGRATULATIONS! You have achieved the American Dream... Homeownership.**

**Opening the door to your first home will not be the easiest thing you have ever done, but likely the most rewarding and memorable event for you and your family...achieving the American dream of homeownership.**

