



# AFFORDABLE HOME DEVELOPMENT PROGRAM GUIDELINES

City of Houston

Housing and Community Development Department

Single-Family Division

Version 2.0

Effective Date: December 06, 2023



## Table of Contents

Change Log.....	4
Term Definitions .....	6
Introduction and Authority.....	9
Developer Partnership Pathways.....	9
Reimbursement of Development Costs.....	9
Down Payment Assistance.....	9
Underwriting Requirements .....	10
Debt-to-Income Ratio .....	10
Property Requirements.....	10
Jurisdiction .....	10
Environmental Review .....	11
Flood Hazard Area.....	11
Reimbursement of Development Costs Pathway Requirements .....	11
Minimum Affordable Homes .....	11
Application Requirements .....	11
Developer Requirements .....	11
Pricing and Affordability .....	11
Eligible Costs and Reimbursement .....	12
Loan Forgiveness and LURA Transfer.....	12
Down Payment Assistance Pathway Requirements .....	13
Applicant Requirements .....	13
Income Requirements.....	13
Affordability Period Requirements .....	14
Insurance Requirements .....	14
Notice to All Buyers Requirement .....	15
Program Marketing, Marketing and Sales of Homes.....	15
Program Marketing.....	15
Affirmative Fair Marketing Housing (AFHM) Plan .....	15
Pre-sale of Homes .....	15
Recapture.....	15
Monitoring .....	15

Regulatory Considerations.....	15
Americans with Disabilities Act (ADA) .....	16
Debarment .....	16
Equal Employment Opportunity .....	16
Fair Housing Act .....	16
Minority Women Small Business Enterprises .....	17
Section 3 Program.....	17
Pay or Play.....	17
Access to Records (State of Texas – City) .....	17
Fraud, Waste and Abuse .....	17
Conflicts of Interest.....	18
Confidentiality/Privacy.....	18
Record Keeping, Retention and File Management .....	18
Property Insurance.....	19
Close-Out Audit.....	19
Complaints and Appeals Process .....	19
Contact Information.....	19
Complaints .....	19
Appeals.....	20
Appeal Request .....	20
Appeals Process .....	20

## Change Log

<b>Version</b>	<b>Date</b>	<b>Changes</b>
1.0	09/01/2022	City Council Approval (Ordinance 2021-756) <i>HCDD Management Approval 08/25/2021</i>
1.1	9/12/2022	Revised income limit requirements up to 120% Added reference to Single-Family Minimum Construction Standards Added additional language on Conflict of Interest <i>HCDD Management Approval 09/12/2022</i>
1.2	11/15/2022	Added Unsolicited Grant Proposals <i>HCDD Management Approval 11/14/2022</i>

Version	Date	Changes
2.0	TBD	<p>City Council Approval (Ordinance 2023-1016)</p> <ul style="list-style-type: none"> <li>• Format updates</li> <li>• Additions and changes to Term Definitions</li> <li>• Replaced Overview with Introduction and Authority</li> <li>• Replaced Program Requirements with <ul style="list-style-type: none"> <li>○ Added Developer Partnership Pathways</li> <li>○ Added Property Requirements</li> <li>○ Added Reimbursement of Development Cost Pathways Requirements</li> <li>○ Added Down Payment Assistance Pathway Requirements</li> </ul> </li> <li>• Replaced Marketing &amp; Sale of Affordable Homes with Program Marketing, Marketing, and Sales of Homes</li> <li>• Removed Single-Family Minimum Construction Standards</li> <li>• Removed Program Priorities</li> <li>• Added Monitoring</li> <li>• Revised Affordability Requirements</li> <li>• Replaced Insurance and Property Management with Insurance Requirements</li> <li>• Clarifications and additions made to Regulation Considerations <ul style="list-style-type: none"> <li>○ Added Debarment</li> <li>○ Changes to Record Keeping, Retention and File Management</li> <li>○ Changes to Access to Records (State of Texas – City)</li> <li>○ Changes to MWSBE</li> <li>○ Added Pay or Play</li> <li>○ Changes to Section3</li> </ul> </li> <li>• Changes to Complaints &amp; Appeals</li> </ul> <p><i>City Council Approval 11/29/2023</i>  <i>HCDD Management Approval 12/06/2023</i></p>

## Term Definitions

**Affirmative Fair Housing Marketing (AFHM) Plan:** An AFHM Plan is the marketing strategy and plan which will provide a framework toward ensuring that information about housing created through this program reaches historically underserved communities and encourages their participation.

**Affirmatively Furthering Fair Housing (AFFH):** Affirmatively Furthering Fair Housing goes beyond the Fair Housing Act's requirements of non-discrimination by identifying historically underserved communities and actively taking steps to encourage their participation and benefit. The United States Department of Housing and Urban Development's (HUD) AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. The HUD AFFH assessment tool and interim final rule can be found here: <https://www.hud.gov/AFFH>.

**Affordable Home Development Program (AHDP):** is to provide funding for newly constructed, affordable Single-Family homes and/or infrastructure construction in Large Tract Developments throughout the City.

**Affordability Period:** The time period during which a newly constructed affordable single-family home must comply with these Guidelines and the rules and requirements of this Program.

**Affordable Homes:** Affordable Homes is defined as housing that is priced to be made available for sale only to a Homebuyer whose income is up to a maximum of 120% AMI.

**Applicant:** An Applicant is a Developer requesting financing through this Program.

**Approved Final Development Budget:** A detailed construction budget for the project that include soft costs, hard costs and all other costs necessary to complete the project per the approved plans, specifications, drawings and approved construction contract. This final budget has been approved by the Director of HCD.

**Area Median Income (AMI):** Area median incomes published annually by HUD, for the relevant geographic area.

**Certificate of Compliance (COC):** A certificate issued by the City to contractor and signed by a City inspector stating that all Work has been duly inspected and found to comply with the Building Code requirements set forth at: <https://www.houstonpermittingcenter.org/help/codes>

**City:** The City of Houston.

**Complete Communities:** The City of Houston Initiative to improve neighborhoods providing Houston residents and business owners access to quality services and amenities.

**Developer:** A developer is a private business entity with specialized skills, capital, and site control which will bring capacity to finance, construct and sell homes pursuant to the terms of the Program.

**Director:** The Director of HCD or any other person(s) that may be designated to perform the various functions assigned to the Director.

**AHDP Down Payment Assistance:** The amount provided by the City to an LMMI Homebuyer towards the down payment of a home purchased pursuant to these Program Guidelines.

**Family:** All persons living together in the same Housing Unit, as further defined under [24 C.F.R. § 570.3](#).

**Flood Hazard Area:** Areas designated by FEMA as inland high-risk zones: A, AE, or AO.

**For-Profit Entity:** A private business entity which (among other goals and purposes) aims to earn a profit through its activities.

**Full Application:** The Developers submit a comprehensive proposal with all supplemental documentation.

**Green Building Standards:** The standards adopted by the City that are required in this Program related to energy efficiency and building quality.

**AHDP Financing:** Financing awarded by the City of Houston, Housing and Community Development Department, pursuant to the terms of this Program, to accomplish the objective of this program.

**Home:** A single-family house, meeting the requirements of this Program. *See also, the definition for Housing Unit.*

**Homebuyer:** Person(s) eligible to purchase a home developed under the AHDP. See also Household.

**Household:** All persons occupying the same housing unit, regardless of their relationship to each other. The occupants may consist of a person living alone or comprised of any group of related or unrelated persons who share living arrangements.

**Housing Unit:** A single-family house, meeting the requirements of this Program. *See also, the definition for Home.*

**Housing and Community Development Act of 1974 (HCD Act):** (As amended by the Supplemental Appropriations Act of 1984). Established the program of Community Development Block Grants to finance the acquisition and rehabilitation of real property and which defined the recipients and uses of such grants, with the primary goal of benefitting low-to-moderate income persons.

**Housing and Community Development Department:** The City Department implementing this Program. May be referred to as “Department” or “HCD.”

**Housing Quality Standards (HQS) Inspection:** the property inspection completed by HCDD staff, using HUD Form 52580 to determine the subject property meets the minimum housing quality standards set forth by HUD.

**Land:** Real estate or property, minus buildings and equipment. Land ownership includes the surface, soil and any natural resources that exist with the boundaries of the property.

**Large Tract Development:** one or more contiguous tract(s) of residential homes to be constructed by a Developer that is funded in whole or in part by the City pursuant to the terms the AHDP Program.

**Low, Moderate, and Middle Income (LMMI):** Households whose income does not exceed one hundred and twenty percent (120%) of the Area Median Income, as determined by HUD, adjusted for family size.

**Market Rate Home:** Any home within the development project that is intended to be available for sale at the prevailing market value to Homebuyers which are not income-qualified pursuant to the Program Guidelines.

**Minimum Construction Standards (MCS):** The Single-Family Minimum Construction Standards established by HCD.

**Mitigation:** Improvements made to reduce the possibility of property damage, personal and commercial hardship, as well as long lasting monetary burdens.

**New Construction:** In the context of these Guidelines, a residential or accessory structure which did not previously exist, and which does not make use of a previously existing foundation.

**Nonprofit Organization:** A private entity organized for purposes other than generating profit and in which no part of the organization's income is distributed to its members, directors, or officers. Governed by IRS code 501(c)(3).

**Phase 1 Environmental Site Assessment:** A report that examines the historical and current uses on a given property in order to determine if environmental contamination or related risks are present.

**Preliminary Application (Pre-App):** The first phase of the Affordable Home Development application process in which Developers submit a proposal for consideration for financing by the City.

**Program (AHDP):** provides funding for newly constructed, affordable Single-Family homes and/or infrastructure construction in Large Tract Developments throughout the City.

**Real Property:** The land and improvements thereto, and all of the interests, benefits, and rights inherent in the ownership of real estate.

**Recapture:** A mechanism in which all or a portion of the City (or HCD) Financing is returned to the City by the awardee in the event the program requirements are not satisfied.

**Single-Family Home:** A traditional stick-built detached or attached residential structure. *See also, the definition for Home and Housing Unit.*

**Subsidy Layering Analysis:** The analysis conducted prior to committing funds, to calculate the Homebuyer's financial need to purchase a quality affordable home.

**TIRZ (Tax Increment Reinvestment Zones):** Special zones created by City Council to attract new investment in an area. Taxes attributable to new improvements (tax increments) are set-aside for public improvements of which a third of the tax increments are set-aside for affordable housing.

**Unsolicited Grant Proposals:** Proposals submitted to HCD by third parties outside of the traditional procurement or posted Notice of Funding Availability (NOFA).

**Vendor:** An entity or individual procured by the City or contractors to provide goods or services required by this Program.



## Introduction and Authority

The objective of the City's Affordable Home Development Program ("Program" or "AHDP") is to provide funding for newly constructed, affordable single-family homes and/or infrastructure construction in Large Tract Developments throughout the City of Houston ("City") for Low, Moderate, and Middle Income Homebuyers. These amended AHDP Guidelines ("Guidelines"), as they may be further amended, supersede the previous versions of the guidelines and govern the implementation of the Program.

The Program will be funded using Uptown TIRZ Series 2021 Affordable Homes Funds.

HCD staff will administer the Program on behalf of the City. The Director is authorized to execute ministerial or supplementary documents related to the Program and has other authority as established in these Guidelines.

## Developer Partnership Pathways

The City will have two pathways to partner with Developers and award funds to accomplish the AHDP objective:

1. Reimbursement of Development Cost; and/or
2. Down Payment Assistance.

### Reimbursement of Development Costs

The City awards a Developer a non-amortizing, forgivable loan to be used for eligible acquisition, horizontal infrastructure construction, vertical construction costs and/or associated soft costs to enable affordable single-family Large Tract Development through this Program. Through this pathway, Developers will set aside a portion of the homes constructed for LMMI Homebuyers. Developers are required to complete and submit a Full Application in order to be considered for funding either as a solicited or unsolicited grant proposal. Developments will be evaluated on their alignment with the City of Houston's affordable housing objectives and priorities, cost, shovel-readiness, timeline, and number of Affordable Homes provided. All awards must be approved by the Mayor of Houston and the Houston City Council.

### Down Payment Assistance

The City enters into an agreement with a Developer with a single-family Large Tract Development that is either currently under development or is in pre-development stage in which the City will agree to provide down payment assistance to qualified LMMI Homebuyers of Developer's homes in the development in question, in exchange for the construction and sale of a minimum number of Affordable Homes. Developments will be evaluated on their alignment with the City of Houston's affordable housing objectives and priorities, cost, and the time frame in which the homes will be available for sale. Down payment assistance is awarded by the City to an eligible LMMI Homebuyer towards the purchase of a home in developments approved in this Program. The amount of down payment assistance available for each LMMI Homebuyer shall be determined at the discretion of the Director in accordance with HCD's underwriting standards.

An LMMI Homebuyer can simultaneously benefit from both pathways in the purchase of a home. The LMMI Homebuyer can receive up to \$50,000 in subsidy from HCD based on financial need, outside from the developer subsidy. The Director may, at his or her sole discretion, authorize recipients to exceed the

up to \$50,000 in HCD subsidy, provided that the City's Subsidy Layering Analysis shows there is a greater financial need.

## Underwriting Requirements

An internal Subsidy Layering Analysis (SLA) will be prepared to determine how the subsidy allocation can provide the most benefit to the homebuyer. The SLA will be based on information received:

- during the eligibility process (income and household size)
- from the lender on the:
  - o Loan Estimate and Uniform Underwriting and Transmittal Summary (interest rate, sales price, monthly principal/interest, closing cost)
  - o Loan Disclosure (lender required down payment amount)

The subsidy amount will be allocated in this order:

1. To subsidize interest rate by at least two to three points, depending on current market rates
2. Provide half of required down payment
3. Principal mortgage reduction at closing to reduce the amount owed on the mortgage
4. Reasonable closing cost (including any pre-paid cost)

The allocation of the subsidy may be reallocated on a case-by-case basis depending on the customized need of the applicant with the approval of the Program Manager. HCDD will provide a Grant Allocation form to the lender for proper disbursement of the grant funds. The final Closing Disclosure statement must clearly indicate where the grant funds are to be used according to HCDD's requirements.

## Debt-to-Income Ratio

**Front-end ratio** A calculation that measures the mortgage payment (i.e. principal, interest, mortgage insurance, association dues, taxes, home/flood insurance) to their gross monthly household income and should not exceed 33% of the applicant(s) gross monthly income. The Director will have the sole discretion to adjust depending on the housing market.

**Back-end ratio** A calculation that measures a combination of an applicant(s) regular reoccurring monthly expenses, which includes their mortgage payment and all monthly debts (i.e. credit cards, school loans, car payment, alimony, child support, etc.) their gross monthly household income and should not exceed 45% of the applicant(s) gross monthly income. The Director will have the sole discretion to adjust depending on the housing market.

Compensating factors, such as but not limited to, increased down payment amount, accumulated savings, favorable credit score, success in paying previous housing that was greater than or equal to the mortgage for the past 12-24 months, compensation or income not reflected in effective income (food stamps/public benefits) may result in a higher frontend ratio being accepted. In this case, each file will be reviewed by the Program Manager for approval and a memo to the file will be created.

## Property Requirements

### Jurisdiction

The assisted property must be located in the City of Houston's jurisdiction and be verified by HCD's Geographic Information System (GIS) section to determine whether the location is eligible.

## Environmental Review

Developers must provide a Phase I Environmental Site Assessment (ESA) prior to approval of funding by the City. HCD's Environmental Compliance team will perform an environmental review and provide feedback if additional assessments are recommended included but not limited to a Phase II ESA.

## Flood Hazard Area

Construction of newly built Single-Family Homes will not be built in a Flood Hazard Area unless approved mitigation measures approved by the Director have been constructed. In all cases, construction must comply with applicable building codes and [Chapter 19 of the City's Code of Ordinances](#).

## Reimbursement of Development Costs Pathway Requirements

The City awards a Developer a non-amortizing, forgivable loan to be used for eligible acquisition, horizontal infrastructure construction, vertical construction costs and/or associated soft costs to enable affordable single-family Large Tract Development through this program. Through this pathway, developers will set aside a portion of the homes constructed to LMMI Homebuyers. Developments will be evaluated on their alignment with the City of Houston's affordable housing objectives and priorities, cost, shovel-readiness, timeline, and overall outcomes. All awards must be approved by the Mayor of Houston and the Houston City Council. Requirements include but are not limited to:

### Minimum Affordable Homes

Number of Affordable Homes for eligible developments must contain no fewer than forty (40) Affordable Homes and a proportionate amount of Market Rate Homes or as otherwise approved by the Director.

### Application Requirements

Applicants must provide letters of commitment from third party sources to demonstrate financial capacity to satisfy HCD that the Applicant can access the capital needed to complete the Project.

In the Full Application, Applicants will propose the number and size of both Market Rate and Affordable Homes, the market prices and sales prices of the Homes, and the income levels targeted for eligible Homebuyers of the Affordable Homes.

### Developer Requirements

Developers must execute loan agreement and associated documents, including a Deed of Trust providing the City a lien on the development.

Developers must obtain performance, payment, and maintenance bonds along with builder's risk insurance in accordance with the terms of the loan agreement.

Developer will submit construction and drawdown schedule. The City's AHDP Financing is subject to the funding of all other financing in the order specified in the loan agreement and associated documents.

### Pricing and Affordability

**Pricing.** Pricing of Affordable Homes will be at amounts to be established in an agreement between the Developer and the City, as a condition of AHDP Financing. Pricing levels must be affordable for the eligible Homebuyers at the applicable HUD AMI levels. The affordability will be determined in part based on the

Household's ability to obtain conventional mortgage financing in amounts sufficient to purchase the Affordable Homes at the established pricing.

**Affordable Sales.** HCD is distinguishing between the "market price" of the home, which reflects its market value, and the "selling price" to eligible Homebuyers. For Market Rate Homes, the market price and the selling price will be the same. For Affordable Homes, the market price will be the market value of the home, but the selling price should reflect a discount, rendering the home affordable. The HCD will consider various approaches to structuring the sale of Affordable Homes, including, but not limited to:

- A reduced, affordable sales price for the Homebuyers, with a LURA to impose resale restrictions.
- A market sales price to qualifying homebuyers, in which the conventional mortgage in first lien is affordable, and the balance of the sales price is in the form of a forgivable second mortgage.
- Other proposed approaches which permit qualifying Homebuyers to afford purchase of the home, while protecting the program goals of long-term homeownership and equity appreciation and in which the overall HCD Financing through this Program is ultimately converted to affordable homeownership. HCD is accepting and encouraging innovative and creative development approaches from Developers to leverage HCD financing to reach our goal of creating affordable homeownership opportunities for Houstonians.

**Affordability Period.** The time period, which shall be five years or otherwise approved by the Director, during which a newly constructed affordable single-family home must comply with these Guidelines and the rules and requirements of this Program.

### Eligible Costs and Reimbursement

The City shall make AHDP Funding available to pay for all eligible acquisition, horizontal infrastructure construction, vertical construction costs and/or associated soft costs related to the project up to amounts indicated in the Final Approved Development Budget.

The City agrees to reimburse the developer of actual costs incurred for eligible acquisition, horizontal infrastructure construction, vertical construction costs and/or associated soft costs related to the project up to amounts indicated in the approved construction budget. Developer must provide supporting documentation to evidence:

- Proof of the amount, payee, and payment of actual costs by developer
- Completed status of the portion of actual costs
- Compliance with terms of the loan agreement

Disbursement for the work or other expenses under the Approved Final Construction Budget shall be subject to a ten percent (10%) retainage for hard costs and five percent (5%) for soft costs, but notwithstanding the foregoing, in no case shall retainage be released prior to thirty (30) days following the completion of the work as certified by the architect or other person acceptable to the City.

### Loan Forgiveness and LURA Transfer

**Loan Forgiveness and Partial Satisfaction of Loan.** After the sale of an Affordable Home to an LMMI Homebuyer, the City shall provide Notice of Partial Debt Forgiveness to Borrower no later than the sale of an Affordable Home to an LMMI Homebuyer.

**LURA (Land Use Restriction Agreement) transfer to homeowner.** When homes on the sites are sold to LMMI Homebuyers, the sale will be subject to the restrictions through joinder by homebuyer. The City will release Developer from the requirements of the LURA upon sale to the LMMI Homebuyer.

## Down Payment Assistance Pathway Requirements

The City enters into an agreement with a developer with a single-family Large Tract Development that is currently under development. Developments will be evaluated on their alignment with the City of Houston's affordable housing objectives and priorities, cost, number of homes immediately available for sale, timeline, and overall outcomes. Down payment assistance is awarded to an eligible LMMI Homebuyer for the purchase of a home in developments approved in this Program. Requirements include but are not limited to:

### Applicant Requirements

Homebuyer applicant(s) must be able to obtain a 30-year fixed-rate mortgage, whose payments shall be affordable to the Homebuyer, whose amount shall be subject to the Director's Approval. Adjustable-rate mortgages (ARM) or seller-financed mortgages, with the exception of those seller-financed forgivable loans approved by the Program, may not be used in the Program.

Applicant(s) and co-applicant(s) must be a U.S. citizen or permanent resident alien.

Applicant(s) and co-applicant(s), at time of eligibility, must be able to obtain a fixed-rate mortgage loan for the length of the Affordability Period.

Eligibility is valid for 120 days from the date the applicant is determined to be income eligible. If contracts are not signed within 120 days of that date, applicant may submit a written request for a one-time, 60-day extension, which HCD may grant on a case-by case basis at its' discretion. Income-eligible determination is subject to appeal by the applicant pursuant to the process established by HCD.

Applicants and co-applicants must satisfy delinquency on a federal or federally insured loan, Internal Revenue Service taxes, utility payments applicable to the current or former address(es) or owe the City for City services provided to them (for example, City Emergency Medical Services bills, and municipal violations), listed on credit report, real property records or otherwise, prior to program participation.

Any applicant(s), co-applicant(s) and household member(s) 18 years of age and older who are registered as sex offenders are not eligible to receive financial assistance.

Any household member must be legally divorced to list themselves as separated from their significant other on the application. The valid divorce decree is required.

Homebuyer(s) must contribute \$350 into the purchase to demonstrate a level of commitment to the purchase transaction. The cost of the appraisal, credit report, inspection, earnest money and/or cash brought to closing satisfies this requirement.

### Income Requirements

Applicant(s), co-applicant(s) and household member(s) must meet income eligibility requirements.

To receive assistance, the total household income from all sources (including income from a non-purchasing spouse, and any other household member(s) 18 years of age or older) cannot exceed 120%

percent of the AMI, adjusted for household size, as determined annually by HUD. Annual Income refers to gross annual income calculated using the 24 CFR §5.609 Part 5 definition.

Homebuyer applicant(s) must submit income certification documentation for the purpose of determining eligibility. Eligibility determination will be conducted by HCD staff upon written request.

Liquid assets for the household cannot exceed \$30,000, or otherwise upon approval of the Assistant Director for the Single-Family Division.

### Affordability Period Requirements

Homebuyer applicant(s) agrees to a lien to be placed on the Property to secure the AHDP Down Payment Assistance.

Homebuyer applicant(s) agree to occupy the Home as their principal residence for the Affordability Period.

Homebuyer applicant(s) agrees to an annual monitoring of the residence performed by the HCD staff to ensure that the Homebuyer is living in the home as their primary residence and complying with the restrictive covenants.

Program participants must agree to the Affordability Period and lien requirements. The Affordability Period of homes purchased will be five (5) years for any amount up to \$100,000 of assistance or otherwise upon approval of the Director. The City will prepare the Release of Lien upon successful completion of the terms and conditions of all documents related to the Program and completion of the Affordability Period.

Forgiveness of the loan provided will be prorated over the course of the determined Affordability Period. The annual proration percentage will depend on the length of the Affordability Period, with 100% of the loan being forgiven and the lien satisfied at the termination of the Affordability Period.

Interest will not be charged unless there is a default. The deferred principal balance shall bear interest at a rate of six percent (6%) per annum.

### Insurance Requirements

Applicant and co-applicant must maintain insurance for the assisted property throughout the Affordability Period. Flood insurance must remain in effect throughout the Affordability Period for properties that may be located in the 100-year Flood Zone. Failure to maintain flood insurance may result in the denial of future federal disaster assistance should a flood event occur. Please note, if the property is located in the Flood Zone, flood insurance must be obtained on the subject property prior to closing (or within 30 days the property is designated as being in a Flood Zone), evidenced by a declaration page, with an effective coverage date the date of closing. Coverage amount should be based on the rebuild cost of the home. Insurance claim payments are subject to the first lien holder requirements. When there is no first lien holder, the City will endorse insurance claim payment at or under the subsidy assistance amount with the homeowner being held responsible for the repairs. The City reserves the right to request to have progress reports of the repairs when the claim payment is above the subsidy amount. The City reserves the right to have oversight of the insurance claim when a default has occurred or when the insurance claim payment is considered a duplication of benefits.

## Notice to All Buyers Requirement

Developer must provide information on the City's AHDP Down Payment Assistance option to all buyers in the development in question.

## Program Marketing, Marketing and Sales of Homes

### Program Marketing

The marketing of the AHDP will be conducted by developer. The City (after obtaining necessary approvals) will partner or reasonably assist with marketing efforts, as requested by the developer.

### Affirmative Fair Marketing Housing (AFHM) Plan

An AFHM Plan is the marketing strategy and plan which ensures that information about housing opportunities created through this Program reaches historically underserved communities and encourages their participation.

### Pre-sale of Homes

Pre-sale of homes, by which a Homebuyer may contract to purchase a home that is under construction, provided that the closing shall occur following the completion of the home, will be permitted to minimize developer's carrying costs.

### Recapture

Should the Homebuyer use the property as rental property or sell or otherwise convey their ownership interest in the property during the Affordability Period, the remaining prorated amount of assistance will become immediately due and payable. Should a Homebuyer convey ownership interest of the assisted property, the City may enact any and all remedies available under the loan agreement and associated documents including but not limited to Recapture or foreclosure of the deed of trust lien.

## Monitoring

HCDD reserves the right to periodically monitor each Property sold under the Program to determine (i) if the Property was transferred or sold during the Affordability Period or (ii) if the Homebuyer has defaulted on any requirement of the Program. The City verification sources of verification may include but are not limited to:

- Annual tax record review of the applicable appraisal district or tax assessor-collector's online records
- Self-certification letters
- Site visit
- Lien and homeownership search in the applicable County Clerk's Office online records

## Regulatory Considerations

The AHDP will be designed and implemented in compliance with cross-cutting federal statutes and regulations when applicable, including, but not limited to:

## Americans with Disabilities Act (ADA)

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state, and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of telecommunications device for the deaf (TDD)/telephone relay services. HCDD takes affirmative steps to ensure that people with disabilities have equal access to the programs offered by HCDD, and that any services are delivered in the most integrated manner possible. HCDD's mandate to conform to the requirements of ADA flows down to every stakeholder, including Subrecipients, vendors, contractors, and developers.

## Debarment

The Program is subject to, and will follow, HCD's Policy No. 01-014.

## Equal Employment Opportunity

Executive Order 11246, Equal Employment Opportunity, as amended, prohibits federal contractors and federally assisted construction contractors and subcontractors who do over \$10,000 in government business in one year from discriminating in employment decisions based on race, color, religion, sex, sexual orientation, gender identity, or national origin. The Executive Order also requires government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment. This regulation is adhered to within HCDD programs.

In addition, [Sec. 15-17 of the City Code of Ordinances](#) requires that all contracts entered into by the City involving the expenditure of \$50,000 or more of public funds shall incorporate the City's Equal Opportunity Clause, which is included in Sec. 15-17.

## Fair Housing Act

The Fair Housing Act requires all grantees, Subrecipients, and/or developers funded in whole or in part with HUD financial assistance to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability, or marital status. HCDD enforces the Fair Housing Act by ensuring that all developers, and/or Contractors meet the applicable Fair Housing and Affirmative Marketing requirements, provide an AFHM Plan, and report on compliance in accordance with the Fair Housing Act and the associated on HCD's website, where applicable. The Affirmative Marketing Plan must comply with applicable Fair Housing Laws and demonstrate how developers will affirmatively further fair housing.

Homebuyers that feel they have been discriminated against can contact:

### U.S. Department of Housing & Urban Development

Fair Housing & Equal Opportunity  
Discrimination inquiries and/or complaints  
1-800-669-9777 (Voice)  
1-800-927-9275 (TTY)  
HUD Local 713-718-3199 (Ask for a FHEO)  
[www.hud.gov/offices/fheo](http://www.hud.gov/offices/fheo)

### Texas Workforce Commission

Civil Rights Division  
1-888-452-4778 (Voice)  
1-800-735-2989 (TTY)

### City of Houston Fair Housing Hotline

832-394-6200 ext. 5



## Minority Women Small Business Enterprises

Contractors shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V<sup>1</sup> of the City of Houston Code of Ordinances and the applicable Office of Business Opportunity's ("OBO") Policies and Procedures.<sup>2</sup> Contractors shall make good faith efforts to award subcontracts or supply agreements in at least 29% (21% MBE, 8% WBE) of the value of this Agreement to MWBEs ("Stated MWBE goal"). Contractors acknowledge that it has reviewed the requirements for good faith efforts on file with OBO and will comply with them. Good Faith Efforts should be documented per the City of Houston, Office of Business Opportunity Good Faith Effort policy<sup>3</sup>.

## Section 3 Program

Work performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 USC §1701u) ("Section 3") The City complies with Section 3 requirements to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted developments covered by Section 3 shall, to the "greatest extent feasible", be directed to low- and very low-income persons, including persons who are recipients of HUD assistance for housing, with a preference for both targeted workers living in the service area or neighborhood of the Development and Youth Build participants, as defined at 24 CFR Part 75 ("Section 3 Regulations").

## Pay or Play

Contractors shall comply with the City's Pay or Play Program, as set out in Executive Order No. 1-7<sup>4</sup>, the requirements and terms of which are incorporated into this guidelines all purposes. Contractors have reviewed the requirements of Executive Order No. 1-7. The Contractors should demonstrate that they have the willingness and ability to comply with the City's Contractors' Pay of Play Program.

## Access to Records (State of Texas – City)

The availability of records is subject to the exceptions to public disclosure set forth in the Texas Public Information Act, Chapter 552 of the Texas Government Code, ("TPIA"). TPIA requests must be made in writing to the City's Public Information Officer and will be processed in accordance with the procedures set forth in the TPIA and applicable City policies, such as Administrative Procedure 2-9, Guidelines for Responding to Requests for Public Information.<sup>5</sup>

## Fraud, Waste and Abuse

The Program is subject to, and will follow, HCD's Policy No. 21-010, Fraud, Waste, and Abuse. Anyone with information regarding known or suspected misappropriation of funds or resources is encouraged to report the information to the City by sending an electronic report via email to the following email address [housingfraud@houstontx.gov](mailto:housingfraud@houstontx.gov).

---

<sup>1</sup> [Houston City Code, Chapter 15 Article V](#)

<sup>2</sup> <https://www.houstontx.gov/obo/policies-procedures.html>

<sup>3</sup> <http://www.houstontx.gov/obo/docsandforms/goodfaithefforts>

<sup>4</sup> <http://www.houstontx.gov/obo/popforms.html>

<sup>5</sup> <https://www.houstontx.gov/adminpolicies/2-9.pdf>

## Conflicts of Interest

The Program is subject to, and will follow, all applicable conflict of interest provisions, including but not limited to federal, state, and local statutes, laws, regulations, ordinances, and other requirements including but not limited to the Texas Local Government Code Chapters 1715, 1766, and 5537 ; Chapter 36, Sections 36.028 and 36.089 and Chapter 39, Section 39.0210 of the Penal Code; Article VII, Section 4 of the City Charter<sup>11</sup>; Chapter 14, Article II, Section 14- 18312, Chapter 15, Article III, Sections 15-113 (as amended by City Ordinance No. 2021-4414), 15-5515, & 15-5616, and Chapter 18, Article I, Section 18-317 of the City of Houston’s Code Ordinances, Executive Order 1-280, A.P. 2-221 , and the HCD’s latest Conflict of Interest Policy #01-040.

## Confidentiality/Privacy

The Program is subject to, and will follow, HCD’s Policy No. 01-041.

The Program is committed to protecting the privacy of all individual stakeholders, including the public and those individuals working on the program. The program’s policies describe how information is to be handled and protected. The purpose of this privacy policy is to establish when and under what conditions certain information relating to individuals may be disclosed. The data collected for the Program may contain personal information on individuals that is covered by applicable federal and state laws, regulations, and rules. Effective September 1, 2019, the Texas Public Information Act makes confidential the personal identifying information of any person who applies for federal or state disaster funding. These laws provide for confidentiality and restrict the disclosure of confidential and personal information. Unauthorized disclosure of such personal information may result in personal liability with civil and criminal penalties. The information collected may only be used for limited official purposes:

- Program staff may use personal information throughout the award process to ensure compliance with program requirements, reduce errors, and mitigate fraud and abuse.
- Independent auditors, when hired by the City to perform a financial or programmatic audit of the program, may use personal information in determining program compliance with all applicable State and local law.
- HCD may disclose certain personal information provided in accordance with the City’s personal information policies and procedures.

## Record Keeping, Retention and File Management

HCDD has established recordkeeping and retention requirements for the purposes of maintaining records to adhere to program requirements and applicable federal, state, and local regulations including, but not limited to, Texas Government Code 552.004<sup>6</sup>, City of Houston Code of Ordinance Chapter 2, Article IV Division 5<sup>7</sup>, and HCDD Procedure #21-018 Records Management SOP.

The HCDD Records Management Program seeks to ensure that:

- HCDD complies with all requirements concerning records and records management practices under federal and state regulations;

---

<sup>6</sup> <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.552.htm>

<sup>7</sup> [https://library.municode.com/tx/houston/codes/code\\_of\\_ordinances?nodeId=COOR\\_CH2AD\\_ARTIVCIRE\\_DIV5MUREMA](https://library.municode.com/tx/houston/codes/code_of_ordinances?nodeId=COOR_CH2AD_ARTIVCIRE_DIV5MUREMA)

- HCDD has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements, and community expectations; and
- These records are managed efficiently and can be easily accessed and used for as long as they are required.

## Property Insurance

The Homebuyer shall maintain property insurance, and, if applicable, flood insurance in accordance with city, county, state, and federal laws and regulations, and as may be required in these Guidelines or the loan agreement and associated documents. If the Homebuyer fails to maintain the property insurance required by this Program or fails to notify any transferee of the Property of such insurance requirements, and the Property is damaged by a future disaster, then the Homebuyer's property **may not** be eligible for future City assistance.

If an insurance check is received for damages to a Program Property in the amount of \$10,000 or more, the progress of repairs to the Property may be monitored by the City and, under certain circumstances, the insurance proceeds may be deposited in an escrow account maintained by the City or the senior lender.

## Close-Out Audit

Upon completion of a Large Tract Development, the City may conduct a close-out audit.

## Complaints and Appeals Process

The City of Houston Housing and Community Development Department (HCDD) accepts complaints and appeals regarding HCDD-funded programs, developments, and/or activities. The following sections outline the complaint and appeals processes.

### Contact Information

City of Houston Housing and Community Development Department  
ATTN: Complaints and Appeals  
2100 Travis Street, 9<sup>th</sup> Floor  
Houston, TX, 77002

Phone: 832-394-6200 ext. 8

Email: [hcddcomplaintsappeal@houstontx.gov](mailto:hcddcomplaintsappeal@houstontx.gov)

Business Hours: Monday – Friday, 8:00 AM – 5:00 PM

### Complaints

HCDD welcomes feedback and complaints from any member of the public. Complaints are accepted in writing or over the telephone. Complaints will be responded to in writing within fifteen (15) business days, as practicable.

For more information, please refer to the HCDD website, [www.houstontx.gov/housing/complaints.html](http://www.houstontx.gov/housing/complaints.html).

## Appeals

### Appeal Request

All program applicants have the right to appeal a determination made by the Housing and Community Development Department (HCD). Applicants have the right to appeal decisions made on their program file based on the following:

- Non-receipt of award through NOFA or RFP process
- Denied services through any of HCDD's programs
- Denial of a request for resolution for tax credits
- Program eligibility determination
- Program award calculation
- Program determination of Moderate or Substantial damage leading to Rehabilitation or Reconstruction
- Procedural error where the application was not processed by program staff in accordance with the program guidelines
- Affirmatively Furthering Fair Housing

Appeal requests are accepted in writing via email at [HCDDComplaintsAppeal@houstontx.gov](mailto:HCDDComplaintsAppeal@houstontx.gov), mailed or delivered letter, online [Appeal Request](#) form, or using the paper form at the HCDD office. Appeal Requests must be submitted within 30 days of the notice of determination. To be considered complete, an appeal request must contain the following information:

- Name
- Property Address
- Mailing Address (if different from Property Address)
- Phone
- Application number (if applicable)
- Email Address
- Reason for Appeal

### Appeals Process

Tier 1 Appeals are the initial determination appeal, in which the program area will review all documentation submitted and either reiterate the initial determination or approve your appeal and overturn the determination. Appeals will be responded to in writing within 30 calendar days.

When a program applicant does not agree with the decision made in the initial appeal, program applicants have the right to request a Tier 2 Appeal. The Appeals Review Committee (ARC) will review all documentation and the supporting documents you send to support your appeal, and make a final decision. The appellant may only escalate the appeal after the completion of the initial program area process. The ARC will process the escalated appeal within thirty (30) days, as practicable. The ARC will transmit their decision to the appellant in writing.

HCDD will keep a record of each appeal that it receives and include all communications and their resolutions. For more information regarding HCDD's Appeal Process, please visit <https://houstontx.gov/housing/appeals.html>.