



# **HOME BUYER ASSISTANCE PROGRAM GUIDELINES**

Seventh Amended and Restated Guidelines

*Effective: April 5, 2023*

CITY OF HOUSTON

HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT

2100 Travis St., 9<sup>th</sup> Floor

Houston, TX 77002

Program Contact Information

HAP Customer Service 832-394-6200

<https://www.houstontx.gov/housing/hap.html>

[hap@houstontx.gov](mailto:hap@houstontx.gov)

These guidelines are not meant to be a substitute for Federal regulations nor is it exhaustive regarding all considerations affecting the sources or usage of funds. The Homebuyer Assistance Program (HAP) is governed by applicable Federal, State and local laws, statutes, regulations, codes and ordinances. Where these guidelines and other applicable laws, statutes, regulations, codes, ordinances, or policies are, or appear to be in conflict, the stricter of the two shall apply.

***The Director of the City of Houston Housing and Community Development Department may further amend the guidelines and approve and amend the HAP Procedures Manual in order to comply with applicable requirements of the United States Department of Housing and Urban Development (“HUD”) and other regulatory authorities and/or to ensure the efficient and proper administration of the HAP, provided that, without further Council approval, such administrative revisions (i) must limit to \$50,000.00 the maximum subsidy to program participants and (ii) must limit to 80% the maximum area median income requirement for program participants.***



## Version History

Version	Date	Changes
1.0	9/27/2005	Original Version
2.0	10/16/2007	N/A
3.0	9/17/2004	N/A
4.0	11/30/2016	<ul style="list-style-type: none"> <li>• Replace HOME funds with CDBG</li> <li>• Inclusion of TIRZ funds</li> <li>• Added flat 5-year affordability period</li> <li>• Increased subsidy amount to \$25,000</li> <li>• Added tiered approach to determining amount of subsidy qualification</li> </ul>
5.0	11/07/2018	<ul style="list-style-type: none"> <li>• Increase maximum subsidy amount to \$30,000</li> <li>• Allow all eligible homebuyers to receive maximum subsidy</li> <li>• Decrease homebuyer contribution from \$1,000 to \$350</li> <li>• Added liquid assets limit at \$15,000</li> </ul>
6.0	03/03/2022	<ul style="list-style-type: none"> <li>• Removed HOME program</li> <li>• Added additional homebuyer eligibility requirements</li> <li>• Added annual income inclusions and exclusions</li> <li>• Updated area median income limits</li> <li>• Updated application process</li> <li>• Increased liquid asset limit to \$30,000</li> <li>• Included Version Control Chart</li> <li>• Removed citation 24 CFR 813.106</li> </ul>
7.0	04/05/2023	<ul style="list-style-type: none"> <li>• Increase subsidy up to \$50,000</li> <li>• All adult household members cannot be a registered sex offender</li> <li>• Added a front-end ratio requirement of 33%</li> <li>• Buyer's Contribution – need proof before closing</li> <li>• Divorce Decree-need entire recorded copy</li> <li>• Updated the Application Intake phase timeframe to 30/45 calendar days</li> <li>• Property Selection-updated Waiver to Extension</li> <li>• Administrative Withdrawal timeframe updated to 30/45 calendar days</li> <li>• Occupancy-Sellers Occupancy should be received once a property is under contract</li> <li>• Ineligible Uses of Funds – added Debt cannot be paid at closing and applicant cannot receive cash back at closing</li> <li>• Removal of redundant language and requirements</li> </ul>

		<ul style="list-style-type: none"><li>• Added cross cutting federal regulations</li><li>• Updated definitions</li><li>• Updated visual guide to include monitor/compliance</li><li>• Added a Reporting Requirement section to include data collection</li><li>• Added Zero Income Certification Requirements</li><li>• Added prioritization of grant subsidy disbursement</li><li>• Added language to lender allocation of subsidy allocation</li><li>• Added requirement for Property Appraisal vs Sales Price</li><li>• <b>HCDD Management Approval 3/28/2023</b></li><li>• <b>City Council Approval 04/05/2023</b></li></ul>
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## Homebuyer Assistance Program Visual Guide



## Introduction

The City of Houston (City) Housing and Community Development Department (HCDD) HAP is designed to provide a subsidy amount of up to \$50,000 to assist with down payment, reasonable closing costs, principal reduction of the first mortgage, to subsidize mortgage interest rates and eligible prepaids (homeowner's insurance, property taxes, etc.) to income eligible first-time homebuyers to finance the purchase of a newly constructed or pre-existing home. The goal of the program is to increase homeownership opportunities for low and moderate-income residents whose income does not exceed 80% of the Area Median Income (AMI), adjusted for household size, as defined by HUD, within the incorporated areas of the City.

Funding for this program is made available through HUD's Community Development Block Grants (CDBG) and Local Tax Increment Reinvestment Zone (TIRZ) Affordable Housing Set-Aside Dollars. Qualified applicants may be eligible to receive financial assistance in the form of a forgivable loan, that is secured by a Deed of Trust and a five (5) year affordability period. The program guidelines are intended to provide an overview of the HAP, as well as provide information to applicants, potential applicants, lenders and real estate agents on the requirements of the program.

### National Objective

As expressed in the Federal Housing and Community Development Act, the primary objective of the general CDBG program is "the development of viable urban communities by providing decent housing and suitable living environment and expanding economic opportunities, principally for persons of low-and moderate-income (LMI)." The authorizing statute of the CDBG program requires each activity funded, except for program administration and planning activities, to meet one of three national objectives. The three national objectives are:

- Benefit to LMI persons;
- Aid in the prevention or elimination of slums or blight; and
- Meet a need having a particular urgency (referred to as urgent need).

## Purpose and Program Scope

The primary objectives of the HAP are:

- To disburse a portion of the CDBG and/or TIRZ grant funds to provide homeownership opportunities to eligible applicants in the amount of up to \$50,000.
- To meet the HUD National Objective of providing or improving permanent residential structures that will be occupied by low/moderate income households **24 CFR 570.208(a)(3)**.
- To improve the opportunities for homeownership for LMI families.



## Program Administration

The HCDD's HAP is designed to complement a normal private market real estate transaction, in that it will be administered with the least number of additional overlays as possible, while still maintaining program compliance.

The City will administer its program in accordance with these HAP Guidelines, HAP Procedures Manual, and HUD CDBG regulations and guidance. The City reserves the right to assign or adjust program priorities and re-allocate program funds, if in doing so it would better serve the affected communities and their residents.

Daily administration of the program will be under the direct supervision of the Director of HCDD, or their designee. Further processes, such as the eligibility process, award determination, Minimum Construction Standard (MCS) inspection protocol will be administered and implemented by the HCDD program area.

HCDD will process applications on a first-come, first-serve manner. The provisions of assistance are contingent upon the availability of funding. When funding is limited or unavailable, the City will notify all applicants in the program.

## Eligibility Overview

### Homebuyer Eligibility Requirements:

- Applicant(s), co-applicant(s) and household member(s) over age 18 must be current on payments for child support, or on an approved payment plan.
- Applicant(s) and co-applicant(s) must be a first-time homeowner.
- First-time homebuyer applicant(s) and co-applicant(s) must complete the First-Time Homebuyer Certification with a HUD certified housing counselor. See definition of First Time Homebuyer.
- The HAP assisted property must be located in the City of Houston's jurisdiction and be verified by the City's HCDD Geographic Information System (GIS) section to determine the location is eligible.
- Applicant(s), co-applicant(s) and household member(s) must meet income eligibility requirements (up to 80% of AMI), adjusted for household size, as published annually by HUD.
- Applicant(s) and co-applicant(s) must be a U.S. citizen or permanent resident alien.
- Applicant(s) and co-applicant(s) must be able to obtain a fixed-rate mortgage loan for the length of the qualifying compliance period based on award amount
- Program participants must agree to compliance period and lien requirements. The compliance period of homes purchased will be five (5) years for up to \$50,000 of assistance.

The lien on the property will be removed by the City upon completion of the terms and conditions of all documents related to the program and completion of the compliance period.

- Forgiveness of the loan provided will be prorated over the course of the determined compliance period. The proration percentage will depend on the length of the period, with 100% of the loan being forgiven and the lien satisfied at the termination of the compliance period. Should the homebuyer use the property as rental, sell, or otherwise convey their ownership interest in the property during the compliance period, the remaining prorated amount of assistance will become immediately due and payable. Should a homebuyer convey ownership interest of the assisted property, HCDD will enforce recapture provisions through a lien.
- Applicant and co-applicant must maintain insurance for the assisted property throughout the compliance period. In order for the property to be considered for federal assistance in the future, flood insurance must remain in effect throughout ownership. Failure to maintain flood insurance may result in the denial of future federal disaster assistance should another event occur. Please note, if the property is located in the 100-year floodplain, flood insurance must be obtained on the subject property prior to closing, evidenced by a declaration page, with an effective coverage date no later than 30 days after closing
- 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 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.
- 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.
- Any household member must be legally divorced to list themselves as separated from their significant other on the application. The entire recorded divorce decree is required.

### **Income Eligibility**

Throughout the guidelines the term “Annual Income” is used to refer to annual (gross) income calculated using the 24 CFR §5.609 Part 5 definition. Based on the household composition and qualified income sources, applicants’ income, including all household members, except minors, will be evaluated at the time of eligibility determination and prior to closing using HUD’s most recent AMI as published annually by HUD. Income limits are updated annually and will be published on HCDD’s website. The HAP staff will refer to the Technical Guide for Determining Income and Allowances for the HOME program when uncertainties arise when calculating annual (gross) income.

**Annual Income includes, but not limited to (24 CFR 5.609 b):**

- The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
- The net income from operation of a business or profession. 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
- 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 (e.g., Black Lung Sick benefits or Veterans Disability) except for deferred periodic payments as outlined at [24 CFR 5.609\(c\)\(14\)](#).
- Payments of lieu of earnings, such as unemployment, disability compensation, worker's compensation, and severance pay. If the applicant(s), co-applicant(s) and/or a household member(s) who are 18 years of age or older are not currently working, they must complete a Zero Income Statement. 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.

**Annual Income does not include the following, but is not limited to (24 CFR 5.609 c):-**

- Income from employment of child (including foster children) under the age of 18 years.
- Payment received from the care of foster children or foster adults (usually persons with disabilities unrelated to the tenant family, who are able to live alone).
- Earnings in excess of \$480 for each full-time student 18 years or older (excluding the head of household and spouse).
- Adoption assistance payments in excess of \$480 per adopted child.

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 **eighty (80%) percent of the AMI**, adjusted for household size, as determined annually by HUD. Refer to the HAP webpage for the latest income limits: <https://houstontx.gov/housing/hap.html>.

A household may be eligible to receive assistance (i.e. CDBG, TIRZ Bonds, and/or TIRZ Annual Allocation), through the HAP, when all adult persons (18 years of age or older) who will reside in the assisted unit provides sufficient source documentation that allows the HAP to determine total household income.

To determine whether a household is income eligible, the HAP staff will determine the households' annual gross income using the annual income as defined in the Part 5 Method (**24 CFR 5.609**). The HAP staff will verify household income using the source documentation (such as wage statements, interest statements, and unemployment compensation statements, etc.) provided at the time of eligibility determination. Source documents provided must be recent (within the last 3 months). The HAP is not required to re-certify the household's income at the time the assistance is provided, unless six months has elapsed since the HAP determined that the household was income eligible in accordance with 24 CFR §92.203(d)(2). All re-certifications will be subject to the current approved guideline requirements that are in place at that time. HCDD

reserves its right to re-examine an applicant's household income at any time prior to commitment of any funds to ensure continued compliance with established income limits.

To receive assistance when using TIRZ funds (Annual Allocation and Bonds), subject to any limits approved by City Council, the 80% AMI threshold limit will apply. Applicants receiving assistance exclusively from a non-federal source such as TIRZ funds or through a federal source that specifically allows a household income to exceed the 80% AMI threshold, may be provided assistance if HCDD Director has increased the AMI threshold as mentioned below. The total household income from all sources (including income from a non-purchasing spouse) cannot exceed eighty (80%) percent of the Area Median Income (AMI), adjusted for household size, as determined by the HAP. When combining TIRZ funds with CDBG funds, the total household income cannot exceed 80% of the AMI.

At least annually, the HCDD Director or their authorized designee, will review the TIRZ maximum AMI threshold limit and, subject to any limits imposed by City Council, may adjust the maximum AMI threshold. Adjustments to the TIRZ AMI threshold limit must be authorized in writing, signed and dated by the HCDD Director or their authorized designee and published in the HAP Procedures Manual.

### **Liquid Asset Limit**

Applicant's liquid assets shall not exceed \$30,000 at the time of eligibility determination and prior to closing. To ensure public funds are not being used to replace a buyer's liquid assets in a transaction, HAP participants will be limited to a maximum liquid asset amount at the time of eligibility determination. This limit will be assessed annually and published in the HAP Procedures Manual. For this rule, liquid assets will mean all cash, cash equivalents, stocks, bonds, money market instruments or any other non-retirement investments or assets that are not tax-deferred. Waivers may be granted to this requirement in situations where the applicant is (1) near retirement (within two years or less), (2) retired (ceasing to collect income from employment and/or self-employment), (3) permanently disabled or other unusual circumstances where an applicant's ability to work is severely diminished and the applicant is solely dependent on liquid assets to pay for basic living expenses. Waiver authorizations must be provided in writing, citing the justification for the waiver. If approved, the HCDD Director or their authorized designee will sign and date the Waiver and maintain a copy in the client file. Waiver requirements will be assessed annually and published in the HAP Procedures Manual.

## **Application Process**

Applications will be processed on a first-come, first-serve manner. The provision of assistance is contingent upon the availability of funding. When funding is limited or unavailable, the City will notify all applicants by email and posting the information on the website.

Potential applicants will be required to take the required first-time Homebuyer Education course through a HUD certified counseling agency and be pre-approved with a lender of their choice prior to applying to the HAP, thereafter, applicants may proceed through the following process:

1. Potential applicant(s) will contact the Call Center to request a HAP ID number after meeting

- the preliminary criteria assessed during the survey.
2. Potential applicant(s) submit the required documentation via the applicant portal, by mail or in person.
  3. Eligibility is determined after a review of household size, income and assets.
  4. A HAP conditional reservation letter or a denial letter will be created and emailed to the applicant(s) based on the eligibility determination.
  5. If approved, the applicant(s) will work to place a property under contract and have their lender and/or realtor submit the applicable lender and property documents to the assigned HAP Underwriting Specialist.
  6. The property undergoes an environmental review and a property inspection based on the MCS inspection protocol.
  7. If property passes the environmental review and a property inspection based on the MCS inspection protocol, the applicant(s) will go into underwriting to ensure the loan is reasonable and affordable, and if it is determined that the loan and property are satisfactory, a final Commitment Letter is issued.
  8. The lender and/or title company will then submit applicable closing documentation.
  9. When all pre-closing documents are collected, closing is coordinated with all stakeholders to ensure the HAP funds are wired on the day of closing.

### **Applicant Intake Phase**

The Application Intake phase will be initiated by the Call Center. Applicants who have met the preliminary criteria within the HAP survey will be issued an HAP ID number and referred over to the website to complete an application; and upload (through our online portal-preferred method) all supplemental documents required for a file to move to the next phase in the program, this can also be done by US Mail, in person drop-off, or email ([homebuyersapplication@houstontx.gov](mailto:homebuyersapplication@houstontx.gov)). Applicants are allotted 30 calendar days if they provide an email address or 45 calendar days for those without an email address, to complete the program application and submit all supplemental documentation from the date of the initial contact (date HAP ID number is issued). If the applicant has not submitted their application or uploaded the minimum documents required within the allotted timeframe mentioned above, the applicant will automatically be withdrawn from the active HAP population (requiring the applicant to re-apply).

An Application Document Checklist that identifies all document types accepted for each eligibility criteria is available on the [HAP website](#). Once an application and supplemental documents have been received, the applicant(s)' file will be assigned to an Intake Specialist within 5 – 7 business days.

### **Application Submitted**

HAP will aid applicant(s) and their families through clear and transparent communication to understand the program's housing options, determine eligibility, execute necessary documentation, and close out the project. Applicant(s) will have 10 calendar days to provide all documents needed in order for the HAP to make an eligibility determination. Applicant(s) files will be administratively withdrawn if they are non-responsive for more than 10 calendar days while documents are being collected due to an incomplete application. HAP will make one attempt to

contact the applicant(s) via email, mail, or over the phone before a file is closed out for non-responsiveness.

Applicant(s) will be notified via email or mail of their eligibility determination. If approved, the applicant(s) will receive a conditional reservation letter. HAP recommends applicants to not place earnest money on a property until they have received a conditional reservation letter from the program. The intake process can take up to 6-8 weeks, not including any outside factors or unforeseen circumstances.

### **Communication Designee**

Applicant(s) have the option to designate an individual inside or outside their household (family friend, realtor, lender, etc.) to make inquiries or assist with the completion of the application and supporting documents. The applicant(s) must complete the communication designee form. This form can be provided once a file is assigned to an intake specialist.

### **Power of Attorney**

Applicant(s) have the option to designate an individual to act on their behalf and sign-off on documents. The applicant(s) must provide an executed Power of Attorney document that has been recorded with the County Clerk's office.

### **Property Selection**

Applicant(s) will be allotted 120 calendar days (4 months) to identify and close on a property. If an applicant(s) is unable to identify and close on a property within the 120 days, the file will be administratively withdrawn. HAP will make two attempts to advise the applicant(s) of the timeframe remaining either via email, mail, or over the phone before a file is administratively withdrawn. A one-time extension may be granted by the Underwriting team to allow an applicant(s) an additional 60 calendar days (2 months) to locate and close on a property. Extensions will be granted on a case-by-case basis and the request must be made in writing and received prior to the expiration date on the conditional reservation letter. If a property is not identified and closed on within the allowable timeframe, the applicant(s) file will be administratively withdrawn from the program due to no sales contract executed within timeframe.

There is no maximum purchase price of a home, however, the front-end ratio must conform to our guidelines regarding debt to income discussed in the section labeled "Underwriting and Subsidy Layering" to maintain affordability.

### **Administrative Withdrawals**

Applicant(s) may be administratively withdrawn for multiple reasons, including, but not limited to the following:

- Application and supplemental documents are not provided within the 30 or 45 calendar day timeframe from the HAP ID being issued. Timeframe is based on 30 calendar days if applicant provided an email or 45 calendar days if applicant did not provide an email.

- The program confirms an application is a duplication of other valid applications or results in an overlap of other program funds.
- Applicant(s) fails to provide required documentation or information after receiving a written request, or to communicate a reasonable timeframe for supplying said documentation.
- Applicant(s) or their designee is aggressive and/or abusive to an HCDD employee or any other representative or affiliate program.
- Applicant(s) violates the statement to provide true and complete information by providing false or misleading information.

Applicant(s) who have been deemed ineligible will be eligible to re-apply after 3 months from the date of denial letter.

***Warning: “Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729”***

### **Fraud, Waste and Abuse**

The City will assess all program systems, processes and Standard Operating Procedures from an anti-fraud, waste, and abuse perspective. The City will provide anti-fraud training to program staff. Any potential fraud, waste, and abuse detected by staff must be reported to the Allegations Coordinator or directly to the Office of Inspector General. Anyone with information regarding known or suspected misappropriation of funds or resources is encouraged to report the information to the Allegations Coordinator via email at [housingfraud@houstontx.gov](mailto:housingfraud@houstontx.gov) or directly to the Office of Inspector General at:

#### **City of Houston Office of Inspector General**

900 Bagby Street, 4<sup>th</sup> Floor  
Houston, Texas 77002; or  
P.O. Box 368  
Houston, Texas 77001-0368  
832-394-5100

#### **HUD OIG Field Office**

1301 Fannin Street, Room 2200  
Houston, Texas 77002  
1-800-347-3735

### **Eligible Properties Standards**

#### **A. Eligible Property Types**

Eligible property types include any property that will serve as the homebuyer’s principal Homebuyer Assistance Program (HAP) Page 14 of 34

residence, including a single-family property (1 unit), condominium unit/townhouse, cooperative unit or manufactured home on a permanent foundation.

## **B. Property Location**

All properties must be located within the incorporated areas of the City of Houston or be serviced by the City and subject to pay City property taxes. This will be verified by the City of Houston's HCDD Geographic Information System (GIS) section to confirm that the location is eligible. In the case of local funds, other geographic restrictions may apply, which will be published annually as part of the HAP Procedures Manual.

## **C. Property Appraisal**

The sale price of the property being purchased cannot be greater than the property's appraisal value. This will ensure the cost is reasonable.

## **D. Minimum Property Standards**

HCDD requires an internal inspection of all units receiving assistance prior to closing to ensure the unit is free from defects and is decent, safe, and sanitary. A qualified City inspector and/or agent working on behalf of the City will inspect the property to determine whether the property meets the inspection protocol of the latest HCDD's MCS for Single Family Housing.

A maximum of three property inspections will be conducted. If the home does not meet the minimum requirements after the third inspection, the buyer must select a new property.

HCDD will complete a HUD Environmental Review on the property (see Section F below) prior to the commitment of funds by HCDD.

Properties located in a 500-year flood plain are eligible for assistance. Properties located in a 100-year floodplain may be eligible for assistance (see Section D below).

## **E. 100-Year Floodplain**

If the property is located in a 100-year flood plain, the property must either have been built in compliance with City Ordinance 2018-2581 (as amended) or have a National Flood Insurance Program (NFIP) Elevation Certificate demonstrating compliance with the City's floodplain management ordinances.<sup>2</sup> The elevation certificate will be required from the homebuyer to be eligible for HAP assistance.

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<sup>1</sup> <https://library.municode.com/tx/houston/ordinances/code%20of%20ordinance?nodeId=891265>

<sup>2</sup> Additional information can be found at the Houston Permitting Center's website. Elevation Certificates must be deemed acceptable by the Houston Permitting Ctr. prior to transfer of ownership.



#### **F. Lead-Based Paint**

All pre-1978 built properties acquired through the HAP must meet all applicable federal standards ([24 CFR Part 35](#)) for lead-based paint as outlined in the [HCDD MCS for Rehabilitation, Reconstruction and New Construction #07-002](#)

#### **G. Environmental Review**

In accordance with HUD's regulations for implementing the National Environmental Policy Act at 24 CFR Part 58, HCDD must perform and complete Environmental Reviews of proposed programs, projects, and activities that will utilize CDBG funds, located within the incorporated areas of the City of Houston. A HUD Environmental Review will be performed on the property by HCDD prior to commitment of federal and/or local funding by HCDD (24 CFR Parts 50).

#### **H. Occupancy**

HCDD programs will be subject to the URA and Section 104(d) and will include the CDBG programs. HCDD policies and procedures, Notice of Funding Availability (NOFA), applicant certifications and/or written agreements for funds subject to the URA and Section 104(d) shall refer to federal and state rules, as appropriate.

The property cannot be tenant occupied. A vacant property cannot have been occupied by a tenant or occupant (with or without a written lease agreement) 90-calendar days from the date of the earnest money contract or listed for sale on any marketing platform. The seller is required to certify the occupancy status of the property.

The HAP will not provide down payment assistance for any property that is tenant occupied. In the event an applicant(s)/homebuyer(s) selects a home that is tenant occupied, HAP will require the applicant/buyer to select an alternative property that does not have a tenant. HAP encourages applicant(s)/homebuyer(s), and/or lender to have the Seller's Occupancy Certificate signed and dated by the seller, indicating the property location and its status, as it relates to any potential tenant(s) occupancy before signing an earnest money contract. The signed and dated Seller's Occupancy Certificate must be submitted to HAP once a property has been selected.

## **HAP Loan Terms of Assistance**

#### **A. Eligible Uses of HAP Funds**

CDBG, TIRZ, and any other local funding made available to the HAP shall be used to assist income eligible homebuyers acquire either an existing or a newly constructed housing unit. Assistance may be used to pay the minimal amount required for (1) up to 50% of the required down payment (2) reasonable closing costs and (3) reduce the principal amount of the first mortgage (4) subsidized mortgage interest rate (5) pre-paid items (homeowner's insurance, property taxes, etc.).

**B. Ineligible Uses of HAP Funds**

HAP assistance may not be used to (1) pay any portion of a real estate agent’s fee (2) pay delinquent taxes (3) pay fees or charges on properties which are the result of the seller (4) pay any debt at closing (5) receive any cash back at closing.

**Affordability Period and Recapture Requirements**

Affordability period refers to the required number of years the property must be the borrower’s primary residence. The HAP is made available for eligible homebuyers in the form of a 0% interest, forgivable loan, subject to a 6% loan balance fee if default occurs and is secured by placement of a lien in the highest allowable position on the applicants’ property. The loan does not require monthly payments and is forgiven over an affordability period of five (5) years.

Applicant(s) must occupy the property as their primary residence for a minimum of five years. The affordability period shall commence on the date of the Loan Note. Selling, including foreclosure, or leasing the home during the affordability period is considered a default on the loan note and terms of the program. Cash-out refinancing and home equity loans are not allowed during the compliance period; a violation of this policy will activate the loan repayment terms. If the homebuyer violates the terms and conditions of the loan, HCDD may recapture the entire amount or a portion of the loan. A deed restriction is placed on the property that provides for the recapture of the subsidy. The loan balance is forgiven or reduced at a rate of 20% for each completed year of residency, with no credit given for partial years completed.

Affordability Period	Loan Forgiveness Rate per Year
5 Years (with a lien)	< 1 Year – 0%
	Year 1 – 20%
	Year 2 – 40%
	Year 3 – 60%
	Year 4 – 80%
	Year 5 – 100%

**Underwriting and Subsidy Layering**

The underwriting requirement was put in place to assure federal resources are neither duplicated, nor wasted, when applied to affordable housing and to assure the short and long-term financial sustainability of households receiving assistance. Reasonable and customary cost as defined by HCDD will be analyzed to assure compliance with CDBG regulations.

The HAP will maintain in its written procedures, consistent processes for evaluating the short and

long-term financial sustainability of transactions assisted with CDBG funds. These procedures will include at a minimum:

#### **A. Maximum Subsidy Limit**

To ensure public funds benefit the short and long-term financial sustainability, HCDD will establish a maximum subsidy amount that is based on low to moderate income applicants whose AMI is at or below 80%, as published by HUD, current prices of homes, current prevailing interest rates and other lending costs including tax rates, homeowner insurance and mortgage insurance.

The maximum subsidy amount will be published through the HAP website at least annually, or at the discretion of the Director when market volatility renders current maximum subsidy amounts inaccurate.

**The current subsidy amount is up to \$50,000.** 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 HAP eligibility process (income and household size)
- from the lender on the:
  - Loan Estimate and Uniform Underwriting and Transmittal Summary (interest rate, sales price, monthly principal/interest, closing cost)
  - Loan Disclosure (lender required down payment amount)

The subsidy amount will be allocated in this order:

1. To subsize 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.

## **B. Debt-to-Income Ratio**

Front-end ratio cannot exceed 33%. A calculation that measures the mortgage payment to income based on a percentage of their gross monthly household income, will be utilized to determine the sum of the mortgage payment (i.e. principal, interest, mortgage insurance, association dues, taxes, home/flood insurance) does not exceed 33% of the applicant(s) gross monthly income.

Back-end ratio cannot exceed 45%. 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.) based on a percentage of their gross monthly household income, will be utilized to determine the sum of these monthly debts do not exceed 45% of the applicant(s) gross monthly income.

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 front-end 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.<sup>3</sup>

## **C. First Mortgage Terms**

To ensure homebuyers receiving HAP assistance are not subject to predatory or unfair lending practices, the HAP Procedures Manual shall have a written policy that is reviewed and updated at least annually to describe the eligible types of first mortgage financing that can be combined with HAP assistance and discuss the maximum allowable closing costs to be charged to a program participant. At a minimum, this shall include maximum allowable interest rate based on the current market, loan-to-value ratio, and types of allowable mortgages. Loan Types: the buyer must be able to obtain a fixed-rate mortgage (the HAP does not accept adjustable rate or seller financed mortgages).

## **D. Maximum Closing Costs**

To ensure participants in the HAP program are not victims of predatory lending, and the client and the Affordable Lender Partner (ALP) have a clear expectation of the amount of assistance, closing cost assistance will be limited to a maximum amount of assistance published and revised annually by HCDD. The maximum closing cost limit shall also be published annually in the HAP Procedures Manual.

## **Cross Cutting Federal Regulations**

This program will be designed and implemented in compliance with cross-cutting federal regulations when applicable, including:

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<sup>3</sup> HUD Chapter 4, Section F - General Information on Borrower Qualifying

### ***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 sub-recipients, vendors, and developers.

### ***Fair Housing***

The Fair Housing Act requires all grantees, sub-recipients, 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 grantees, sub-recipients, and/or developers meet the applicable Fair Housing and Affirmative Marketing requirements, provide a marketing plan, and report on compliance in accordance with the Fair Housing Act and the associated forms on HCDD website, where applicable. The Affirmative Marketing Plan must comply with applicable Fair Housing Laws and demonstrate how the applicant will affirmatively further fair housing throughout applicable HCDD programs.

### ***Limited English Proficiency***

Federal Executive Order 131661 requires HCDD and all satellite offices, programs, sub-recipients, contractors, subcontractors, and/or developers funded whole or in part with CDBG financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. HCDD ensures fair access through the implementation of a Language Assistance Plan (LAP), which includes non-English-based outreach, translation services of vital documents, free language assistance services, and staff training. Refer to the "Language Assistance Plan" Provision of Language Assistance Services for additional guidance and protocols.

### ***Environmental Review Procedures***

The Environmental Review require all federally funded projects or activities, funded in whole or in part, to undergo an environmental review to determine its potential environmental impact and health impact to the end user, and if it meets the federal, state, and local environmental standards. HCDD will comply with this requirement as outlined in the HCDD Environmental Review Procedures #21-016<sup>4</sup>.

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<sup>4</sup> [https://hcd.healthstreampolicy.com/portal/Components/PnP/DocTree\\_ViewFile.aspx?ModuleID=1710&ID=03B5C3FF-974A-467C-A172-101F5250F049](https://hcd.healthstreampolicy.com/portal/Components/PnP/DocTree_ViewFile.aspx?ModuleID=1710&ID=03B5C3FF-974A-467C-A172-101F5250F049)

### ***Lead Based Paint Poisoning Prevention in Certain Residential Structures***

The Lead Based Paint Prevention in Residential Structures provision require the seller or lessor of target housing to disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead based paint hazards and requires the City to establish procedures to eliminate as far as practicable the hazards of the lead-based paint poisoning with respect to any existing housing receiving federal assistance. HCDD will comply with this requirement as outlined in the HCDD Lead Based Hazard Control Procedures #07-001<sup>5</sup>.

### ***Uniform Relocation Act and Real Property Acquisition***

The acquisition of real property using CDBG federal funds, as administered by HCDD, is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 C.F.R. Part 24 (URA), 24 C.F.R. part 42, Section 104(d) of the Housing and Community Development Act (42 U.S.C. § 5304(d) (“Section 104(d)”), and in the Tenant Assistance, Relocation and Real Property Acquisition Handbook (HUD Handbook 1378).

### ***Acquisition of Real Property***

Upon notification of permission from HCDD, the City proceeds with efforts to acquire any real property, including easements and right-of-way, required for the project. CDBG federal funds, administered by HCDD and disbursed to beneficiaries, are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 CFR Part 24 (URA), 24 CFR Part 42 (Section 104(d)), and in the Real Estate Acquisition and Relocation Policy and Guidance Handbook (HUD Handbook 1378).

The HAP will not provide assistance for any property that is tenant occupied. In the event an applicant/homebuyer selects a home that is tenant occupied, HAP will require the applicant/homebuyer to select an alternative property that does not have a tenant. HAP will provide the applicant/homebuyer and/or lender with a Seller’s Occupancy Certificate to be signed and dated by the seller, indicating the property location and its status, as it relates to any potential tenant(s) occupancy. The signed and dated Seller’s Occupancy Certificate must be submitted to HAP prior to closing.

### ***Record Keeping, Retention and File Management***

In accordance with HUD regulations, HCDD will follow the records retention requirements cited in 2 C.F.R. 200, which includes financial records, supporting documents, statistical records and all other pertinent records.

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<sup>5</sup> [https://hcd.healthstreampolicy.com/portal/Components/PnP/DocTree\\_ViewFile.aspx?ModuleID=1710&ID=DB50A00B-4873-4C93-AAFF-DEC2974A8F15](https://hcd.healthstreampolicy.com/portal/Components/PnP/DocTree_ViewFile.aspx?ModuleID=1710&ID=DB50A00B-4873-4C93-AAFF-DEC2974A8F15)

### ***Reporting***

As a recipient of CDBG funds, HCDD will establish reporting requirements in accordance with 24 C.F.R. 570.503(b)(2). HCDD has established its own reporting requirements in accordance with the provisions as found in 2 C.F.R. 200, as applicable:

- At execution of agreements;
- Monthly;
- Quarterly;
- Annually; and
- As required.

### ***Record Retention***

Record retention is a requirement of the program. Records are maintained to document compliance with program requirements and federal, state, and local regulations and to facilitate a review or audit by HUD. 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;
- HCDD has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements, and community expectations;
- These records are managed efficiently and can be easily accessed and used for as long as they are required.
- Up-to date, comprehensive files (which begins with application and eligibility and ending with program closure) should be maintained
- CDBG records are maintained for a minimum period of four (4) years from the date of the grant closeout, 24 CFR 570.502.

These records are stored as cost-effectively as possible and when no longer required they are disposed of in a timely and efficient manner based on HUD Handbook 2225.6, Records Disposition Schedules and HUD Handbook 2228.2.

### ***Access to Records (Federal – City)***

24 C.F.R. 570.490 Recordkeeping requirements:

(c) Access to records.

(1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG funds and necessary to facilitate such reviews and audits.

The availability of records is subject to the exemptions to public disclosure set forth in section 87(2) of the Public Officers Law. All Freedom of Information Law (FOIL) requests under the Public Officers Law must be made in writing to the Records Access Officer and will be processed in accordance with the procedures set forth therein.

### ***Audit Requirements***

In accordance with Subpart F of 2 C.F.R. 200, non-federal entities that expend \$750,000 or more during their fiscal year in federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions therein. HCDD is responsible for conducting reviews of these single or program-specific audit reports and for coordinating the issuance of management decisions for audit findings relating to HCDD-provided federal funds.

### ***Confidentiality/Privacy***

The HAP 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 from applicants for the HAP may contain personal information on individuals that is covered by the Federal Privacy Act of 1974, as well as applicable state laws. 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 program to perform a financial or programmatic audit of the program, may use personal information in determining program compliance with all applicable HUD and federal regulations, including the Stafford Act, CDBG requirements and State and local law.
- HCDD may disclose personal information on an applicant to those with official Power of Attorney for the applicant or for whom the applicant has provided written consent to do so.

### ***Conflicts of Interest***

The program requires all program staff to disclose any relationship with an applicant or contractor. Program staff, sub-grantees, program administrators, and contractors who disclose such relationships are placed in roles where there is no opportunity for them to display favoritism or collude to financially or otherwise benefit themselves, the applicant, or the contractor. For example, a customer representative may not perform work on the application of family. For purposes of this regulation, "family" is defined to include spouse, parents, mother-in-law, father-in-law, grandparents, siblings, brother-in-law, sister-in-law, and children of an official covered



under the CDBG regulations at 24 CFR 570.489(h). The HAP will comply with the Conflict-of-Interest requirements outline in HCDD Policy #01-040 and City of Houston [A.P. 2-22](#).

HCDD may consider an exception to the conflict of interest provisions per 24 CFR 570.489(h)(4) HCDD considers whether the exception provides a significant cost benefit or essential degree of expertise; whether the person affected is an LMI person, whether the affected person has withdrawn from their functions or responsibilities; whether the interest or benefit was present before the affected person was in a position to benefit from the conflict of interest; or whether undue hardship results from failure to grant the exception.

## Closeout, Monitoring and Reporting Procedure

### *Closeout Requirements*

Upon completion of a home purchase assisted with HAP funds and receipt and review of the required post-closing documents, the HAP will then submit the file for monitoring. Annually, the homebuyer(s) will need to certify their ownership status with HCDD's internal loan servicing division, ensuring compliance with program terms and conditions. Required documentation may include, but not be limited to, homeowner's insurance policy, current utility bills, tax assessment notices, etc.

### *Compliance Period Monitoring*

- Flood insurance will be monitored during the length of the compliance period.
- If the applicant and/or co-applicant are deceased and there is a remaining compliance period unmet, the inheritor(s) will have to provide proof of ownership of the home. The inheritor(s) will be required to continue under the program guidelines throughout the compliance period, or they have the option to repay the grant using the Loan Forgiveness Rate per Year. The Director of HCDD may waive these requirements on a case-by-case basis, upon written request from the inheritor(s).

### *Principal Residence Requirement*

The property **must be occupied as the principal residence by the homebuyer** throughout the affordability period commencing on the date of the Loan Note. A Second Lien Deed of Trust will be obtained to secure the Homebuyer's compliance with the affordability period and all other HAP requirements as determined by the Director on behalf of the City. Under the affordability period compliance requirements, there is no change allowed in use and/or occupancy and the Homebuyer must comply with all HAP requirements. Should a change in ownership (including foreclosure) occur during the affordability period, the loan will be subject to HCDD-established recapture requirements.

If the homebuyer(s) occupies the property as their principal residence for the entire affordability period, no recapture requirements will apply. However, if the property is sold (including foreclosure) or rented, the City shall recapture the pro-rated amount of assistance as indicated under the Recapture Requirements.

The City's recapture amount is limited to the net proceeds or profits available from the sale of the property. In some cases, such as a declining housing market, the net proceeds or profits available at the time of sale may be insufficient to recapture the subsidy provided to the homebuyer. Because of this, the City can only recapture what is available from net proceeds or profits. Hence, the City will limit the recapture to the net proceeds available from the voluntary/involuntary sale up to the full amount of the HAP loan. If the homeowner vacates the property, converts it into a rental property, or in the case of other forms of default during the affordability period, the City shall pursue all available remedies to the City under the HAP Promissory note, Deed of Trust or other HAP loan documents including repayment of the HAP loan.

### ***Reporting Requirements***

Demographic information will be captured through the entire process of collecting data from the applicant, co-applicant and household members. The data collected will allow HCDD to perform an analysis on the characteristics of the population we serve. This will allow us to better understand how to market and strategically plan for the future.

HCDD will capture and report the following:

- Head of household's race and ethnicity
- All household member's marital status and gender
- All household member's disability and veteran status
- Household income at the time of eligibility
- Household income as a percentage of AMI at the time of eligibility, as defined by HUD

### **Complaints**

The HCDD welcomes feedback and complaints from any member of the public. Complaints are accepted verbally (in person or over the telephone) or in writing (by letter or via email) .

Complaints will be responded to in writing within fifteen (15) business days, as practicable. For further information, please refer to the HCDD Complaints website,

<https://houstontx.gov/housing/complaints.html>.

## **Contact Information**

### **HCDD Mailing Address**

Housing and Community Development Department  
2100 Travis St., 9th Floor  
Houston, TX 77002  
Attn: Complaints and Appeals

### **HCDD Email Address**

[HCDDComplaintsAppeals@houstontx.gov](mailto:HCDDComplaintsAppeals@houstontx.gov)

### **HCDD Business Hours**

Monday - Friday  
8:00 AM to 5:00 PM

## **Appeals**

HCDD's appeal process will be provided in writing to any appellant upon request or receipt of an appeal, and the same process will be clearly posted on the City's websites, including entitlement program websites. For further information, please refer to HCDD's Appeals website, <https://houstontx.gov/housing/appeals.html>.

There are two (2) appeal levels: first-level (Tier 1) processed by the program and second-level (Tier 2) processed by an Appeal Review Committee.

HCDD will keep a record of each appeal it receives and include all communications and their resolutions therein. Applicant(s) have the right to appeal decisions made on their program file based on the following:

- Denied services through any of HCDD's programs
- Program eligibility determination
- Program award calculation
- Procedural error where the application was not processed by program staff in accordance with the program guidelines
- Procedural error where the applicant submitted an incomplete or incorrect information.
- Affirmatively Furthering Fair Housing

Appeals must be made in writing and addressed to HCDD Complaints and Appeal team either in a letter form accepted by mail, email, or in-person at the HCDD office. Another option is to submit a written appeal using HCDD's Appeal Request Form (see link to form below, it's available on HCDD's website or at the HCDD office). In order for written appeals to be considered complete, an appeal must contain the following information:

- First and Last Name

- Property Address
- Mailing Address (if different from Property Address)
- Phone Number
- Application number (if applicable)
- Email Address
- Reason(s) for Appeal
- A specific explanation of the reason(s) disagreeing with the decision
- Supporting documentation (if any)

Appeals must be made within thirty (30) days from the date of a written determination letter issued to the applicant(s) that generated the appeal. Upon receipt of an appeal, HCDD will respond in writing to the appellant of the program area's decision regarding the appeal and provide the basis thereof within thirty (30) days, as practicable.

### ***Appeals Review Committee***

Should the first-level (Tier 1) appeal process with the program area not achieve a resolution amenable to the appellant, the appellant has the right to escalate the appeal, in writing, to the Appeals Review Committee (ARC). 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.

### ***Contact Information***

#### **HCDD Physical and Mailing Address**

Housing and Community Development Department  
 2100 Travis St., 9th Floor  
 Houston, TX 77002  
 Attn: Complaints and Appeals

#### **HCDD Email Address**

[HCDDComplaintsAppeals@houstontx.gov](mailto:HCDDComplaintsAppeals@houstontx.gov)

#### **HCDD Appeal Form**

<https://houstontx.gov/housing/forms/online/appeals-request-form.html>

#### **HCDD Business Hours**

Monday - Friday  
 8:00 AM to 5:00 PM

#### **HCDD Phone Number**

Main: 832-394-6200 extension 8  
 Hotline: 832-394-6388

## Definitions

**Affordability Period:** the period of time the homebuyer is required to own and occupy the property as his/her primary residence which is tied to the amount of assistance provided

**Affordable Housing:** housing for people at or below eighty percent (80%) of the AMI as determined by HUD for either the HOME and/or CDBG programs

**Affordable Lending Partners:** a lender of choice obtained by the applicant/co-applicant

**Annual Income:** the anticipated gross income from all sources for all adult family members during the coming 12-month period in accordance with 24 CFR Part 5, Section 8 definition of annual (gross) income

**Appraisal:** an estimate of a home's market value based on comparable recent sales in the home's immediate area or neighborhood, conducted by a professional appraiser, licensed through the Texas Real Estate Commission

**Area Median Income (AMI):** the income limits published annually by HUD for the City, including areas serviced by the City that are subject to pay City property taxes.

**Back-end Ratio:** a standard that measures a combination of an Applicant's regular reoccurring monthly expenses which includes their mortgage payment, principal, interest, taxes, homeowner's and flood insurance, and all monthly debts (i.e. credit cards, school loans, car payment, alimony, child support, etc.) based on a percentage of their gross monthly household income

**Beneficiary** – The recipient of CDBG funds.

**Borrower(s):** the person(s) that (i) has applied, met specific requirements, and received a monetary loan from a lender; (ii) is legally responsible for repayment of the loan and (iii) is subject to any penalties for not repaying the loan back based on the terms as described in the loan agreement, promissory note and/or deed of trust

**Buyer Contribution:** the amount the buyer(s) must contribute to the property acquisition transaction, either through earnest money, option fee money, or other related costs paid outside of closing

**Community Development Block Grant (CDBG):** an entitlement grant fund administered by the Department of Housing and Urban Development (HUD) to local agencies and municipalities to develop and enforce fair, affordable, safe and sanitary housing

**Compliance Period:** The period of time the City's Second Lien Deed of Trust is placed on and remains on a property during the Affordability Period

**Closing Costs:** the costs associated with the acquisition of a real property, to ensure a legal and secure transfer from one owner to the next

**Closing Disclosure:** the loan document replacing the preliminary and final Truth-in-Lending Disclosure and HUD-1. This instrument details a mortgage loan for the buyer, including loan terms

projected monthly payment, and closing costs.

**Commitment:** the setting aside or earmarking of funds that will be used in the future for the purchase of a specific dwelling unit. It is a pre-obligation; it is not legally binding and shall be valid for a specific time period.

**Conflict of Interest:** a situation, whether real or apparent, that undermines the impartiality and/or integrity of (i) any person who is an employee, agent, consultant, officer, elected official or appointed official of the City or (ii) any individual or organization receiving or administering federal funds on behalf of the City who (a) exercises or has exercised any function or responsibility with respect to activities provided by the HAP, (b) is in a position to participate in the decision-making process, or (c) gains inside information with regard to such activities. Such person or organization is therefore prohibited from obtaining a financial interest or benefit or having an interest in any contract, subcontract, or agreement with respect thereto or the proceeds thereunder, either for themselves or those with whom they have family or business ties during their tenure or for one year thereafter pursuant to the Community Development Block Grant (CDBG) Program Regulations found at 24 CFR§570.611. Additionally, City employees will be subject to comply with the City's Standards of Conduct for all Employees found at Subsection 14-183, Standards of Conduct for City Officials found at Subsection 18-3, and the **City of Houston's Administrative Policy 2-22, Conflict of Interest**.

**Counseling Agency:** either a public or private nonprofit organization (i) established as a HUD-approved provider of homebuyer education courses for at least one year in the geographical area in which it provides services, (ii) are knowledgeable concerning the local housing market and (iii) have met the regulations found at 24 CFR Part 214 to obtain HUD approval.

**Deferred Payment Loan (DPL):** a loan whose principal and/or interest payments are postponed for a specific period of time provided the Borrower meets the terms and conditions of such loan.

**Director:** the HCDD Director or designee appointed by the Director to perform specified duties in his/her absence.

**Disabled Family:** (i) a family (as described herein) whose head, co-head, spouse, or sole member is a person with disabilities as defined by §12012 of the Americans with Disabilities Act and the Texas Property Code §301.003(6); (ii) two or more persons within the household with disabilities or (iii) one or more persons within the household with disabilities with one or more live-in aides.

**Down Payment:** the amount deemed as a necessary up-front payment towards the purchase of a home, by the principal lender of the buyer(s)

**Environmental Review:** the compliance review conducted by internal HCDD staff to determine a home's eligibility in the HAP pursuant to 24 CFR 58.6. This process ensures that the home is in compliance with the National Environmental Policy Act (NEPA) and other applicable state and federal laws.

**Equity:** the current market value of a home as determined by an official appraisal minus the outstanding mortgage or other debt owed on the property.

**Existing Property:** a property that is one hundred (100%) percent complete at the time of

appraisal, (Ready for Occupancy).

**First Time Homebuyer:** defined by HUD as an individual who has had no ownership in a principal residence during the three (3) year period ending on the date of purchase of the property. This includes:

- A spouse if either meets the above test they are considered first-time homebuyers,
- A single parent who has only owned with a former spouse while married,
- An individual who is a displaced homemaker and has only owned with a spouse,
- An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations, and or
- An individual who has only owned a property that was not in compliance with state, local or model building codes, and which cannot be brought into compliance for less than the cost of constructing a new permanent structure.

**Family:** either a single person or a group of persons and includes a household with or without children. Note that a child who are temporarily away from home due to placement in foster care will not be considered a member of the family.

**First lien holder:** the Borrower(s) or institution holding a mortgage on a specific property that is used to back such mortgage and being a position to be paid before any other debt holders that have any other mortgages on such specific property.

**Floodplain:** A geographic zone subject to varying levels of flood risk.

**Foreclosure:** the process by which the holder of a mortgage seizes the property of a Borrower(s) who has not made interest and/or principal payments on time as stipulated in the mortgage contract in accordance with state and local law.

**Flood Insurance:** the Flood Disaster Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Area (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). In order to be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

**Front-end Ratio:** a standard that measures an Applicant(s) monthly mortgage expense which includes principal, interest, taxes, homeowner(s) insurance and mortgage insurance, also known as PITI, divided by Applicant(s) gross monthly income, as defined in the HAP Procedures Manual.

**HAP Loan Closing Documents:** the Second Lien Deed of Trust, Loan Note, Terms and Conditions, Homebuyers' Acknowledgement and Affidavit of Borrower(s), with a Statement of Total Family Income, in forms approved by the City Attorney and HUD.

**Homeowners Insurance:** a form of property insurance that covers casualty losses and damages to an individual's house and contents in the home. Also provides liability coverage against accidents in the home or on the property.

**Household Size:** the total number of persons who will reside with the applicant(s).

**Household Income:** the anticipated gross amount of income from all sources for all adult family

members during the coming 12-month period in accordance with 24 CFR Part 5 definition of annual (gross) income.

**Housing Counseling:** the eight-hour first-time homebuyer education course the buyer(s) must complete as a pre-requisite to participation in the HAP.

**Housing Quality Standards 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.

**HUD:** the U.S. Department of Housing and Urban Development.

**Lender:** A financial institution that provides loans to an individual in exchange for the principal and interest

**Lien Subordination:** the secondary HAP mortgage and lien on the title to the property or an interest in that title.

**Liquid Asset:** an asset that can be converted into cash in a short time, with little or no loss in value. Liquid assets include items such as (1) cash; (2) demand deposits; (3) time and savings deposits; and (4) investments (i.e. most stocks, money market instruments and government bonds not eligible for tax deferral).

**Loan:** an arrangement in which a HAP approved lender gives money to a borrower, and the borrower agrees to return the property or repay the money at some future point(s) in time.

**Loan Closing:** the date on which all applicable loan documents are executed.

**Loan Estimate:** the received after applying for a mortgage, which provides a buyer with an estimate of their loan terms, such as an estimated interest rate, monthly payment, and total closing costs.

**Loan Type:** the type of mortgage loan product specific to a buyer and/or property, i.e. FHA, Conventional, or VA

**Low-Moderate Income:** a person/household whose annual income does not exceed eighty (80%) percent of the area median income adjusted for family size, as published by the **U.S. Department of Housing and Urban Development** for the City of Houston.

**Maximum Subsidy Limits:** the total amount of direct cash assistance or purchase price discount being provided to a buyer specifically to create housing affordability.

**New Construction:** site preparation for, and construction of an entirely newly constructed single-family dwelling unit, that has not been occupied, where the seller is typically the builder.

**Notice to Seller:** the Uniform Relocation Act notification provided to the seller regarding their rights as described in compliance with federal regulations.

**Ownership Interest:** any of the following interests in residential property: fee simple interest; joint tenancy; tenancy in common; interest of a tenant-shareholder in a cooperative; life estate; interest held in trust for the Applicant that would constitute a present ownership interest if held



by the Applicant.

**Part 5 Method (Annual Income):** all gross amount of income anticipated by all adults (18 & older) in a family for 12 months following the effective date of determination, amounts derived (during the 12-month period) from assets to which any member of the family has access, and which are not specifically excluded at 24 CFR Part 5.609 and related program guidance.

**PITI:** the acronym for principal, interest, taxes, homeowner's, flood and mortgage insurance.

**Pre-Qualification:** the preliminary determination of the borrowers' creditworthiness by their mortgage institution to secure a home loan.

**Principal Residence:** the primary home/property that the homebuyer/borrower inhabits. For the purpose of HAP, the property must remain the buyer's principal residence for the entire affordability period to avoid default.

**Property Condition:** the condition of the exterior and interior areas, as determined by an internal inspection conducted by the City or its agent prior to acquisition, in order to verify that the property is safe, decent, habitable and in compliance with the applicable local building codes and applicable federal requirements. Property Condition shall be determined before funds are invested in the property or after closing if rehabilitation/repair assistance is provided using federal, state or local funds.

**Property Value:** the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, with the buyer and seller Property market value must be identified through an official lender procured appraisal.

**Purchase Price:** the cost of acquiring a residence, excluding usual and reasonable settlement or finance costs, and the value of services performed by the mortgagor in completing the acquisition.

**Recapture:** the mechanism to reclaim all or a portion of the assistance provided to the homebuyer

**Release of Lien:** the document(s) the City shall prepare and issue, or cause to be prepared or issued, releasing the City's second lien on each assisted property upon the homebuyer's compliance with the affordability period and all other program requirements.

**Second Lien Deed of Trust:** the document which creates and evidences a lien that is placed against the property until the affordability period is matured or satisfied by the terms of the Loan Note.

**Service Area:** the incorporated areas of the City of Houston including areas annexed and/or serviced by the City which are subject to pay City property taxes.

**Single Family Housing:** a one to four family dwelling unit, as defined by HUD.

**Subsidy Layering:** the underwriting analysis conducted prior to committing funds to a homebuyer to calculate the allocation of funds necessary to provide quality affordable housing.

**Tax Increment Reinvestment Zone (TIRZ):** the affordable housing tax revenue set-aside

generated by special zones created by City Council (this includes both bonds and annual allocations).

**Temporarily Absent Family Member:** a child who is temporarily separated from such household due to placement in foster care.

**Tenant:** an individual who occupies land or property rented from a landlord.

**Unfair Lending Practices: abusive practices or unscrupulous actions carried out by a lender to** entice, induce and/or assist a borrower in taking a mortgage that carries high fees, a high-interest rate, strips the Borrower of equity, or places the Borrower in a lower credit rated loan to the benefit of the lender.

**Unsecured Forgivable Promissory Note:** an agreement between the assisted beneficiary and subrecipient (the City) that requires applicants to comply for several terms during a set affordability period. At the end of the affordability period the terms are forgiven after having all been met by the homeowner.

**Zero-Income Statement:** a statement whereby adult household member(s) declare and are subject to perjury that he/she has zero income.