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# First-time Homebuyer Assistance Program (FHAP)

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## Program Guidelines

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TABLE OF CONTENTS

- I. Introduction
- II. Applicant Eligibility
- III. Program Benefits & Levels of Assistance
- IV. Closing Cost & Related Expenses
- V. Program Requirements
- VI. Loan Requirements
- VII. Property Requirements
- VIII. Programmatic Waivers

## **I. INTRODUCTION**

The City of Lewisville has established a First-time Homebuyer Assistance Program (FHAP) to provide low and moderate-income families with affordable homeownership opportunities through the reduction of costs associated with the purchase of a home. The FHAP is funded through the Community Development Block Grant (CDBG) from the U.S. Department of Housing and Urban Development (HUD). When available, HOME Investment Partnerships Program (HOME) funds received from Texas Department of Housing and Community Affairs (TDHCA) will be used to assist applicants that qualify in the lowest income category.

If HOME funding is available and applicant falls into the Very Low Income category, then these CDBG/FHAP guidelines will no longer apply. Their application will be governed by the HOME rules established by TDHCA at time of application.

Applications for the City's FHAP will be considered on a first-come, first served basis. It is the intent of the City to operate the FHAP until funds are depleted. Annual funding may be provided in the City's Annual Action Plan submitted to HUD each August and effective October first of each year. Policy clarifications or general questions should be addressed to the City's Economic Development & Planning Department at the following address or telephone number: 151 West Church Street, Lewisville, Texas 75057, Phone Number (972) 219-5026 or Fax Number (972) 219-3698.

## **II. APPLICANT ELIGIBILITY**

### **A. First-time Homebuyer**

A first-time homebuyer is defined as: 1) an individual who has never owned a home, 2) an individual who has not owned a home in the last three years, or 3) an individual that may have previously owned a home with a former spouse, but no longer resides in the home and can document loss of ownership in a divorce decree or equivalent document(s) approved by staff. Applicants who own mobile homes that are not permanently affixed to a permanent foundation and who are renting the land that the mobile home rests on are considered first-time homebuyers.

Co-applicants include the head of household, his or her spouse (regardless of who will be listed on the mortgage), and any other adult household members that will be listed on the mortgage. All co-applicants must meet the first-time homebuyer definition.

### **B. Income**

Household income must be at or below 80% of the Area Median Income (AMI) adjusted for household size. Income for all household members must be reviewed and may affect applicant's eligibility for assistance. Eligibility will be determined using the most current HUD Income Limits, the Annual Income definition of income as defined by 24 CFR Part 5, and procedures located in the *Technical Guide for Determining Income and Allowances*. To determine eligibility, staff will verify the household size and compare it to the most recent AMI limits (See FHAP Income Limits/Fact Sheet). Household Size includes all persons who will live in the applicant's household(s) at the time of occupancy.

C. Assets

If applicants have liquid assets greater than \$12,000, grant assistance will be reduced dollar for dollar for the amount in excess of \$12,000. Liquid assets are those that can be readily converted to cash such as checking, savings, CDs, stocks, and bonds. Tax deferred accounts such as IRAs, 401Ks, and other retirement accounts are excluded from the definition of liquid assets.

D. Citizenship/Residency

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 provides, with certain exceptions, that only United States citizens, United States non-citizen nationals, and “qualified aliens” are eligible for public benefits. Applicant must declare whether they meet one of the following definitions:

**1. A U.S. Citizen is:**

- a) a person (other than the child of a foreign diplomat) born in one of the several states of the United States or in the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, or the Northern Mariana Islands who has not renounced or otherwise lost his or her citizenship;
- b) a person born outside the United States to at least one United States citizen parent; or
- c) a naturalized United States citizen

**2. A U.S. Non-Citizen National is:**

- a) a person born in the outlying possession of the United States (American Samoa or Swain’s Island) on or after the date the United States acquired the possession; or
- b) a person whose parents are United States non-citizen nationals (subject to certain residency requirements).

**3. A Qualified Alien is:**

- (a) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);
- (b) an alien granted asylum under § 208 of the INA;
- (c) a refugee admitted to the United States under § 207 of the INA;
- (d) an alien paroled into the United States under § 212(d)(5) of the INA for at least one year;
- (e) an alien whose deportation is being withheld under § 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is being withheld under § 241(b)(3) of the INA;
- (f) an alien granted conditional entry pursuant to § 203(a)(7) of the INA as in effect prior to April 1, 1980;
- (g) an alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
- (h) an alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the United States and otherwise satisfies the requirement so § 431 (c) of the Act.

Applicant must provide verification of citizenship/residency status (e.g. birth certificate, resident alien card, etc) with submission of Final Application Packet.

### III. PROGRAMS BENEFITS & LEVELS OF ASSISTANCE

The FHAP provides down payment and closing cost assistance to eligible applicants. Applicants will fall into one of three income categories, Moderate, Low, or Very Low (See FHAP Income Limits/Fact Sheet). Applicants in each income category will receive a different level of assistance. The maximum grant amount for all levels of assistance shall be limited to \$15,000.

LEVELS OF ASSISTANCE	<u>VERY LOW INCOME</u> 0-50% of AMI	<u>LOW INCOME</u> 50-60% of AMI	<u>MODERATE</u> 60 -80% of AMI
Down Payment Assistance	½ of FHA Minimum	½ of FHA Minimum	½ of FHA Minimum
Closing Cost Assistance	up to \$5,000	up to \$5,000	up to \$5,000
Principal Reduction Assistance	\$8,000	\$3,000	\$0
Location Incentive TRAIN areas	\$1,500	\$1,500	\$1,500

A. Moderate Income Basic Program Benefits

Applicants in the Moderate Income category will receive the basic program assistance level.

1. Down Payment Assistance is ½ of the FHA minimum down payment; currently 1.75% of the sales price.

Total Sales Price	X	½ of FHA Minimum (Currently 1.75%)	=	Down Payment Assistance
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2. Closing Cost Assistance is up to \$5,000 of normal and customary buyer’s closing cost. Closing cost assistance will be reduced for FHAP non-allowables and when closing cost assistance plus seller contributions and/or gift funds will be greater than buyer’s total settlement charges.

Buyer’s Total Settlement Charges  
 Less Seller Concessions and Gift Funds  
 Less FHAP Non-allowables  
**If greater than or equal to \$5,000, CCA = \$5,000**

Buyers Total Settlement Charges  
 Less Seller Concessions and Gift Funds  
 Less FHAP non-allowables  
**If less than \$5,000, CCA = balance amount**

B. Low Income Program Benefits

Applicants in the Low Income category will receive basic program assistance and Principal Reduction Assistance.

1. Down Payment Assistance: same as above.

2. Closing Cost Assistance: same as above.
3. Low Income applicants will receive \$3,000 in Principal Reduction Assistance. Principal Reduction Assistance must be used to reduce the applicant's loan amount and may not be used to subsidize any other expenses.

C. Very Low Income Program Benefits

When HOME funds are not available, applicants in the Very Low Income category will receive the following assistance.

1. Down Payment Assistance: same as above.
2. Closing Cost: same as above.
3. Very Low Income applicants will receive \$8,000 in Principal Reduction Assistance. Principal Reduction Assistance must be used to reduce the applicant's loan amount and may not be used to subsidize any other expenses.

D. Target Neighborhoods Incentive

Applicants in all eligible income levels purchasing properties in the City's Targeted Reinvestment And Improvement Neighborhoods (TRAIN) area are eligible for an additional \$1,500 in Principal Reduction Assistance.

#### **IV. CLOSING COST & RELATED EXPENSES**

A. Allowable & Non-Allowable Closing Costs

Due to the varying fee structures that currently exist, the City of Lewisville does not include a comprehensive list of eligible closing costs. However, eligible costs must be "normal and customary" and must not include "junk fees."

**Allowables**

- 1 Point Origination Fee
- Approved Discount Points (2 maximum)
- Lender Fees (excluding Origination Fee, Discount Point, and 3rd Party Fees) not to exceed \$1,250
- Mortgage Insurance Premium if not financed into loan
- Appraisal Fee
- Title Insurance
- Prepays
- Hazard Insurance
- Attorney's Fees
- Flood Certification Fee
- Closing/Escrow Fee
- Document Prep Fee
- Home Inspection Fee/Termite Inspection
- Property Survey
- Credit Report Fee
- Recording Fee
- Home warranty
- HOA fee

**Non-allowables**

- Warehouse fees
- Lender Fees (excluding Origination, Discount, and 3rd Party Fees ) in excess of \$1,250
- Commission
- Yield Spread Premium
- Servicing Fees
- Finder's Fees
- Repair costs
- Real estate transaction fees

**B. Items Paid Outside of Closing**

The following third party fees are acceptable expenses paid outside of closing that may be counted toward the buyer's total settlement charges for purposes of calculating City of Lewisville's closing cost assistance: survey, credit report, appraisal, and termite/home inspection. Buyer must retain copies of all receipts for all expenses paid outside of closing in order for them to be applied to the transaction at closing.

**V. PROGRAM REQUIREMENTS**

**A. Homebuyer Education Course**

Applicants must complete an 8 hour pre-purchase homeownership training and counseling course conducted by a certified Housing and Urban Development (HUD) Housing Counseling Agency. Applicants must provide a certificate of completion before funds will be released. The certificate may not be more than a year old. No on-line versions or one-to-one classes will be accepted. Any co-applicants must attend class regardless of who will be listed on the mortgage.

Classes are available free through the City of Lewisville (972) 219-3455 or Consumer Credit Counseling Services of Greater Dallas (214) 638-2227. Spanish classes are available at CCCS of Dallas location. Other 8 hour pre-purchase classes provided in the Dallas Fort Worth Metroplex by a certified HUD Housing Counseling Agency will be accepted provided the applicant has a certificate of completion and all other requirements listed above are met.

**B. Orientation**

Applicants are required to attend an Orientation with program staff to screen for program eligibility prior to an application being submitted by an applicant’s loan officer/mortgage broker. Co-applicants, even if they will not be listed on the mortgage, must attend the Orientation. Orientations may be scheduled by contacting staff during business hours.

**C. Buyer’s Contribution**

Buyer’s contribution will consist of ½ of the FHA minimum down payment (currently 1.75% of sales price); any closing costs in excess of the City’s Closing Cost Assistance not paid for with seller concessions or gift funds; and any FHAP Non-allowables charges. The buyer must always contribute a minimum of ½ of the FHA minimum down payment from their own resources toward the house purchase. The buyer may not receive cash back at closing. For an estimate of total out of pocket expenditures in purchasing a home, buyers should consult their loan professional.

Buyer’s Contribution	=	½ of down payment	+	Excess Closing Cost	-	Allowable Seller Concessions/Gift Funds	+	FHAP Non-Allowables, if any
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Buyer’s Minimum Contribution	=	½ of down payment
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**D. Gifts & Funds from Other Grants**

Gifts from third parties are allowed. Total gifts may not exceed 6% of the total sales price. Documentation of each gift must be submitted to the City of Lewisville in writing.

Other grant programs may be used to the extent that they do not duplicate the same expenses covered by FHAP. Staff must approve other program’s policies and resolve any programmatic conflicts in advance. These grants, as well as lender credits, discounts, or programs reducing buyer cost are not counted toward the gift limit.

**E. Seller Concessions**

The total cost covered by seller contributions may not exceed 3% of the total sales price. Additionally, FHAP funds cannot duplicate cost paid by the seller or any other source. Seller concessions may not pay for FHAP Non-allowables or the buyer’s portion of the down payment Seller contributions should be applied as follows:

- 1) Lower sales price of home
- 2) Cover buyer’s closing costs in excess of program assistance

F. Title Company

All applicants receiving City of Lewisville assistance must close with the City's preferred Title Company. Exceptions may be permitted only with a waiver request.

Title Companies are granted preferred status through sponsorship of the City of Lewisville's First-time Homebuyer Education Classes.

G. Buyer's Real Estate Agent & Loan Officer/Mortgage Broker

Real estate agents and loan officers/mortgage brokers working with applicants must be certified to work with the City's program. Attendance at a minimum of one training session per year is required as certification expires after one year. Certifications are issued to individual professionals not firms. No fees required. Staff will make training schedules available.

The loan officer will be responsible for submitting a complete FHAP application on behalf of the homebuyer including all required documents and any additional information that may be requested by staff.

Loan officers and agents with two closings (must be in consecutive program years) will be placed on the City's preferred partner list. Preferred status is maintained by completing two closings per program year. Applicants requesting assistance or not working with an agent and/or loan officer by the time of their Orientation with program staff will be referred to those partners that have received preferred status. However, all applicants will be encouraged to interview more than one loan officer and agent. A list of FHAP Preferred Partners will be updated regularly by program staff.

H. Terms of Affordability & Recapture Provisions

Assistance (down payment, closing cost, and principal reduction) is provided in the form of a deferred, forgivable loan. A lien will be filed by the Title Company listing the City of Lewisville as the subordinate lien holder. The lien on the property will be released according to the loan terms. The homebuyer must agree with these terms.

Households receiving **\$8,000 or less** of assistance from the City of Lewisville are required to have the home remain the buyer's principal place of residence for **five-years**. After five years, the deferred loan will be forgiven. If the buyer fails to maintain the home as their principal place of residence before the five year term expires, the buyer will be obligated to pay the City of Lewisville the full amount of assistance originally received during the purchase of the home.

<b>FHAP Assistance</b>	<b>Occupancy Requirement</b>	<b>Repayment Provisions</b> <i>(if occupancy requirement not met)</i>
\$8,000 or less	5 Years	< 5 Years <i>(Full amount of loan)</i>
Over \$8,000	10 Years	< 5 Years <i>(Full amount of loan)</i>
		----- > 5 Years <i>(pro-rated)</i>

Households receiving more than **\$8,000** of assistance from the City of Lewisville are required to have the home remain the buyer’s principal place of residence for **ten-years**. If the buyer fails to maintain the home as a principal residence during the first five years, they will be obligated to pay the City of Lewisville the full amount of assistance originally received during the purchase of the home. After five years, the first \$8,000 of assistance will be forgiven. In years 6-10, the amount of assistance received in excess of \$8,000 will be forgiven by 20% per year or 1/60 per month.

In the event funds must be paid back to the City of Lewisville, funds will be paid from the available net proceeds of the home sale. Net proceeds include the sales price of the property less the balance of a superior loan and closing costs.

I. Refinancing

Homeowners may request that the City re-subordinate its lien if the owner refinances to a lower fixed interest rate and/or shorter term provided that they do not “cash out” home equity.

J. Arm’s Length Transaction

An Arm’s Length Transaction is one where the buyer and seller do not know each other prior to the transaction. FHAP funds may be used to assist a buyer with a purchase that is not “arm’s length,” where the seller is a relative or otherwise known to the buyer, only when the relationship is disclosed to the City. Additionally, the buyer and seller must have independent real estate representation prior to negotiating terms.

**VI. LOAN REQUIREMENTS**

A. Types

All loan programs must be FHA/VA/Conventional and at a fixed rate for 30 years or less. Adjustable Rate Mortgages (ARM), buy downs, balloons, 80/20, ITIN loans are not allowed. 203K or other loans that include repair costs may be considered for case-by-case approval.

B. Co-Signer

A non-occupying adult may not co-sign the loan for applicants. A non-occupying adult is someone who will not occupy the home to be purchased.

C. Interest Rate

The maximum allowed interest rate is 2% points above the current market rate as indicated by the Freddie Mac Primary Mortgage Market Survey for 30 year fixed rate mortgages. Interest rates over the limit require a waiver request.

D. Debt-to-Income Ratios

Applicant's payment-to-income (front-end) and debt-to-income (back-end) ratios may not exceed the Federal Housing Administration's permissible ratios.

**VII. PROPERTY REQUIREMENTS**

A. Sales Price

The sales price may not exceed current area median purchase price as determined annually using Multiple Listing Service (MLS) data.

B. Eligible Properties

- (a) Property must be located in the City limits of Lewisville only;
- (b) Property located in an area identified by the Federal Emergency Management Agency (FEMA) as a special flood hazard area, must carry flood insurance for the life of the loan. Proof of insurance is required prior to funding;
- (c) Property cannot be located in an airport clear zone or on a toxic waste site;
- (d) Property must be an existing housing unit
- (e) Property must be a single-family family unit (i.e. house, duplex, condo, and townhouse). Manufactured homes not attached to a permanent foundation may not be purchased under this program;
- (f) Government-owned property is eligible ( i.e. HUD)

C. Texas Minimum Construction Standards Inspection

In order for a property to be considered eligible for the FHAP, it must pass the Texas Minimum Construction Standards (TMCS) inspection criteria set forth by the City. It will help expedite the FHAP approval process if all the necessary repairs are completed prior to the initial TMCS inspection. **The TMCS inspection does not replace the buyer's need for an independent inspection.**

The buyer's real estate representative should contact the City after acceptance of the purchase contract by the seller to schedule the TMCS inspection.

D. Lead-based Paint

If the home being purchased was built before 1978, the City of Lewisville is required to conduct a visual assessment of the house for deteriorated paint during the TMCS inspection. If any paint is found to be deteriorated, either inside or outside, the paint must be repaired, and then the entire house must be inspected for the presence of lead-based paint dust. If lead dust is present, the City

will not be able to provide any financial assistance, unless the owner is willing to do what is necessary to eliminate the lead hazards in the house.

E. Notice to Seller

A Notice to Seller form must be provided to inform the seller that the buyer will be receiving federal funds through the City of Lewisville to assist with the purchase; although government funds are involved, the City of Lewisville will not acquire the property through eminent domain under this program. The transaction is strictly voluntary.

Additionally, federal funded acquisition projects are subject to the relocation requirements contained in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). The City of Lewisville must verify that the property to be purchased will not result in a forced relocation and/or displacement. Therefore, the City of Lewisville requires the seller to complete the form certifying the vacancy status of the property and whether the seller wishes to proceed with the transaction. Original signatures are required on the Notice to Seller form.

**VIII. PROGRAMMATIC WAIVERS**

The City Manager or his designee, upon determination of a good cause, may waive any guidelines not otherwise required by the funding source, City ordinance or policy. Each such waiver must be requested in writing and must be supported by documentation of the pertinent facts and justifications.