

Memorandum



CITY OF DALLAS

DATE December 1, 2017

TO Honorable Mayor and Members of the City Council

SUBJECT **Dallas Homebuyer Assistance Program –Resolution 17-1653 As Amended from the Floor**

On October 25, 2017, the Mayor and City Council approved changes to the Dallas Homebuyer Assistance Program (DHAP) Council Resolution No. 17-1653. There may have been some confusion about whether Councilmember Greyson's amendment included a requirement that any loans over \$50,000 come before the City Council for approval; it did not. Councilmember Greyson's amendment was a request to remove Section 3 of the Resolution which authorized the City Manager or his/her designee to make changes to the Program Statement without further City Council approval if they were necessary in order to meet federal requirements or due to significant changes in market conditions. A copy of the final resolution as amended from the floor is attached for your review.

The Program Statement included in the resolution attached details the purpose, provisions and underwriting guidelines for the program. In summary, the DHAP changes included: 1) providing assistance based on need and borrower debt capacity, 2) entering into a non-forgivable HOME Agreement with the borrower that stipulates all the HUD HOME requirements, and includes a recapture provision, and 3) conducting underwriting of borrower's financial capacity, including but not limited to the borrower's housing expense monthly allocation. Based on the maximum home values set by current federal regulations, the estimate of the maximum level of assistance to a qualifying buyer is around \$75,000. Because this assistance is provided in conjunction with a primary market lender it would be infeasible to bring these transactions to City Council for approval as closings are time sensitive and this would represent an impediment to buyers. Should you have any questions, please contact Raquel Favela at 214-671-5257.

T.C. Broadnax
City Manager

Attachment (1)

c: Larry Casto, City Attorney
Craig D. Kinton, City Auditor
Biliera Johnson, City Secretary (Interim)
Daniel F. Solis, Administrative Judge
Kimberly Bizar Tolbert, Chief of Staff to the City Manager
Majed A. Al-Ghafry, Assistant City Manager
Jo M. (Jody) Puckett, Assistant City Manager (Interim)

Jon Fortune, Assistant City Manager
Joey Zapata, Assistant City Manager
M. Elizabeth Reich, Chief Financial Officer
Nadia Chandler Hardy, Chief of Community Services
Raquel Favela, Chief of Economic Development & Neighborhood Services
Theresa O'Donnell, Chief of Resilience
Directors and Assistant Directors

Attachment A
DHAP Resolution 17-1653

171653

October 25, 2017

WHEREAS, homeownership is a high priority of the City of Dallas; and

WHEREAS, the Dallas Homebuyer Assistance Program provides assistance to eligible homebuyers; and

WHEREAS, on June 25, 2014, the City Council approved the FY 2014-15 Consolidated Plan Budget for U.S. Department of Housing and Urban Development Grant Funds by Resolution No. 14-1001; and

WHEREAS, on June 10, 2015, the City Council approved the FY 2015-16 Consolidated Plan Budget for U.S. Department of Housing and Urban Development Grant Funds by Resolution No. 15-1055; and

WHEREAS, on June 22, 2016, the City Council approved the FY 2016-17 Consolidated Plan Budget for U.S. Department of Housing and Urban Development Grant Funds by Resolution No. 16-1066; and

WHEREAS, on August 9, 2017, the City Council approved the FY 2017-18 Consolidated Plan Budget for U.S. Department of Housing and Urban Development Grant Funds by Resolution No. 17-1171; and

WHEREAS, the City desires to amend the Dallas Homebuyer Assistance Program, as described in Exhibit A.

Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That (1) the adoption of a new program statement for the Dallas Homebuyer Assistance Program (DHAP), attached hereto as Exhibit A is hereby authorized; and (2) the City Manager is hereby authorized to execute such instruments, including but not limited to individual homebuyer loan agreements, as may be necessary to carry out the program in accordance with the DHAP Program Statement.

SECTION 2. That the City Manager is hereby authorized to execute individual loan agreements (and other necessary documents), in accordance with the DHAP Program Statement, which includes loans exceeding \$50,000, without additional Council approval. As stated in the agenda information sheet, funds have been encumbered pursuant to the Consolidated Plan budget and such funds will be used to support DHAP. Each year, the Consolidated Plan budget sets aside HOME and CDBG money for DHAP.

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~~SECTION 32. That if changes to the DHAP Program Statement, attached in Exhibit A, are necessary to meet federal requirements or are necessary due to significant changes in market conditions, the City Manager, or his/her designee, is authorized to make such changes, without further City Council authorization.~~

SECTION 3. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

APPROVED BY
CITY COUNCIL


OCT 25 2017

Interim City Secretary

EXHIBIT A**PROGRAM STATEMENT
DALLAS HOMEBUYER ASSISTANCE PROGRAM (DHAP)****Program Purpose:**

- To provide homeownership opportunities to low-to-moderate income homebuyers through the provision of financial assistance when purchasing a home, in accordance with federal, state and local laws and regulations.

General Provisions:

- Homes must be located in the Dallas city limits.
- Homebuyer must have successfully completed an 8-hour homeownership education class from a U.S. Department of Housing and Urban Development (HUD) certified counseling agency within 12 months of application for DHAP assistance.
- Borrower may obtain a conventional, Federal Housing Administration, Veteran Affairs, or portfolio loan through a City approved lender. High cost or sub-prime loans, adjustable rate mortgages (ARM), interest only loans are not allowed.
- Low-to-moderate income is defined as a household with calculated income at 80% or less of the Area Median Family Income, adjusted for family size.
- Sufficient income and household size documentation to certify eligibility per HUD guidelines is required.
- Homebuyer must be a U.S. citizen or a permanent resident, and possess a valid social security card.
- Homebuyer must occupy the property as their primary residence, if sold or transferred at any time, the loan amount shall be subject to recapture.
- A property purchased under this program must meet federal and local requirements, including Minimum Housing Standards (MHS) and international residential code.
- Home sales prices may not exceed the Single-Family Mortgage Limits under Section 203 (b) of the National Housing Act, or other designated HUD limit.

- Homebuyer must meet housing and total debt to income ratios as identified in the Dallas Homebuyer Assistance Program (DHAP) underwriting guidelines (attached hereto).
- The City Manager, or his/her designee, is authorized to implement DHAP as per this Program Statement, and execute any documents necessary for the implementation of this program.
- The City Manager, or his/her designee, upon legal review and approval by the City Attorney's Office, is authorized pursuant to the DHAP to: (a) endorse on behalf of the City of Dallas, as the lien holder, insurance recovery checks issued by insurance companies to homebuyers for any recovery of property damage(s) under homebuyer's homeowners insurance policies; and (b) authorize the insurance recovery proceeds to be used by homebuyers to repair the damaged properties secured by City liens.
- The City Manager, or his/her designee, is authorized to review portfolio loans for appropriate affordability compliance, subordinate to the homeowner's mortgage lender for the purchase of the home and refinances, subject to better borrower loan terms.
- ~~• In the event changes to the DHAP are necessary to meet federal requirements or significant changes in market conditions, the City Manager, or his/her designee, is authorized to make such changes, without further City Council authorization.~~
- Current administration of each homebuyer loan documents, including but not limited to the execution of the loan agreement, are administered by a third party under separate contract with the City.
- Assistance will be provided as follows:
 - Provide (i) down payment, (ii) principal reduction and (iii) closing cost assistance to low to moderate income homebuyers, as determined by the DHAP Underwriting Guidelines, and as defined by the Department and in accordance with HUD guidelines.
 - Down Payment, principal reduction, and closing cost assistance will be provided in the form of a lump sum payment at closing. In exchange for the assistance, the homebuyer must execute and place a lien and deed restriction on the property pursuant to HUD guidelines.
 - The loan amount will be repaid in the event of sale or transfer of the property at any time, the repayment amount shall conform to HUD guidelines. The loans are not forgivable.

CITY OF DALLAS HOMEBUYER ASSISTANCE PROGRAM UNDERWRITING GUIDELINES

General

The City of Dallas is a Participating Jurisdiction (PJ) under the federal HOME Investments Partnership Program, receiving an allocation of HOME funds from the US Department of Housing and Urban Development that is used to support affordable housing activities in the community. As part of the local HOME Program, the PJ provides assistance to low income homebuyers. This assistance can be used toward an eligible buyer's down-payment or closing costs or can be used as direct financing that reduces the size of a buyer's primary loan (i.e. first mortgage) to a level that is affordable.

In providing assistance to homebuyers, the PJ has to balance potentially competing perspectives. First, the PJ wants to ensure that participating buyers will be successful homeowners, so the program should target households who are ready for homeownership and provide enough assistance to make the home affordable. At the same time, buyers should only be provided with the assistance they "need" so that the program can serve as many households as possible with limited HOME funds. Finally, the PJ seeks to ensure that assisted buyers are informed consumers and avoid the use of risky lending products.

To balance these priorities, the PJ has developed these underwriting guidelines, which are based on the following key principles.

- Assisted buyers should have good credit and qualify for competitive lending products on par with those offered to credit-worthy unassisted buyers in the local market. Buyers who can only qualify for subprime loans are not only less likely to sustain homeownership but also require larger subsidies, reducing the impact of the PJ's HOME program.
- Assisted buyers should make reasonable and meaningful contributions to their home purchase in terms of both up-front investments and monthly payment without being overburdened by their monthly payment or left without cash reserves after closing. HOME assistance should not be used to artificially reduce buyers' payments, particularly when a buyer's ability to qualify for a loan is the result of excessive consumer debt.

Applicability & Exceptions

This policy is applicable to all homebuyer units supported by the PJ's HOME program. This includes situations where HOME funds are being used to provide direct buyer assistance (e.g. downpayment and closing costs) supporting a buyer's purchase of a home for sale by a private seller. It also applies to the sale of any home built or rehabilitated by a participant in the PJ's HOME program (including subrecipients, developers, or CHDOs) whether or not the ultimate sale to the buyer includes direct assistance.

While there may be individual cases where these requirements may be waived, program participants should request specific exceptions in writing prior to making any commitments to prospective buyers who cannot qualify within these criteria. The PJ's HOME partners are reminded that they will be responsible for representations and/or commitments made to prospective buyers without prior approval by the PJ.

Maximum Homebuyer Assistance

- The maximum HOME-assistance available for a buyer is based on need as determined by the following underwriting criteria. Not all buyers will qualify for assistance. The assistance available to any given buyer is based on the PJ's assessment of the buyer's need, taking into account the additional criteria outlined below.

Buyer Expectations

To ensure that buyers are likely to sustain homeownership, assisted buyers must:

- Be purchasing the home for a reasonable price that does not exceed the fair market value as determined by an independent appraisal. In most cases, the PJ will coordinate with the buyer's senior lender to obtain a copy of the lender's appraisal. Additionally, the home must have a sales price less than or equal to the applicable HOME Homeownership Value limit for the type (new or existing) and location of the home. These limits are updated annually by HUD and can be obtained from the PJ.
- Have incomes between 40% and 80% of the Area Median Income (AMI) as adjusted for household size. HOME limits assistance to households with incomes at or below 80% AMI. While the PJ is concerned about the housing needs of lower income households, it also recognizes that homeownership requires buyers to have sufficient discretionary income to maintain their homes over time, absorb increases in taxes and insurance, and otherwise address unexpected expenses. As a result, the PJ focuses its homebuyer assistance to buyers with incomes in excess of 40% AMI.
- Contribute at least \$1,000 toward downpayment and closing costs. Additionally, buyers should have sufficient cash resources (including savings, checking, money market, or other similar non-retirement accounts) such that after closing they have savings of at least two (2) times their total monthly payment, including principal, interest, taxes, insurance, and any association fees.

Buyers with liquid assets in excess of \$10,000 will be required to invest assets above \$10,000 toward the purchase of the home before receiving HOME-assistance. For purposes of this requirement, liquid assets are those readily convertible to cash (including but limited to savings or checking accounts, certificates of deposit, stocks and bonds, etc.). Liquid assets, however, exclude life insurance policies and any savings held in a tax-preferred retirement account (e.g. pension, 401(k), IRA, etc.), college savings plan (e.g. 529 account), or health savings account recognized by the Internal Revenue Service.

- Obtain a loan whose monthly payment (i.e. front end ratio) does not exceed 30% of monthly income and that does not result in a total debt burden (i.e. back end ratio) in excess of 43%. While the recent

foreclosure crisis has reduced the availability of lending products that allow buyers to take on excessive monthly payments, some such products are still available. Even when assisted buyers are willing to take on larger monthly payments, the PJ has determined that buyers with excessive payments are less likely to sustain homeownership.

- Be qualified by their lender to spend at least 20% of their monthly gross income on their housing. Lenders often qualify borrowers to spend between 28-33% of monthly gross income, so buyers qualifying only at payment levels below 20% of income usually have high consumer debt which increases both subsidy costs and the likelihood of foreclosure later.

Note, this criterion is not intended to eliminate buyers whose loan is limited by the lender's loan-to-value ratio resulting in a monthly payment less than 20% of income. For example, if a buyer could qualify to purchase a \$100,000 home at a 28% ratio, but because the household is purchasing a \$50,000 home, the actual payment will be less than 20% of monthly income.

- Complete Pre-Purchase Homeownership as required below.
- Obtain a mortgage or senior loan that meets the requirements outlined below.

Pre-Purchase Counseling Requirement

To ensure that buyers receive are informed consumers, the PJ requires:

- Attendance within the past year at a PJ-approved pre-purchase homeownership counseling course by all adult household members who will hold title and be party to the senior loan; and
- That such counseling consists of at least 8 hours of instruction by a HUD-certified counselor.

The PJ has a list of certified counseling agencies that they will provide to potential buyers. Potential buyers should contact an agency on this list to register for an upcoming class.

Primary Loan Expectations

To ensure that buyers receive high quality loans that are sustainable over time, the PJ requires that any buyer receiving HOME assistance towards closing costs, downpayment, or a portion of the purchase price receive a senior loan (i.e first mortgage) meeting the following criteria:

- The loan must be a conventional, FHA, VA or portfolio loan from an approved lender. The loan can not be a High Cost or Sub-Prime Loans, Adjustable Rate Mortgages (ARM), Interest only loans, Discount Points paid by Borrower, and Cash Back at Closing.

- Interest rates must be competitive and must NOT be a "Higher Priced" loan as defined by CFPB. Higher priced loans are those that exceed the Average Prime Offer Rate by more than 1.5% as of the date of the loan's rate lock. Loans can be checked against the Average Prime Offer Rate by visiting the following website: <http://www.ffiec.gov/ratespread/newcalc.aspx>
- Lending products should be fully amortizing 30-year fixed rate loans. While some buyers may prefer shorter (e.g. 15 year) loans, the PJ will only consider such loans on an exception basis if it determines that the buyer's payment is sustainable and that the use of a shorter term product does not require additional HOME assistance compared to a 30-year loan.
- Loan products used must generally allow loan-to-value (LTV) ratios of at least 95%. While assisted buyers are not required to be approved for loan amounts equal to 95% of the purchase price, buyers who use more restrictive lending products (such as those limiting the LTV to 80%) will not receive HOME assistance toward their purchase if they could otherwise afford the monthly payment on a larger loan. In short, buyers should obtain the largest loan they can reasonably afford, and the PJ will not subsidize purchases more deeply just to avoid mortgage insurance on higher LTV lending products.

Subordination of HOME-Funded Liens

After providing assistance to eligible homebuyers the PJ has ongoing interests in the success of those buyers from the standpoint of both the HOME program and as a local government concerned about the impact of foreclosures on its residents and neighborhoods. To help prevent future foreclosures and to protect the PJ's financial investment in assisted units, subordination of HOME-funded liens to future refinancing by assisted buyers will only be considered under the following circumstances. This policy will also apply to HOME-funded liens resulting from homeowner rehabilitation programs and to any of the PJ's subrecipients or CHDOs who hold secondary liens securing direct assistance provided to buyers or homeowners.

- The new loan must be for the sole purpose of improving the rate and/or extending the term of the existing loan and must result in a low monthly payment for the homeowner. The PJ (including any of its subrecipients or CHDOs who hold secondary liens securing direct assistance provided to buyers) will not subordinate for "cash out" refinancing.

For purposes of this requirement, the new loan may allow the assisted homeowner to finance their closing costs without being considered cash out. Additionally, nominal cash back at closing of less than \$500 resulting from last-minute adjustments to payoff figures, closing costs, tax/insurance escrows and the like will not be considered "cash out."

- The proposed new loan must meet all requirements in the Primary Loan Expectations section above.
- The proposed new loan must result in a lower monthly payment for the assisted owner.