OKLAHOMA HOUSING FINANCE AGENCY
HOME Investment Partnerships Program (HOME)
Homebuyer Policies and Procedures

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Introduction

The Oklahoma Housing Finance Agency (OHFA) is the Participating Jurisdiction (PJ) under the federal HOME Investment Partnerships Program for the State of Oklahoma, receiving an allocation of HOME funds from the US Department of Housing and Urban Development (HUD) that is used to support affordable housing activities in the community. As part of the HOME Program, the OHFA strives to make homeownership affordable and sustainable by provides funding for the assistance of low-income homebuyers to acquire single-family housing units as defined in 24 CFR 92.2.

Through these policies, OHFA intends to ensure that participating buyers will be successful homeowners by providing the assistance each buyer needs to make the home affordable while serving as many households as possible with limited HOME funds. In addition, the PJ must ensure that assisted buyers are informed consumers and avoid the use of risky lending products. To balance these priorities, the PJ has developed these guidelines 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.
- Assisted buyers should make reasonable and meaningful contributions to their home purchase in terms of both up-front investment and monthly payment without being left without cash reserves after closing or overburdened by their monthly payment.

Applicability & Exceptions

This policy is applicable to **all** homebuyer units supported by OHFA's HOME program, whether HOME funds are being used to provide direct homebuyer assistance (e.g., down payment and closing costs) or are being provided as development funds to build or rehabilitate specific housing for sale to income-eligible buyers. These policies are applicable whether the funds are provided directly by the Oklahoma Housing Finance Agency or through any of OHFA's program partners.

While these policies apply to all homebuyers, there may be individual cases where exceptions for one or more of the local policy requirements are justified. (***OHFA cannot waive HUD regulatory requirements***.) Program participants and subrecipients may request specific exceptions in writing, either before a decision is made or after an adverse decision is made. Any written requests for exceptions will be subject to review. Exceptions must be approved in writing and are approved only on a case-by-case basis.

Pre-purchase Homebuyer Counseling:

Consistent with HUD's Housing Counseling Rule (24 CFR 92.254(a)(3)), pre-purchasing counseling is required for all HOME assisted homebuyers, regardless of the manner in which the unit was assisted with HOME funds and regardless of if the homebuyer has been a homeowner in the past. Homebuyer Counseling must be provided by HUD certified counselors employed by HUD-approved Housing Counseling Agencies.

Ideally, housing counseling should begin as early in the process as possible – before identifying a specific unit or applying for a first mortgage. However, having identified a home, realtor, or lender prior to receiving counseling will not disqualify an applicant.

Counseling must be completed no more than 8 months prior to unit acquisition and no less than 15 days before the closing date. Housing counseling may be delivered in-person, over the phone, or via video call. Housing counseling must last a minimum of four hours and span at least two days.

Housing counseling must cover:

- The steps involved in the homebuying process
- How to manage your money
- The value of good credit
- Credit reports and credit problems
- Spending and savings plans
- How to get a mortgage and find the right home
- Preparing for homeownership
- Protecting the value of your home investment
- What is Recapture as it relates to a HOME assisted unit

While not required, for additional assistance, OHFA recommends that potential homebuyers complete Freddie Mac's CreditSmart Homebuyer University, a free self-paced online course which covers the topics above in more detail. Freddie Mac CreditSmart® Homebuyer U : Freddie Mac CreditSmart

All housing counseling must be documented, including a determination from the counselor that a potential homebuyer has the capacity to obtain and maintain a home. Housing counseling provided to an individual or family who acquires a HOME assisted unit may be charged as a project delivery cost for reimbursement.

Income Determination:

The HOME rules and regulations limit HOME assistance to households with incomes at or below 80% Area Median Income (AMI) as defined annually by HUD and adjusted for household size.

While OHFA seeks to expand housing opportunities for low-income households, it also recognizes that homeownership assistance is limited, and homeownership requires buyers to have sufficient discretionary income to maintain their homes over time, absorb increases in taxes and insurance, and respond to unexpected expenses. As such, HOME assisted buyers must be at or above 50% of AMI in order to receive HOME homebuyer assistance.

Homebuyer income eligibility will be determined using the Part 5 definition of income. A determination of income eligibility must be less than six (6) months old at the point HOME assistance is committed to a buyer through a binding agreement between OHFA and the buyer (typically shortly before or at closing). If the income determination has expired, the subrecipient or awardee must re-evaluate the buyer's income to determine they continue to qualify for HOME assistance.

Guidelines for Income qualification can be found at eCFR :: 24 CFR 5.609 -- Annual income. It should be noted that the primary lender may chose to qualify income separately from these guidelines, however for the HOME eligibility purposes, these rules must be used.

The total household income will be used for determining program eligibility and must be documented with ***at least*** two-months of acceptable source documentation (e.g. paystubs, benefit records, bank statements). Income attributable to all household members, whether related by blood or marriage or not, except as excluded at 24 CFR 5.609(b), will be included for eligibility purposes.

Further, when determining the level of assistance an individual or family needs to acquire a unit, income must be annualized. All bonuses, lottery or gambling winnings, one-time settlement payments, inheritances, and other one-time payments must be removed when determining annual gross income.

Maximum Homebuyer Assistance

The HOME Rule sets an absolute maximum per-unit HOME subsidy limit as provided in §92.250(a) and published annually by HUD. At §92.254(g)(1), the Rule also requires PJs to establish a maximum level of homeownership assistance that may be provided to a given buyer and prohibits PJs from providing a single, fixed amount of assistance to each buyer.

The maximum amount of direct HOME-assistance that will be made available for closing costs, down payment assistance, and pre-paids will be $18,999 unless a lower amount is set out in the written agreement between OHFA and the administering subrecipient. Not all buyers will qualify for the maximum assistance. The assistance available to a given buyer must be based on an assessment of each particular buyer's need using the underwriting and lending criteria outlined in this policy.

Homebuyer Assistance funds must be used in the following order:

1. Down-payment / Gap financing assistance (defined as the difference between purchase price and loan amount).
2. Closing cost, including points or fees required to buy down the interest rate
3. Pre-paids
4. Principal reduction as reflected on the HUD closing statement

The homebuyer may be allowed to have returned from their earnest money certain pre-paid expenses which the homebuyer paid out of pocket prior to close such as the appraisal, pre-paid insurance, survey and credit report costs.

The maximum amount of HOME-assistance that will be passed on the buyer through a HOME homebuyer new construction or rehabilitation activity will be limited to the amount needed to make unit affordable to a purchaser.

For example:

Item	**Example**	**Notes**
Purchase Price	250,000	Assumes purchase price at market value
+ Buyer Closing Costs/Prepaid Expenses	12,500	Assumes no "paid outside of closing" expenses, includes any net prorations at closing
= Total Cost of Purchase	**262,500**	
Buyer's first mortgage	200,000	Assumes mortgage reasonably maximized within underwriting standards
+ Buyer cash contribution	1,000	Minimum contribution amount
+ Any non-HOME buyer assistance	5,000	
= Total from/on behalf of buyer	**206,000**	
Total Cost of Purchase	262,500	
- Total from/on behalf of buyer	206,000	
= HOME homeownership assistance	**56,500**	

Buyer Underwriting:

OHFA and it's subrecipient will use ratios to analyze a family or individual's capability to pay their obligated housing expenses. Obligated housing costs must include all PITI (Principal, Interest, Taxes, and Insurance), any mortgage insurance, HOA fees, and ground lease payments.

The front-end ratios are used to determine the highest and lowest dollar amount a person's mortgage payment may be. This dollar amount should include all obligated housing costs. The front-end ratio is calculated by taking the gross monthly income of a household and multiplying it be the front-end ratio. To ensure that buyers are likely to sustain homeownership for at least the period of affordability while not being over-subsidized, the minimum front-end ratio will be 15%. The maximum front end ratio will be 35%.

For example: The Doe family has a gross monthly income of $5,000. The minimum mortgage payment the Doe family should be able to support is $750 and the highest mortgage payment the family can support should not exceed $1,750.

The total debt expense, or back-end ratio, compares a person's total monthly consumer debt obligations, including their new mortgage payment, to their gross monthly income. Consumer debt is money borrowed for personal, family, or household purposes. Consumer debt calculations must include all car loans, credit card debt, student loans, payday / personal loans, and legally obligated alimony or child support payments. The maximum back-end ratio will be 45%. The back-end ratio is calculated by taking the gross monthly income of a household and multiplying it be the back-end ratio of 45%. The total monthly consumer debt will be subtracted from this number.

For example: The Doe family has a gross monthly income of $5,000 and monthly consumer debt in the amount of $650. The maximum mortgage payment which the Doe family could support per the back-end ratio is $1,600. ($5,000 x 45%) = $2,250 - $650 in monthly consumer debt = Maximum mortgage payment of $1,600.

Note: Per the examples above, the front-end ratio provided a maximum mortgage payment of $1,750 while the back-end ratio provided a maximum mortgage payment of $1,600. When underwriting, the lowest maximum mortgage payment must be used.

The underwriting, origination, processing and document preparation fees paid for with HOME funds must not exceed $1,500 total. The fees charged to the borrower in total may not exceed $2,500.

Subrecipients and state recipients may not charge servicing, origination, processing or underwriting fees related to the cost of administering part of the OHFA HOME Program to the beneficiaries of the HOME assistance. These costs should be paid with HOME project delivery funds or other sources of funds.

<u>Minimum Cash Investment:</u>

HOME assisted homebuyers must make a minimum cash investment towards their downpayment or closing costs in the amount of $1,000. The investment may not be reimbursed with HOME funds at closing.

Potential homebuyers will be required to invest liquid assets in excess of $30,000 toward the purchase of the home before receiving HOME assistance. Liquid assets include cash, savings and checking accounts, money market accounts, stocks, bonds, and mutual fund investments. Liquid assets do not include retirement accounts unless the assisted person is at an age where they may draw on the funds without penalty. Liquid assets do not include 529 College Savings plans or funds held by individuals whose income would be excluded under a Part 5 income determination. The maximum investment a HOME assisted homebuyer may make towards their downpayment and closing cost expenses is 7% of the total cost to purchase the unit. This maximum excludes HOME funds contributed to the closing.

In addition to the minimum cash investment toward the purchase, buyers should have sufficient cash resources after closing to cover at least 2 times their total monthly housing payment. For purposes of this requirement, liquid assets are those readily convertible to cash, including but not limited to savings or checking accounts, certificates of deposit, stocks and bonds, money market accounts, 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.

These funds may not be provided through HOME assistance. It is not the responsibility of the PJ or the subrecipient to monitor the expenditure of this minimum, though the underwriting must support that this liquidity does exist and can be accessed by the homebuyer.

<u>Responsible Lending – Senior Loan Requirements:</u>

To ensure that buyers receive high quality loans that are sustainable over time, OHFA requires that any buyer purchasing a HOME-assisted unit receive a senior loan (i.e. first mortgage) meeting the following criteria:

- The loan must be:
  - A "Qualified Mortgage" under the requirements of the Consumer Protection Financial Bureau (CFPB) outlined at 12 CFR 1026.43(e); or
  - A mortgage exempt from Qualified Mortgage standards, including:
    - USDA Rural Development direct loans
    - Habitat for Humanity or other direct lending nonprofits

- Interest rates must be competitive and must NOT be a "Higher Priced". The interest rate must be at or below the lesser of (on the date of commitment or loan rate lock)*:*
  - *No more than 2% above the Freddie Mac Primary Mortgage Market Survey index*
  - *No more the 1% above the Average Prime Offer Rate*
- The loan should be a fixed rate loan. The loan may not be subject to balloon riders, negative amortization, or interest only periods.
- The term of the mortgage should be 30 years. The term of the mortgage can be negotiated down based upon mutual agreement by the bank and borrower, and approved by OHFA in writing; however, the term of the mortgage cannot be shorter than the period of affordability. Likewise, the term of the loan may not be artificially decreased in order to secure more HOME assistance than is necessary to acquire the property.
- Pre-payment penalties cannot exceed 1% of the remaining loan balance.

- 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 consistent with these underwriting guidelines. Buyers are expected to obtain the largest loan they can reasonably afford, and OHFA will not subsidize purchases more deeply just to avoid mortgage insurance on higher LTV lending products.

Determining the Value of the Home:

In the case of acquisition of newly constructed housing or standard housing, the housing must have a purchase price that does not exceed the HOME Program Homeownership Value Limits. In the case of acquisition with rehabilitation, the housing must have an estimated value after rehabilitation that does not exceed the HOME Program Homeownership Value Limits. The HOME Program Homeownership Value Limits are determined by HUD on an annual basis and account for the type (new or existing) and location of the home.

Additionally, the purchase price must not exceed the fair market value of a unit determined by a third-party appraisal. It is acceptable to rely upon an appraisal performed for the senior lender.

Inspecting a Homeownership Unit:

Once a potential homebuyer has selected a property which they intend to purchase, the unit must be inspected before close. This inspection must occur no sooner than 90 days, and no later than 15 days, prior to close. This inspection must be completed by OHFA, a contractor selected by OHFA, or a subrecipient who is administering an assistance program through a written agreement with OHFA. In the event that a CHDO is providing assistance to a homebuyer on a unit which they own, rehabilitated, or constructed, the CHDO may not complete the pre-purchase inspection. The proposed unit must be free of any health and safety concerns and be able to pass an NSPIRE inspection. The remaining useful life of all major systems must be a minimum of 5 years. An inspector should check the following:

- Structural: Check for damage to walls, floors, ceilings, and foundations.
- Plumbing: Inspect pipes, fixtures, and water supply for leaks, clogs, and overall functionality.
- Electrical: Check electrical panels, wiring, outlets, and lighting for safety and functionality.
- Heating and Cooling: Inspect heating and cooling systems for proper operation and safety.
- Utilities: Verify that the utilities are connected and functioning correctly.
- Safety: Inspect for fire hazards, hazards to children, and any other potential risks.

If a unit does not pass the inspection, the unit must be rehabilitated prior to close or a new unit must be selected. Please note that homebuyer assistance funds cannot be used to pay for rehabilitation unless the rehabilitation was set to occur through a homebuyer acquisition / rehabilitation activity.

Approving a Homebuyer:

Once a potential homebuyer has been selected to receive assistance, their income has been calculated, they have placed a contract on a home, and counseling has been completed, OHFA must approve their assistance prior to close. Documentation delivered to OHFA should include:

- A calculation of the potential homebuyer's gross income following the rules set forth in at eCFR :: 24 CFR 92.203 -- Income determinations. At least two months' worth of paystubs for all household members must be used when making this determination.
- A certificate or written statement from the housing counselor that the potential homebuyer has the capacity to obtain and maintain a home, including the dates when the counseling occurred.
- Completion of the appropriate environmental review (approved and signed by OHFA).
- A copy of the draft CD and Front-End / Back-End calculations.
- The unit inspection report.
- The unit appraisal if available.
- The legal name of the homebuyer(s).
- The property address.

OHFA Documents to be Signed / Filed at Close:

Assistance to homebuyers will be provided as a loan, forgivable at the end of the period of affordability. At close the HOME loan will be filed second, subordinate to the primary lender. If more than one form of assistance secured by a loan is being used, the loan may be further subordinated given express written permission from OHFA. The recording fees associated with this mortgage must be included in the closing costs.

No later then the time that HOME assistance is committed to a homebuyer, each individual which will have a vested legal interest in the ownership of the property must sign a written agreement with OHFA. This written agreement will require that the new homeowners live in the home as their primary residence and clarifies that the unit may not be rented or subleased. The written agreement will include the period of affordability and amount of the HOME investment which benefits the homebuyer. All homebuyer assistance will be subject to recapture. The written agreement with the homebuyer supersedes the agreement between OHFA and the subrecipient.

Transfer of Title:

Upon the commitment of HOME funds and the purchase of a unit by a qualified homebuyer, title must be transferred in a way which is compliant with 24 CFR 92.2. The land upon which the housing is located may be owned in fee simple or the homeowner may have a ground lease for the lowest of the following time periods, as applicable:

- For housing, the ground lease must be for 99 years or more;
- For housing located in an insular area, the ground lease must be 40 years or more;
- For housing located on Indian trust or restricted Indian lands or a Community Land Trust, the ground lease must be 50 years or more;

Right to possession under a contract for deed, installment contract, or land contract (pursuant to which the deed is not given until the final payment is made) is not an equivalent form of ownership. The ownership interest may be subject only to the mortgages, or other liens or instruments securing debt on the property as approved by OHFA; or any other restrictions or encumbrances that do not impair the good and marketable nature of title to the ownership interest.

Layering HOME Homeowner Assistance with other Programs:

It is permissible to layer HOME Homebuyer assistance with other state and local homebuyer assistance programs. When layering, all HOME regulations, policies, and procedures must be adhered to. Beyond this, the most stringent set of limitations must be adhered to, above and beyond the HOME regulations. The total maximum assistance amount across all assistance types cannot exceed 50% of the appraised value of the property at close.

Ongoing Compliance:

For the full period of affordability, the assisted homebuyer must live in the HOME unit as their primary residence. To ensure that this is the case, the subrecipient must receive an annual copy of the homeowner's insurance policy showing their mailing address as the same as the property.

Refinancing / Subordination of HOME-funded Liens:

OHFA has ongoing interests in the success of its HOME-assisted homebuyers, preventing the loss of HOME funds, and avoiding the impact of foreclosures on the jurisdiction's residents and neighborhoods. Refinancing of senior (first) mortgages while any HOME loan or affordability period is outstanding will be permitted and the HOME loan will be subordinated to a new senior loan only under the following conditions:

- Refinancing will be permitted for the sole purpose of improving the rate and/or extending the term of the existing loan that result in a lower monthly payment for the homeowner.
    - The proposed new loan must result in a lower monthly payment for the assisted owner.
    - No cash-out will be permitted. The new loan may allow the assisted homeowner to finance their closing costs without being considered cash out. 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 "Responsible Lending Policies" set out above are applicable to the refinanced senior loan. Additional HOME funds cannot be invested into a unit upon the initiation or completion of a refinance. Refinances which occur outside of the period of affordability are not subject to these policies and procedures.

Recapture Provisions

24 CFR 92.254 provides guidance for Resale/Recapture options for Homeownership. OHFA is authorized under the HOME Rules to select which option will be used for preserving the Period of Affordability. OHFA has chosen the Recapture option.

Recapture provisions, as set forth in 24 CFR 92.254 (5)(ii), require that the Oklahoma Housing Finance Agency recapture all or a portion of the HOME assistance provided to the homebuyers if the HOME assisted housing does not continue to be the principal residence of the assisted individual or family for the duration of the period of affordability. The period of affordability is based upon the amount of HOME funds that directly assisted the homebuyer to buy the housing unit. This amount includes any HOME funding that was used for down payment assistance, the cost of buying down interest rates, gap financing to make a unit affordable, closing cost assistance (title and recording fees, transfer taxes, appraisals, etc.), and HOME funds provided to a developer in order to allow the sale of the HOME at a below-market price.

OHFA has elected to not permit resale. As such a subsequent homebuyer may not assume the HOME assistance (subject to the HOME requirements for the remainder of the period of affordability) even if the subsequent homebuyer is low-income and no additional HOME assistance is provided.

When the recapture requirement is triggered by the sale (voluntary or involuntary) of the housing unit, the amount recaptured cannot exceed the net proceeds, if any. The net proceeds are the resale price of the unit minus any amount of repayment due on senior debt(s) and any seller closing costs.

The amount due to OHFA upon the triggering of recapture is the initial HOME investment less the pro-rata reduction. OHFA will reduce the HOME investment amount to be recaptured on a pro rata basis for the time the homeowner has owned and occupies the housing measured against the period of affordability. For example, if a homebuyer received $10,000 in HOME assistance, such investment having a 5-year period of affordability, the pro rata reduction of the HOME investment will be $2,000 annually ($10,000 / 5 years). The pro-rata reduction is realized at the time that a sale is triggered. This reduction will occur based upon the number of full years a homeowner has occupied the unit. For example, if a homeowner receives $10,000 in HOME assistance, and sells their home after three and a half years, the recapture amount would be $4,000; the repayment amount having been reduced by $2,000 annually across three completed years for a total reduction of $6,000. The incremental reduction cannot be increased so that the investment is waived prior to the end of the affordability period.

A recorded mortgage must be in place to enforce these Recapture restrictions. Written Agreements with individual beneficiaries must detail the Recapture requirement.

Recapture requirements and guidelines do not apply to issues of non-compliance which may trigger the full recapture of all HOME assistance regardless of the remaining period of affordability and any proposed pro rata reductions.