



PROVO CITY CORPORATION

Down Payment Assistance Programs

Policies & Procedures Manual

09/09/2024

Home Purchase Plus



Loan-To-Own



Provo City Corporation reserves the right to change policies, procedures and required documentation as necessary

No qualified person shall be denied the benefits of, the participation in, or be subjected to discrimination under any program or activity funded by the City of Provo on the basis of race, color, national origin, sex, religion, disability or familial status.



Program Administration

1) Introduction

This Manual sets forth policies and procedures for Provo City Corporation (City) and Utah Valley HOME Consortium (Consortium) Down-Payment Assistance Programs. Funding is provided mainly through the Community Development Block Grant (CDBG) and HOME Investment Partnerships Program (HOME) received through the U. S. Department of Housing and Urban Development (HUD). The Down Payment Assistance programs are administered by Provo City Corporation and are designed to provide home-ownership opportunities to low-income buyers within the City of Provo and member entities of the Utah Valley HOME Consortium. This Manual shall be revised as new policies and procedures are established.

2) Purpose

The purpose of the Policies and Procedures Manual is to establish and clarify home-buyer guidelines to be applied in the various home-ownership assistance programs and HOME-assisted home-ownership projects. These guidelines cover items such as: income qualification, home-buyer eligibility criteria, first mortgage requirements and occupancy standards, among others. The intent is to apply these standards consistently; however, many existing home-buyer assistance programs have previously adopted guidelines which are specific to the particular program funding source requirements which will remain in effect to the extent that they cannot be modified to be consistent due to funding source requirements. These guidelines are not meant to supersede City and County inclusionary guidelines which are based in ordinances.

3) General Program Information

The goal of the down-payment assistance programs is to expand home-ownership opportunities for eligible low-income households and to increase home ownership within the City and other members of the Consortium. The Programs seek to give assistance to households who otherwise would not be able to become homeowners, while ensuring a long-term successful goal.

Program funding is provided as zero percent (0%) deferred-payment loans which are secured by a promissory note and mortgage (trust deed) in second position to that of the primary lender. **First mortgages must have a fixed rate and include the escrow for taxes and insurance.** As a condition of the loan, the property must remain the Borrower's principal place of residence at all times. Borrower(s) are required to repay loan funds in full if they vacate, sell, transfer, or assign any legal or equitable interest in the property at any time on or after the closing date of this mortgage product, which amount shall be immediately due and payable in full. Additionally, homeowners are required to keep and live in the property a minimum of two years; failing to do so will require them to pay a penalty of \$5,000.

Individuals or families who desire to purchase an eligible property may apply for DPA funds after they have been pre-qualified by a first-mortgage lender and have made an offer on a home. A homeowner cannot apply for DPA funds after the first mortgage loan has been closed. DPA funds cannot be provided to a home buyer who is refinancing an existing mortgage or land contract.

All properties are subject to inspection for minimum life and safety standards. All homes built prior to 1978 are additionally subject to meeting lead-based paint safety requirements.

4) Definitions

As used in this Manual and other literature and forms, the words and terms listed below are defined as follows:

Acquisition Cost: Acquisition Cost is used interchangeably with Purchase Price. See Purchase Price definition for additional information.

Affirmative Marketing: Marketing strategies and techniques that consist of good-faith efforts to provide information and otherwise to attract eligible persons from all racial, ethnic, and gender groups in the housing market area to the available housing.

Affordable: In reference to housing costs, this means that the financial obligation can be paid by the person or household, along with all other financial responsibilities of that person/household, without endangering the financial stability of the person/household.

Affordability Period: The minimum period of time properties are required to be occupied by an Applicant/Borrower as his/her principal place of residence under the regulations pertaining to the funding source(s) used.

Anticipated Annual Gross Income: The income of a household including all working people 18 years of age and older is calculated for the 12-month period following the date of determination of income.

Applicant: Any person who applies for Down-Payment Assistance (DPA) for any of the programs administered by Provo City Corporation. This term may be used interchangeably with “Beneficiary” or “Borrower.”

Assisted Unit: A dwelling purchased with a loan funded through one of the DPA programs administered by Provo City Corporation.

Borrower: An individual meeting the criteria set forth in this Manual that is in the process of securing assistance in the financing to purchase a principal residence through one of the DPA programs administered by Provo City Corporation for the purchase of an eligible property. The term may be used interchangeably with “Applicant”, “Beneficiary”, “Buyer” and/or “Home Buyer.”

Certification: A written statement of fact filed in connection with DPA programs administered by Provo City Corporation attesting that the information provided has been verified as true, correct and complete, and subject to penalties of perjury.

Citizen: A citizen or national of the United States of America.

City: Provo City Corporation.

Closing Date: The date when the Borrower(s) sign the DPA Program Agreement, Deed of Trust, Promissory Note, and other required documents.

Co-Borrower: A person who joins the Borrower in the mortgage transaction by signing the mortgage and promissory note, and/or whose name appears on the title to the property.

Consortium: See Utah Valley HOME Consortium.

County: Utah County.

Debt to Income (DTI): A measure (percentage) that compares Borrowers’ total debt payments (including house payments, credit card, gas and store cards and any other consumer-debt payments) to the monthly income they generate. This calculation gives Provo City Corporation an idea of how likely it is that the Borrowers will repay the financing obtained to purchase their home. (This term is also known as “back-end-

ratio”).

Disabled: An individual, single, head of household or spouse who has a disability as defined in Section 223 of the Social Security Act or in Section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1970.

Displaced Homemaker:

- a) Is a divorced adult 18 years old or older;
- b) Has not worked full time for a full year in the labor force for a number of years, but has during such years worked primarily without remuneration to care for the home and family;
- c) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment; *or*
- d) While married owned a home with his/her spouse and in the divorce settlement the residence was awarded to the spouse or required to be sold.

Displaced Person: An individual displaced by governmental action or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal Disaster Relief Laws.

Drug-Related Criminal Activity: Drug trafficking, illegal use or possession for personal use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 USC 802)).

Economic Hardship: A drastic reduction or loss of income caused by the loss of employment, serious or chronic illness or health conditions and/or similar, verifiable circumstances. Reduction of value of the home and inability to sell will also be considered.

Eligible Household: A household that is a first-time home buyer and who meets other applicable criteria specific to the funding source used.

Eligible Property: Real property located within the City or Consortium, as applicable, which also meets additional criteria relative to the specific funding sources used.

First Mortgage:

- a) A mortgage which is in first lien position, taking priority over all other liens.
- b) An extension of credit for which a Deed of Trust is recorded and the proceeds of which are used to finance the purchase of an eligible property which meets the requirements set forth in this Manual.

First-Time-Homebuyer (FTH):

- a) An individual and his or her spouse who have had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property for which down-payment assistance is sought. This includes a spouse or partner; if either meets the above test, they are considered first-time home buyers.
- b) A single parent who has only owned with a former spouse while married.
- c) An individual who is a displaced homemaker and has only owned with a spouse.
- d) An individual who has only owned a property not permanently affixed to a permanent foundation in accordance with applicable regulations.
- e) 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 permanent structure.

Gross Annual Income: The anticipated total annual income, before deductions, from all sources received by an individual or household (even if temporarily absent) and received by each additional member of the household over 18 years of age, including all net income derived from assets for the 12-month period following the effective date of the initial determination of income.

HOME: Home Investment and Partnerships Program, administered by the Office of Community Planning and Development of the United States Department of Housing and Urban Development.

HUD: The United States Department of Housing and Urban Development.

Home Buyer: An individual or household meeting the criteria set forth in this Manual that is in the process of securing assistance with the financing to purchase a principal residence through one of the DPA programs administered by Provo City Corporation for the purchase of an eligible property. The term may be used interchangeably with “Applicant,” “Beneficiary” or “Borrower”.

Household: A single person or two or more persons living together not contrary to federal, state or local law (e.g.; traditional families, two unmarried persons, a single parent and child, etc.) occupying a housing unit whether related or non-related.

Household Member: All individuals listed in the section “Household Composition” of the application.

Housing Expense Ratio (HER): A measure (percentage) that compares Borrower’s gross monthly income to their housing expenses. The housing expense measure includes mortgage principal and interest payments, property taxes, hazard insurance and mortgage insurance costs. (This term is also known as the “front-end ratio”).

Housing Quality Standard, (HQS): The minimum criteria for safe, decent and sanitary dwelling units established by HUD, generally applied to Section 8 (§882-109), but also applicable to HOME and CDBG-funded activities.

Lender: An organization which provides financing for the acquisition of eligible properties in accordance with the provisions of this Manual.

Loan to Value (LTV): A risk assessment ratio calculated by comparing the appraised value of the property to the total mortgage debt on the home (including the DPA).

Low- and Moderate-Income Household: Persons and families whose income does not exceed the qualifying limits as established by HUD and amended from time to time. Such limits are defined as 80% of the area median income as adjusted for household size and revised annually.

Liquid Assets: The total amount of funds that are in the form of cash or can *quickly* be converted to cash. These include: (1) cash, (2) demand deposits, and (3) time and savings deposits.

Ownership Interest: Any of the following interests in residential property:

- a) Fee simple estate with right of survivorship
- b) Joint tenancy
- c) Tenancy in common

Ownership does not include a remainder interest, a lease with or without an option to purchase or any interest acquired on the execution of the purchase contract.

Owner-Occupied Residence: A dwelling intended and used for occupancy by one household which is the owner of the property.

Principal (Primary) Place of Residence: The home where you spend the majority of your time, a minimum of 51% of the time. This is not the only test; other factors that will be relevant to the determination include, but are not limited to:

- a) The address on your valid driver's license;
- b) Your place of employment (City, state);
- c) Where your immediate family lives;
- d) The address you use to file your federal and state income tax return;
- e) Where you are registered to vote;
- f) The property where you claim your homeowner's property tax exemption (many states and counties allow for the payment of property taxes on your principal residence);
- g) The mailing address you use for general mail, bills, cell phone statements and other general bills; (utilities bills, other than cell phone bills, do not necessarily establish residency).
- h) Where you maintain your bank accounts, brokerage statements and other banking or financial relationships, i.e. credit cards, etc.;
- i) Where you maintain social memberships, such as health and/or country clubs, religious affiliations, etc.

All facts and circumstances will be considered when making the determination.

Recapture: For HOME purposes only, the option selected by Provo City and the Consortium for recovering funds provided to a Borrower(s) should the Borrower(s) fail to occupy the property as Borrower's principal place of residence for the duration of the affordability period.

Second Mortgage: An extension of credit for which a Deed of Trust is recorded and is SUBORDINATE only to the First Mortgage Deed of Trust.

Single Parent:

- a) Is unmarried or legally separated from a spouse; and
- b) Has one or more minor children of whom the individual has custody or joint custody (at least 50% custody, or is pregnant; and
- c) While married owned a home with his/her spouse and in the divorce settlement, the residence was awarded to the spouse or required to be sold.

5) Application Process

- a) The Applicant/Borrower must be a first-time home buyer, have a conditional approval for a first-mortgage loan from a lender of his/her choice and must have a Real Estate Purchase Contract in place for the property desired. DPA is not available for use with refinancing of existing mortgages.
- b) An eligibility review and loan qualification will be performed to ensure that the Applicant/Borrower(s) meets the requirements of the program. Funds are made available on a first-come, first-served basis.
- c) The potential Borrower must fully complete an application for the DPA program of his/her choice along with all the listed documentation required in Neighborly. An incomplete application package WILL NOT be processed. The application package includes, but may not be limited to:
 - i) Completed AND signed application;
 - ii) Copies of Federal Tax Returns for the immediately preceding three years;
 - iii) Copies of pay stubs for the immediately preceding three months for all working household members over 18 years of age;

- iv) Copies of all bank statements for the previous three months;
 - v) Signed and Notarized Affidavit of Seller;
 - vi) Home Ownership Class certificate;
 - vii) Original Verification of U.S. citizenship (birth certificate, current US Issued passport, permanent resident card) and Social Security Card.
- d) The Loan Processor will make an eligibility determination that the Applicant/Borrower(s) meets the minimum qualifications for the program and will advise the Applicant/Borrower(s) and first mortgage lender no later than 10 business days after receiving the application. This eligibility determination includes:
- i) First-time home buyer status;
 - ii) Property is located within an approved area;
 - iii) Sales price of property is within limits;
 - iv) Verification of household income eligibility;
 - v) Verification of household Liquid Assets under \$15,000;
 - vi) Eligible type of property;
 - vii) Proof of U.S. citizenship, U.S. Naturalization or Legal Permanent Residency, (birth certificate, current US issued passport, permanent resident card) & social security cards for all household members);
 - viii) Background checks.
- e) Once eligibility determination is verified and completed, the loan processor will contact the first-mortgage lender and request the following documentation and any additional documentation as deemed appropriate to determine qualification to receive the loan:
- i) First Mortgage Application (HUD-1003 form);
 - ii) Loan Estimate (LE);
 - iii) Verification(s) of Employment (VOE);
 - iv) Credit Reports pulled within 90 days of application submission (**Mid credit score must be 650 or higher**);
 - v) Real Estate Purchase Contract (REPC);
 - vi) Appraisal;
 - vii) Preliminary Title Report or (PR) for Down Payment Assistance Loan; and
 - viii) Standard Flood Hazard Determination Form.
- f) When the eligibility determination and loan qualification is verified and completed:
- i) Loan Processor will order an inspection unless it is new construction.
 - ii) Then a Certificate of Occupancy will be required.
 - iii) An environmental review will be conducted;
 - iv) The loan is submitted to the Program Administrator for review and approval;
- g) Loan Processor may send a conditional approval to the Applicant/Borrower, copying the first-mortgage lender, if the inspection report is not finalized and/or the appraisal has not been received by Provo City Corporation yet. The conditional approval letter will state that a final approval is necessary and will be issued when the property has passed inspection and the appraisal has been received.
- h) Once those two last items are received, the Loan Processor will send a "Final Approval" letter to home owner, copying the first-mortgage lender, indicating the maximum loan amount for which the Applicant/Borrower is qualified and the loan terms. The letter will reiterate that the property must remain the Borrower's principal residence.
- i) Upon notification of Final Approval, first mortgage lender must inform Provo City Corporation which title company will be closing for them. Loan Processor will send an instruction letter informing the title company that Provo City Corporation will close the DPA loan separately from the first mortgage. **Careful coordination is a MUST to ensure timing for closing and funding of the DPA loan.** The letter will include the following instructions and request of documents:

- i) A **Preliminary Title Report (PR)** should be ordered for the loan in the amount of the DPA loan to the Borrower. The buyer **must** pay for the **PR** at the first- mortgage closing. Funds from the DPA **can** be used to cover this cost.
- ii) The Borrower cannot receive any cash back from the purchase, including Earnest Money Deposit (EMD).
- iii) Borrower is required to invest a minimum of \$1,000 in the purchase of the home before any DPA funds can be used.
- iv) A signed copy of the Closing Disclosure must be submitted to Provo City Corporation to verify that the DPA loan and the title policy charge have been correctly included.
- v) Submit wiring instructions to Provo City Corporation; **payment is made only to Title Company** which holds funds in escrow until funding is finalized.
- vi) Loan Processor will contact the title company to request recording information from the first mortgage which must be included in DPA loan's Trust Deed and Request for Notice.
- vii) Upon successful recordation of DPA loan, Loan Processor will send a copy of the recorded DPA loan Trust Deed and request the issuance of the title insurance policy.
- viii) After Loan Processor has received the requested documentation from title company:
- ix) Loan Processor prepares Trust Deed, Promissory Note and other closing documents and schedules the closing of DPA loan at Provo City Corporation's office;
- x) After closing, Loan Processor requests City's finance department to wire funds to the title company that is closing the first mortgage;

Administrative Policies

Provo City Corporation reserves the right to evaluate and underwrite Applicant/Borrower(s) eligibility based on the following criteria in a manner consistent with the intent and purpose of the Down-Payment Assistance Programs and the federal grants that fund the Program.

1) Applicant/Borrower Eligibility and Responsibilities

- a) Applicant(s) must be at least 18 years of age or older.
- b) First-Time-Homebuyer Certification
 - i) Applicant(s) must be eligible as First-Time Home Buyer as stated in the definitions in section I-D of this Manual, and:
 - ii) Eligible first-time home buyers may not have taken a deduction on Schedule A of their Federal income tax returns for any residence within the past three years immediately preceding the purchase of the home to be subsidized with Down-Payment Assistance.
 - iii) Present ownership interest shall disqualify an Applicant from eligibility. The following shall constitute a present ownership interest:
 - (1) A fee simple interest;
 - (2) A joint tenancy, tenancy in common, tenancy in the entirety, or community property interest;
 - (3) The interest of a tenant-shareholder in a cooperative;
 - (4) A life estate;
 - (5) A land contract, (i.e., a contract pursuant to which possession and the benefits and burdens of ownership are transferred even though legal title is not transferred until some later time, and
 - (6) An interest held in trust for the Applicant (whether or not created by the Applicant) that would constitute a present ownership interest if held directly by the Applicant.
- c) Positive Identification
Evidence of citizenship or eligible immigration status must be provided. All Applicants, whether U.S. citizens or qualified aliens, must submit proof of eligibility to receive federally funded

assistance. Proof must be shown for all household members who will reside in the property for which DPA is requested. For security purposes faxed or copied documents **are not** accepted. All original documents provided to Provo City Corporation will be returned to the Applicant. Any name variation from source documentation must be accompanied by legal authorizing documents identifying the updated information (marriage, divorce, or court order).

- i) Identity and Legal/Lawful Status Verification (must provide one)
 - (1) Valid unexpired U.S. passport or passport card; or
 - (2) Certified copy of a birth certificate filed with the State Office of Vital Statistics or equivalent in the individual's state of birth (hospital document or small laminated official birth certificate issued by the Dept. of Health are not accepted); or
 - (3) Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State, Forms FS-240, DS-1350, or FS-545; or
 - (4) Valid, unexpired Permanent Resident Card, Form I-551; or
 - (5) Certificate of Naturalization by DHS, Form N-550 or Form N-570; or
 - (6) Certificate of Citizenship, Form N-560 or Form N-561, issued by DHS, **and**
 - (7) Social Security Verification (must provide one)
 - (a) Social Security card issued by the U.S. government that has been signed and has not been laminated; or
 - (b) If the Social Security card is not available, the Applicant may present one of the following documents which contain the Applicant's name and SSN:
 - (i) W-2 Form;
 - (ii) SSA-1099 Form;
 - (iii) Non SSA-1099 Form;
 - (iv) Pay stub showing Applicant's name and SSN; or
 - (v) Letter from the Social Security Administration indicating ineligible to obtain a Social Security Number as a result of their legal/lawful presence status.

d) Qualified Immigrants (Aliens)

Funds from the Department of Housing and Urban Development (HUD) may only be used to assist U. S. citizens and qualified aliens as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). HUD funding is considered a Federal public benefit under PRWORA, which generally prohibits unqualified aliens from receiving Federal public benefits. According to section 401 of PRWORA, aliens who are not qualified aliens are not eligible, with certain specified exceptions listed under section 401(b), for any Federal public benefit¹. The new law first separates out unqualified immigrants from qualified immigrants². Immigrants are deemed unqualified unless they have:

- i) Been lawfully admitted for permanent residence;
- ii) Been granted asylum;
- iii) Been admitted as a refugee;
- iv) Been paroled into the United States for at least one year;
- v) Had their deportation withheld; or
- vi) Been granted conditional entry prior to April 1, 1980³.

e) Debt Ratios

Monthly Housing Expense Ratio (HER), or front-end ratio: The mortgage payment, including escrows for taxes and insurance, cannot exceed 33% of Applicant's gross monthly income if their mid credit score is 650-699, and cannot exceed 35% if their mid credit score is 700 or higher. Applicant's total monthly fixed debt-to-income ratio (DTI) cannot exceed 43% of Applicant's gross monthly income if their mid

¹ NCSHA/COSDA HOME Strengths Conference, HOME Questions and Answers (Jan. 14, 2004)

² Pub. L. No. 104-193, 110 Stat. 2105, 104th Cong., 2nd Sess. (Aug. 22, 1996). § 401.

³ § 431.

credit score is 650-699 and 45% if their mid credit score is 700 or higher. **Loan to Value not to exceed 103%**. Exceptions to the above ratios may be considered if any of the following apply:

Lowest decision Credit Score	Maximum Qualifying Ratios %	Acceptable Compensating Factors
650 and Above	37/47	One of the following: Verified and documented cash reserves (minimum of \$1,000 and no more than \$15,000); Minimal increase in housing payment (no more than 100\$ or 5%); or Residual income (minimum of 20% of Gross Income according to RI calculator).
650 and Above	40/40	No discretionary debt
650 and Above	40/50	Two of the following: Verified and documented cash reserves (minimum of \$1,000 and no more than \$15,000); Minimal increase in housing payment (no more than 100\$ or 5%); or Residual income (minimum of 20% of Gross Income according to RI calculator). Verified and documented cash reserves;

f) Guarantors

Applicant(s) must meet credit and underwriting criteria established by Provo City Corporation and must be able to qualify for the DPA loan on their own credit history. The Programs do not allow for co-signors that will not be owner-occupants of the house being purchased.

g) Applicant Contribution

Applicant(s) shall make a cash contribution toward the down payment and closing costs of at least \$1,000. Down payment, closing costs subsidies available to Applicant(s) as gifts from relatives, seller-paid closing costs, employer assistance, other government subsidies, church assistance, etc. are acceptable and allowed as long as they do not exceed the Applicant's liquid asset cap.

h) Homebuyer Education

Prior to loan closing, applicants will be required to participate in a home-buyer education class designed to assist new homeowners. Provo City Corporation will only accept certificates of completion from approved home-buyer education course providers. (See appendix A for a list and contact information of approved homebuyer education providers). The purpose of this requirement is:

- i) To enable the Applicant to understand the responsibilities that accompany participation in Provo City Corporation's Down-Payment Assistance Programs;
- ii) To enable the Applicant to understand the home-buying process;
- iii) To enable the Applicant to understand and prepare to assume home-ownership responsibilities and tasks;
- iv) To develop an understanding of home ownership with a goal of promoting feelings of self-respect, pride, and community responsibility.

i) Homeowner Tax and Insurance Requirements

Applicant shall agree to have taxes and homeowner's insurance escrowed as part of the first mortgage monthly payment. Insurance must be in an amount acceptable and comparable to the value of the

home and covering all existing buildings and structures present on the property. **Provo City Corporation shall be listed as a Mortgage on all property damage policies with usual loss payable to Mortgagee.**

j) Household Assets

Applicant's total household liquid assets **shall not be more than \$15,000** in excess of the Applicant's required \$1,000 contribution toward the purchase of the property. Liquid assets include:

- i) Savings accounts;
- ii) Checking accounts;
- iii) Stocks, bonds, savings certificates, money market funds and other investment accounts, not including retirement accounts;
- iv) Lump-sum receipts such as inheritances, capital gains, lottery winnings, insurance settlements and other claims;
- v) Cash value of trusts available to household members.

k) Household Income

The Agency will use the annual income definition found at 24 CFR 5.609(b)(3) to determine program eligibility. The Part 5 definition of annual income is the *gross amount of income of all adult household members that are anticipated to be received* during the coming 12-month period. This definition also states that income of minors or live-in aides will not be included.

- i) **Gross Amount.** For those types of income counted, gross amounts (before any deductions have been taken) are used; and
- ii) **Income of all adult household members.** The Part 5 definition of annual income contains "inclusions"—types of income to be counted—and "exclusions"—types of income that are not considered (for example earned income of minors); and
- iii) **Anticipated to be received.** The Part 5 annual income is used to determine eligibility and uses a household's expected ability to pay, rather than past earnings.
- iv) **Income Verification.** All income must be fully documented and verified. Stated income is not allowed.

l) Income Limits

The Down-Payment Assistance Programs are available on a **one-time basis**, to low- and moderate-income households and individuals whose gross income does not exceed 80% of the median income level adjusted for family size as determined by HUD and updated annually. The total household income of an Applicant/ Buyer must not exceed the income limit established for the program or project. However, higher, or lower income limits may be established per program, project, or funding source.

m) Marital Status

Applicants may be single, divorced or married. Married Applicants must co-apply for the DPA even if only one of them is obtaining the first mortgage. (A credit check will be performed on all Applicants to determine qualification for DPA loan. A mid score under 650 for any of the Applicants will result in denial of DPA loan.)

n) Preapproved for First Mortgage

Applicant(s) shall be preapproved for a first mortgage only prior to making application for DPA funds.

o) Principal (Primary) Residence

- p) The borrower(s) shall agree to occupy the property as their **primary place of residence** for as long as the DPA loan is in place, but no less than two years from closing date. **If Borrowers vacate the property prior to two years from closing date, they will incur a \$5,000 penalty** above and beyond the outstanding DPA loan amount, which must be paid at the same time the DPA loan is paid off. **No exceptions will be made for partial time lived in the property that is less than two years from the closing date.** It is the Borrower's responsibility to inform Provo City Corporation if they vacate,

sell, transfer and/or assign any legal or equitable interest in the property. The DPA loan amount shall be immediately due and repayable in full **at any time** the Borrower(s) does not use the subsidized property as their Principal (Primary) Place of Residence (See section I.D for the definition).

2) **Eligible Property**

a) Properties shall meet all applicable Federal requirements corresponding to the funding source, including but not limited to:

i) **Environmental Clearance.**

No portion of the property being purchased with DPA funds may lie within the 100-Year Flood Plain. This means not only that the structure may not lie within the designated flood zone(s), but also that no part of the land being financed may lie within the designated flood zone(s). Properties may not be located within 3,000 feet of the end of a civil airport runway or within 2-½ miles of the end of a military airfield.

ii) **Inspections.**

All properties will be inspected by building inspectors authorized or contracted with Provo City Corporation for compliance with all local building codes. Property may not contain any peeling, chipping, cracking or chalking paint on any surface of the property, outer buildings or fences. If repairs need to be made, the completion and cost shall be negotiated between buyer and seller. Repairs must be completed prior to closing and occupancy of any property subsidized with DPA funds.

iii) **Maximum Purchase Price.**

The purchase price must be under the established maximum purchase price limits as determined by HUD for the metropolitan area and updated annually.

iv) **Affordability Period.**

Housing purchased with HOME funds under these Programs must remain the principal place of residence of the Borrower for a minimum period of time as defined by the amount of HOME funds invested as shown below:

HOME Funds Invested Minimum Period of Affordability

- (1) Under \$15,000 --- 5 years;
- (2) \$15,000 to \$40,000 --- 10 years;
- (3) Over \$40,000 --- 15 years.

Should the Borrower fail to occupy the HOME-assisted unit as his or her principal place of residence for the applicable period, the DPA loan becomes immediately due and payable in full.

v) **Lead-Based Paint.**

All housing units built prior to 1978 and utilizing Federal funding sources (i.e. HOME, CDBG, etc.) are subject to the following requirements:

(1) Notification (*24 CFR 35.1010(b) and 24 CFR 35.130*)

- (a) Borrower must receive a copy of the Department of Housing and Urban Development/Environmental Protection Agency/Consumer Product Safety Commission lead hazard information brochure entitled "Protect Your Family from Lead in Your Home." Verification of Borrower(s) receipt of brochure must be placed in project file.

(2) Disclosure (*24 CFR 35.82*)

- (a) The seller must disclose all known information about the presence of lead-based paint (LBP) or LBP hazards.
- (b) Seller must allow Borrower 10 days to inspect the property for LBP or LBP hazards.
- (c) The above disclosure requirements apply to all real estate sales assisted with Federal funding sources.

(3) Visual Assessment (*24 CFR 35.1015(a)*)

- (a) A visual assessment of all interior painted surfaces, including common areas such as hallways, laundry rooms or garages, and all exterior surfaces of the buildings, must be conducted to identify deteriorated paint.
 - (b) The visual assessment must be conducted by a person who has successfully completed the HUD Office of Lead Hazard Control Visual Assessment Course and may be included as part of the Housing Quality Standards inspection required of all properties assisted with DPA loan funds.
- (4) Paint Stabilization (*24 CFR 35.1015(b) and 24 CFR 35.1330(a)(b)*)
- (a) All deteriorated paint surfaces identified through the visual assessment must be stabilized prior to closing date.
 - (b) Testing of deteriorated paint surfaces for the presence of lead may be done at the designated party's (Seller or Borrower) option and at their expense.
 - (c) The designated party shall perform paint stabilization using safe work practices as defined at *24 CFR 35.1345*.
 - (d) Workers performing paint stabilization must be trained in accordance with OSHA regulations at *29 CFR 1926.59* and must also meet additional requirements as set forth at *24 CFR 35.1330(a)(4)*.
 - (e) If testing of the deteriorated paint surfaces was performed and no LBP was found, safe work practices shall not apply.
 - (f) Safe work practices are not required if the total amount of deteriorated paint surfaces identified does not exceed 20 sq. ft. on exterior surfaces, 2 sq. ft. in any one interior room, or 10% of the total surface area on an interior or exterior type of component with a small surface area like windowsills, baseboards, and trim.
- (5) Clearance (*24 CFR 35.1015(b)(d)*)
- (a) LBP Paint inspector or a Clearance Technician must conduct a clearance exam upon completion of paint stabilization and clean-up activities.
 - (b) Clearance is not required if the total amount of deteriorated paint surfaces identified and treated does not exceed 20 sq. ft. on exterior surfaces, 2 sq. ft. in any one interior room, or 10% of the total surface area on an interior or exterior type of component with a small surface area like windowsills, baseboards, and trim.
 - (c) The clearance exam shall consist of a visual assessment and dust testing to determine if the unit is safe for occupancy.
 - (i) If the test results equal or exceed the published clearance standards at *24 CFR 35.1320(b)(2)*, the unit will not be considered to have passed the clearance test and must be re-cleaned and re-tested prior to close of escrow.
 - (ii) The clearance examiner must be independent from the individual or entity which conducts the paint stabilization activities.
 - (iii) Prior to closing date, and within 15 days of paint stabilization activities, the Borrower must receive a clearance report which details the results of a clearance examination as prepared in accordance with *24 CFR 35.1340*. A copy of the clearance report shall be placed in the project file.
- vi) **Other Federal regulations and Provo City Corporation requirements may apply to the DPA programs and corresponding to the funding source.**
- b) Location (Determined by corresponding funding Source)
 - Home Purchase Plus Program.** Properties must be located within Provo City limits.
 - Loan To Own.** Properties must be located in any City within Utah County (including unincorporated Utah County areas), **except for** Eagle Mountain, Fairfield, Woodland Hills, Highland, or Provo.
 - c) Unit Characteristics
 - Properties shall be situated on a permanent foundation with a permanent utility hook-up. Eligible

properties include:

- i) Single-family detached property;
 - ii) Single-family detached property with a legal-accessory apartment (as long as part of the unit is owner occupied);
 - iii) Single-family attached properties (i.e. one half of a twin home or a town home or condominiums);
 - iv) Duplexes are not eligible.
- d) Occupancy Status (prior to purchase)
Single-family units are eligible provided the property is vacant, occupied by the existing owner and/or occupied (rented) by the Applicant/Borrower.

To remain eligible for DPA funding, properties or dwelling units which are vacant at the time when Applicant (Borrower)/Seller entered into the Real Estate Purchase Contract (REPC) **cannot** subsequently be occupied by parties other than the Applicant/Borrower or Seller until the sale is completed and title has been vested in the assisted property. A property that was occupied by permanent tenants (i.e. over 30 days) must be vacant for at least 180 days prior to Applicant entering into a REPC for its purchase. **The property may not be occupied by renters who would be displaced by the sale.** Documentation proving tenants were not displaced may be required, including copies of lease documents or affidavits signed by renters.

- e) Appraisals
- i) Utah State licensed appraisers must perform all appraisals and all appraisals must be dated within six (6) months of closing date. The DPA loan plus the first mortgage amount cannot exceed appraised value.
 - ii) All appraisals used to determine Fair Market Value must meet the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (URA) definition of an appraisal (see 49 CFR 24.2(a)(3)) and the five following requirements (see 49 CFR 24.103(a)(2)).
 - iii) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least 5- year sales of history of the property.
 - iv) All relevant and reliable approaches to value. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value.
 - v) A description of comparable sales, including a description of all relevant physical, legal, and economic factors, such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.
 - vi) A statement of value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.
 - vii) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.
 - viii) The property must be the principal residence of all Applicants and household members which were included in the application.
 - ix) Applicants who are single individuals with no dependents buying in Provo City may only receive assistance to purchase a two-bedroom residence.
 - x) Multi-unit structures (duplexes, triplexes, etc.) and mobile homes are **NOT** eligible.
- f) Accessory Apartments
Housing stock with accessory apartments is an eligible type of housing allowed as long as the home remains owner occupied. Anticipated rent must be included in the calculation of the projected income to determine income eligibility. Rent charged cannot exceed approved HOME

rent limits for jurisdiction as designated by HUD per unit size.

3) **Seller Responsibilities**

Individuals selling a property in a transaction which is to be assisted with a DPA loan shall agree to comply with all Federal and local requirements as applicable and corresponding to the funding source including the following:

a) **Inspection/Repairs & Corrections**

Seller must allow for any corrections needed for the property to pass inspection. Program funds cannot be committed until the property being purchased passes an inspection by Provo City Corporation-approved inspectors or its representatives.

4) **Lender Responsibilities**

a) **Scheduling the Closing Date**

The Lender shall schedule a closing date no earlier than two (2) days from Provo City Corporation's closing date. Lender must notify Provo City Corporation of the closing date so that Provo City Corporation closing can also be scheduled. Failure to notify Provo City Corporation could result in a delay in funding. A commitment shall expire 30 days from the date of the Final Approval. A 15-day extension may be requested by submitting a written request to the Program Administrator. Provo City Corporation shall make a single subsidy payment to the title company engaged in closing the First Mortgage to the property. If the requested loan amount is in excess of the actual amount needed at closing, the title company will be requested to return the difference to the City at closing. If it is determined by the City after closing that the Borrower has not contributed a minimum of \$1,000 to the closing costs or down payment, the City will request the Borrower to return funds to the City in an amount that would satisfy the \$1,000 requirement.

b) **Misrepresentation**

If Lender becomes aware of misstatements, whether negligently or intentionally made, it shall be their responsibility to immediately notify the City. The City will take appropriate action which may include denial or cancellation of the Program subsidy. The Lender must also be aware and inform the Borrower that **both Federal and Utah law provides for fines and criminal penalties for misrepresentations made in connection with participation in the Program.**

5) **City Responsibilities**

a) **Federal Regulations**

The CITY shall administer the Down-Payment Assistance Programs in conformance with HOME and CDBG Regulations, any other funding sources and these administrative policies and procedures. The Program shall automatically adopt by reference any relevant changes to the Federal regulations. Checklists and other documentation formats shall be established to assure compliance with Program requirements, and each file will be appropriately documented.

b) **Conflict of Interest**

In accordance with 24 CFR 84.42, 24 CFR 92.356 and 24 CFR 570.611, no persons who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME/CDBG funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME/CDBG-assisted activity, or have 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 (1) year thereafter.

The conflict-of-interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official, appointed official or any person who exercises policy or decision-making responsibilities (including members of the Board or Loan Committee) of the Participating Jurisdiction or Subrecipient which are receiving HOME/CDBG funds.

Exceptions to this policy can be made only after local public disclosure and formal approval by HUD. The Program Administrator shall follow the guidelines established by the HOME Final Rule to request an exception to HUD:

- i) Providing a Written Request to HUD including:
 - (1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
 - (2) An opinion of the participating jurisdiction's attorney that the interest for which the exception is sought would not violate State or local law.

The subrecipient shall maintain a written code of standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

c) Non-discrimination

Implementation of the Down-Payment Assistance Program will be consistent with the CITY/Consortium's commitment to non-discrimination. No person shall be excluded from participation in, denied the benefit of, or be subject to discrimination on the basis of religious affiliation, age, race, color, creed, gender, sexual orientation, marital status, familial status (children), physical or mental disability, national origin, ancestry, source of income or other arbitrary cause.

d) Application Process

- i) CITY staff shall review the Borrower(s) application package to determine both Borrower and property eligibility. A review of Borrower eligibility shall include, among other criteria, income determination in accordance with 24 CFR Part 5. Such income verification shall be in effect for six (6) months, or until closing, whichever occurs first.
- ii) A review of property eligibility shall include, among other criteria, the determination of compliance with 24 CFR 35, Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and **Housing Receiving Federal Assistance**. Following is the process which will be used to determine and ensure compliance.
 - (1) If, based on a preliminary review of the application, it is determined that the Borrower and the property meet Program criteria, an inspection of the property will be scheduled.
 - (2) An inspection report will be provided to the Lender.
- iii) If there are no corrections required, the City will forward commitment to applicant(s), with a copy to the Lender.
- iv) If repairs or corrections are required, they will need to be completed and the property re-inspected.
- v) At time of closing the City will verify that the Borrower has received the HUD literature regarding Lead-Based Paint and Repaint/Remodel practices.

e) Recapture Provisions

- i) The sale of the subject property during the Affordability Period triggers repayment of the direct HOME subsidy received by the home buyers. The home buyer may sell the property to any willing buyer as long as the outstanding balance is paid in full.
- ii) Any outstanding balance not paid when due shall bear interest thereafter at the rate of up to 12.5% per annum until paid.
- iii) In the event of foreclosure, the recapture amount will be based on the net proceeds available from the sale of the property. The City reserves the right to file a deficiency judgment after foreclosure.
- iv) The affordability period shall be enforced through a Deed of Trust, Promissory Note and Loan Agreement. Recapture on sale and foreclosure provisions terminate the affordability period.
- v) The home buyer is required to repay the direct assistance provided if any one of the following

occurs during the period of affordability:

- (1) The purchased property under this Program does not continue to be the principal residence of the home buyer during the affordability period;
- (2) The home buyer has breached the terms of the Program Agreement;
- (3) Death of the last surviving home buyer, during the period of affordability, unless the property is transferred to the home buyer's heir(s), provided the heir(s) meet the income qualifications and agree in writing to all of the terms of the Agreement and Deed, having been found eligible and qualified to meet the Program's requirements.
- (4) Having set the DPA loan in to default by failing to maintain required property hazard insurance or failing to pay property taxes.
- (5) If the Borrower ceases to occupy the property as their Principal Residence and/or sells the property within two (2) years of the closing date, the total loan amount becomes immediately due and payable to the City with a prepayment penalty of \$5,000.

f) Calculation of Assistance

- i) The DPA loan amount shall not exceed \$40,000, based on need. Depending on the loan type applicant may receive an additional 3.5% or 5% above and beyond the required down payment plus qualified closing costs.
- ii) The DPA loan shall be secured by a zero percent (0%) interest, payment deferred second mortgage and a promissory note between the buyer and the City.

g) Zoning Verification

A zoning verification will be obtained for all Provo properties by submitting a Zoning Verification Request Form to Community Development to ensure that all properties are eligible. A written zoning verification will then be mailed to City confirming the zoning of the property being purchased.

6) Eligible Costs

Proceeds from the DPA loan must be used for down payment and closing costs. The City reserves the right to determine the eligibility of all closing costs and to request lender documentation of normal and reasonable costs. Following is a list of items for which assistance can be provided if all Program eligibility and qualification requirements are met. **Prepaid items are not eligible.**

a) Down Payment

Funds shall primarily be used to reduce the principal borrowed by the Buyer from Lender.

b) Eligible Closing Costs

- i) Title Company Settlement or Closing Fees;
- ii) Recording Fees;
- iii) Surveying Fees;
- iv) Loan Origination Fees;
- v) Credit Reports;
- vi) Appraisal Fees;
- vii) Property Inspections;
- viii) Underwriting Fees;
- ix) Document Preparation Fees;
- x) Closing Fees;
- xi) Our Title Policy;
- xii) Interest buy-down costs;
- xiii) Lender's title insurance policy

c) Ineligible Closing Costs and Pre-Paid Items

- i) Real Estate Agent/Broker Fees & Commissions;
- ii) Daily Interest Charges;
- iii) Aggregate Adjustment Amounts;
- iv) Mortgage Insurance Premiums;

- v) Homeowner's Insurance Premiums and Fees;
- vi) Property Taxes;
- vii) Delinquent Property Taxes;
- d) Personal Property
DPA loan proceeds **cannot** be used to finance the acquisition of furnishings, appliances, or other personal property.
- e) Consumer Debt/Judgments
DPA loan proceeds **cannot** be used to pay off all or any portion of Borrower's consumer debt, liens, or judgments.
- f) Corrections and Repairs
DPA loan proceeds cannot be used to pay for any required corrections or repairs to the property.

Underwriting | Approval of DPA Loan

Provo City Corporation reserves the right to evaluate an Applicant/Borrower(s) eligibility based on the following criteria in a manner consistent with the intent and purpose of the Down-Payment Assistance Programs.

1) Applicant/Borrower Eligibility and Responsibilities

- a) Applicant(s) must be at least 18 years of age or older.
- b) Applicant(s) must be a US citizen or as previously described in this manual
- c) Applicant(s) must be low income, which amount is determined by HUD and based on the number of individuals currently living in the home.
- d) Applicant(s) must have a minimum mid credit score of 650 or higher.
- e) Applicant(s) must meet the ratios as described in this manual.
- f) Applicant(s) must take a pre-home ownership counseling course offered by an approved program of the City. A certificate of completion must be placed in the file.
- g) Applicant(s) must provide a signed and notarized Affidavit of Seller.

2) Approval of DPA Loan

Once all required documentation has been received from the lender and loan processor has determined that the applicant(s) meets all the requirements, the loan is submitted to the Program Administrator for review and approval. If an exception above approved exceptions to standard ratios needs to be made, an email will be sent to all loan committee members showing all appropriate information and the exception being requested. A majority vote of approval is required to approve a loan exception. Once approval has been received, a letter will be sent to the applicant, copying lender, stating approval and terms of the loan.

3) Determining Household Size

Some households may include persons who are not counted as family members for the purposes of HOME Program Income Limits and whose income, if any, is not considered when calculating annual (gross) income. Therefore, the following household members **DO NOT COUNT** when determining household size for the purpose of comparing "annual income" to HOME Program Income Limits:

- a) Foster Children
- b) Live-in Aides
- c) Children of Live-in Aides, and
- d) Children being pursued for legal custody or adoption who are not currently living with the household.

A child who is subject to a shared-custody agreement in which the child resides with the household at least 51 percent of the time can be counted.

Permanently Absent Family Members

Documentation will be required to substantiate that the family member is no longer residing at the household address. This documentation may consist of a legal separation agreement, prior year's tax

return showing separate filing, or any other documentation which adequately verified a separate residence for the absent family member.

4) **Determining Whose Income to Count**

The income of all family members over 18 must be included in the determination of “annual income.” In practice, this means that the PJ or non-profit staff member determining income must first determine the number of persons comprising the family, then calculate the income of all persons in the family over 18 years of age.

Members	Employment Income	Other Income (including income from assets)
Head	Yes	Yes
Spouse	Yes	Yes
Co-head	Yes	Yes
Other adult *(including foster adult)*	Yes	Yes
Dependents		
-Child under 18	No	Yes
Full-time student over 18	See Note	Yes
Foster child under 18	No	Yes
Nonmembers		
Live-in aide	No	No

NOTE: The earned income of a full-time student 18 years old or older who is a dependent is excluded to the extent that it exceeds \$480.

The head of the family, spouse, co-head, foster child, or live-in aide are never dependents. Some income received on behalf of family dependents is counted and some is not.

- a) Earned income of minors (family members under 18) is not counted.
- b) Benefits or other unearned income of minors is counted.
- c) When more than one family shares custody of a child and both families live in assisted housing, only one family at a time can claim the dependent deduction. The family that counts the dependent deduction also counts the unearned income of the child. The other family claims neither the dependent deduction nor the unearned income of the child.
- d) When full-time students who are 18 years of age or older are dependents, a small amount of their earned income will be counted. Count only earned income up to a maximum of \$480 per year for full-time students, age 18 or older, who are not the head of the family or spouse or co-head. If the income is less than \$480 annually, count all the income. If the annual income exceeds \$480, count \$480 and exclude the amount that exceeds \$480.
- e) The income of full-time students 18 years of age or older who are members of the household but away at school is counted the same as the income for other full-time students. The income of minors who are members of the household but away at school is counted as the income for other minors.
- f) All income of a full-time student, 18 years of age or older, is counted if that person is the head of the family, spouse, or co-head.
- g) Payments received by the family for the care of foster children or foster adults are not counted. This rule applies only to payments made through the official foster care relationships with local welfare agencies.
- h) Adoption assistance payments in excess of \$480 are not counted.

5) **Credit Scores**

The CITY will use the mid credit score as it evaluates credit worthiness from Applicant(s) to their HUD funded programs. A score of 700 points or more will classify Applicants to an A-Loan, a score between 650 and 699 points will classify Applicants to a B-Loan. Scores of 649 and below deems an automatic denial.

Frequently lenders use a “three repositories merged” credit report (TRMCR). These reports include scoring information from three different agencies: TransUnion, Equifax and Experian. The mid score will be used to determine credit worthiness. The lowest credit score of the Applicant(s) will be used to determine ratios for qualification.

6) **Credit Reports and Title Holders**

- a) Designated Head of Household **and** spouse/partner must be on title for the City loan.
- b) To meet underwriting criteria, credit reports will be required and evaluated to determine credit worthiness for both Head of Household **and** spouse/partner. The determination is effective for the City loan even if spouse/partner is not included in first mortgage. The lowest credit score will determine whether the household is qualified, and/or for which type of loan (A or B) they qualify as a household.
- c) Credit reports will also be required from other household members over 18 years of age whose income is required to make the loan feasible and meet underwriting criteria and/or to qualify for the CITY loan or any superior lien interest.

A—Loans:

- i) CREDIT – Credit score must be above a 700 mid score. No unsatisfied judgments; clean credit within the last 12 months including late payments; no bankruptcies or repossessions.
- ii) CAPACITY – 6 months of employment. Same line of employment or related education if new job is less than six months. No probationary period. No more than a 10-point difference between HER and DTI is allowed.
 - 35%** or less of gross income is for monthly housing costs— Housing Expense Ratio (HER)
 - 45%** or less of gross income is for total monthly debt costs—Debt to Income Ratio (DTI).
- iii) MAXIMUM LOAN – Up to \$40,000 as needed.
- iv) COLLATERAL – Loan to Value (LTV) must not exceed 103% including down-payment assistance.

B—Loans:

- i) CREDIT – Credit score must be above a 650 mid score. No unsatisfied judgments; clean credit within the last 24 months including late payments; no bankruptcies or repossessions.
- ii) CAPACITY – 6 months of employment. Same line of employment or related education if new job is less than six months and previous work history of greater than one year with employer. No probationary periods.
 - 33%** or less of gross income is for monthly housing costs— Housing Expense Ratio (HER).
 - 43%** or less of gross income is for total monthly debt costs—Debt to Income Ratio (DTI).
- iii) MAXIMUM LOAN – Up to \$40,000 as needed.
- iv) COLLATERAL – Loan to Value (LTV) must not exceed 103% including down-payment assistance.
- d) Exceptions to the above ratios may be approved if any of the following applies:

Lowest decision Credit Score	Maximum Qualifying Ratios %	Acceptable Compensating Factors
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650 and Above	37/47	One of the following: Verified and documented cash reserves (minimum of \$1,000 and no more than \$15,000); Minimal increase in housing payment (no more than 100\$ or 5%); or Residual income (minimum of 20% of Gross Income according to RI calculator).
650 and Above	40/40	No discretionary debt
650 and Above	40/50	Two of the following: Verified and documented cash reserves (minimum of \$1,000 and no more than \$15,000); Minimal increase in housing payment (no more than 100\$ or 5%); or Residual income (minimum of 20% of Gross Income according to RI calculator). Verified and documented cash reserves;

- e) Housing monthly payments used to calculate the Housing Expense Ratio (HRE) include:
- i) Principal and interest;
 - ii) Escrow deposits for real estate taxes;
 - iii) Hazard insurance;
 - iv) Mortgage insurance premium;
 - v) Homeowner's association duties; and
 - vi) Special assessments.
- f) Expenditures used to calculate the Debt-to-Income Ratio (DTI) include:
- i) All housing payments above;
 - ii) Long-term installment debt (beyond 10 months remaining to be paid) including student loans, unless Applicant(s) can provide documentation of at least one-year deferment;
 - iii) Revolving accounts and lines of credit;
 - iv) Alimony, child support or maintenance payments, as applicable;
 - v) Stock pledges, if applicable.
- g) A loan will be automatically denied if any of the following conditions exist:
- i) Mid credit score equal to or less than 649;
 - ii) Unsatisfied local, state or federal tax liens;
 - iii) Bankruptcy or repossessions within the past year;
 - iv) Clouded credit history over past 12-24 months (i.e. unsatisfied judgments or collections, derogatory comments or a history of late payments);
 - v) Current employment history less than six months;
 - vi) Unsatisfactory response from employer concerning probability of job retention;
 - vii) Probationary status of current employment.
- h) All available resources of an Applicant must be disclosed (i.e. verification of deposit).
- 7) **Outstanding Debts**
All outstanding debt for both Applicants must be counted toward the ratios unless there is less than 10 months left on the terms of the loan. Student loan payments do not count as long as the Applicant can provide proof that they are deferred for one year.
- 8) **Self-Employed Income**
Net Income from the operation of a business or profession is considered annual income. To determine this type of income, the previous two years of itemized expenditures must be provided

plus a 12-month profit & loss statement. Self-employed income will only be accepted when it can be verified for at least one year prior to application. In order to determine capability, if the Applicant has been in business less than one year, employment history for the prior two years must be presented.

9) **Ineligibility**

Applicants will be considered ineligible for one or more of the following:

- a) Providing false information;
- b) Failing to complete required forms or to supply requested information;
- c) Committing fraud in connection with any HUD program, or failing to disclose previously committed fraud in connection with any HUD program;
- d) Appearing on HUD's list of individuals suspended, debarred and those with limited denials of participation;
- e) Having a record of eviction from any government-assisted housing program;
- f) Having an outstanding debt owed to any public or Indian housing authority or tribally designated housing entity;
- g) Having previously received Down Payment Assistance from the City or Loan-To-Own programs;
- h) Failure to successfully pass the required background check.

10) **Waiting List/Applicant Pool**

- a) The DPA is operated on a first-come, first-served basis subject to availability of funds.
- b) City will maintain a list of eligible Applicants based on the date and time the completed application is received by City.
- c) If funds are unavailable for the DPA, the City may suspend or discontinue accepting applications until funds become available.

11) **Reservation of Funds**

- a) Funds will be reserved for each Applicant when the loan application is complete, including a copy of the Earnest Money Agreement and all information required by the first mortgage lender.
- b) Funds will be extended for 90 days and may be extended for 15 days at a time with a total maximum extension of 90 days.

12) **Projected Obligations**

- a) Debt payments such as a student loan or balloon note scheduled to begin or come due within 12 months of the mortgage loan closing must be included by the lender as anticipated monthly obligations during the underwriting analysis.
- b) Debt payments do not have to be classified as projected obligations if the Borrower provides written evidence that the debt will be deferred to a period outside the 12-month timeframe.

13) **Obligations Not Considered Debt**

- a) Obligations not considered debt, and therefore not subtracted from gross income, include:
 - i) Federal, state and local taxes;
 - ii) Federal Insurance Contributions Act (FICA) or other retirement contributions, such as 401(k) accounts (including repayment of debt secured by these funds);
 - iii) Commuting costs;
 - iv) Union dues;
 - v) Open accounts with zero balances;
 - vi) Automatic deductions to savings accounts;
 - vii) Childcare; and
 - viii) Voluntary deductions.

14) **Grounds for Denial of Financial Assistance**

a) **Rationale**

Provo City Corporation works with residents and non-profit partners to create healthy neighborhoods of choice. A cornerstone of the healthy neighborhood strategy is providing opportunities for sustainable home ownership. Program development focuses on providing

opportunities for new home ownership and strengthening and maintaining existing homeowners. Neighborhood management and the development of strong social connections within the neighborhoods are essential to building unity and encouraging homeowners to make the choice to invest their time, money and energy into their neighborhood and community.

Providing financial assistance to those required to register as sex offenders and those with serious and/or violent criminal records would undermine our goal of attracting new homeowners and encouraging existing homeowners to stay in the neighborhoods.

b) Policy

Provo City Corporation will deny assistance to Applicants who:

- i) Do not meet the established eligibility/underwriting criteria; or
- ii) Have engaged in or threatened abusive or violent behavior towards any City staff; or
- iii) Have been convicted of any violent crime against a person which includes, but is not limited to, murder, sexual assault, aggravated assault, or any offense of a sexual nature including any individual required to register as a sex offender.

c) Appeals

An applicant(s) may appeal against a denial of assistance in the form of a letter addressed to the loan committee explaining why they feel an appeal should be granted. The appeal will be reviewed by the loan committee and a decision given to the applicant(s).

15) Background Check

In this screening of Applicants, the City shall perform criminal history background checks necessary to determine criminal history and whether any household member is required to register as a sex offender in the State of Utah or in other States where the household members are known to have resided.

16) Accessory Apartments

Housing stock with accessory apartments are an eligible type of housing allowed as long as the home remains owner occupied. Anticipated rent must be included in the calculation of projected income to determine income eligibility. Rent charged cannot exceed approved HOME Rent limits for the jurisdiction as designated by HUD per unit size.

17) Employment History

- a) All Applicants must have a minimum of six months employment with current employer and the employer must certify they are not in a probationary period. If any of the Applicants have less than six months employment with current employer, they must verify employment in the same line of work (position, duties, and responsibilities) for at least six months prior. Education, technical or professional, may be considered when Applicants are employed for less than six months only if it relates to the current position.
- b) An applicant who has changed jobs to advance within the same line of work, which maintains income continuity, and is successful in that work (i.e. is retained beyond a probationary period for that position), will also receive favorable consideration.
- c) The applicant's probability for continued employment should be evidenced in the file. In the case of negative comments received from the employer, City must carry out a detailed investigation.
- d) A summary of their findings should be provided in the file and the underwriting decision should be supported by comments on the file.

18) Assessing Income Information

All facts underlying the income information collected shall be assessed using the following considerations:

- a) Pay Periods – Determine the basis on which employees are paid:
 - i) Hourly, weekly, or monthly
 - ii) With or without overtime
 - iii) Bonus, shift differentials and other forms of payment

- (1) An employee who gets paid “twice a month” may actually be paid either twice a month (24 times a year) or every two weeks (26 times a year). The calculation will bear a significant difference. Be sure to get clarification!
- (2) An annual salary is counted as annual income regardless of the payment schedule. For example, if a teacher’s annual salary is \$30,000, this is the amount used to calculate annual (gross) income regardless of whether the teacher is paid over a nine- or 12-month period.
- (3) Variation in Pay: For Applicants whose jobs provide steady employment (e.g., 40 hours a week, 52 weeks a year), it can be assumed that there will only be slight variations in the amount of earnings reflected in monthly or bi-weekly pay stubs. In such cases, three consecutive months of income documentation is an appropriate amount upon which to base a projection of income over the following 12-month period.
- (4) For those whose annual employment is less stable or does not conform to a twelve-month schedule (e.g., seasonal laborers, construction workers, teachers), the City will examine income documentation that covers the entire previous twelve-month period. Such workers can experience substantial variations in earned income over the course of a year. As such, an examination of three months of income documentation may not provide an accurate basis upon which to project the Applicant’s income for the following 12 months.
- (5) Sources of Earned Income: In addition to hourly earnings, the City will account for all earned income. In addition to the base salary, this will include annual cost of living adjustments (COLAs), bonuses, shift differentials and overtime pay. In the case of overtime, it is important to clarify whether overtime is sporadic or a predictable component of an employee’s income. If it is determined that an Applicant has earned and will continue to earn overtime pay on a regular basis, the City should calculate the average amount of overtime pay earned by the Applicant over the pay period the City is using to calculate income eligibility (3 months or 12 months).
 - b) This average amount is then to be added to the total amount of projected earned income over the following 12-month period.

19) Timing Income Certifications

- a) All households receiving HOME assistance must be income eligible. Therefore, the income certification process must be completed before assistance begins.
- b) There are two distinct times when income certifications may be necessary for households participating in HOME-funded programs:
 - i) Initial Income Certifications (at time of application), and
 - ii) After six months from application if assistance has not yet been provided.

20) Initial Certifications

- a) Households must qualify as low-income at the time of application.
- b) The City will not re-examine a household’s income, unless more than six months have elapsed since the household’s income was certified by the Loan Processor.
- c) A preliminary determination of eligibility is made to verify that Applicant(s) meet the minimum requirements of the Program.

21) Assets Inclusions and Exclusions

- a) Inclusions
 - i) Cash held in savings and checking accounts, safe deposit boxes, homes, etc. For savings accounts the current balance will be used. For checking accounts, the average three-month balance will be used.
 - ii) Cash value of revocable trusts available to the applicant, or any adult household member.
 - iii) Cash value of stocks, bonds, Treasury bills, certificates of deposit and money market accounts.
 - iv) Individual retirement, 401(K) and Keogh accounts (even though withdrawal would result in penalties).
 - v) Retirement and pension funds.

- vi) Cash value of life insurance policies available to household members before death (e.g. surrender value of a whole life or universal insurance policy).
- vii) Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
- viii) Lump sum or one-time receipts, such as inheritances, capital gains, lottery winnings, victim's restitution, insurance settlements and other amounts not intended as periodic payments.

b) **Exclusions**

- i) Necessary personal property, except as noted in number 8 of inclusions, such as clothing, furniture, cars, and vehicles specially equipped for persons with disabilities.
- ii) Interest in Indian trust lands.
- iii) Assets not effectively owned by the applicant (or an adult household member). That is, when assets are held in an individual's name, but the assets or any income they generate is accrued to the benefit of someone else who is not a member of the household, and that other person is responsible for income taxes incurred on income generated by the asset.
- iv) Equity in cooperatives in which the family lives.
- v) Assets which are not accessible and that provide no income for the applicant.
- vi) Term life insurance policies (i.e. where there is no cash value).
- vii) Assets that are part of an active business.

22) **Determining Assets Income**

- a) The City counts the actual income generated by the asset, such as interest on a savings or checking account, for the purpose of determining "annual income." The income is counted even if the household elects not to receive it. For example though an applicant may elect to reinvest interest or dividends from an asset, the interest or dividends are still counted as income. In the same manner as with other forms of income, the income from assets that is included in determining "annual income" is the income that is anticipated to be received from the asset during the coming 12 months.
- b) Many applicants are surprised to learn that checking account balances (as well as savings account balances) are considered an asset. This rule is not intended to count monthly income as an asset, but rather, it recognizes that some households keep assets in their checking accounts. To avoid counting monthly income as an asset, the CITY will use the average monthly balance over a three-month period as the cash value of the checking account.
- c) When assets produce little or no income, an "imputed" income will be calculated on assets with little or no income based on the "Passbook Rate" (established by HUD—currently 2%) applied to the cash value of assets. This rule only applies if the total cash value of all assets is more than \$5,000.
- d) Computing the Value of Assets
 - i) Assets have both a market value and a cash value. Only the cash value (rather than the market value) of an item is counted as an asset. The market value of an asset is simply its dollar value on the open market.

23) **Subordination Requirements**

- a) The outstanding DPA loan will not be due upon prepayment or refinance of the first loan, provided that such refinancing of the property, the principal balance of the new first mortgage and the DPA loan does not exceed the appraised value of the property. Evaluate LTV upon refinancing.
- b) Subordination of City's down-payment assistance to a new first mortgage is allowed when the loan is a streamline loan with no cash out. The borrower's account must be current, which in the case of deferred loans means continuing to be owner occupants of the property for which the assistance was provided.
 - i) The new loan must have a fixed rate and must have a 30-, 20- or 15- year term. Homebuyers must intend to continue occupying the property as their principal (primary) place of residence. A comparison of the old and new loans must be provided including loan amounts, interest

rates, monthly payments, and terms for both loans. The interest rate and monthly payment must be lower than the previous loan. CD's and LE must also be provided for the proposed new loan. A copy of the pay-off from the mortgage to be paid must be included.

- c) The City will subordinate once in a three-year period for free. If additional subordinations are requested or required, a \$250.00 fee each must be paid. Templates for the Subordination Agreement and Request for Notice will be provided by the City.
- d) Subordination with Cash Out for Home Rehabilitation:
 - i) On a case-by-case basis, the City **may** agree to subordinate to cash out where the proceeds will be used for rehabilitation/home improvements but only where an FHA-203K loan is in place. The rehabilitation/home improvement must be through a legitimate lender. The financing bank must ensure that all proceeds go into the house and inform us how that will be carried out.
- e) Loan to value must be no less than eighty percent (80%) including our loan (appraisal must be provided). The rehabilitation/improvement must add finished space. A HUD 1003, Loan Estimate and credit report must be provided to City. An itemized list of proposed work along with a schedule and budget must be included. The new loan must be fully amortized and have a fixed interest rate for the life of the loan with no balloon payments. All work must be completed, and loan proceeds disbursed within six months of closing.

24) Conditions of Default

- a) Conditions of default include:
 - i) Transfer of title, sale, or lease of the property;
 - ii) Ceasing to occupy the property as the principal place of residence, for any reason without authorization from the Program Administrator;
 - iii) Default on the payment of property taxes;
 - iv) Failing to maintain current, valid and sufficient homeowner's insurance against the property;
 - v) Failing to adhere to any other deed restrictions agreed upon by signing all the closing documents.

25) Determination of Default on a Loan

- a) Loans are normally paid off in the normal course of business as borrowers' contract to sell their property to a new owner. On occasion, borrowers will move out of the property for other reasons without remembering that vacating the property puts them in default and that it triggers immediate repayment of the loan received to acquire the property.
- b) Once the City has learned of a possible default, staff will contact borrowers to verify that borrowers have indeed vacated the property and to ascertain facts as to the circumstance that caused them to move out.

26) Repayment of Loans in Default

- a) Once it has been established that a beneficiary is in default on the loan received for down-payment assistance, they must commit to pay the loan.
- b) The offer of a payment plan is to assist borrowers in fulfilling their responsibility to repay the loan received. The terms established here intend to cause the quickest repayment possible as the City is responsible for repayment of HOME/CDBG funds to HUD in case the affordability period is not met.
- c) Lump sum payments are the ideal repayment method and will be accepted without charging the default interest percentage if paid within 60 days or sooner.
- d) Options may be presented when beneficiaries find themselves in situations where full payment is not immediately possible:
 - i) 0% interest if repaid within 12 months or less
 - ii) 2.0% interest if repaid in 13 to 24 months
 - iii) 3.5% interest if repaid in 25 to 36 months
 - iv) 5.5% interest if repaid in 37 to 48 months

- v) 7.5% interest if repaid in 49 to 60 months
- vi) 8.5% interest if repaid in 61 to 72 months
- vii) 10.5% interest if repaid in 73 to 84 months
- viii) 12.5% interest if repaid in 85 to 96 months
- ix) 15% interest if repaid in 97 to 120 months
- e) Options offered will vary depending on the outstanding loan amount.
 - i) For loans of \$5,000 or less only options a) through c) may be offered
 - ii) For loans between \$5,000 and \$15,000 only options a) through e) may be offered
 - iii) For loans above \$15,000 and \$25,000 only options a) through g) may be offered
 - iv) For loans above \$25,000 all options may be offered.

27) Repeat Customer

- a) Only in extreme cases, Applicants who have previously received assistance from any of the HUD-funded programs administered by the City (down-payment assistance; rehabilitation, emergency grant, etc.) may be eligible to receive further assistance.
- b) Consideration will only be given to Applicants where the original established Affordability Period has expired for the property to which they received assistance.
- c) The history of their previous account with City must be satisfactory; bankruptcy, foreclosure, short sale and/or any other form of delinquency shall immediately disqualify Applicants from consideration to receive further assistance.
- d) If Applicants are afforded consideration to a second opportunity, in addition to meeting eligibility requirements for the program to which they are applying, they must submit a letter to the Program Administrator providing specific information as to why they are seeking additional assistance from the City's HUD-funded programs and why they think another opportunity should be afforded to them. Documentation must be included verifying the reasons included in the letter. If Applicants are allowed to receive additional assistance, any forgiveness they may have received in previous programs shall be forfeited and included in the program for which they are seeking additional assistance.

28) Appeals Process

- a) Individuals or households who have applied for Down-Payment Assistance and who, for any reason, have been determined to be ineligible will be notified by the City in writing. The notification shall state the reason for ineligibility. All information related to the rejection of the Applicant shall be documented and placed in the Applicant's file.
- b) An Applicant who has been determined ineligible for Down-Payment Assistance may request a second determination within 30 days of the date on the written notification. A written notification of selection or denial will be provided based on the information submitted by the Applicant.
- c) Other recourses for appealing a City decision may also be available and will be described in each letter of denial sent to the Applicant.

29) Other requirements to our Down-Payment Assistance Programs

- a) Homes may not be occupied by renters who would be displaced by sale.
- b) No co-signers who will not be owner-occupants are allowed.
- c) Purchase price may not exceed appraisal valuation.
- d) No prepaid items may be paid with loan proceeds.
- e) Current valid driver license or other government issued photo I.D. for all Applicants.
- f) Proof of legal residency in the United States (birth certificate, alien resident card, current US-issued passport, naturalization certificate) for all household members, including children.
- g) Applicants who are single may only receive assistance to purchase a maximum two- bedroom house in Provo only.
- h) Self-employed Applicants must show one year of signed and dated individual tax returns, plus all applicable schedules and signed and dated copies of federal business income tax returns with all applicable schedules and a 12-month Profit and Loss Statement.

30) **Partial Applications**

No partial applications will be accepted. Applications submitted remain “active” for six months from date of submission. At the end of that period a denied Applicant may submit a new application.

31) **Non-Traditional Credit**

Non-traditional credit will be reviewed if an applicant does not have a credit score from any of the three bureaus. Lack of non-traditional credit will not be grounds for denial as no credit history is deemed better than a derogatory credit history.

APPENDIX A

Approved Pre-Home Ownership Counseling Courses:

Community Action

815 South Freedom Blvd.

Provo, UT 84601

(801) 691-5200

NeighborWorks Mountain Country Home Solutions

1031 West Center Street, Suite 302

Orem, UT 84057

(801) 375-5820

We have approved the following online course only:

<https://extension.learn.usu.edu/browse/home-buyer/courses/home-buyer-education-2022>