

FIRST TIME HOMEBUYER PROGRAM GUIDELINES



County of San Luis Obispo
Housing and Economic Development Team

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County of San Luis Obispo
First Time Homebuyer Program Guidelines
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1. INTRODUCTION

The San Luis Obispo County First Time Homebuyer (FTHB) Program provides “gap” financing loan towards purchase price, down payment, and closing costs to assist qualified **low-income** households purchase a home in San Luis Obispo County. As these loans are repaid, the funds are then used to assist other low-income households to buy a home.

These guidelines describe key program requirements, processing procedures, and rules for program staff, lenders, and applicants. These guidelines may be revised from time to time as necessary to address inconsistencies or unaddressed issues as they arise.

2. PROGRAM DEFINITIONS

The following terms are defined as:

AFFORDABLE HOME

A new or existing home legally restricted to be affordable to low or moderate income household.

APPLICATION FEE

The application fee is a non-refundable \$150.

ASSISTED PROPERTY

Property purchased with the assistance of a FTHB loan. The FTHB second mortgage note will be secured with a deed of trust recorded against the assisted property.

CALHOME PROGRAM

California Department of Housing and Community Development established the CalHome program. This program funds the County of San Luis Obispo First Time Homebuyer Program.

CALHOME PROMISSORY NOTE

The CalHome promissory note is a 30-year fixed rate note. The homebuyer can make optional monthly payments or choose to pay the total principal and interest payments at the end of the thirtieth year.

COUNTY FIRST TIME HOMEBUYER LOAN

The County's loan is considered a "silent second" because it requires no monthly principal and interest payments until year 21, or until the home is sold or transferred, or the homebuyer chooses to repay the loan on their own accord, or a default occurs when the home is rented or leased.

ELIGIBLE PROPERTY

Dwelling units located within the County of San Luis Obispo except for the cities of Morro Bay and Pismo Beach.

FIRST LOAN

A lender must approve homebuyer for the first loan. A deed of trust is recorded senior to the FTHB loan and is used in conjunction with the FTHB loan to finance the purchase of an Eligible Property under the FTHB program. First Loans must have a 30-year term, be fully amortizing and have a fixed interest rate that does not exceed the current market rate.

FIRST TIME HOMEBUYER

Per Part 92 of Title 24 of the California Code of Regulations, "First Time Homebuyer" means an individual and his or her spouse who have not owned a home during the three-year period prior to purchase of a home with subsidy assistance.

HOME INVESTMENT PARTNERSHIPS PROGRAM

The Federal Housing and Urban Development Department (HUD) established the HOME Investment Partnerships program. This program funds the County of San Luis Obispo First Time Homebuyer Program.

HOME PROMISSORY NOTE

The HOME promissory note is a 50-year fixed rate note. The monthly principal and interest payment is deferred for the first twenty years. Interest accrues on the loan at 3% for the first twenty years. To calculate the amount of principal and interest payments, the principal balance at the end of year 20 will be amortized at 3% over 30 years. The interest that accrued in the first 20 years will be divided by 360 and added to the amortized payment.

INCOME CALCULATION

Based on HUD Part 5 Income definition, the annual income is the gross income of all adult household members anticipated to be received for the next 12-month period.

INTEREST RATE

The FTHB loan interest rate is simple non-compounding 3%.

MARKET RATE HOME

A new or existing home is considered market rate home if the price is not restricted under any inclusionary housing ordinance.

MATURITY DATE

An FTHB loan originated from State funds is due 30 years from the funding date of the FTHB loan. An FTHB loan originated from Federal funds is due 50 years from the funding date of the FTHB loan.

LENDER

An approved first mortgage lender is a qualified lender who attends the FTHB program training session and understands the program requirements and process. The applicant must select a lender from the list of approved lenders to apply for the FTHB loan.

PRINCIPAL RESIDENCE

A Principal Residence may be a detached single family house, condominium, manufactured home on real property owned by the applicant. The applicant is expected to occupy the Principal Residence.

PROGRAM STAFF

The FTHB Program Staff are the employees of the County of San Luis Obispo Housing Division assigned to administer and manage the FTHB program, but may include outside administrative contractors hired to administer the Program.

PURCHASE PRICE LIMIT

Per Part 92 of Title 24 of the Federal Code of Regulations, the purchase price limit is generally equal to 95% of the median home price within the County of San Luis Obispo published by HUD.

SECOND LOAN

A second mortgage loan, with a deed of trust recorded subordinate to the First Loan, used in conjunction with the First Loan to finance the purchase of an Eligible Dwelling.

WISH FUNDS

The Federal Home Loan Bank of San Francisco established the Workforce Initiative Subsidy for Homeownership (WISH) Program. This program offers up to \$15,000 in grant funds, forgivable after five years, to qualified first time homebuyers.

NOTICE OF DEFAULT AND FORECLOSURE

A request for notice of default and any notice of sale under any deed of trust or mortgage needs to be recorded by the County for the benefit of the County.

LEASE OR RENT RULE

The homeowner will be in default if they lease or rent the assisted property. Upon violation, the County gives written notice to the homeowner. If the violation is not corrected to the satisfaction of the County within 30 days after the notice is mailed, the County may declare a default where the Note is immediately due and payable.

TRANSFER OF PROPERTY

Transfer includes any sale, assignment or transfer, voluntary or involuntary, of any interest in the property, including a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest. Transfer by gift, devise, or inheritance to an existing spouse who has signed the Promissory Note, a spouse who becomes co-owner of the residence (through marriage), a spouse as part of a dissolution agreement or by the owner into an intervivos trust in which the owner is the beneficiary are not considered transfers.

RECAPTURE AGREEMENT AND OPTION TO PURCHASE

This agreement is recorded against the property with the County’s Deed of Trust to ensure that the County has an option to repurchase the property or assign the option to purchase to an eligible homebuyer. The Recapture Agreement and Option to Purchase apply to the borrower throughout the loan term. The purpose of this agreement is to continue affordability of these properties and protect public funds.

3. PROGRAM REQUIREMENT

All applicants and program participants must complete and sign the appropriate FTHB certifications indicating that, to the best of their knowledge, no material misstatements appear in the application and program documents. If the Lender becomes aware of misstatements whether negligently or willfully made, it must notify the Program Staff immediately. An affidavit is required of each applicant and must be included in the FTHB application package submitted to the Program Staff.

A. Applicant Eligibility Requirement

To qualify for an FTHB loan, an applicant must meet the following requirements:

- I. **First Time Homebuyer Status** - Applicant must be a verified First Time Homebuyer in accordance with the HOME Program regulations.
- II. **Principal Residence** - The applicant must occupy the acquired home as a principal residence. The County will verify principle occupancy through utility records and a certified letter.
- III. **Annual Gross Household Income** – Applicants must have an annual gross household income that does not exceed the current HOME Program “80%” limits for San Luis Obispo County. All persons to be living in the residence are considered household members for the purpose of income determination. Household income is determined in accordance with 24 CFR Part 5 for the HOME program. Program Staff is required to obtain valid third party verification of all current income and asset information submitted by applicants in order to determine applicant’s income eligibility.

Household Size	1	2	3	4	5	6	7	8
Income Limit	\$41,650	\$47,600	\$53,550	\$59,500	\$64,300	\$69,050	\$73,800	\$78,550

- IV. **Cash Investment** – Homebuyers must have adequate funds to provide a minimum of 3% cash investment in the home purchase. For an FHA primary loan, a minimum of 3.5% cash investment is required.
- V. **Homebuyer Education Certification** – Applicants must attend homebuyer education classes and receive certification.

- VI. **Work or live priority** - Homebuyers living or working in the County of San Luis Obispo have higher priority over those buyers not working or living in the County of San Luis Obispo.
- VII. **Misstatement Penalties** – Strict penalties may be imposed on any applicant making a material misstatement, misrepresentation or fraudulent act on documents submitted to obtain a FTHB loan mortgage. Any person making a negligent material misstatement or misrepresentation in any affidavit or certification in connection with the application for or the issuance of a FTHB second mortgage shall be subject to all applicable fines and penalties.
- VIII. **Application and Screening Process** – Program Staff process applications on a first-come-first-serve basis and review the applications to ensure eligibility. The applicants complete applications with the help of their primary lender.

B. Property Eligibility Requirement

Qualified homebuyers may apply for the County’s FTHB second loan to purchase either an affordable home or a market rate home while the following requirements are met:

- I. **Purchase Price** – The purchase price may not exceed 95% of the annual median home price within the County of San Luis Obispo per HUD publication.
- II. **County Limits** – The property must be located within the County of San Luis Obispo, with the exception of properties in the cities of Morro Bay and Pismo Beach.
- III. **Housing Quality Standards** – Assisted Dwellings must meet all applicable State and local housing quality standards and code requirements as outlined in title 24 CFR Section 92.251(a)(2). If any deficiencies are found, the inspector will require a re-inspection after remediation before certification of compliance is issued.
- IV. **Lead-based Paint** – Assisted dwellings are subject to state and federal lead-based paint regulations for houses constructed prior to 1978. The homebuyer must be notified about the lead-based paint and the defective paint surfaces are required to be properly abated.
- V. **Anti-Displacement Policy** – Homes that have been renter-occupied during the last six months may not be purchased using an FTHB loan, unless the tenant is the FTHB applicant buying the home.
- VI. **Dwelling Type** – Eligible dwelling can be a single-family or manufactured home, condominium, or townhouse. Mobile homes not on a permanent foundation, recreational vehicles, campers and other similar vehicles are not eligible for assistance.

- VII. **Flood Insurance** – Housing units located with the 100-year flood zone will be required to provide proof of flood insurance by close of escrow.

C. Mortgage Requirement

- I. **First Mortgage Requirement** – An FTHB loan can only be issued in conjunction with a first mortgage loan. First loans must have a 30-year term, be fully amortizing and have a fixed interest rate that does not exceed the current market rate. No temporary interest rate buy-downs are permitted. The payments for the first loan must include taxes and insurance payment.
- II. **Transferability** – The FTHB loan is not transferable and it is not assumable.
- III. **Acceleration** – The FTHB loan may be subject to acceleration, if purchaser fails to comply with requirement set forth in the Deed of Trust.
- IV. **Maximum FTHB Loan Amount** – The maximum FTHB loan amount is \$50,000. When evaluating each applicant's need for assistance, the Program Staff will consider the homebuyer's debt to income ratio. Homebuyers are expected to make a minimum of 3% cash investment in the home purchase. The maximum loan amount is subject to periodic adjustment by the Count of San Luis Obispo.
- V. **Qualification Ratio** – Applicants shall have a debt to income ratio that ranges from 30% to 45% in order to qualify for the FTHB loan. The debt to income ratio is the percentage of the applicant's gross monthly income that would cover the cost of PITI (principal, interest payment on the first mortgage, property taxes and insurance) and homeowner association dues.
- VI. **Creditworthiness** – Applicants must have adequate creditworthiness to qualify for an FTHB loan. This includes no bankruptcy filed in the past three years and a credit score of 620 at the time of qualification.

4. PROGRAM PROCEDURES

Applicants must attain a first mortgage from an approved primary lender before they can qualify for an FTHB loan. After qualifying the applicant for a primary mortgage, the approved lender is responsible for submitting a complete FTHB application package of the applicant. The Program Staff will process the entire application within 45 days. The following outlines the application process:

A. Lender Responsibility

Approved lenders apply for the FTHB loan on behalf of the First Time Homebuyer. The Lender is responsible for:

- Determining if applicant is qualified based on income, purchase price, prior homeownership, tax liability, and other factors;
- Ensuring that applicant understands and executes the Application Affidavit;

- Performing standard mortgage loan underwriting procedures. Lender determines acceptability of loan in accordance with applicable FNMA, FHLMC, FHA, VA, and private mortgage insurance standards;
- Verifying and certifying that the applicant and the mortgage transaction comply with any FTHB loan program restrictions on income, purchase price, and other program terms;
- Submitting FTHB program application package and notifying the Program Staff two weeks before the escrow opens;
- Working with the Program Staff to obtain any additional information required under the program; and
- Immediately notifying the Program Staff in writing if an applicant's approval for a first mortgage is cancelled for any reason.

B. Program Staff Responsibility

Program Staff processes the FTHB application package within 45 days after the Lender submits a complete package. The Program Staff is responsible for:

- Reviewing the FTHB application package for completeness and ensures all necessary certifications and affidavits are included and properly executed;
- Notifying Lender and the applicant of approval or denial of FTHB application;
- Reserving a loan for the applicant at the requested amount contingent on the approval of the first mortgage amount. The loan reservation expires after 60 days;
- Preparing Truth-in-Lending, promissory notes, and deed of trust for HOME and CalHome funds;
- Obtaining environmental clearance per NEPA regulations;
- Scheduling home inspection for assisted homes before close of escrow; and
- Maintaining an accurate and current balance of available FTHB funds.

C. Loan Closing Process

The Program Staff, Lender, and escrow officer work closely together to close escrow. This process includes the following steps:

- Lender forwards all loan materials to selected escrow officer with instructions to close the escrow;
- The Program Staff will prepare and submit the escrow instructions and loan documents to the escrow officer;
- Escrow officer ensures all documents and certifications have been executed;
- Escrow officer provides an official letter from the First Time Homebuyer showing that the 3% down payment (3.5% for FHA loans) comes from the buyer's own resources or assets; and
- Escrow officer will record the County's Deed of Trust and Recapture Agreement against the assisted property.

5. LOAN APPLICATION SUBMITTAL

The Lender is responsible for submitting all the necessary and supporting documents to the County in a completed format. Lender will be notified of incomplete items. No commitment of funds will be made until the completed items are received. The

application submittal process consists of three major phases. Phase II process starts after the applicant meets all the requirements in Phase I:

Phase I – Application Submittal

- Copy of signed Purchasing Agreement
- Copy of Good Faith Estimate
- Copy of Title Report
- Certification for Homebuyer Education Class
- FTHB-01 – Transmittal form with appropriate items checked must accompany the packet of Phase I documents.
- FTHB-02 - First Time Homebuyer Loan Application, signed by all household members signing for the first mortgage.
- FTHB-03 - Authorization for Release of Information form, with signature of all applicants, to request copy of loan application from primary financing source for the first mortgage.
- FTHB-04 - Declaration of Occupancy form with signatures of all adult applicants.
- FTHB-06 - Recapture Agreement and Option to Purchase Borrower Disclosure Statement.
- FTHB-07 - Income Calculation Worksheet with attach supporting documentation
- FTHB-07A – Certification of Zero Income for those adult households with no income.
- FTHB-07B – Employer Verification Statement which must be notarized.
- FTHB-11 - Disclosures to Seller Appraisal Phase

Phase II – Confirmation/Document Review

- FTHB-09 - Completed Confirmation/Document Review form to the County with the appropriate Sections checked.
- A copy of the approved first loan file.
- A supplemental escrow instruction for the first loan that states the amount of the first mortgage loan and the interest rate.
- An estimated Closing Statement

Phase III – Closing Escrow

The Lender shall submit to the County within 5 working days following the Close of Escrow (COE), the following documents along with a completed Transmittal Form:

- FTHB -10 - Borrower's Closing Affidavit
- Any revisions to the Approved Loan file
- Certified HUD-I Settlement Statement
- Certified Copy of the Note and Deed of Trust on the First Mortgage
- Certified Copy of County Deed Of Trust, Recapture Agreement and Option to Purchase
- Original County Promissory Note

6. INCOME CALCULATION

The approved Lender determines the applicant's income qualification based on the applicant's current gross annual household income, at the time the applicant is applying for the County's FTHB loan. HUD Part 5 Income definition is used to calculate the income for the FTHB Program. Under or unemployed applicants must show that they have sufficient current assets or income available to afford the cost of purchasing the unit with FTHB loan. The FTHB program does not allow co-signers with the application submittal. Depending on the applicant's pay schedule, the Lender should calculate income as follows:

- 12 x current gross monthly income
- 24 x current gross semi-monthly income
- 26 x current gross bi-weekly income
- 52 x current gross weekly income
- Self-employed or commissioned individuals- 24/30 gross month average
- Overtime- 2 year gross average
- Part-time- 12 x current gross monthly income based on average hours per week
- Seasonal worker- gross annual income based on 3 year average.

The Lender should prepare an Income Worksheet for each contributing household member. This Worksheet should be attached to the FTHB application along with the following documentation, as applicable:

- Copy of **wage stubs** for **two most recent consecutive pay periods** for all adult wage earners in household over the age of 18. If wages are paid weekly, then the four most recent pay stubs. At a minimum, the County requires pay stubs from the most recent one month period.
- Letter from employer for all members of household **paid on commission**. The letter should state the type of sales and that the individual's income is based on commission.
- Documentation for **any overtime pay**.
- **Profit and Loss Statement** from a certified accountant for all members of household who are self-employed. Income is based on net income. The County also will accept a 24/30 month average of income as long as **the tax returns for the past three years are attached**. The County has the flexibility to determine acceptable supporting documentation for self-employed persons.
- **Self-certified statement under penalty of perjury of unemployed status** from unemployed adults, except seniors who are retired. Statement format is subject to County approval.
- Documentation of all other sources, including savings accounts, investments, alimony, child support, pensions, Social Security, and disability payments.
- **Last three tax year's federal tax forms** for all adult applicants with all attachments and W-2's.
- **Documentation of marital status** including court document of legal separation or divorce if applicant is applying for unit without spouse indicated on tax form.

- **Documentation of divorce settlement** to determine division of assets or child custody in cases of recent divorce, if necessary to determine applicant's eligibility.

7. RECAPTURE PROCESS

The purpose of the recapture process is to ensure homeownership opportunities for qualified low income families and to protect public funds subject to the Recapture Agreement. The recapture process entails the following:

- Homeowner must notify the County in writing 60 days prior to the actual date of the transfer of their residence.
- Upon notification, the County has 60 days to exercise its option to purchase the residence at the lesser of the agreed upon sales price or the appraised price.
- If the County and the owner cannot agree on a price, the County will provide the homeowner a list of approved Fannie Mae appraisers to determine the fair market value of the unit.
- The cost of the appraisal shall be split evenly between the owner and the County.
- The appraisal should account for capital improvements which increase the property's value as well as for deferred maintenance which will decrease its value.
- Sales price becomes lesser of asking price, price agreed upon between homeowner and the County or fair market value (appraised price).
- If the County purchases the unit, it will credit the loan repayment that is due against the purchase price. If the transfer is not to the County, the homebuyer will pay off the County note and any accrued interest.
- In the event the County does not exercise its option or assign it to an eligible buyer, the owner may sell to any purchaser, but the owner is required to pay off the County's note.

8. PUBLIC OUTREACH AND MARKETING PROCESS

The County of San Luis Obispo will work closely with local real estate and primary lenders to explain the program requirements and process. All outreach efforts will be done in accordance with state and federal fair lending regulations to assure nondiscriminatory treatment, outreach, and access to the FTHB program.