



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 to qualified **low-income** households to assist them with down payment and closing costs for a home purchase 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 program 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.

2. PROGRAM DEFINITIONS

The following terms are defined as:

AFFORDABLE HOME

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

ASSISTED PROPERTY

Property purchased with the assistance of a FTHB loan. The FTHB promissory note will be secured with a deed of trust recorded against the assisted property, in second position junior only to the deed of trust securing the first mortgage.

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 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 or the homeowner defaults on its first mortgage.

ELIGIBLE PROPERTY

Dwelling units located within the County of San Luis Obispo..

FIRST LOAN

A lender must approve the homebuyer for the first mortgage 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

A “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. This can be verified through a review of the applicant’s tax returns to confirm that the applicant has not claimed the mortgage interest deduction for the past three years.

GROSS INCOME

Based on Section 6914 of Title 25 of the California Code of Regulations (CCR), “Gross Income” shall mean the anticipated income of a person or family for the twelve-month period following the date of determination of income.

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 is due 30 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.

MAXIMUM PURCHASE PRICE

The maximum purchase price is 80% of the median sales price in San Luis Obispo County. The median sales price is \$350,000 according to the National Association of Home Builders report released on 8/14/2012 (NAHB/Wells Fargo Housing Opportunity Index: Complete Listing by Affordability Rank). Thus, the current maximum purchase price is \$280,000.

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.

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 declares 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.

3. PROGRAM REQUIREMENT

All applicants must complete and sign the appropriate FTHB forms and certifications indicating that, to the best of their knowledge, no material misstatements appear in the application and supporting 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 which means that the applicant has not owned a house during the past three years prior to applying for the FTHB funds. Thus, the current maximum purchase price is \$280,000.
- II. **Owner Occupancy** - The applicant must occupy the home purchased with FTHB loan as their principal residence. The County will verify owner

occupancy by asking the homebuyer a copy of their utility bills and a certified letter.

- III. **Household Size** - All persons to be living in the residence are considered household members, except for foster children, live-in aides, unborn children, and children being pursued for legal custody or adoption who are not currently living in the household.
- IV. **Annual Gross Household Income** – Applicants must have an annual gross income that does not exceed the income limits under “Lower Income” set by California Department of Housing and Community Development (HCD) which was released on February 1, 2012.

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	\$42,250	\$48,250	\$54,300	\$60,300	\$62,150	\$69,950	\$74,800	\$79,600

- V. **Cash Investment** – Homebuyers must have adequate funds to contribute a minimum of 2% cash investment in the home purchase. If homebuyers have a credit score of 680 or higher, no cash investment is required. It can be in the form of a gift to the homebuyers.
- VI. **Homebuyer Education Certification** – Applicants must attend homebuyer education classes and receive certification.
- 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-served basis as funding is available. The applicants complete application forms with the help of their primary approved 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 does not exceed 80% of the annual median home price within the County of San Luis Obispo. The median home price is \$350,000 based on a report released on 8/14/2012 by National Association of Home Builders (NAHB). Thus, the current maximum purchase price is \$280,000.
- II. **Property location** – The property must be located within the County of San Luis Obispo. Properties within cities and unincorporated areas are included.
- III. **Housing Quality Standards** – Assisted properties must meet all applicable State Housing Law (California Health and Safety Code Section 17910) by providing Uniform Residential Appraisal Reports, including the Valuation Conditions. The appraisal shall be prepared by a State-licensed residential property appraiser with “sales of comparable properties” method.
- IV. **Dwelling Type** – Eligible dwelling can be a single-family or manufactured home, condominium, or townhouse.
- V. **Flood Insurance** – Housing units located within the 100-year flood zone will be required to provide proof of flood insurance by close of escrow.
- VI. **Fire Insurance** – Homebuyers shall provide fire 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 ratios, credit history, employment history and income.
- V. **Qualification Ratio** – Applicants shall have a front-end ratio of no more than 35% and a back-end ratio of no more than 45% to qualify for the FTHB loan.

The front-end ratio is the percentage of the applicant’s monthly gross income that would cover the cost of PITI (principal, interest payment on the first mortgage, property taxes and insurance) and homeowner association fees.

The back-end ratio is the percentage of the applicant's monthly gross income that would cover the cost of PITI and additional debts such as credit card payments and other loan payments.

- 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 or more at the time of qualification if the homebuyer puts 2% down for their own assets. A credit score of 680 is required when the homebuyer decides to put zero down.
- VII. **Combined Loan to Value Ratio (CLTV)** – Applicants shall have a CLTV ratio of 98%. The LTV for the first loan is 80%.

4. **UNDERWRITING CRITERIA**

A. **Income Determination and Income Limits**

Household income is based on an annual gross income that is anticipated to be received for the next 12 month. The current employment and income of the household should be used to determine the anticipated annual income. Once the annual household income has been established, it must be compared to the most recent HCD income limits. The FTHB program uses HCD title 24 CCR, Section 6914 to determine the household's income.

When calculating the household size, the following are not counted as household members:

- Foster children, live-in aides, unborn children, and children being pursued for legal custody or adoption who are not currently living in the household;
- "Income" shall consist of all payments from all sources received by the family head and each additional member of the family household who is not a minor. Income includes:
 1. The gross amount before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, and bonuses;
 2. The net income from operation of a business or profession or from rental or real or personal property (for this purpose, expenditures for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business);
 3. Interest and dividends;
 4. The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability, or death benefits, and other similar types of periodic receipts;
 5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay;
 6. All regular pay, special pay, and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the family or spouse.
- The following items shall not be calculated towards income:
 1. Casual, sporadic or irregular gifts;
 2. Amounts specifically from reimbursement of the cost of medical expenses;

3. Lump-sum additions to family assets such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;
4. Amount of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payment to veterans not used for the above purposes of which are available for subsistence are to be include in income;
5. The special pay to a serviceman head of a family away from home and exposed to hostile fire;
6. Relocation payments made pursuant to federal, state, or local relocation law;
7. Payments from foster child care;
8. The coupon amount for purchase of food pursuant to Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible household;
9. Payments received from participation in the following volunteer programs under the Action Agency (National Volunteer Antipoverty Programs which include VISTA, Service Learning Programs and Special Volunteer Programs and National Older American Volunteer Programs for persons aged 60 and over which include Retired Senior Volunteer Programs, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience, Service Corps of Retired Executive (SCORE) and Active Corps of Executives (ACE).

Income calculation also includes the assets held by the household. Income from assets of \$5,000 or less in not included when determining annual income. If the total cash value of assets is greater than \$5,000, income from assets is either 2% multiplied by total cash value of assets or the total actual income from assets, whichever is greater.

The following shall be considered net family assets:

1. Cash savings;
2. Marketable securities, stocks, bonds, and other forms of capital investment, including
 1. Tax exempt securities other than Individual Retirement plans;
 3. Inheritance, lump sum insurance payments, already received;
 4. Settlements for personal or property damage already received;
 5. Equity in real property other than household's full time residence; and
 6. Other personal property which is readily convertible into cash, exclusive of the value of necessary items such as ordinary household effects, including furniture, fixtures, and automobiles used for personal use.

Credit history is also considered for underwriting purposes. The applicant must have a credit score of 620 or more at the time of qualification. The approved lender will request and submit a credit report with the loan package to the County. In addition to the credit report, previous rental history including the most recent 12 month rental period must be documented and submitted.

If the cash value of nonretirement assets is greater than \$15,000 for nonelderly households or \$20,000 for elderly households, the cash value in excess of these amounts must be used toward the purchase of the property.

5. PROGRAM PROCEDURES

Applicants must qualify for a first loan from an approved lender before they can qualify for an FTHB loan. After qualifying the applicant for a first loan, the approved lender is responsible for submitting a complete FTHB application package on behalf of the applicant. The Program Staff will process the entire application within 30 days after receiving a complete application package. Any missing documentation may delay the process. 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 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 as soon as 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.

A. Program Staff Responsibility

Program Staff processes the FTHB application package within 30 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;
- Certifying that the applicant is income eligible.
- Verifying the homebuyer has a homebuyer education certificate.
- Underwriting and verifying employment.
- 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 CalHome funds;
- Scheduling home inspection for assisted homes before close of escrow; and

- Maintaining an accurate and current balance of available FTHB funds.

B. Loan Closing Process

The Program Staff, Lender, and escrow officer work 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 2% down payment comes from the buyer's own resources or assets; and
- Escrow officer will record the County's Deed of Trust and "Affordability Agreement" against the assisted property.
- Escrow officer will provide the final HUD-1 statement and proof of title insurance and homeowner insurance (fire and flood insurances).

6. 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
- Copy of the Appraisal Report
- Copy of the Inspection Report
- Certification for Homebuyer Education Class
- FTHB-01 – Checklist of appropriate forms submitted must accompany the packet
- FTHB-02 - "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-03 - First Time Homebuyer Loan Application, signed by all household members signing for the first mortgage and signed by the lender.
- FTHB-04 – "Declaration of Occupancy" form with notarized signatures of all adult applicants.
- FTHB-05 – "Borrower Disclosure Statement" for the Affordability Agreement.
- FTHB-07 – "Income Worksheet" form with attach supporting documentation

Phase II – FTHB Loan Confirmation and Approval

- 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 06 - Borrower's Closing Affidavit
- Any revisions to the Approved Loan file
- Certified HUD-I Settlement Statement
- A Copy of title insurance and homeowners insurance
- Certified Copy of the Note and Deed of Trust on the First Mortgage
- Certified Copy of County Deed Of Trust and Affordability Agreement
- A letter stating that the homebuyer made 2% contribution from their own assets toward the purchase price.

7. 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. Section 6914 of Title 25 of the California Code of Regulations 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 three 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.
- Copies of most recent three-month (quarterly) bank or brokerage company statements.

8. SUBORDINATION PROCESS

When a borrower refinances their first mortgage, the borrower may submit a subordination request to the County to subordinate the County loan to the new first mortgage. The subordination packet includes subordination agreements, estimated HUD-1 settlement statement, title report, amended escrow instructions showing "NO CASH OUT TO THE BORROWER", and the existing first mortgage payment statement before refinancing. Program Staff reviews the subordination agreements and the supporting documents using the County's subordination criteria. The County's subordination criteria are:

1. The proceeds of the new loan shall only be used to pay off the existing loan or loans superior to the County's loan and to pay closing costs. Proceeds of the loan shall not be used to pay consumer debt or provide cash to the property owner. This shall be verified through a detailed statement from the lender showing all closing costs and payoff amounts.
2. The new loan must achieve a better financial situation for the borrower, such as a lower interest rate and lower payments.
3. The terms of the note and deed of trust have not been violated.

9. DEFAULT AND FORECLOSURE PROCESS

When the homeowner is in default by either not complying with the owner-occupancy requirement or defaulting on the first loan, the following steps are taken:

1. County sends a "Notice" letter stating that the homeowner is breaching the owner-occupancy or they are in default for the first loan.
2. The homeowner has 30 days to respond and correct any violations.

3. If the homeowner does not respond within 30 days of the date of the “Notice” letter that was sent in step #1, the homeowner did not take action to remedy the breach.
4. The County at this point will declare that the homeowner is in default and will pursue legal remedies by (1) proceed to court to require the owner to perform under the agreement or to judicially foreclose on the deed of trust, or (2) begin the non-judicial foreclosure process by providing a written declaration of default and demand for sale to our trustee.

10. INSPECTION CLEARANCE

Homes purchased through this program are subject to inspection prior to close of escrow. The inspection is conducted by a qualified property. The inspector inspects the house to ensure it meets state health and safety code. Any reported defects or issues not meeting the state health and safety code must be fixed before escrow closes.

11. 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.