

**City of Berkeley**  
**PROGRAM GUIDELINES**  
**Seniors and Disabled Home Rehabilitation Loan Program**  
(Revised July 19, 2016)

1. Purpose

The purpose of the Seniors and Disabled Home Rehabilitation Loan Program (“Program”) is to assist low-income senior and disabled homeowners perform necessary repairs on their homes and to provide information about other available forms of housing assistance.

2. Eligibility for Assistance

A. Property

- i. The building to be rehabilitated shall be located within the City of Berkeley.
- ii. The property shall contain no more than two residential units. Only the residential unit occupied by the senior or disabled homeowner is eligible to receive assistance. Rehabilitation funds for common areas shall be prorated based on the owner’s unit as a percent of total square footage.
- iii. If the property is owned by more than one person, all legal owners must execute the loan documents.

B. Applicant

- i. The Applicant shall reside in the property to be assisted as his/her primary residence.
- ii. The Applicant shall hold title to the property to be assisted or the title must be in held in trust whose sole beneficiary is the Applicant.
- iii. The Applicant shall be a minimum of 62 (sixty two) years of age or disabled. A person is considered to have a disability if he/she has a mental, physical, or developmental disability which is (a) severe and chronic that is likely to continue indefinitely; (b) results in substantial functional limitations in two or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and (c) reflects the person’s need for a combination and sequence of special, interdisciplinary or generic care, treatment, or other services which are of lifelong or of extended duration and are individually planned and coordinated.

- iv. The Applicant household's income shall be low income and not exceed 80% of the Area Median Income (AMI), as defined by the U.S. Department of Housing and Urban Development ("HUD") pursuant to 24 CFR 5.603 and 24 CFR 5.609 and shall have insufficient equity apart from any equity in the residential unit to be rehabilitated to readily generate the capital needed for the rehabilitation work. Verification of income is required for all adult household members even if they have no ownership interest. A household means all the persons who occupy a housing unit. The household may be single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

The following supporting documentation must be obtained in order to verify income:

- Paycheck stubs for the one-month period preceding the loan application date for each employed adult.
  - Most recent completed federal tax returns including relevant W-2 (or similar forms) and all related schedules.
  - Most recent TANF, SSI or Social Security check stub (or verification of direct deposit) or latest authorizing letter.
  - Those Applicants who do not file a tax return must complete an IRS form 4506-T to verify non-filing status.
  - A copy of the Applicant's credit report.
- v. No employee or near relative of an employee who exercises any function or responsibility in connection with the policies or administration of the Program is eligible for assistance.

### 3. Debt Ratios and Credit Worthiness

The City of Berkeley will allow a higher income and expense ratio of ninety percent which is more than the industry standard of forty percent as the Program is designed for low-income senior and disabled households who must allocate higher percentage of their income to housing and other debts. However, the City will check all outstanding balances on loans against the information provided on the loan application. Any discrepancies should be noted and the Applicant will be questioned as to the accuracy of the information provided. The presence of other liens and judgments on the title of the residential unit to be assisted will be verified and the Applicant must provide a written explanation of the circumstances.

### 4. Eligible Repairs and Reimbursement

- A. The eligible repairs funded through the Program are the following:

- i. To correct threats to the health and safety of the occupants and be necessary to bring the property into code compliance. This may include reconstruction, room additions to prevent overcrowding, seismic retrofitting or lead paint abatement; or
  - ii. CDBG funds can be used for any eligible rehabilitation activity under CDBG regulations,
- B. The owner shall have the choice of which repairs he/she wishes to undertake.
- C. The minimum loan shall be \$10,000. The maximum loan limit shall be \$100,000. CalHome and/or CDBG funds will be used based on the eligible activities listed in the project scope up to the maximum amount allowed by each funding source. Borrowers who previously received assistance under the Program, but find themselves in need of additional repair, may apply for an additional loan not to exceed the total loan limit of \$100,000 when all loans are combined. The total CalHome contribution will not exceed the \$60,000 maximum allowed under CalHome regulations.
- D. Direct homeowner reimbursement will be permitted on a limited basis with a maximum reimbursement amount of \$5,000. All direct homeowner reimbursement must be pre-approved by the SDRLP Program Coordinator Project Manager. The original invoices or receipts for materials and labor must accompany any direct reimbursement to homeowner.

## 5. Appraisals

The City of Berkeley does not secure an appraisal on every property assisted. With the high property values and low loan amounts, the loan-to-value ratio is usually small. Based on the data obtained from HUD website in 2016, the median sales price for single-family homes in Alameda County is about \$1,100,000. However, when CalHome funds are to be used in the project, the below process will be used to ensure the project meets state funding requirements:

- A. An appraisal can be prepared by using the sales of comparable properties to determine the value using the Real Quest program.
- B. If comparable sales are not available, a State-licensed residential appraiser shall prepare the appraisal.
- C. The appraisal shall take into consideration the estimated value of the rehabilitation work to be completed on the property.

## 6. Terms of the Loan and Financial Assistance

- a) Financial assistance from the CDBG and CalHOME loans shall be in the form of a deferred payment loan. The term for a loan utilizing CalHOME funds shall be 30 years. The maximum loan assistance for CalHOME will not exceed the grant loan limit. A loan utilizing CDBG funds is payable upon sale or transfer of the title of the property. The Applicant has the option to pay off the loan in equal monthly installments over a thirty-year period or less and no prepayment penalty for an early pay off shall be imposed.

If it is determined by City staff that repayment of the CalHOME loan at the maturity date causes a financial hardship to the borrower, the City may offer the borrower the following two options:

- i. Amending the loan agreement, promissory note and deed of trust to defer repayment of the amount due at loan maturity, for up to 30 years at 0% additional interest for one time only; or
  - ii. Converting the debt at loan maturity to an amortized loan payable in 15 years at 0% additional interest.
- b) No interest shall be charged.
- c) The loan shall be secured by a deed of trust.
- d) Financial assistance shall be provided on a “first-come, first-served” basis with consideration for the health and safety of all applicants. Projects that address multiple habitability issues and are in the most desperate need of rehabilitation will be prioritized. These projects could include one or more of the following issues:
- non-functioning plumbing, heating, and electrical facilities, including hot and cold running water and/or a working toilet;
  - leaking roof;
  - floors that are trip hazards due to deterioration, damage or structural defect; and;
  - Broken windows

The City shall undertake, or cause to be undertaken, an effective outreach program to educate eligible seniors or disabled homeowners about the program and its benefits and requirements.

## 7. Assistance to be Provided

- A. Services – In order for the City to provide any of the following services, the Applicant and all of his/her adult household members shall first execute a waiver that states the following:

“In exchange for the services the City is willing to provide in connection with a loan application, loan approval, scope of work development, assistance with contractor selection, ensuring satisfactory and timely project completion and any other related services provided by the City to the owner and his/her adult household members pursuant to the Senior and Disabled Home Rehabilitation Program (collectively referred to as “Program-related services”), the owner and his/her adult household members agree that they shall not commence any legal action, of any nature, against the City, or its employees, arising out of the Program-related services the City provides whether or not a City employee's actions or inactions are negligent or cause damages.”

The City shall provide the following services to homeowners to facilitate processing of requests for financial assistance pursuant to the Program:

- i. Initial intake interviews, screening prospective applicants, and assisting in the preparation of loan applications and related documents.

In order to assist the Applicant in completing the loan application, the following documents are required to be submitted:

- Copies of most recently filed tax return or source(s) of income documentation.
  - Homeowner's current property insurance binder or evidence of other coverage.
  - Most recent property tax statement.
  - Copies of most recent bank statement.
  - Copies of most recent utilities bill.
  - Copy of driver's license or California Identification or equivalent.
- ii. Information provided regarding private financing and other forms of assistance available if the owner wishes to undertake rehabilitation beyond the maximum loan amount. The Program Coordinator will describe to the homeowner the financial assistance available both through the City of Berkeley and other sources that may assist them in accomplishing their rehabilitation objectives.
- iii. Performance of a comprehensive initial inspection to assess the nature and eligibility of repair requests. A Project Manager shall inspect the property to determine whether the repairs necessary are eligible under the Program. The Project Manager shall photograph the

property and identify deficiencies and repair items to be considered. The inspection findings and the relative priority of repairs will be discussed with the homeowner.

- iv. Preparation of work write-ups and specifications. The Project Manager shall use an inspection checklist and notes to prepare the scope of work and costs estimate. The final scope of work will be reviewed by the City's Supervising Inspector or one of the Rental Housing Safety Program inspectors to ensure the following:
  - The scope of repairs is clearly stated and specifications are sufficiently detailed to form a basis for obtaining bids from contractors.
  - The repairs are necessary to correct threats to the health and safety of the occupants or to bring the property into code compliance.
  
- v. Assistance in securing bids from licensed contractors to perform eligible work. At the time of the initial meeting and property inspection with the homeowner, the Project Manager will clearly explain the bidding process to the homeowner as follows:
  - Bids will be solicited based on the scope of work developed by the Project Manager and accepted by homeowner.
  - The homeowner may select contractors from the City's list of eligible contractors. The list was developed and is maintained through the following process. Contractors seeking to participate in the Program complete a contractor's qualification form. Based on submitted information, the Project Manager verifies whether their state contractor's license is current and if they are in good standing and checks given references. If the contractor is licensed and in good standing and the reference checks are positive, their name/company name is included on the list and they will be invited to bid on the next project.
  - Homeowners may also chose a contractor who is not on the approved list as long as the contractor meets the City requirements including: a valid state license and good standing, have no pending complaints against them, and be fully qualified to perform the required work outlined in the scope of work. The contractor must also provide at least 3 references from similar rehabilitation jobs and be able to provide the required liability insurance.
  - The Project Manager will provide bid packages to selected contractors. Bid packages include all information that the contractor may need to be an informed bidder on the rehabilitation of the property, including all the Program requirements and a copy of final scope of work. Contractors will be invited to attend the bid walk.

- The Project Manager will inform a minimum of six (6) qualified contractors by mail, email or by phone inviting them of the availability of bid packages.
  - The bid package states the bid due date and the sealed bid must be submitted to the Program Coordinator to open, review, and record with the Project Manager who developed the final scope of work.
  - The Homeowner will be notified of the bid due date and have an option to attend the opening of the bids.
  - A minimum of three (3) bids must be submitted, but two (2) will be acceptable if the homeowner agrees to accept two bids for all contracts in excess of \$10,000.
  - The homeowner is not obligated to accept any of the bids. If the homeowner finds that none of the contractor bids are satisfactory, the Project Manager can help the homeowner select new contractors to bid. If no new contractors offer bids, the Project Manager will ask the homeowner if he/she will consider previous bids. If the homeowner will not accept any previous bids, then the City will not approve a loan for the Applicant.
  - While the Project Manager provides some guidance in selecting contractors, it is ultimately the homeowner's responsibility to select the contractor. However, the City strives to ensure that homeowners choose a cost-effective, capable and responsible contractor who will perform quality work on time.
  - Once the homeowner selects the contractor, a project timeline will be established and the homeowner will enter into construction contract with the chosen contractor. The Project Manager will issue a Notice to Proceed once the project funding and all required clearances are secured. The Notice to Proceed must include the following information: a) homeowner and property information; b) contractor information; c) reference to construction contract (contract amount); and d) commencement and completion date.
- vi. Preparation and recordation of documents necessary to commit, close, and secure loans. In preparation for loan closing, the Program Coordinator performs the following tasks:
- Requests a current title report from the title insurance company. The title report fee will be paid by the loan proceeds.
  - Requests a lender's loss payable endorsement on the borrower's hazard insurance policy for the property to be effective as of the projected closing date. The minimum amount of hazard insurance required is based upon the total outstanding indebtedness, including the proposed loan.
  - Prepares the following closing documents: Loan Agreement, Deed of Trust, Promissory Note, instructions to title insurance company and

- control instructions to the escrow company which will administer the Rehabilitation Escrow Account, notice of opportunity to rescind transaction, Truth in Lending disclosure, and a request for notice of default (a document which is recorded together with the Deed of Trust requesting other senior lien holders to notify the City in case of default or notice of sale under the their recorded deeds).
- The Program Coordinator meets with the borrower(s) to obtain the signature(s) on the closing documents. The required closing documents are forwarded to the title company for recording and title insurance. Control instructions and the loan proceeds are forwarded to escrow company in order to administer the Rehabilitation Escrow Account.
- vii. Convening a pre-construction meeting to ensure that both homeowner and contractor are in agreement and fully understand the scope of work and proposed schedules and to discuss any unusual issues that might arise during course of construction. The homeowner, contractor and the Project Manager will perform a walk-through of the property together to clarify the work to be performed before construction begins. At the pre-construction meeting participants will also discuss and accomplish the following:
- Finalize the construction schedule, including commencement and completion dates.
  - Review and discuss the following procedures: payment requests, inspections, progress payments and retainage payment.
  - Review and discuss Change Order procedures.
  - Review and discuss Punch List procedures for incomplete and/or unsatisfactory work.
  - Review and discuss contractor, homeowner and City staff roles and responsibilities.
  - Review and execute the Notice to Proceed.
- viii. Monitoring construction, conducting interim inspections, monitoring progress, and authorizing payments to contractors.
- After the date of the Notice to Proceed, the Project Manager shall monitor the project's progress.
  - The Project Manager shall verify if the project meets construction contract requirements, Housing Code standards, and shall advise the owner and contractor of pertinent codes.
  - The Project Manager shall verify that the project is on schedule and meeting its project budget. If the project is not in compliance with its schedule and budget, the Project Manager will investigate the cause and will document any findings.

- The Project Manager shall make progress inspections upon payment requests to verify that the requested portion of work is complete and meets the construction contract and Program requirements.
- ix. Reviewing and authorizing any required changes in construction contracts and final payment.
- Changes to the scope of work will only be authorized by the City where necessary and only to the extent that the changed scope of work enhances the Program's goal of increasing the decent, safe and sanitary condition of the property.
  - Borrower shall submit any changes to the Approved Project Budget to the City for approval within five (5) calendar days of the date Borrower receives information indicating that the actual costs of the Project vary or will vary from the costs shown on the Approved Budget. Written consent of the City shall be required to amend the Approved Project Budget.
  - All changes are subject to City funding limitations.
  - According to the Project Manager's sole determination, all incomplete and/or unsatisfactory work shall be listed on a Punch List. The contractor and owner shall execute the Punch List to indicate that the items were not completed to the owner's satisfaction. All items included on the Punch List will have to be satisfactorily completed according to the Project Manager's sole determination prior to release of any progress payment.
  - The Supervising Housing Inspector or one of the Rental Safety Housing Program inspectors will conduct a final inspection to ensure all rehabilitation work is satisfactorily completed in accordance with the construction contract and identify any outstanding work which has yet to be completed.
  - After all work, including that listed on the Punch List, is satisfactorily completed, the final written inspection report will be signed by the homeowner, the contractor, the Project Manager, and the Program Coordinator and will be retained in the loan file. If the homeowner is in agreement with its contents, the homeowner will sign the Notice of Completion form, have it notarized, and the Program coordinator will request that the County Recorder's Office record the Notice on the title of the property.
  - To protect homeowner from unwarranted claims by sub-contractors and suppliers, the prime contractor must execute and submit an unconditional lien waiver before the final payment is released.
- x. Conducting exit interview and project evaluation.

After the project is completed, the Project Coordinator will meet with the homeowner to perform an exit interview. The homeowner will complete an

evaluation form to appraise the Program and contractor performance. The Housing and Community Services Manager will review the completed evaluation form to assess whether there are indications of improperly awarded contracts. Frequent dissatisfaction with the same contractor will be thoroughly investigated.

#### B. Contractors

When contractors are used, they shall be licensed and bonded in accordance with State law.

### 8. Timeframe Loan Processing

The Program Coordinator will monitor the progress of all loan applications. The Program Coordinator will track origination and completion dates in each application. These dates will be used to assess performance and Program productivity, as well as identify project delay and problems. Any extraordinary delay will be documented in the loan file.

The following timetable is to be used as a guide in accomplishing acceptable performance and productivity in processing the loan. The timetable may vary significantly depending on the number of projects undertaken simultaneously. Every effort will be taken to complete each activity as quickly as possible.

<b>Activity</b>	<b>Working Days</b>
Eligibility Determination	10
Property Inspection	10
Preparation of Scope of Work/Cost Estimate	20
Bid Package Out	5
Bids Received	30
Contract Selection	10
Loan Approval	5
Loan Check From Finance	10
Loan Signing and Establishing Escrow	5
Contract Signing	5
Start Construction	30
Complete Construction	365
Final Acceptance & Payment	45

### 9. Relocation/Displacement

HUD regulations governing the displacement by a rehabilitation loan project of any person (family or individual) shall be followed (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 49 C.F.R. 24). Any rehabilitation loan project

that requires the relocation of household members during any part of the project will be referred to the Department's Relocation Officer for relocation assessment and payment determination. In most cases, the costs associated to temporarily relocate a household may be included as part of the rehabilitation loan.

#### 10. Primary Loan and Subordination Requirements

The City will assess the number of real estate loans and amount of each relative to the eligible property. The loan to value ratio including the City loan should not exceed 90%. If there is an existing loan prior to the CDBG or CalHOME loan, the CDBG or CalHOME loan is to be recorded behind the last loan.

If a borrower requests that the City subordinate its existing CDBG or CalHOME loan to a new first mortgage, several documents including, but not limited to, a new appraisal report and the term and conditions of the new loan must be provided to the City before approval can be given. After receipt of the required documentation, an income/expense analysis will be conducted to ensure that the City would not be jeopardizing its loan by subordinating to the new loan.

If the loan-to-value ratio is 90% or less, and payments on the new loan will be more or less equal to the payments being currently made for mortgages and other monthly obligations, the subordination request shall be approved. The Program coordinator will secure the signature of the City Manager, or the Housing Director as his designee, and the City Attorney on the Subordination Agreement and send it to the title company when and if the subordination is approved. All documents sent for City consideration will be retained in the loan folder, whether or not the subordination is approved.

#### 11. Loan Servicing

The loan servicing function for the Seniors and Disabled Home Rehabilitation Program shall be undertaken as part of the City's Housing Rehabilitation Loan servicing for other loan programs like the Housing Trust Fund Program, Economic, and Redevelopment loan program.

Servicing the loan begins when the loan is closed and funds have been disbursed in accordance with the Loan Agreement, and the loan files have been checked for completeness and accuracy.

The fiscal staff of the Department will enter the loan in the system within five working days of receipt of the loan documents from Program Coordinator. The fiscal staff will check the accuracy of the document and will generate a coupon payment book, if necessary.

If the loan is amortized, repayments are due on the first of each month. However, no late fees shall be charged if the loan payment is received later than due date.

All CalHOME repayments will be deposited to a separate CalHOME reuse account or must be credited to a specific revenue code that is entirely different from other Rehabilitation loan repayments. CalHOME funds will be used as a revolving loan under the Program to eligible homeowners in accordance with CalHOME program requirements.

The Accounting Supervisor will review and approve all accounting entries associated with the Program. This includes, but is not limited to, setting up new loans, entering account balances in FUND\$ and GMS to allow for drawing down on CDBG or CalHOME funds.

The fiscal staff will provide a loan activity report on a quarterly basis to the Program coordinator to ensure the timely recording of loan activities.

## 12. Default And Foreclosure Procedures

All amortized loans carried by the City of Berkeley on its loan portfolio are due on the first of each month starting with the month stipulated in the Promissory Note for each loan. No late charges will accrue on the rehabilitation loans, however, payments that are not received on the 15<sup>th</sup> of the month are considered delinquent.

It is important to note that most of the borrowers are low-income persons. Many are living on pensions and social security and it is sometimes very hard for them to maintain their loan in a current status at all times. It is the responsibility of the collection officer to work cooperatively with every homeowner who demonstrates that they are trying to keep the loan current. Partial payments and interest only payments can be utilized for a short while and should be utilized before any foreclosure proceedings are initiated. On the other hand, if the borrower makes no effort to make payments or contact the Rehabilitation Office to discuss their situation, the City will follow the procedures outlined below:

- A. A borrower who has not made the payment by the 15<sup>th</sup> of the month will be sent a past due notice and advised of the delinquent status of the loan. The notice will outline the amount due and date due. The borrower will be given 14 days to bring the loan current.
- B. If the borrower does not respond to the first delinquent notice by the due date and is delinquent by the 15<sup>th</sup> of the following month, two payments will be due and a second delinquency notice will be mailed showing two payments are past due. The borrower will be given 7 days to bring the loan current.
- C. If the borrower does not respond to the two notices by the first of the third month, the collection officer will try to contact the borrower via telephone. If the collection officer fails to contact the borrower, a pending foreclosure letter will be sent. This letter will advise borrower that the loan is seriously delinquent

and, if not brought current by the 15<sup>th</sup> of the month, foreclosure proceedings will commence with substantial cost to the borrower.

- D. If borrower does not respond to the pending foreclosure letter by the 15<sup>th</sup> of the third month of delinquency, a foreclosure commencement letter will be sent. At this time, the collection officer will refer contact to the T.D. Service Company and request up to date costs and procedures.

Foreclosure is expensive for the borrower and can adversely affect how the public perceives the City. The City will pursue foreclosure in cases where it has determined that all resolution measures have failed and the delinquency is so substantial that the City's financial interest in collection outweighs the City's interest in preventing the displacement of low-income homeowners. The City will take into account the City's risk of loss of its capital and the situation of the borrower.

### 13. Writing Off Uncollectible Loans

When a loan or part of the loan made pursuant to this Program has been determined to be uncollectible due to foreclosure initiated by a senior lien-holder, the Program Coordinator must submit a report with supporting documents to the Health, Housing and Community Services' Director explaining the event of the foreclosure. At this time, the Program Coordinator will also request the Director's approval to write the loan off from the City's loan portfolio. The fiscal unit staff must take the necessary steps to write-off the loan in a timely manner upon the Health, Housing and Community Services' Director's approval.

### 14. Monitoring Compliance with Program Requirements

At five-year intervals from the date the Loan Agreement was executed and until the loan is either repaid in full or written off pursuant to Section 13 above, staff will require that the homeowner complete an occupancy certification report to validate their primary residence and compliance with the Program requirements. Staff will also utilize home site visits and county records every five years to confirm if the homeowner still occupies the property as his/her primary residence. For CalHOME loan recipients' verification of occupancy will be on an annual basis.

### 15. Insurance Requirements

The borrower shall maintain insurance on the Property to provide for compensation in the event of loss or damage by fire and such other hazards, casualties, and contingencies in the amount of the replacement cost of the Property, and shall deliver the original of all such policies to the City. Such policy shall be endorsed to name as additional insureds the City and its agents, employees, and members of the City Council. All such policies shall provide that the City shall be given thirty (30) days advance written notice of cancellation, expiration or termination of any such policy or any material change in the coverage afforded by it.

## 16. Federal Requirements

When CDBG funds are utilized in the loan, the borrower shall comply with all applicable laws and regulations governing the use of CDBG funds as set forth in 24 C.F.R. 570 *et seq.* In the event of any conflict between these Guidelines and applicable laws and regulations governing the use of CDBG funds, the applicable laws and regulations shall govern.

## 17. Reporting

Quarterly and Annual Status reports shall be provided to the State of California, Department of Housing and Community Development to allow monitoring of the CalHOME program.

For CDBG funds utilized through the Program, a yearly Grantee Performance Report is prepared to indicate the number of applicants, number of projects in progress, total number of projects completed, income range of clients, ethnicity of head of household, sex of household, and disability of head of household.