

# City of Gloucester

Community Development  
Grants Division  
3 Pond Road  
Gloucester, MA 01930



## ***FIRST TIME HOMEBUYER DOWN PAYMENT ASSISTANCE PROGRAM***

### ***Procedures, Policies and Underwriting Guidelines***

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**CITY OF GLOUCESTER FIRST TIME HOMEBUYER  
DOWN PAYMENT ASSISTANCE PROGRAM (FTHBDPA)  
PROGRAM PROCEDURES, POLICIES AND UNDERWRITING GUIDELINES**

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## Program Purpose and Description

The City of Gloucester has designed a deferred loan program to help low to moderate-income buyers purchase their first home in the City of Gloucester. The First Time Homebuyer Down Payment Assistance Program (FTHBDPAP) assists income eligible first time buyers with 50% of required down payment and/or closing cost assistance of up to \$10,000 (not to exceed 7% of the purchase price). This program makes ownership of existing 1-4 family housing in the City of Gloucester more affordable for qualified low to moderate-income first-time homebuyers, with household income at or below 80% of median, by reducing the cash needed to purchase the home and by reducing monthly mortgage payments.

## Governing Rules and Regulations

The City of Gloucester receives CDBG federal funds from the Housing and Urban Development Block Grant and is governed by the rules and regulations set forth at 24 CFR Part 570.

The applicant and property **MUST** meet all qualifications, guidelines, rules and regulations as set forth in the application, the down payment and underwriting guidelines to be eligible to participate in this program. The City of Gloucester Community Development Department reserves the right to refuse applicant(s) based upon failure to meet any or all program guidelines and/or if the applicant is getting financed through a high-risk loan product.

The City of Gloucester FTHBDPA program must comply with the Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 which provides that only United States citizens, United States non-citizen nationals and “qualified aliens” are eligible for public benefits. All household members six (6) years of age or older are required to have a valid social security number in order for borrower(s) to be eligible for assistance. To ensure compliance, the City of Gloucester FTHBDPA program follows the guidance provided by the United States Department of Justice and the U. S. Department of Housing and Urban Development.

Uniform Relocation Act (URA) -The Uniform Act, passed by Congress in 1970 set forth at 49 CFR Part 24, is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The Uniform Act’s protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects.

## First Time Homebuyer

Applicants must be first time homebuyers as defined below:

- A first time homebuyer is 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 Gloucester's FTHBDPA program.
- A displaced homemaker is an individual who: is an adult; has not worked full-time, full-year in the labor force for a number of years but has, during such years worked primarily without compensation to care for the home and family; and is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.
- A single parent is an individual who: is unmarried or legally separated from a spouse; has one or more children of whom the individual has custody or has joint custody where the children reside fifty-one (51) percent of the time in the household.

## Homeownership

The term "homeownership" is defined as: Acceptable forms of homeownership for a FTHB's loan include ownership in fee simple title or at least 99- year leasehold interest, or in the case of a manufactured home, must be on a permanent foundation with a leasehold interest of the lot for the entire required affordability period.

## Approved Lenders

Any lender licensed to do business in the state of Massachusetts. Mortgage brokers, designated brokers and loan originators must be licensed by the Massachusetts State Office of Consumer Affairs and Business Regulation, Division of Banks.

## Basic Program Criteria

To qualify for a loan through the City of Gloucester FTHBDPA program:

- The first time homebuyer must be an "Eligible Applicant";
- The first time homebuyer must be a "Suitable Borrower";
- The house selected must be an "Eligible Property";
- The applicants(s) cannot own nor have an interest in any real estate at the time of purchase; and
- **Co-signer is not allowed.**

## Eligible Applicants

To qualify for FTHBDP assistance, the applicant must:

- Be a US citizen, US non-citizen national or qualified alien;
- Be a first time homebuyer;
- Have household income at or below 80% of median as established by HUD; and
- Demonstrate a financial need for assistance.

## Income

Household income must be at or below 80% of the Area Median Income (AMI) adjusted for household size (see table below). Gross annual income for all household members must be reviewed and may affect applicant's eligibility for assistance. Eligibility will be determined using the most current HUD Income Limits, annual adjusted gross income as defined by the Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax reporting purposes, as defined by 24 CFR Part 5. To determine eligibility, staff will verify the household size; household size includes all persons who will live in the applicant's household at the time of assistance and adjusted gross annual income of each household member 18 years of age and older and compare it to the most recent AMI limits.

### **HUD INCOME GUIDELINES – FY 2019** **Median Family Income \$113,300**

	1 Person	2 People	3 People	4 People	5 People	6 People	7 People	8 People
<b>Low (80%)</b>	<b>\$62,450</b>	<b>\$71,400</b>	<b>\$80,300</b>	<b>\$89,200</b>	<b>\$96,350</b>	<b>\$103,500</b>	<b>\$110,650</b>	<b>\$117,750</b>

Your Household Adjusted Gross Income must **fall below** the HUD Income Guidelines for eligibility in program. **Adjusted Gross Income** can be found on your Federal Income Tax Form #1040.

Examples of income that will be included but is not limited to:

1. Wages, salaries, overtime, tips, commissions, bonuses, etc.
2. Self-employment income from owned business, including proprietorships and partnerships;
3. Taxable refunds/credits/offsets of state/local income taxes;
4. Interest, dividends, net rental income, or income from estates or trusts;
5. Social Security or railroad retirement;
6. Supplemental security Income, Aid to Families with Dependent Children, or other public assistance or public welfare programs;
7. Retirement, survivor, or disability pensions; and

8. Any other source of income received regularly, including Veterans (VA) payments, unemployment compensation, child support alimony.

For documentation collection, please refer to Addendum #4 of the FTHBDPA application. **The higher of the wages calculated from the source documentation will be used to determine income eligibility.**

#### Suitable Borrower - Loan Underwriting

Each loan application must comply with applicable HUD regulations. The goal of the FTHBDPA program is to help income eligible, first time buyers become successful homeowners. To accomplish this goal the following will be used to determine suitability. These "suitability requirements" apply to the borrower(s) and/or a non-borrowing spouse that will occupy the unit. Co-signer(s) are NOT allowed as part of the program. City staff will rely on lender provided financial information as well as a copy of the borrower(s) credit report with credit scores.

The borrower(s) and any non-borrowing spouse must meet the following debt ratio requirements:

- Front-end ratio (needs assessment). The Primary loan's principle, interest, taxes, insurance and mortgage insurance (PITI) compared to income must not exceed 36%
- Back-end ratio (risk assessment). The PITI plus all other installment and revolving debt compared to income may not exceed 43%. Exception, maximum 46% with a credit score of 680 or better; and
- The borrower must have a credit score of 660 or better.

*Non-borrowing household member's income shall be used for income qualifying the household only and shall not be included in debt requirements that the borrower(s) must meet to qualify for homeownership assistance.*

The borrower(s) and any non-borrowing spouse **must not** have had:

- A foreclosure within the three (3) years immediately prior to loan closing;
- A bankruptcy within the two (2) years immediately prior to loan closing;
- Outstanding collections, judgments or liens; and clean credit history. No more than 2 thirty-day past due accounts with the past year. No sixty-day or ninety-day past due accounts.

The borrower must have sufficient income to support the primary debt and must be able to obtain approval from a primary lending institution for the purchase of the home and applicant must show evidence of approved funding from primary lender.

The borrower must successfully complete an approved home buying training course from a Massachusetts Homeownership collaborative. Contact the Gloucester Housing Authority at:

<http://www.ghama.com/homeownership.aspx> or CHAPA <http://www.chapa.org/looking-for-housing/homebuyer-workshops>).

The borrower must meet the following personal investment obligation to be eligible for assistance:

The borrower(s) is required to provide a minimum contribution of \$1,000 or 1% of the purchase price, whichever is higher, towards the purchase price of a home. Gift funds will not be considered towards the borrower(s) minimum contribution. **Also, if the property is subsidized through other public financing opportunities or you are pledging \$50,000 or more of a down payment and/or equity, you may NOT qualify for assistance.**

The down payment minimum contribution may include documented purchase-related approved costs that the homebuyer paid for out-of-pocket prior to closing that are not listed on the Closing Disclosure, for example, a professional inspection and/or pest inspection.

#### Asset Limit

Liquid Assets: The asset limit refers to the applicant's personal (non-business) liquid assets. Liquid assets are defined as cash and assets that can be readily converted to cash. Liquid assets include checking and savings accounts, certificates of deposit, money market accounts, stocks, bonds and profit sharing accounts (funds can be withdrawn without penalty). Retirement investment, college savings plans, medical savings plans, and other similar vehicles are not considered liquid assets.

- To be eligible for the FTHBDPA assistance, the borrower must not have liquid assets after closing in excess of fifty thousand dollars (\$50,000). Borrowers who have additional liquid assets in excess of \$50,000 must use those prior to utilizing FTHB assistance.

Actual Income from Asset: Assets can generate income, and the purpose of determining an applicant's income, the actual income generated by the asset (e.g. interest on a savings or checking account) is what counts as income, not the value of the asset.

Other Assets: The borrower **cannot** have any interest in other real estate or in a business other than the borrower(s) source of income.

For documentation collection, please refer to Addendum #4 of the FTHBDPA application.

#### Loan Amount, Terms and Conditions

The City of Gloucester FTHBDP assistance is a secondary loan that helps pay for down payment and/or closing costs. The eligible costs are defined in the Eligible Costs section of the

Guidelines. In order to participate in the FTHBDP program the borrower may not receive cash back at closing; any funds in excess must be applied to a principal reduction or returned to the City of Gloucester. The minimum amount of FHTBDP funds that must be invested in a project is \$1,000; maximum amount is \$10,000 (7% of purchase price, but not to exceed \$10,000).

Individual Loan Terms: The assistance is in the form of a 0% interest, deferred loan, secured by a Mortgage for the loan amount, placed in second position that will be recorded in conjunction with the main lender's loan closing and/or there soon after. **The loan is not forgivable and must be repaid to the City of Gloucester.** Repayment shall be deferred until sale, refinance, (unless for a lower interest rate, no cash out), transfer of title, failure of borrower(s) to occupy as principal place of residence, or non-compliance with the loan agreement. Sale or transfer includes actual or attempted sale by contract, assignment, lease, rental or other conveyance of the property to a person other than the borrower(s), whether by gift or value. Sale or transfer also includes any further voluntary or involuntary encumbrances of the property by the borrower, except an encumbrance by a government agency in the form of an assessment for streets, sidewalks, lighting or sewer, so long as the borrower(s) pays such assessments when due. A surviving borrower, upon the death of another co-borrower, can assume the loan.

In most cases, the FTHB loan is subordinate **only** to the primary mortgage. For any other subordinate requests, a determination will be made by the Chief Financial Officer (CFO) of the City following an examination of the subordination request on a case by case basis. (See Subordination Policy Notification in the FTHB application).

The borrower must occupy the home being purchased as their \*principal residence throughout the life of the loan. The borrower cannot rent or lease the property, in its entirety, to other persons, even on a temporary basis. Should the borrower move, sell lease or transfer title to the property, **THE ENTIRE AMOUNT OF THE LOAN MUST BE PAID BACK.**

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\*Principal or primary residence is a single dwelling house or other dwelling unit that is the place of residence at which the borrower(s) that entered in to an agreement with the City of Gloucester and who constitutes the legal owner(s) of the housing unit will predominantly resides for more than 183 days of each annual year starting January 1<sup>st</sup> through December 31<sup>st</sup>. Determination of principal residence may include, but not limited to the owner's declared address or other verifiable resources for electoral, taxation, government assistance programs, or any other form of evidence deemed acceptable to the City.

A Transfer Event is defined as the occurrence of one or more of the following:

- The transfer or attempted transfer of an interest in a portion or all of the property, whether by, sale, refinance, contract, assignment or otherwise; or
- The death of the borrower(s). Where ownership is joint, the loan shall become due and payable immediately upon death of the survivor who had an interest in and resided in the property at the date of the Promissory Note.

A Default Event is defined as the occurrence of one or more of the following:

- A default on any of the terms of the Promissory Note, City of Gloucester Homebuyer Agreement or Mortgage Agreement; or a default of the Promissory Note or the Mortgage Agreement;
- The failure of the Borrower to use the property continuously as the Borrower's principal place of residence; or
- The renting, leasing or subletting of the Property to any third party for any purpose, whether rental income is received or not.

Sale or transfer of the property does not include:

- An encumbrance by a governmental agency in the form of an assessment for streets, sidewalks, lighting or sewer, so long as the borrower pays such assessments when due; or
- The transfer of the property to the surviving borrower upon the death of one borrower provided that the surviving borrower had an interest in and resided in the property at the date of the Promissory Note.

Notwithstanding the above, transfer resulting from marriage, divorce or dissolution of marriage or death of a spouse shall not constitute a Transfer Event, provided that the party acquiring an interest as the result of such event executes an agreement assuming all of the obligations of the transferring party under the terms of the original agreement.

### Lender Requirements

A FTHBDPA loan may be combined with a fully amortized primary loan that has at least a 30 year term and a fixed interest rate, reasonable Adjusted Rate Mortgage (ARM) and the primary loan must be mortgage insurable unless the loan-to-value (LTV) rate is less than 80%. The types of loans that are compatible with the FTHB loan include, but are not limited to, the following:

- FHA insured
- Conventional
- VA
- Adjustable Rate Mortgages

The following are not allowed:

- Prepayment penalties
- Private sales contracts

The FTHBDPA loan may be combined with gifts and/or equity in the property from family members or other down payment assistance programs as long as the suitable borrower contributes the minimum amount of their own funds to participate in a FTHBDP loan. The gift or equity cannot exceed \$50,000. Copy of gift letter(s) must be documented.

### Eligible Project Costs

The FTHBDP program project costs include the costs of acquiring a single family housing (1-4 units) and the reasonable and necessary soft costs incurred by the homebuyer and associated with the financing of the property. Reasonable loan fees are defined as combined loan origination fee and discount points that do not exceed 1.75% of the amount of the note.

Necessary soft costs include those items that are incidental to the sale of real estate and may include:

- Processing and settlement costs
- Private lender origination fees
- Credit reports
- Fees for title evidence
- Fees for recordation and filing of legal documents
- Legal fees
- Private appraisal fees
- Escrow accounts to pay for up to three months of real estate taxes and one year of hazard insurance (homeowners insurance)
- Professional Home Inspection

#### Ineligible Project Costs

- Delinquent taxes, fees, and other charges that are the seller's responsibility
- Property repair or escrow holdback
- Costs related to new construction of housing or rental assistance

#### Availability of Funds

Funds are available on a first-come, first-eligible served basis. Funds will be reserved for a specific borrower when staff receives the required information and documentation and determines that the applicant is an "Eligible Applicant", a "Suitable Borrower" and that the property is an "Eligible Property" and the office receives an "executed" Purchase and Sales Agreement.

#### Eligible Properties

To qualify for FTHBDP assistance, the property selected by the homeowner must meet **ALL** of the following criteria. The property must:

- Be located within the city limits;
- Meet the definition of single family housing; A single family housing unit includes a single unit in a one- to four-family residence, a condominium unit or a combination of manufactured housing and lot.
- Meet Property Standards contained in CFR 24; Part 982.401 Housing Quality Standards (HQS);
- Be free of chipped or peeling paint if the home was built before 1978, per 24 CFR 92.355;

- Be occupied by the seller(owner), the first-time homebuyer or the house is vacant;
- Have clear title – lender must provide a preliminary title report that is satisfactory to the City;
- Satisfactory Appraisal – the lender must provide a copy of the appraisal to the City;
- Maximum Purchase Price cannot exceed the appraised value of the property.

To qualify for FTHBDP assistance, a manufactured housing unit must:

- Be existing;
- Be located on land that is held by the first-time homebuyer, or the homebuyer;
- Be fixed to a permanent foundation;
- Be taxed as real property, i.e. de-title; and
- Be connected to permanent utility hook-ups.

### Ineligible Properties

Tenant-occupied properties are eligible under the program. The owner’s unit must be vacant or occupied by the seller throughout the sale period and at the time title is transferred. The only exception to this is if the first-time homebuyer is occupying the home as a renter. Also, an “AS IS” home in need of repair(s) necessary to meet the HUD HQS Inspection and/or local code **does not** qualify for the City’s FTHB program.

### Property Inspections Prior to Closing

- An Environmental Review - The required Environmental Review requirements of 24 CFR Part 58 must be completed by city staff before CDBG funds are committed to the project. The Environmental Review, for existing homes, includes verification the home is not located in a flood plain, lead-based paint and other hazardous materials.
- Housing Quality Standards 24 CFR 982.401 - One of the goals of the FTHBDP programs is to provide “*decent, safe and sanitary housing*”. The property must pass a HQS Inspection, performed by city staff or consultant prior to closing. If violations are found the property is not eligible unless the violations are corrected and a second inspection is performed and passes, or proof of funds are available by borrower to address the corrections within six months of closing. A re-inspection will be required at that time. If the corrections have not been appropriately addressed, the borrower will be required to pay back the loan in full. **THE HQS INSPECTION DOES NOT SUBSTITUTE A PROFESSIONAL HOME INSPECTION NOR DOES THIS INSPECTION GUARANTEE THE CONDITION OF THE HOME.**
- Lead Based Paint Hazards – The Lead Safe Housing Rule applies to any housing unit built prior to January 1, 1978 and is assisted with HUD funds. The rule affects the way the City implements the homeownership programs as follows:

1. Visual Assessment. A visual assessment will be conducted at the property. All painted surfaces, interior and exterior, must be free of defective paint (peeling, chipping, chalking or cracking).
2. If the quantity of defective paint is found to be more than 20 square feet (the *de minimis* level), then the property is not eligible for purchase.

#### Notification and Disclosure

- The Seller must disclose known lead-based paint and lead-based paint hazards and provide available reports to the buyers and to the City.
- The sales contracts must include the disclosure or information on lead based paint and or lead based paint hazards.

#### Addendums to FTHB Program Application

- Financial Privacy Act Notice must be signed by the borrower(s)
- Subordination Policy Notification must be signed by the borrower(s)
- Housing Quality Standards Inspection Disclosure must be signed by the borrower(s)
- Checklist
- Current Income Guidelines

#### FTHBDPA Program Documents

The FTHBDPA program documents will be signed by the borrower(s) prior to closing; they include:

- FTHBDPA application with addendums
- City of Gloucester Loan Agreement and attachments
- City of Gloucester Mortgage and Promissory Note

**All applicable loan documents, forms must be completed and in the borrower(s) file before funds can be dispersed.**

#### Loan Requirements after Closing

- Property purchased with FTHBDP funds must be occupied as the owner's principal residence throughout the life of the loan. The FTHB loan must be repaid in full upon sale, title transfer, or default or if the family no longer occupies the home as their principal residence.
- Renting a unit in its entirety is **not permitted**. Deed restriction will reflect this requirement.
- Real property taxes and hazard insurance must be current at all times
- Keep the property in good condition, repair and permit no waste thereof
- The home may not be used for any activities prohibited by law
- If property needed repairs for HQS compliance, a six month re-inspection will be required.

## Monitoring

The Grants office will monitor the homebuyer via postal mail or other methods throughout the life of the FTHBDPA loan to ensure compliance with residency requirements.

## Conflict of Interest

No person who is an employee, agent, consultant, officer, or elected official or appointed official of the participating jurisdiction, State recipient, or subrecipient which are receiving funds directly involved in the implementation of and who serves in a decision or policy-making capacity with the Program shall obtain a financial interest or benefit from the Program 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 year thereafter.

## Fair Housing

Fair Housing Act – A number of laws have been written in support of fair housing, including but not limited to Title VI of the Civil Rights Act of 1964; Title VIII – The Fair Housing Act of 1968, and as amended; and the Rehabilitation Act of 1973 (Section 504). The FTHBDPA program for the City of Gloucester supports the core principles of fairness and anti-discrimination to housing choice for all citizens. No qualified persons shall be denied the benefits of, the participating in, or be subjected to discrimination under any program or activity funded on the basis of race, color, national origin, gender identity, age, sexual orientation, religion, disability, or familial status. City of Gloucester shall also affirmatively further Fair Housing and take appropriate actions to overcome the effects of any impediments identified, including but not limited to language barriers, architectural barriers in housing structures, housing for older persons, etc.

- 13-Fair Housing- Environmental Protection Agency, Equal Opportunity for All Notification Pamphlet
- U.S. Department of Housing and Urban Development Fair Housing websites:  
<http://www.hud.gov/offices/fheo> and  
<http://www.hud.gov/complaints/housediscrim.cfm>