



# **TOWN OF FLOWER MOUND RESIDENTIAL REHABILITATION PROGRAM GUIDELINES**

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## AGENERAL PROVISIONS

The Town of Flower Mound Rehabilitation Program (“Program”), funded by the Department of Housing and Urban Development’s (HUD) Community Development Block Grant (CDBG) Program, is designed to expand the supply of decent, safe, sanitary and affordable housing, to correct health and safety hazards in deteriorated housing and to extend the useful life of existing housing units. This Program is not intended to provide Minor Home Repairs. Forgivable loans are available to achieve cost-effective repairs for low- and moderate- income households within the Town of Flower Mound (“Town”).

### **FAIR HOUSING**

This Program will be implemented in ways consistent with the Town’s commitment to Fair Housing. No person shall be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part with CDBG Funds on the basis of his or her religion or religious affiliation, age, race, color, ancestry, national origin, sex, marital status, familial status (children), physical or mental disability, sexual orientation, or other arbitrary cause.

### **OUTREACH**

Community members are informed of the details of the rehabilitation Program and eligibility requirements through area newspapers, advertisements, public meetings, private interviews, Program flyers distributed throughout the Town, and other fair marketing efforts. Pre-qualification and marketing criteria will focus upon income eligibility and rehabilitation needs. Persons who do not speak English or persons with disabilities who wish to participate in the Rehabilitation Program and need assistance should contact Town Hall at (972) 874-6000 so that appropriate arrangements can be made. Para Información en Español Llame al 972-874-6000.

## B. TYPE AND TERMS OF PROGRAM ASSISTANCE

### **FORGIVABLE LOAN TERMS**

Maximum Loan Amount: In all cases, the maximum CDBG forgivable loan amount shall be \$60,000 per low-income housing unit.

No interest will be charged.

Costs covered by the loan may include:

- Construction contract (the accepted bid price for the cost of materials and labor);
- Construction contingency;
- Drafting and engineering fees, if any;
- Appraisal and termite inspection charges;

- Permit fees and related building fees;
- Lead Based Paint mitigation

Costs **not** covered by the loan include:

- Relocation Expenses: This Program is subject to the acquisition and relocation provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (“Uniform Relocation Act”) and Section 104(d) of the Housing and Community Development Act of 1974. Under the Uniform Relocation Act, at 49 CFR 24.2(a) (9) (ii) (E), a nonexclusive listing of persons who do not qualify as displaced persons includes an owner occupant(s) who move(s) as a result of rehabilitation or demolition of the real property. If the homeowner(s) are required to temporarily relocate during the rehabilitation, the Town will not provide any assistance with relocation expenses because this is a voluntary program.

Recapture Provisions: The Town is offering homeowner rehabilitation assistance in the form of a deferred payment loan. As part of the Program, the Town places a lien on the property (as a “soft second” lien) that is released upon maturation of the loan.

Homeowners receiving assistance from the Town are required to have the home remain their principal place of residence for not less than five (5) years from the date of the loan. If the homeowner(s) no longer occupy(ies) the home as their principal residence during the five-year loan term, the homeowner(s) will be obligated to pay the Town the prorated amount of the loan. The deferred payment loan will be forgiven at a rate of 20% per year or 1/60 per month. Any outstanding balance would be subject to recapture. A lien will be filed listing the Town as a subordinate lien holder.

Change of Title-Owner/Occupants: In the event that an owner occupant sells, transfers title, or discontinues residence in the rehabilitated or purchased property for any reason, the loan becomes immediately due and payable.

If the owner occupant sells or otherwise transfers title of the property to a qualifying income group household, the Town will consider subordinating the loan and continuing all or part of the lien as a deferred loan.

If the owner occupant dies, and if the heir to the property lives in the house and is income eligible, the heir may be permitted, upon approval of the Town, to assume the loan at the rate and terms the heir qualifies for under current participation guidelines. If the owner occupant dies and the heir is not income eligible, the loan becomes immediately due and payable.

In cases where more than one owner occupant is listed on the title and deed of trust, if one of the owner occupants ceases to live at the property for any reason, then the CDBG loan is assumable if the other owner-occupant who is vested in title provides documentation that he will continue to occupy the home as his principal residence and

that the new household continues to be income eligible for the Program. If the new owner-occupant and household are not income eligible for the Program, then the CDBG loan becomes immediately due and payable.

If an owner wants to convert the rehabilitated property to any commercial or non-residential use or a rental unit, the loan becomes immediately due and payable.

## **LEAD-BASED PAINT**

If the property was built before 1978, a lead-based paint risk assessment will have to be performed by a certified risk assessor prior to rehabilitation work commencing. If the test results are negative, construction will be able to proceed. If the test results are positive, the rehabilitation will require that all identified lead hazards be abated. Lead-based paint abatement can only be performed by a certified abatement contractor who employs certified abatement workers who use safe work practices to prevent lead contamination from the abatement. More information on federal requirements for work with lead-based paint can be found in 24 CFR 35 and 40 CFR 745. The homeowner will not be able to occupy a house while lead abatement is performed. If the homeowner does not agree to relocate during the lead-based paint abatement procedures, the project will be terminated.

## **USE OF CDBG PROGRAM INCOME**

All income received from recapture of CDBG deferred payment loans made by the Town will be known as CDBG Program Income and will be returned to the Town for use on CDBG eligible activities.

## **C. ELIGIBILITY REQUIREMENTS**

### **APPLICANT ELIGIBILITY**

1. Income: In order to be eligible for the CDBG assistance, the cumulative gross annual income(s) for all persons age 18 years and over occupying the residence must not exceed 80% of the county's median income as published annually by HUD. Income will be determined by the provisions of the Section 8 annual income definition at 24 CFR 5.609.

The Town of Flower Mound will use HUD's CPD Income Eligibility Calculator to determine income. HUD has directed the Town to use the "24 CFR Part 5 Annual Income definition of income.

**HUD 2019 Income Limits (Denton County):**

<b>HOUSEHOLD SIZE</b>	<b>80% OF AREA MEDIAN INCOME – MAXIMUM INCOME LIMIT</b>
1	\$46,550
2	\$53,200
3	\$59,850
4	\$66,500
5	\$71,850
6	\$77,150
7	\$82,500
8	\$87,800

2. Citizenship: Applicants must be United States citizens or legal resident aliens.
3. Assets: If applicants have liquid assets of \$8,000 or above, they will be required to apply all amounts in excess of \$8,000 toward their home rehabilitation. Liquid assets are those that can be readily converted to cash such as cash, checking, savings, stocks, and bonds. Tax deferred accounts such as IRAs, 401Ks, and other retirement accounts are excluded from the definition of liquid assets. Applicants must certify on their application form whether they have liquid assets of more than \$8,000 or not.
4. Additional documents will be required to document income eligibility per HUD regulations.

**NOTE**

Town employees that reside within the Town are subject to the same eligibility requirements and procedures as all other applicants.

**PROPERTY ELIGIBILITY**

1. Location: The property must be located within the Town of Flower Mound.
2. Property Type: An eligible property must have an existing single-family residence that is the principal residence of the applicant.
  - Applicant must provide proof of a homestead exemption on the property.
3. Title: The applicant household must hold majority title to the property. An existing mortgage will not prohibit participation in the Program.
  - Applicant is listed as the property owner (a title search will be conducted).
  - Applicant must provide proof that property taxes are paid and current.
  - Mortgage payments must be current.
4. Homeowner's Insurance: Proof of homeowner's insurance is required.
5. Property tax: Proof of property tax payment required.

6. Environmental Review:

- Property must not be located in a Special Flood Hazard Area (*i.e.*, subject to inundation by the 1% Annual Chance Flood per FEMA) in order to be eligible for the Program.
- If the property meets the Environmental Review criteria above, staff will determine whether the property to be rehabilitated meets all environmental requirements under 24 CFR Part 58 and can be rehabilitated through the Program.

## **FEASIBILITY OF REHABILITATION**

1. Initial Inspection: When property eligibility and income eligibility have been determined, the Housing Specialist completes a detailed inspection of the house and prepares a line-item work write-up and in-house cost estimate. Costs are determined based upon experience and the use of a construction estimation program.
2. Rehabilitation Standards: Every loan made under this Program shall be used to finance rehabilitation to at least minimum Program property standards, and all work performed will comply with the Town's currently adopted International Residential Code.
  - All items listed as "Tier 1" in the Rehabilitation Program's Minimum Property Standards must be able to be satisfied in order to qualify for the Program.
  - If the total rehabilitation cost of all Tier 1 items can be satisfied for less than the maximum loan amount, the applicant may select Tier 2 items for repair with the remaining loan funds available.
  - If there are any code violations that can be rehabilitated as "Tier 2" items, these items must be addressed before the applicant can select other items for repair from "Tier 2."
3. Lead Hazard Inspection and Mitigation: Occupants of units constructed prior to 1978 will receive proper notification of Lead-Based Paint (LBP) hazards and all projects will be subject to implementation of the federal LBP regulations in accordance with the most recently published CDBG grant management manual chapter on LBP located in 24 CFR 570. More information on LBP requirements can be found in 24 CFR 35 and 40 CFR 745.
4. Determination of Rehabilitation Feasibility:
  - All costs relating to the rehabilitation of a house must not exceed the maximum loan amount of \$60,000. 25% of the loan amount is reserved for change orders. The costs include, but are not limited to:
    - o The line item in-house estimate for rehabilitation that would comply with the rehabilitation standards identified in item 2 (Rehabilitation Standards) above;
    - o LBP mitigation; and
    - o Permit fees and related building fees.
  - If all costs to rehabilitate the structure total more than the maximum loan amount of \$60,000, the house would not be eligible to participate in the Rehabilitation

Program.

- Repairs in excess of 50% of the house value may make the property ineligible for the Program.

5. Maximum Limits for the Program:

- Once the project is completed, no additional assistance may be requested before the term of the loan (5 years) is complete.
- Applicants accepted into the Residential Rehabilitation Program are automatically disqualified from participating in the Minor Home Repair Program until the term of their loan (5 years) is complete
- Lifetime Maximum of two repairs or a maximum total expenditure of \$120,000. Please note that the overall total in repairs cannot exceed more than 50% of the home value.

## D. PROCESS & PROCEDURES

### PROGRAM STEP-BY-STEP PROCESS

1. Program representatives (Town staff) speak to or meet with applicants as necessary to explain Program requirements, documentation, the residential unit's rehabilitation needs and the rehabilitation processes. Town staff, when necessary, can also assist the applicant with completing the application form. Additional documents may be obtained through the mail or follow-up visits.
2. Applications will be accepted until the goals of the Program have been met and/or all funds have been committed:
  - Only completed applications will be processed on a first-come, first-served basis. Once applications are completed and all supporting documents have been submitted, Town staff will date the application to determine the order in which the application will be considered. A completed application includes all documents necessary for Town staff to determine income eligibility and property eligibility.
  - When funds committed to accepted applications total an amount that approaches the total CDBG loan funds available, the Town has the right to suspend acceptance of new applications until additional CDBG funds are available.
  - When less than the maximum potential loan amount remains as uncommitted funds, those dollars may be committed to the next eligible applicant. If the expected rehabilitation costs of that applicant's home exceed the remaining funds available, the rehabilitation of that home will be postponed until the following year's CDBG entitlement is available.
3. Applicants must pass the following eligibility tests: income eligibility, property eligibility, and rehabilitation feasibility. Town staff determines the income eligibility of the household and the eligibility of the property. If applicants pass the eligibility tests

for income and property, the applicant may continue on to the next step. Town staff will notify the applicant of whether he has passed the eligibility tests for income and property. If eligible, the letter will also explain the next steps required to move forward to determine rehabilitation feasibility.

4. The Town's Housing Specialist will provide a line item in-house cost estimate of all needed repairs to the property to bring it into compliance with the Program's Minimum Property Standards. The cost estimate will designate which repair line items relate to Tier 1 standards and which repair line items relate to Tier 2 standards in order to assist in determining the feasibility of the rehabilitation.
5. Town staff determines the feasibility of the rehabilitation based on guidelines established in this Program. If the rehabilitation is feasible, Town staff will notify the homeowner and review which repair items will be addressed in the rehabilitation program.
6. The applicant will be provided with a list of pre-screened general contractors that will be contacted for line item bids.
  - The applicant will be provided a copy of the line item in-house cost estimate that does not show the cost (dollar amount) of each line item.
  - Contractors interested in bidding on the project will contact the homeowner to set up a time to walk the home and review the items listed on the prepared bid sheet.
  - The Contractor will then provide a line item bid to the homeowner and Town staff.
  - The contractor selected by the applicant must have submitted a bid within 15% of the in-house cost estimate in order to be hired to work with the Program. Negotiations are allowed in order to bring the bid within the required 15% range of the in-house estimate. By comparing the initial in-house estimate to the bids submitted, the cost reasonableness of the project will be determined.
  - The applicant will inform Town staff of which contractor he would like to select to perform the rehabilitation work; if the applicant does not select the lowest bidder, a reason must be provided.
7. Determination of CDBG Assistance.
  - The determination of CDBG assistance will be based on the selected construction bid and the total of all other eligible costs. The maximum total loan amount is \$60,000. 25% of the \$60,000 is reserved for change orders. Any approved change orders will be reflected as amendments to the original loan amount.
  - Town staff prepares a letter notifying the applicant of the total loan amount offered and a meeting is scheduled to execute contracts.
  - Prior to contract execution, a signed Form HUD-7015.16 "Authority to Use Grant Funds" must be received from HUD (if needed).
8. Contract Execution.
  - The meeting shall include the applicant, the Town's Housing Specialist, the Town Grants staff, and the contractor.
  - All parties will review the work description and the applicant and contractor will initial



- each line item of the work description.
  - Upon acceptance of terms and conditions stated, the applicant shall sign the Residential Rehabilitation Program Agreement.
  - The applicant shall enter into an agreement with the contractor.
    - o Contract must name all of the contractors and/or subcontractors responsible for performing each item of work (debarment is checked prior to closing).
  - Upon the execution of all Program documents, Town staff shall issue a written Notice to Proceed to the contractor with a copy to the applicant.
9. Rehabilitation Work.
- Work will commence no later than 10 calendar days after the receipt of the Notice to Proceed.
  - The contractor is responsible for securing all necessary building permits.
  - Change orders must be executed for any deviation, addition, or deletion made to the original job specifications approved in the construction contract. All change orders must be in writing and require the approval of the applicant, the contractor, The Town Housing Specialist, and Town staff. All four parties must sign the change order form prior to commencement of the work proposed in the change order. All approved change orders will be included in the final loan amount (reflected in the Promissory Note) and will be listed as amendments to the original loan amount offered in the Residential Rehabilitation Program Agreement.
  - Rehabilitation work will be subject to routine progress inspections by the Housing Specialist.
10. Contractor Payments.
- Upon completion of work (or portion of work) set out in the Work Write-Up, the contractor will submit an original invoice identifying work items completed and their cost to Town staff.
  - Upon receipt of invoice:
    - o The Town's Housing Specialist will inspect the property to ensure all work has been completed and determine if all applicable permits have been obtained and have appropriate signatures.
    - o If LBP work was part of the contract, the work must pass a final lead paint clearance inspection. If the work fails the inspection, the contractor must continue to clean the house until it passes the clearance inspection.
    - o Obtain a signature from the homeowner on the Contractor Payment Request form that indicates the homeowner is satisfied with the work and the amount to be paid to the contractor.
    - o After a signature has been obtained from the applicant, the Town's Housing Specialist and Town Grants staff will sign the authorization for payment stating that all work has been completed as agreed to in the construction contract.
  - The contractor shall receive approved final payment, minus a 10 percent contingency, for completed contract within 15 working days after final inspection approval. The contingency is calculated on the final contract amount by adding the

total project bid amount plus or minus change orders. Contingency is withheld for thirty (30) days from the date of final acceptance by Town. After thirty days, if no additional or warranty work remains, the Town will release withheld contingency funds.

#### 11. Work Completion.

- The Town's Housing Specialist will conduct a final walk through with the applicant and contractor to address any outstanding items. When all outstanding items are satisfied, the applicant must sign the final acceptance form.
- Acceptance of Work: The Town's building inspector must have accepted the work, as evidenced by an approved final inspection on the building permit, and items on the final invoice must have been completed and approved by the Town's Housing Specialist.
- The contractor shall guarantee the work performed for a period of at least one-year from the date of final acceptance. The contractor will return in thirty (30) days of the project completion date and ask the applicant if any additional repairs are necessary. Any deficiencies or necessary repairs to specified work will be completed at this time.
- At the time of the request for final payment, the contractor will provide:
  - o Lien release from the contractor
  - o Lien releases from all subcontractors, labors, materials, and equipment rental
  - o Any warranties and paperwork as appropriate

#### 12. Closing.

- Execution of documents by the applicant:
  - o Promissory Note
  - o Deed of Trust
  - o Acceptance of Work
  - o Final Invoice Approval
- The Town issues final payment to contractor.
- The Town files the loan documents in the County deed records office.

## E. CONTRACTOR SELECTION

### CONTRACTOR SELECTION

1. Role of the Local Government: The Town of Flower Mound is an equal opportunity, fair housing lender, providing affordable financing for housing rehabilitation performed in accordance with the adopted Program Guidelines. The Town does not warrant any construction work, or provide any insurance coverage.
2. Contracting Process: Contracting will be done on a competitive bid basis. The homeowner will be the responsible agent. Only the homeowner can select the contractor of his choice.
3. Contractors List: The Town will provide the homeowners a list of pre-screened

general contractors to choose from.

- The Town will establish a list of pre-screened general contractors through a vendor application process.
- All contractors will be checked with HUD's federally debarred list of contractors. No award will be granted to a contractor on HUD's debarred list.
- Contractors are required to be registered and in good standing with the Town of Flower Mound's Building and Inspection Services division, and must have been registered for an acceptable amount of time, with no outstanding permit issues.
- Contractors must also have public liability insurance and, when necessary, worker's compensation insurance.
- Contractors must agree to comply with these Program guidelines as well as all CDBG federal and state regulations, which are found in 24 CFR 570. In addition, 24 CFR 35 and 40 CFR 745 contain information on LBP requirements with which contractors must be in compliance.
- Provide information for the Minority/Women Owned Business Enterprise (M/WBE) Report required by the CDBG grant.
- All work performed by the contractor will comply with the Town's currently adopted International Residential Code.

## F. DISPUTE RESOLUTION/APPEALS PROCEDURE

Program Disputes: Any applicant for a rehabilitation loan through the Program has the right to appeal if the application is denied. Complaints concerning the Program should first be made to the Budget Officer. If unresolved in this manner, the complaint or appeal shall be made in writing and filed with the Town. The Town will then schedule a meeting with the Deputy Town Manager/CFO. The Deputy Town Manager/CFO's written determination will be made within fifteen (15) working days after said meeting. If the applicant is not satisfied with the Deputy Town Manager/CFO's decision, a request for an appeal may be filed with the Town Manager.

Contractor/Homeowner Disputes: During pre-construction, construction, or post-construction periods, the applicant has a similar right to have any disputes heard and resolved.

Program representatives are primarily responsible to assure that the Program is implemented in compliance with state and federal regulations in a timely and responsible manner. This includes developing accurate and professional files, work writes-ups and contract documents. Program representatives attend the meeting between the homeowner and the contractor when the contract documents are signed, and facilitate in the clarification and/or corrections of proposed work so a clear understanding is established between both parties.

During and after completion of construction, the contractor's work is monitored for code compliance by the Town's building inspector and for quality by the Town's Housing Specialist.

The contractual obligation for rehabilitation is ultimately between the contractor and the homeowner. If a situation occurs where the two parties are in conflict, the following procedure will be followed:

Stage 1: Before any intervention occurs, the homeowner or contractor shall communicate perceived problems or complaints directly to the other party. In an attempt to resolve the differences, each party will give the other party an opportunity to respond or correct the problem.

Stage 2: If the Stage 1 attempt fails to resolve the problem, the homeowner or contractor may ask a Program representative to informally intervene. This intervention might include telephone call(s) to the contractor or homeowner, meeting(s) at the job site or in the office, or other actions as seem appropriate, including such things as the establishment of written working guidelines, or other post-contractual agreement.

Stage 3: If informal intervention is unable to satisfactorily resolve the homeowner-contractor differences, the homeowner, contractor, or Program representative will contact the Town staff person responsible for the program at the Town in writing, detailing the problem. In cases of building code compliance or questions of construction quality, the Town's building inspector will also be contacted.

It must be recognized that the homeowner has other options which he may choose to utilize, including contacting the contractors applicable state licensing board to submit a complaint.

Any controversy between the parties that cannot be settled through the informal intervention process outlined above shall be submitted to binding arbitration. Costs for the arbitration will be borne by the non-prevailing party, or subject to the terms of the arbitration agreement. The parties shall attempt to agree on a single arbitrator to hear the dispute. If they cannot agree, each party shall appoint an arbitrator. If the two arbitrators cannot agree, then they shall appoint a third arbitrator whose decision shall be final and binding. The cost of the arbitration shall be borne by the losing party unless the arbitrator otherwise determines. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association then in force. The parties expressly agree that the arbitration shall be subject to and governed by the Federal Arbitration Act, 9 U.S.C. §1 *et seq.*

## G.CHANGES & EXCEPTIONS

### **PROGRAM CHANGES**

At the discretion of Town staff, the Residential Rehabilitation Program may be modified to ensure timely expenditures of Program funds, to implement improved practices, or to better comply with CDBG grant requirements.

### **EXCEPTIONS/SPECIAL CIRCUMSTANCES**

Exceptions are defined as any action which would depart from policy and procedures stated in the Program Guidelines. The Town or its agent may make an exception based on extenuating circumstances. A report on the extenuating circumstances and exception or denial of any requested exception will be prepared by Town staff. This report shall contain a narrative, including Town staff's recommended course of action, and any written or verbal information supplied by the applicant. Any exceptions will be documented in the Program file.