EASTERN PANHANDLE HOME CONSORTIUM
OF WEST VIRIGINIA

HOMEBUYER ASSISTANCE PROGRAM GUIDELINES

City of Martinsburg
Berkeley, Jefferson, and Morgan Counties

Administered by the
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INTRODUCTION

The Eastern Panhandle HOME Consortium of West Virginia is responsible for providing HOME Program funds to meet housing needs for its member jurisdictions. The City of Martinsburg is the lead governmental body for the HOME Consortium and administers to the program. It has been documented through the City of Martinsburg's Fair Housing Analysis, Consolidated Plan that there is a need for homeownership opportunities for low-to-moderate income person(s), families or households.

To address this need, the Eastern Panhandle HOME Consortium, through the use of HOME Investment Partnership funds ("HOME"), has established the Homebuyer Assistance Program (HAP) for the City of Martinsburg, Berkeley County, Jefferson County and Morgan County, West Virginia. The HAP's purpose is to assist eligible families or households to become homeowners through downpayment and closing cost assistance. To make home ownership an affordable reality, the HOME Consortium has formed a working partnership among the local lending institutions and realtors.

The Homebuyer Assistance Program does not find eligible properties for potential program applicants. It is the applicant's responsibility to find a vacant single family house, row house, duplex, or multi-unit residence. The dwelling unit must be located within Berkeley County, the City of Martinsburg, Jefferson County or in Morgan County.

I. ELIGIBILITY CRITERIA AND DEFINITIONS

A. *Income*

The funding source for the HAP is the U.S. Department of Housing and Urban Development's (HUD's) HOME Program and the Community Development Block Grant Program (CDBG). Because federal dollars are the program funding source, the City is required to comply with certain federal regulatory requirements.

Under the HOME Program's regulations a qualifying applicant(s) for the HAP must be a low-and-moderate income person, family or household as defined under HUD's Section 8 Income Guidelines for the appropriate Metropolitan Statistical Area. The income guidelines are subject to change. Effective **December 18, 2013,** the guidelines are as follows:

Berkeley County and Morgan County (Hagerstown-Martinsburg MSA)

1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
$41,650	$47,600	$53,550	$59,500	$64,300	$69,050	$73,800	$78,550

Jefferson County (Washington Metropolitan MSA)

1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
$44,450	$50,800	$57,150	$63,450	$68,550	$73,650	$78,700	$83,800

B. *Income Sources*

Household income for this program will be based upon total gross annual income of all persons, included related and unrelated individuals who are part of the household, or will reside with the applicant. The definition of annual income shall be consistent with the federal regulation found at 24 CFR Part 5.609**. Annual income shall be all anticipated income from all sources received by the head of household, spouse and by each additional member (aged 18 years and older) of the family or household, related or unrelated.** Income includes net income derived from assets, for the twelve month period following the initial determination of income. **All household income must be reported regardless of who the loan applicant is or who will hold title to the property**. Annual income from all members of the household includes, but is not necessarily limited to:

- Wages, salaries, tips, commissions, etc.
- Self-employment income from own non-farm business, including proprietorships and partnerships.
- Farm self-employment income.
- Social Security or railroad retirement.
- Supplemental Security Income, Aid to Families with Dependent Children, or other public assistance or public welfare program.
- Retirement, survivor, or disability pensions.
- Any other sources of income received regularly, including Veterans' Administration (VA) payments, unemployment compensation, and alimony.

Acceptable proof of income shall include, but not necessarily be limited to, the previous year's filed federal tax return (IRS 1040) and W2 forms; current wage and earning statements; copies of recent wage/salary or benefit check stubs; and copies of bank depository information identifying direct deposit arrangements, for each member of the household. The City of Martinsburg reserves the right to request additional income documents such as third party verifications of all income and assets as needed.

C. *First Time Homebuyer*

For the purposes of the HAP, a "first time homebuyer" shall be defined as a person, family or household whereby:

- The purchasers must not have owned a home within the past three years; or

- A displaced homeowner situation exists whereby a home is lost due to unemployment, underemployment or other economic loss; or

- A displaced homemaker situation exists whereby the homeowner has not worked full-time in the labor force for a number of years, worked primarily without remuneration to care for the home or family, and who is unemployed or underemployed.

D. *Dwelling Requirements*

To comply with federal regulations and to ensure safe, decent and affordable housing to potential HAP applicants, the following criteria apply in the selection of a dwelling:

- The dwelling unit must be located within the geographic limits of Berkeley County, the City of Martinsburg, Jefferson or Morgan County; and

- It must be in compliance with the currently adopted International Property Maintenance Code or be capable of being brought up to code at a minimal cost; and

- It must be a single family detached home, row structure, duplex, or multi-unit residence, excluding single-wide manufactured homes; and

- It must not contain evidence of defective paint surfaces (i.e., surfaces upon which paint is cracking, scaling, chipping, peeling or loose) on all intact and non-intact interior and exterior painted surfaces. If the dwelling unit contains defective paint surfaces, the City of Martinsburg reserves the right to deny homebuyer assistance through the HAP for the purchase of the subject property; and

- It will be occupied as the primary and principal residence of the first time homebuyer; and

- The purchase of the dwelling unit cannot be financed through a land contract or seller financing.

E. *Affordability Requirements*

- To analyze affordability, the HOME Administrator at City of Martinsburg shall review on a case-by-case basis (with reasonable discretion) the thirty percent (30%) monthly housing expense ratio of individual, family or household gross monthly income. The amount of the HAP loan will be determined by the amount of funds required to make the first mortgage affordable. The first mortgage monthly payment of Principal, Interest, Taxes and Insurance (PITI) should not be greater than thirty percent (30%) of the homebuyer's monthly gross income. PITI up to thirty-three percent (33%) is the maximum exception. The ratio of total debt, including PITI, should not exceed forty percent (40%) of the homebuyer's monthly gross income. The City reserves the right to evaluate the homebuyer's affordability ratio and approve the HAP loan amount.

- The purchase value of an single family, detached dwelling cannot exceed the U.S. Department of Housing and Urban Development's (HUD's) HOME Homeownership Value Limits found in 24 CFR 92.254(a)(2)(iii) of the Final Rule published July 24, 2013, effective August 23, 2013. The Home Value Limits for the Eastern Panhandle HOME Consortium of West Virginia are:

	Existing Homes	New Homes
Berkeley and Morgan Counties	$160,000.00	$195,000.00
Jefferson County	$213,000.00	$219,000.00

F. *Homebuyer Education Requirement*

The HAP requires all applicants to complete a homebuyer education course prior to closing the loan. Evidence of attendance and completion of a homebuyer education course is required in completing a HAP Pre-application. Acceptable forms of evidence include course diploma, certificate, and/or letter from the course instructor/entity. Homebuyer education and housing counseling is offered through the following organizations, including, but not limited to: Partnership for Affordable Housing, Telamon Corporation, and the Hagerstown Home Store.

II. TERMS AND CONDITIONS

A. *Ranking Criteria*

The HOME Administrator reserves the right to review and rank Pre-application submissions on the basis that best serves the financial and productivity goals of the HAP.

B. *Loan Amount Determination and Assets*

Homebuyers are expected to seek a first mortgage on the most affordable and favorable terms possible. They should try to obtain a West Virginia Housing Development Fund Mortgage, a UDSA Rural Development Direct mortgage or equivalent mortgage product. **The first mortgage must be a fixed rate loan with a term of 30 or more years. Adjustable rate first mortgages will not be approved. Loans with co-signers will not be approved.** The City of Martinsburg may provide up to $20,000 in HOME and/or CDBG funds, as applicable, as a **forgivable loan, at zero interest,** to eligible and approved HAP applicants to cover the down payment and closing costs related to the purchase of a dwelling. The amount of down payment assistance is determined by that which is reasonable and customary. The total amount of assistance will be determined on a case-by-case basis. **The homebuyer must provide a minimum of $500.00 of their own funds toward the total down payment and closing cost expenses.** In any event, **closing cost assistance through HAP funds is limited to $2,500.** Homebuyers with liquid, non-retirement assets greater than $15,000 are expected to use the funds in excess of $15,000 toward the purchase of the home. Gift funds to the homebuyer for the purchase may not exceed $5,000.00.

C. *Loan Term and Affordability Period*

The HAP allows for a forgivable loan with a term of five years for loans less than $15,000 and for ten years for loans of $15,000 or more. The loan term is also referred to as the **affordability period**. The City of Martinsburg will place a lien on the property purchased with HOME or CDBG assistance, as applicable, and the City will subordinate

to the first mortgage. If the HAP applicant has maintained ownership and has continued to live in the property assisted through the HAP for the entire affordability period, the loan is forgiven as a grant. If the HAP-assisted homeowner sells, leases or transfers the dwelling, or fails to use it as their primary and principal residence, the homeowner will be required to pay the principal balance of the HAP loan to the City.

1. For <u>HAP loans less than $15,000,</u> the term of affordability for the loan (recapture period) is five (5) years which is sixty (60) months.

a. During the term of the HAP loan, in the event ownership of the property is transferred, as defined in the Promissory Note, from the name of the homebuyer, or the property is no longer occupied as the homebuyer's principal residence, the recapture provisions of the HOME subsidy will apply.

b. Requests for subordination of the HAP loan for refinance purposes will not be approved.

c. In the event of sale or transfer of the property during the term of the HAP loan, repayment of the HAP loan is determined by the availability of net proceeds. Net proceeds of a sale are the sales price minus closing costs, any non-HAP loan repayments, and any documented capital improvements made by the homebuyer.

i. In the event net proceeds exceed the amount to repay both the homeowner's investment and the principal balance of the HAP loan, excess proceeds will be paid to the homeowner using the following formula. The homeowner's investment consists of the portion of initial down payment paid by the homebuyer combined with the cost of any documented capital improvements made with the homebuyer's funds. The homeowner's investment in the property must be documented at the time of the sale or transfer of the property.

$$\frac{Direct\ HOME\ Subsidy\ Amount}{Direct\ HOME\ Subsidy + Homeowner\ Investment}\ x\ Net\ Proceeds = HOME\ Recapture\ Amount$$

ii. In the event that net proceeds are not sufficient to repay the entire HAP loan, the principal balance at the time of sale or transfer will be pro-rated.

$$\frac{Number\ of\ Years\ Homebuyer\ Occupied\ \ Home}{Period\ of\ Affordability\ in\ Years}\ x\ Total\ Amount\ of\ HOME\ Subsidy = Pro\ rated\ Recapture\ Amount$$

2. **For <u>HAP loans equal to or greater than $15,000, the term of the loan</u> (recapture period) is ten 10 years which is one hundred twenty (120) months.**

a. During the term of the HAP loan, in the event ownership of the property is transferred, as defined in the Promissory Note, from the name of the homebuyer, or the property is no longer occupied as the homebuyer's principal residence, the recapture provisions of the HOME subsidy will apply.

b. Requests for subordination of the HAP loan for refinance purposes will not be approved.

c. In the event of sale or transfer of the property during the term of the HAP loan, repayment of the HAP loan is determined by the availability of net proceeds from the sale of the property. Net proceeds of a sale are the sales price minus closing costs, any non-HAP loan repayments, and documented capital improvements made by the homebuyer.

i. In the event net proceeds exceed the amount to repay both the homeowner's investment and the principal balance of the HAP loan, excess proceeds will be paid to the homeowner using the following formula. The homeowner's investment consists of the portion of initial down payment paid by the homebuyer combined with the cost of any capital improvements made with the homebuyer's funds. The homeowner's investment in the property must be documented at the time of the sale or transfer of the property.

$$\frac{Direct\ HOME\ Subsidy\ Amount}{Direct\ HOME\ Subsidy + Homeowner\ Investment}\ x\ Net\ Proceeds = HOME\ Recapture\ Amount$$

ii. In the event that net proceeds are not sufficient to repay the entire HAP loan, the principal balance at the time of sale or transfer will be pro-rated.

$$\frac{Number\ of\ Years\ Homebuyer\ Occupied\ \ Home}{Period\ of\ Affordability\ in\ Years}\ x\ Total\ Amount\ of\ HOME\ Subsidy = Pro\ rated\ Recapture\ Amount$$

D. *<u>Uniform Relocation Act</u>*

Because the HAP applicant, not the City of Martinsburg, will take responsibility for the selection and negotiation of a dwelling unit, the requirements of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (URA) are not triggered. The City reserves the right to deny assistance in circumstances in which compliance with the URA may be required.

E. *Flood Insurance*

On any property purchased with the assistance of the HAP and located within a 100-year floodplain, the purchase of federal flood insurance is required annually during the five-year term of the loan. The City reserves the right to withhold and/or deny participation in the HAP if the applicant fails to comply with this requirement prior to the loan closing. Furthermore, if the flood insurance on the assisted property lapses during the term of the loan, the HAP applicant will be required to repay the entire amount of the loan.

F. *Property Maintenance*

During the term of the HAP loan, the HAP applicant must keep the dwelling and property in compliance with the HOME Program code requirements. Failure to do so will result in the repayment of the entire amount of the loan

III. ADMINISTRATIVE PROCEDURES

A. *Regulations*

The City of Martinsburg shall be responsible for compliance with the HAP's environmental review requirements and income verification requirements.

B. *Dwelling Inspection*

The City of Martinsburg and the participating jurisdictions shall be responsible for inspecting the dwelling unit for local code compliance. Repairs must be completed before closing the loan.

IV. APPLICATION PROCESS

The following is a suggested format for making application for the HAP:

1. Any interested person, family or household (interested party) may request from the City's Community Development Department (CDD) a copy of the HAP guidelines.

2. The interested party completes Homebuyer Education.

3. The interested party submits a completed Pre-application for a **HAP Certificate of Eligibility**. The Certificate is valid for six months from the date issued. Pre-applicants determined to not be eligible will be notified via certified mail.

4. The interested party obtains a mortgage loan pre-qualification letter, Form 1003 and Good Faith Estimate (Form 1008) from a lender. City will confer with the interested party and the lender to determine estimated HOME/CDBG funding needed.

5. The interested party takes responsibility to select an eligible dwelling unit as set forth under Section II D (Dwelling Requirements) and requests from the CDD a Pre-Application packet.

6. The pre-applicant **executes a contract of sale** including a contingency of mortgage financing and HAP loan approvals.

7. The pre-applicant's mortgage lender and/or realtor contact the City to determine the agreed upon purchase price of the dwelling, the down payment amount required and the loan closing cost.

8. The City provides the pre-applicant with a **Reservation of Funds** which is valid for ninety (90) days.

9. The City secures an inspection of the subject property for HAP compliance which shall be the most recently adopted **International Property Maintenance Code**. Notification of the dwelling unit's compliance or non-compliance will be communicated to the Pre-applicant, the lending institution and the real estate company. All properties must be in compliance with the code prior to closing.

10. In the event it is found that the dwelling does not pass the code inspection, the Pre-applicant may select another program eligible dwelling or negotiate with the property owner to correct the code deficiencies.

11. The City reviews the financial information obtained and conducts an Affordability Analysis for program compliance. If compliance is met, the City determines the actual amount of HAP assistance and so notifies the applicant, the lender and/or the realtor.

12. The City and lender establish a mutually agreed loan closing date. Several lead business days will be needed to have HAP funds available for the loan closing.

13. The City prepares lien documents for signing at the loan closing. Prior to the loan closing a City representative will provide a check payable to the closing attorney for the benefit of the HAP borrower in an amount approved by the City.