



# OREGON HOUSING & COMMUNITY SERVICES



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# Procedural Guide

## Residential Loan Program

*(Also known as the Single-Family Mortgage Program)*

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# 1 - INTRODUCTION

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## ***OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT***

Oregon Housing and Community Services Department is the State's housing finance and human investment department. The Department's mission is to work in partnership with community-based organizations to develop affordable housing, to provide services that alleviate the causes of poverty, and empower Oregonians. One of the ways the Department carries out its mission is through the Single-Family Mortgage Program, also known as Residential Loan Program (Program) which provides mortgage financing at below-market interest rates, primarily to first-time homebuyers.

### ***PURPOSE AND SCOPE***

This Procedural Guide establishes the operating procedures for Approved Lenders. The procedures implement the Oregon Administrative Rules (Rules) established for the Program, and provide detailed instructions for the performance of the written agreements of the Department with its Approved Lenders.

In addition to the Program requirements set forth in this Procedural Guide, Approved Lenders are responsible for underwriting Program Loans in accordance with HUD-FHA, Rural Development (formerly known as FMHA), Private Mortgage Insurance Companies, or Pool Insurance requirements when applicable. This Procedural Guide makes only general references to those procedures.

### ***REVISIONS AND SUPPLEMENTS***

Revisions of, or supplements to, this Procedural Guide may be made from time to time. The Department will provide Approved Lenders with revised or additional pages along with instructions for insertion into this Procedural Guide.

## 2 – DEFINITIONS

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**Acquisition Cost:** All amounts or items of value paid directly or indirectly to the seller of the Single-Family Residence (or to any other person for the benefit of the seller). Includes any financing fees or settlement costs in excess of the usual and necessary amounts. Also includes cost of completing a residence, except work performed by the Eligible Borrower or donated by members of the Eligible Borrower's family.

**Act:** Oregon Revised Statutes 456.515 through 456.720, as amended.

**Approved Lender:** Any lender who meets the qualifications set forth in the Rules and is authorized by the Department to make Program Loans.

**Approved Servicer:** Any servicer of loans who meets the qualifications set forth in the Rules and is authorized by the Department to service Program Loans.

**Assumption:** A Program Loan assumed by an Eligible Borrower by a Substitution of Liability without a change in the original interest rate.

**Bond:** Any bond, note or other evidence of indebtedness issued to obtain funds to purchase Program Loans as provided in the Act.

**Buydown:** A payment to the lender from the seller, buyer, third party, or some combination of these, causing the lender to reduce the interest rate permanently or during the early years of a loan.

**Cash Advantage Home Loan:** A rate alternative, which includes cash assistance equal to 3% of the Note amount.

**Cash Closing Date:** The date the Eligible Borrower executes the final Program Loan documents agreeing to the terms and conditions therein.

**Conventional Loan:** A loan, which is not insured by FHA or guaranteed by Rural Development.

**Department:** The Oregon Housing and Community Services Department, State of Oregon.

**Delivery Date:** The final date upon which all required documents and instruments are to be delivered to the Department in connection with the sale of a Program Loan.

**Eligible Borrower:** Any person applying for financing who meets the criteria set forth in this Procedural Guide.

**Escrow Payments:** Payments made by the Eligible Borrower to an Approved Servicer and placed in an escrow reserve or impound account for the payment of property taxes, assessments, hazard and mortgage insurance premiums, or other charges.

**Existing Property:** A residence, which has been previously occupied. This means the Eligible Borrower would not have to be the first occupant.

**FHA:** The Federal Housing Administration, and any successor thereto.

**FHLMC:** The Federal Home Loan Mortgage Corporation (also known as Freddie Mac), and any successor thereto.

**FNMA:** The Federal National Mortgage Association (also known as Fannie Mae), and any successor thereto.

**Force Placed Insurance:** Hazard insurance purchased by the lender at the borrower(s) expense to protect the lender's interest. Used in cases of nonpayment of premium by borrower(s).

**HUD:** The United States Department of Housing and Urban Development, and any successor thereto.

**HUD-FHA Loan:** A Program Loan, which is insured by HUD-FHA, and any successor thereto.

**Income:** The total of the annualized gross household income from any source, before taxes and withholdings, of all persons age 18 years or older who will reside in the Single-Family Residence to be purchased with a Program Loan determined in accordance with this Procedural Guide.

**Mortgage:** Any instrument which pledges an interest in a Single-Family Residence as security for payment of the debt. A Deed of Trust is the instrument used for Program Loans.

**New Construction:** A residence, which has not been previously occupied. This means the Eligible Borrower would have to be the first occupant.

**Ownership:** An interest held in property by any means, whether outright or partial, including property subject to a Mortgage or other security interest. Includes, but is not limited to, a fee simple ownership interest, a joint ownership interest by joint tenancy, tenancy in common, or tenancy by the entirety, an interest of a tenant-shareholder in a cooperative, an ownership interest in trust, a life estate, and purchase by land sale contract.

**Pool Insurance:** One or more policies of insurance issued by a Qualified Mortgage Insurance Company insuring against loss sustained by the Department by reason of default by the Eligible Borrower *in addition to primary mortgage insurance*.

**Principal Residence:** Whether a residence is used as a Principal Residence depends upon all the facts and circumstances of each case, including the good faith of the Eligible Borrower. A residence, which is primarily intended to be used in a trade or business, is not a Principal Residence.

**Private Mortgage Insurance Company:** A Qualified Mortgage Insurer which is not the FHA or Rural Development.

**Procedural Guide:** This manual of written procedures as revised and supplemented from time to time.

**Program:** The Residential Loan Program (*also known as the Single-Family Mortgage Program*) of the State of Oregon.

**Program Loan:** A loan made by an Approved Lender to an Eligible Borrower to finance the purchase of a Single-Family Residence which meets the conditions set forth in this Procedural Guide.

**Program Loan Purchase Agreement:** An agreement between the Department and an Approved Lender providing for the purchase and sale of Program Loans.

**Program Loan Servicing Agreement:** An agreement between the Department and an Approved Servicer providing for the servicing of Program Loans.

**Property Value:** The lower of 1) the value of the Single-Family Residence determined in an appraisal acceptable to the Department, or 2) the Acquisition Cost, or original cost of land acquisition and construction, of the Single-Family Residence.

**Qualified Mortgage Insurer:** FHA, Rural Development, or any other entity approved by the Department to insure or guarantee the payment of Program Loans for Single-Family Residences.

**Rate Advantage Home Loan:** A rate alternative, which does not include cash assistance, but does offer the lowest current interest rate.

**Recapture Tax:** An income tax surcharge that may be imposed on an Eligible Borrower and any person who assumes a Program Loan. Program Loans closed prior to January 1, 1991 are not subject to recapture tax.

**REO New Loan:** A Program Loan made by an Approved Lender to an Eligible Borrower with financing provided by the Department, to purchase a Single-Family Residence owned by the Department, acquired through the foreclosure process.

**Rules:** The Oregon Administrative Rules established for the Program.

**Rural Development:** Formerly known as The Farmers Home Administration and any successor thereto.

**Rural Development Loan:** A Program Loan, which is insured by Rural Development, and any successor thereto.

**Single-Family Residence:** A housing unit intended and used for occupancy by one household, and the property on which it is located. This may include a site built detached Single-Family Residence; a condominium unit; a detached manufactured home on a permanent foundation; a dwelling in a planned unit development community; or one unit in an attached structure.

**Substitution of Liability:** The release of the seller (previous Eligible Borrower) from the mortgage debt and the Assumption of the mortgage debt by the new buyer.

**Targeted Area:** Any area in Oregon designated by the IRS as a Targeted Area in compliance with the requirements of Section 143(j) of the Internal Revenue Code of 1986 and approved by the United States Department of Treasury and Housing and Urban Development.

### **3 - APPROVED LENDERS**

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The qualifications for Approved Lenders are set forth in the Rules. Any entity wishing to become an Approved Lender should request and complete an Application to Become an Approved Lender (SFMP 1), which is to be submitted to the Department together with:

- one copy of the most recent audited financial statements;
- two copies of the Program Loan Purchase Agreement (SFMP 2) and the Addendum to Program Loan Purchase Agreement (SFMP 2A);
- a Counsel's Opinion (in the format shown in SFMP 3);
- a List of Authorized Signers (SFMP 4);
- documentation evidencing bond and insurance coverage; and
- \$25 application fee.

Entities submitting applications will be advised of their acceptance or rejection within thirty days of receipt. Upon acceptance of an application by the Department, the Department will execute both copies of the Program Loan Purchase Agreement and Addendum and return one executed copy of each to the applicant.

All lenders who become Approved Lenders must provide to the Department:

- any changes in address or organization;
- changes in authorized signers on the Notice of Change of Authorized Signers for Lender (SFMP 4A); and
- annually audited financial statements.

## 4 - RESERVATION SYSTEM

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Under the reservation system, the Department purchases Program Loans pursuant to first-come, first-served reservations made by Approved Lenders.

**Please call the interest rate Hotline at 503-986-2047 or 877-788-2663 for the current interest rate.**

### **Online Reservation System**

We are so excited; our reservation system is now available online. What does that mean to you? You can now enter your own reservations, change, cancel and extend locks yourself right on line. You may start using the new system immediately. **You no longer will fax in your reservations.**

Follow the directions below and feel free to give me a call (503-986-2047) or email (debbie.roberts@state.or.us) with any questions. At this point, processors cannot get into the program unless you give them your log in information. If you have a processor who assists you, you may want to share your login information.

How to enroll as a Loan Officer:

- Fill out a Lender Contact Form and fax to 503-986-2125
- OHCS will enter your information (allow 2 days to be entered)
- You will receive an email advising you to log into our online reservation system and change your password.
- Log in as directed and save the site as a favorite
- Change your password
- You are ready to enter, modify or cancel your own reservations.
- Once you enter a reservation you must press save. Next select the detail button for that client. You can now select the print button to print the reservation for your records.
- OHCS will approve your reservation within 24 hours
- Processors need to fill out the form and fax it in but will not be given the access except through the loan officer.

### ***RESERVATION EXTENSIONS***

Reservations will automatically be locked in for 90 calendar days for Existing Property Program Loans and 120 calendar days for New Construction Program Loans. Upon an Approved Lender's request, a lock extension may be granted to enable Approved Lenders sufficient time to close the loan under the original terms of the reservation. Unless otherwise requested, extensions will be granted in increments of 90 calendar days for Existing Property Program Loans or 120 calendar days for New Construction Program Loans.

**Once a reservation has expired and no request has been made for an extension, an Approved Lender will lose the reservation for the Program Loan and will not be allowed to re-reserve funds using an interest rate lower than the original reservation rate.**

***NOTE: In case of a "sale fail" a reservation can be held open at the confirmed rate until a new property can be found.***



## 5 - TERMS AND CONDITIONS

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**Each Program Loan must satisfy the following terms and conditions:**

### ***PRIORITY OF LIEN***

Each Program Loan must be secured by a first lien on the Single-Family Residence financed by the Program Loan. Ownership of the property must be held by the eligible borrower in fee simple title. The property must be free and clear of all prior encumbrances and liens and no rights may be outstanding that could give rise to such liens. The only exceptions are liens, taxes or assessments which are not delinquent, building restrictions or other restrictive covenants or conditions, joint driveways, sewer rights, party walls, rights-of-way or other easements, or encroachments which do not materially affect the security for the Program Loan.

### ***VALIDITY AND ENFORCEABILITY***

The Note and any other instrument securing the Program Loan must be legal, valid, and binding obligations of the Eligible Borrower, enforceable in accordance with their terms; free from any right of set-off, counterclaim or other claim or defense; and no part of the Single-Family Residence may have been released from the lien. The terms of the Program Loan must not be modified, amended, waived or changed, except as set forth in a modification approved by the Department and placed on record in the appropriate recording office.

### ***TERM***

The original term of a Program Loan must not be less than 15 years nor more than 30 years. Where the Single-Family Residence is double-wide or single-wide manufactured housing, permanently located on real property of the Eligible Borrower, the maximum Program Loan term may be for 30 years, unless the property appraisal report indicates a shorter term is warranted.

### ***AMORTIZATION***

Each Program Loan must provide, through regular monthly installment payments, full amortization by maturity with payments beginning no later than 60 days after the Closing Date. Each Program Loan must provide for monthly payments due on the first day of each month.

## ***LOAN-TO-VALUE (LTV)***

HUD-FHA maximums apply on HUD-FHA Loans. Conventional Loans are generally limited to 97% of the Acquisition Cost or appraisal, whichever is less. Rural Development Loans may be up to 100% of the appraised value.

## ***ASSUMPTIONS***

Program Loans may be assumed subject to the consent of the Department and compliance with the applicable requirements of Section 143 of the Internal Revenue Code of 1986. Each Program Loan must contain a provision giving the Department the right to accelerate the maturity of the Program Loan upon transfer of ownership of the subject property.

## ***REFINANCING***

Refinancing an existing mortgage loan or contract is prohibited. However, a Program Loan may be granted to payoff a temporary loan which has a term of 24 months or less and was made to the Eligible Borrower for the construction of the Single-Family Residence or for the purchase of the subject building site. Refinancing an existing loan includes:

- deeds of trust;
- conditional sales contracts;
- pledges or agreements to hold title in escrow; or
- any legal form of seller-carried financing. A copy of that instrument and note must be included in the Program Loan file.

Where the Program Loan is used to refinance a temporary loan for construction, the Approved Lender must certify to the Department that construction has been satisfactorily completed prior to delivery of the Program Loan for purchase.

The Eligible Borrower may not occupy a newly constructed residence **prior to** the submission of a Program Loan application to refinance its interim loan. The program loan application date would be on or before the date program funds were reserved with the Department.

The Approved Lender may collect its usual charges in connection with the interim financing of construction loans, in addition to the approved charges for the Program Loan.

## ***PREPAYMENT PENALTY AND LATE CHARGES***

No prepayment penalty is permitted on any Program Loan. FHA guidelines should be followed to prevent accrual of any interest after date of prepayment. Late charges as established by FHA, FNMA, FHLMC, and Rural Development should be followed.

***PRINCIPAL AMOUNT ADVANCED; NO MANDATORY FUTURE ADVANCES;  
OUTSTANDING BALANCE***

The full principal amount of a Program Loan must be advanced to the Eligible Borrower. The Eligible Borrower must not have an option under the Program Loan to borrow, from the Approved Lender or any other person, additional funds secured by the lien on the Single-Family Residence without the consent of the Department. (Program loans are installment loans, **not** revolving lines of credit.) The outstanding principal balance of the Program Loan must be as represented by the Approved Lender to the Department and must be fully secured by a first lien.

***ESCROW PAYMENTS***

Each Program Loan must provide for the monthly collection of Escrow Payments to the extent permitted by the Real Estate Settlement Procedures Act, as amended, along with the monthly installment of interest and principal. Monthly collection of property taxes and hazard insurance is a requirement of all Program Loans regardless of loan-to-value. The Escrow Payments will be held in an account in a bank or trust company, savings bank, or national banking or savings and loan association acceptable to the Department and insured to the full extent legally possible under an insurance fund administered by the Federal Deposit Insurance Corporation.

***MAINTENANCE AND INSURANCE***

Each Program Loan must obligate the Eligible Borrower to maintain the Single-Family Residence in good repair and condition, to keep the premises free from other liens and encumbrances, and to maintain hazard insurance with fire and extended coverage, including flood and earthquake insurance if necessary, in accordance with the requirements set forth in this Procedural Guide at the time the Program Loan is made.

***FORMS***

Each Program Loan must be executed on forms approved by the Department, and by FHA/VA, Rural Development, FNMA, or FHLMC, where appropriate.

The Addendum to Deed of Trust (SFMP 9A) must be executed with, and recorded as, an attachment to all Deeds of Trust. All assignments of beneficial interest are to be executed on the Assignment of Deed of Trust (SFMP 9B).

Master copies of all Department forms are available as hard copy, on diskette, or through an approved mortgage forms company.

## ***DOWN PAYMENT***

The amount of down payment must meet guidelines established by the type of Program Loan.

## ***CLOSING COSTS***

The Program Loan origination fee and discount points together cannot exceed 1.75% of the Note amount, regardless of buyer or seller paying these costs. All other fees charged to the Eligible Borrower must be reasonable and customary and shall not exceed the actual cost.

## ***BUYDOWN***

Buydowns are not allowed.

## ***CASHADVANTAGE HOME LOAN / RATEADVANTAGE HOME LOAN***

Starting on January 21, 2004, in cooperation with Participating Lenders, OHCS began providing a new loan alternative which includes cash assistance (3% of the Note amount) in addition to the standard rate option with no cash assistance. This new option will be called a “**CashAdvantage** Home Loan” and will provide borrowers 3% cash assistance in exchange for opting for a .50 higher interest rate on the first mortgage loan. OHCS will continue to offer the standard pricing option, which is now called the “**RateAdvantage** Home Loan” option. Regardless of which option the borrower chooses, the eligibility requirements for the borrower and property are the same and have not changed. The main impact of the new **CashAdvantage** Home Loan option is that the Participating Lenders will need to fund the payment of the cash assistance at loan closing and then will be fully reimbursed when OHCS purchases the loan.

Rate:	.50% higher fixed interest rate on the first mortgage loan than the <b>RateAdvantage</b> Home Loan rate. Current rates will be posted at <a href="http://www.oregonbond.us">www.oregonbond.us</a> or call 503-986-2015 or 877-788-2663.
Assistance:	3% of the Note amount. OHCS will not accept any different levels of assistance even if it is less than 3% of the Note amount.
Use of Funds:	Closing costs, pre-pays, and down payment. Minimal cash back to the borrower is acceptable, but it is not the intent of this program to refund significant cash to the borrower at closing.
Min. Investment:	FHA will allow the 3% cash assistance to pay closing costs, pre-pays, or be used to pay a portion of the borrower’s minimum investment requirement.

Conventional loans insured by an OHCS approved primary mortgage insurance provider may allow the cash assistance to pay a portion of the borrower's minimum investment.

USDA Rural Development does not have a minimum borrower investment requirement for the Guaranteed Rural Housing Loan program.

- Prepayment: No prepayment penalties apply to **CashAdvantage** Home Loans.
- Secondary Lien: No secondary liens or recorded documentation are required to secure the amount of the cash assistance. The cash assistance is not a silent second and the borrower(s) is not required to repay the cash assistance when the loan is paid off or refinanced.
- IRS Recapture: The total amount of the cash assistance plus the loan amount is subject to the IRS Recapture requirement since both are "federally subsidized." The total of the two amounts must be added together and disclosed in the appropriate blank on the bottom of page 1 of the "Notice to Borrowers Regarding Application of Recapture Provision" (SFMP 25) when disclosing the maximum recapture tax of 6.25% of the federally subsidized amount.

**NOTE: *Program requirements have not changed. All requirements in this Guide remain in force whether the borrower opts for the CashAdvantage or RateAdvantage pricing.***

## **6 - ELIGIBLE BORROWERS**

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### ***BORROWER AFFIDAVIT OF ELIGIBILITY***

At the time the loan application is made, the applicant must execute an Addendum to Residential Loan Application (SFMP 7), to attest to compliance with basic Program eligibility requirements. The original form must be included in the Program Loan file submitted for purchase. Applicants are subject to acceleration of the Program Loan and/or civil penalties set forth in ORS 456.582 for misstatements or omissions made in connection with an application for a Program Loan.

### ***NOTICE TO BORROWERS REGARDING THE RECAPTURE PROVISION***

The Eligible Borrower must be given the Notice To Borrowers Regarding Application of Recapture Provision Form (SFMP 25) at Program Loan closing. Enter the calculation for 6.25% of the final Note amount of the Program Loan on the SFMP 25 and have the Eligible Borrower(s) sign a copy for the Program Loan file. Give the Eligible Borrower a completed copy for his/her permanent file. The SFMP 25 is revised as new income limits are reported so be sure and use only the most current version.

Prior to Program Loan purchase, a current version of the SFMP 25 must be signed by the Eligible Borrower(s).

### ***RESIDENCY***

At the time of application, an Eligible Borrower must be, or intend to be, a resident of Oregon and a citizen or alien admitted as a permanent resident of the United States. If the applicant does not have a Social Security number or the Program Loan application indicates the applicant is not a United States citizen, the Approved Lender must provide a photocopy of the "green card" (Form I-551) issued by the Immigration and Naturalization Service (INS) establishing permanent residency and/or the Social Security card. The applicant must provide documentation acceptable to the Department verifying registration with the INS and stating that he/she is proceeding toward permanent resident status.

### ***OWNER OCCUPANCY***

An Eligible Borrower must occupy the Single-Family Residence as his/her Principal Residence throughout the term of the Program Loan.

The Eligible Borrower may not rent the Single-Family Residence at any time during the term of the Program Loan except under special circumstances and with written permission from the Program Loan Servicer and the Department.

## ***DUE-ON-SALE ASSUMPTION***

An Eligible Borrower must agree not to sell, transfer, or otherwise dispose of (and not be a party to any formal or informal arrangements to sell, transfer, or otherwise dispose of) the Single-Family Residence financed by the Program Loan prior to repayment or, if permitted, Assumption of the Program Loan in accordance with the requirements of this Procedural Guide.

Any Program Loan may be assumed, subject to the consent of the Department. Each Program Loan must contain a provision giving the Department the right to accelerate the maturity of the Program Loan upon transfer of ownership of the Single-Family Residence.

See specific requirements in the Section in this Procedural Guide regarding "Assumptions" with respect to Borrower Eligibility and Property Requirements applicable in the case of an assumption of a Program Loan.

## ***LEGAL CAPACITY***

An Eligible Borrower must possess the legal capacity to incur the obligations of the Program Loan.

## ***PRIOR OWNERSHIP RESTRICTIONS FOR PRINCIPAL RESIDENCES***

1. Non-Targeted Areas: An Eligible Borrower and/or Eligible co-Borrower purchasing a Single-Family Residence in a Non-Targeted area may not have held a present ownership interest in a Principal Residence at any time during the three-year period ending on the date the Mortgage is executed. Examples of interests that ARE considered present ownership interest in a Principal Residence are:
  - Fee simple interest;
  - As an individual (in severalty);
  - Tenancy by the entirety (husband and wife);
  - Tenancy in common (each has an undivided interest whose portion of ownership will revert to their heirs);
  - Joint tenancy, with the right of survivorship (each has an undivided interest whose portion of ownership will revert to the other owners in the property);
  - Cooperative shareholder (interest of a tenant shareholder in a cooperative);
  - Life estate;
  - Land sale contract vendee (i.e., a vendee's interest in a contract pursuant to which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later date);
  - Interest in a manufactured home located on land owned by the Eligible Borrower and considered part of the real property;

- Interest held in trust for the Eligible Borrower (whether or not created by the Eligible Borrower) that would constitute a present ownership interest if held directly by the Eligible Borrower; or
- A houseboat permanently moored and used as residential property.

Examples of interests that are NOT considered present ownership interests are:

- Residential property other than a Principal Residence (applicants who have owned, but not occupied or claimed, a residential property as a Principal Residence for the three years prior to executing a Program Loan Mortgage have not violated the prior ownership restrictions for Principal Residences);
- Remainder interest;
- Lease with or without an option to purchase;
- Mere expectancy to inherit an interest in a Principal Residence;
- Interest that a purchaser of a residence acquires upon execution of an earnest money agreement, purchase contract or sales agreement;
- Interest in: Business property; a houseboat not permanently moored and used as residential property; a manufactured home located on land which is leased or rented on a short-term basis; or Unimproved land (see definition of Acquisition Cost - the cost of the land may be required to be taken into account in determining the Acquisition Cost).

2. Targeted Areas: If an Eligible Borrower is purchasing a Single-Family Residence located within the boundaries of a Targeted Area, the three-year prior ownership restriction does not apply.

Targeted Areas include:

Counties: Baker, Clatsop, Coos, Crook, Harney, Jefferson, Josephine, Klamath, Lake, Malheur, Union, Wallowa, and Wheeler.

Cities: Within the city limits of: Ashland, Milton-Freewater, Myrtle Creek, Port Orford, Silverton, Turner, and Vernonia.

Qualified Census Tracts: Areas of Albany, Eugene, Medford, and Portland.

**NOTE: *Maps of the Qualified Census Tracts and a list of streets and address ranges in Portland Qualified Census Tracts are in Section 16.***

3. Transfer of Ownership in Other Residential Property: No applicant, regardless of the location of the property to be purchased with the Program Loan, may hold title or present ownership interest in any residential property at the time the Program Loan is closed. This includes, but is not limited to, interest in a manufactured home, vacation home, single-family rental, duplex, or apartment. Retaining an unimproved lot is acceptable.

Residential property owned in whole or in part must be legally transferred by the Program Loan Closing Date. If the applicant has sold property within one year prior to application for a Program Loan, evidence of the sale must be included in the Program Loan file. A certified escrow closing statement, a copy of the recorded land sale contract, or evidence of manufactured housing title transfer will be accepted. Other transfers of property ownership may be evidenced by a divorce decree property settlement, recorded warranty deed, or other transfer documents appropriate to the situation.

### ***VERIFICATION OF PRIOR OWNERSHIP RESTRICTIONS FOR PRINCIPAL RESIDENCES***

1. Non-Targeted Areas: To verify compliance with the prior ownership restrictions, applicants for Program Loans in Non-Targeted Areas must provide signed copies of complete federal income tax returns filed for the three tax years preceding the date the Program Loan is executed. The Approved Lender must examine the returns to determine that:
  - no Schedule A real estate taxes or mortgage interest deductions were taken for ownership interest in a residence which the applicant occupied during the three-year period; and
  - any "Sale of Your Home" form may have been attached to a tax return for the year a home was sold.

If the applicant has not yet filed a federal income tax return for the preceding year, the applicant must sign a Statement of Income Tax Filing (SFMP 27) agreeing to provide a signed copy of the return at such time it is filed. The applicant shall provide the signed copy of the return at such time to the Approved Lender when filed.

If copies of previously-filed returns are not available at the time of Program Loan application, the applicant must request the required copies from the Internal Revenue Service on IRS Form 4506, "Request for Copy of Tax Form." If the applicant filed Form 1040 for the years in question, the applicant shall request the copies of the returns be mailed directly to the Approved Lender. Allow at least 6-8 weeks for delivery of a copy of a return. If a 1040A or 1040EZ were filed, a printout from the IRS, in lieu of filing Form 4506, will be acceptable.

The required tax forms may be omitted from the Program Loan file only if no returns were filed by the loan applicant for those years and the applicant(s) sign the Statement of Income Tax Filing (SFMP 27).

2. Targeted Areas: A copy of the income tax return for the immediately preceding year is required to verify other ownership interest which will require divestiture by the Closing Date.

## ***INCOME GUIDELINES***

**Please be aware that the income calculation method described below for the purpose of determining Program Loan eligibility for federal tax purposes is an entirely different process than the one used for credit underwriting.**

The household income of an Eligible Borrower is referred to as the Eligible Borrower's "annualized gross household income." "Annualized gross household income" is defined as the Eligible Borrower's "monthly gross household income" multiplied by 12. "Monthly gross household income" is the sum of: monthly gross pay; any additional income from overtime, part-time employment, bonuses, dividends, interest, royalties, pensions, IRAs, 401(k) plans, Veterans Administration (VA) compensation, net rental income, etc.; and other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments). Irregular income such as overtime, bonuses and commissions shall be projected using the most recent 12-month period.

Information with respect to "monthly gross household income" may be obtained from available loan documents (e.g., FNMA/FHLMC or HUD-FHA forms) executed during the 4-month period ending on the Closing Date of the Program Loan, provided that any "monthly gross household income" not included on the loan documents must be included in determining "monthly gross household income" for purposes of this Procedural Guide. (Thus, for example, if the mortgagor does not include alimony on the loan documents, the amount of alimony must be determined and added to the amount shown on the loan documents to determine "monthly gross household income".) The income to be taken into account in determining the "monthly gross household income" is the income of the mortgagor(s) and any other person (other than a dependent child who is a full time student) who is expected to live in the Single-Family Residence being financed.

A written Verification of Employment (VOE) from the Borrower's current employer(s) is required to verify bonuses, overtime, and hours worked per week. Paystubs do not always provide this breakdown of information.

***NOTE: The "annualized gross household income" cannot exceed the Program limits established by the Department. Terminating employment and/or the manipulation of working hours solely to qualify for the Program Loan is not acceptable.***

To be eligible for a Program Loan, an applicant's "annualized gross household income" must not exceed the Program's effective income limits at the time of loan closing:

Visit our website at [www.oregonbond.us](http://www.oregonbond.us) for a complete list of limits by region and household size.

### ***CALCULATING ANNUALIZED GROSS HOUSEHOLD INCOME***

Annualized Gross Household Income is the aggregate annualized gross household income of:

- The Eligible Borrower(s) and
- All other persons 18 years or older who will reside in the Single-Family Residence which the Eligible Borrower will be occupying, except income from a dependent who is a full time student at an accredited college. (Unless the student is a spouse of one of the Eligible Borrowers or a co-Eligible Borrower on the Program Loan.)

Annualized Gross Household Income is current "monthly gross household income" multiplied by 12. If the Eligible Borrower has irregular income (i.e. a bonus paid on a quarterly basis), this income should be annualized.

*"monthly gross household income" is the sum of:*

- |  |   |
|--|---|
| - monthly gross pay                      | - housing allowance                             |
| - alimony                                | - trust income                                  |
| - overtime                               | - pensions/annuities                            |
| - child and separate maintenance support | - business and investment income                |
| - part-time employment                   | - Veteran Administration (compensation)         |
| - public assistance                      | - tips  |
| - bonuses                                | - interest income (imputed or actual) from IRAs |
| - sick pay                               | - net rental income                             |
| - dividends                              | - commissions                                   |
| - social security benefits               | - 401(k) plans                                  |
| - interest                               | - deferred income                               |
| - unemployment compensation              | - any additional income from all sources, both  |
| - royalties                              | taxable and non-taxable                         |

Additional information describing income which must be included in the "annualized gross household income" amount is provided below:

1. Expense Accounts and Allowances: Reimbursement of job-related expenses and car allowances are not considered as income, unless the amount received exceeds actual expenses.
2. Business, Profession, or Self-Employment Income: Use net earnings from the most recently filed tax return. If net income is a loss, the amount of income would be -0-.
3. Alimony and Child Support: Alimony, child support, or separate maintenance payments received must be taken into account in calculating income. Do not include any support payments for a child (18 years or older) if that child attends school and resides away from the Single-Family Residence for more than 6 of the 12 months.
4. Periodic Payments (Pension and Social Security Income, Etc.): Do not include any one-time lump sum payments.
5. Interest Income and Dividends: Interest income (actual or imputed) on employee pension plans, IRAs, deferred compensation and 401(k) plans, Keoghs, and EE bonds whether cashed out during the current year or not, must be included in "annualized gross household income".
6. Contract or Note Receivable Income: The interest income received from a contract of sale or note receivable, after deducting any debt or expenses paid on the property sold by the applicant. Do not include principal payments in "annualized gross household income", because it is considered capital recovery. Do not deduct any net loss on income from other earned income. The scheduled principal and interest payments, net of any debt or expenses paid on the property sold by the applicant, received from a contract of sale, or note receivable must be used towards income.
7. Employer-Paid Contributions/Benefits: Employer-paid contributions to employee benefit programs which result in cash available above benefit costs to the applicant for his/her discretionary use must be counted as household income. Because they are generally not a fixed permanent amount, such excess cash allowances may be averaged in the same manner as other fluctuating sources of income. Housing allowances, whether or not taxable, are included in "annualized gross household income."
8. Armed Forces: All regular pay, special pay, and allowances of a member of the Armed Forces (whether or not living in the Principal Residence).
9. Payments in Lieu of Earnings (Unemployment and Disability): Periodic payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay. Do not include any lump sum payment.

10. Deferred Income (Deferred Compensation and 401(k) Plans and IRAs): "Annualized gross household income" is calculated from gross salary before any deferral of income. An applicant may not reduce his/her gross income for purposes of qualifying for a Program Loan by deferring income. In addition, interest earned (whether actual or imputed) on deferred income must be counted in the applicant's "annualized gross household income" even if he/she is not drawing out cash payments.
11. Rental Income: Net income from rental of real property (other than residential) or personal property must be included when computing annualized household income. A net loss may not be deducted from other earned income.
12. Inheritance: Ongoing income from inherited assets must be included in "annualized gross household income."
13. Moving Expenses: Moving expenses paid by the employer will not be considered as income if documented by the employer as reimbursement only. Do not deduct from income, any moving or relocation expenses not paid by the employer.
14. One-Time Payments: Do not include any one-time lump sum payment such as an insurance settlement, law suit settlement, inheritance, or any other one-time payment. Ongoing income from assets received from settlements must be included in "annualized gross household income."
15. Divorce and Separation: An applicant who has been granted a divorce must furnish evidence of the final divorce decree or dissolution of marriage to qualify as a single borrower. If a property settlement was filed, this also must be documented. A formal legal separation agreement and property settlement will be accepted unless a divorce suit will be filed.

An applicant whose separation or divorce is not final is not eligible for a Program Loan unless the lender can document that the total "annualized gross household income" from both the Eligible Borrower and his/her spouse will not exceed the income limit established by the Department.

#### ***OTHER BORROWER(S) / CO-SIGNER(S)***

1. Co-Eligible Borrower: A co-Eligible Borrower takes title to the property, resides in the Single-Family Residence, and is just as responsible for the payments. The Department will permit co-Eligible Borrowers on the Program Loan if they meet the requirements of an Eligible Borrower.
2. Non-Occupant Co-Signer: A co-signer signs the Note, may or may not take title to the property, and is only responsible for payments if the primary Borrower does not make the payments. The Department will not accept a non-occupant co-signer.

**NOTE: *If a spouse or other occupant of the property is not on the Note or Mortgage, his/her income must still be taken into account when calculating "annualized gross household income". Income of another occupant must be on a Verification of Employment form or other documentation acceptable to the Department.***

### **CREDIT HISTORY**

It will be the Approved Lender's responsibility to ascertain the Eligible Borrower's willingness and financial ability to repay a Program Loan. The same standards must be applied to all Program Loans.

1. **Credit Report:** Each Program Loan file must contain a residential mortgage credit report for each Eligible Borrower unless the mortgage insurer allows an abbreviated (in-file) version for a Program Loan.
2. **Slow Payments/Judgments:** Applicants who have a history of slow payments or judgments on previous indebtedness must satisfactorily explain this history, and provide evidence of current creditworthiness, before consideration for a Program Loan.
3. **Bankruptcy:** **The Department will NOT purchase a Program Loan where the applicant has been discharged from a bankruptcy within the past two years.** If the applicant has been discharged more than two years ago, a satisfactory explanation documenting that the causes of bankruptcy were beyond the applicant's control, the causes no longer exist, and residential property was not involved in the bankruptcy. A copy of the final bankruptcy decree and schedule of creditors should be included in the Program Loan file to properly analyze the type of debt and to relate it to the applicant's present financial condition.
4. **Foreclosure/Deed-in-Lieu of Foreclosure:** **The Department will NOT purchase a Program Loan where the applicant has had a foreclosure or deed-in-lieu of foreclosure within the past five years.** If the applicant had a foreclosure or deed-in-lieu of foreclosure more than five years ago, a satisfactory explanation documenting that the causes of foreclosure or deed-in-lieu of foreclosure were beyond the applicant's control and no longer exist, and justification of current creditworthiness must be furnished prior to receiving a Program Loan.

## 7 - PROPERTY REQUIREMENTS

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### *IN GENERAL*

In order to qualify as a Single-Family Residence for a Program Loan, the premises must be located in Oregon, meet the Program Loan requirements in effect at the time the Program Loan is made, and comply with the applicable requirements of Section 143 of the Internal Revenue Code of 1986.

### *ACQUISITION COST LIMITATIONS*

The Acquisition Cost of the Single-Family Residence must not exceed the maximum amount as stated by the Department in effect on the Closing Date.

The Acquisition Cost of a Single-Family Residence must be determined in accordance with the Acquisition Cost Certification (SFMP 12). The Acquisition Cost Certification must be completed and executed by the Eligible Borrower and the seller of the Single-Family Residence to be financed by a Program Loan. This form must be included in the Program Loan file. The Acquisition Cost limits can be found at [www.oregonbond.us](http://www.oregonbond.us).

Generally, the Acquisition Cost would equal the agreed upon total sales price as stated in the Earnest Money Agreement. It would not be the value net of seller paid repairs or financing concessions. (See the Acquisition Cost Certification (SFMP 12) for additional items that may be included as part of the Acquisition Cost.) Real estate brokers' fees or commissions, or finder's fees may not be paid by the Eligible Borrower if such payment plus the sales price exceeds the Acquisition Cost limit in effect at the time the Program Loan Closing Date.

## ***APPRAISAL***

A property appraisal report is required for all Program Loans. This report must be no more than six months old on the Closing Date of the Program Loan. The Approved Lender must review the appraisal report, and survey if required, to determine the premises proposed as security for the Program Loan meets the requirements for an eligible Single-Family Residence and has a value sufficient to justify the making of a Program Loan. Normal and appropriate measures should be undertaken to verify the information given, either independently or concurrently with other reviews. Approved Lenders may rely, however, on the information contained in the appraisal and plat or survey unless the Approved Lender has, or should have, knowledge that such information is incorrect.

1. Acceptable Form: The report must be prepared on the current FNMA/FHLMC appraisal form, the Uniform Residential Appraisal Report, or any Qualified Mortgage Insurer's form containing the same information.
2. Approved Appraisers: Approved Lenders must use appraisers having appropriate experience and qualifications, and approvals, when applicable, from the Qualified Mortgage Insurer.
3. Repairs/Construction and Inspection Completions: All repairs/construction and inspections contained on the final inspection report included with the Program Loan file must be completed prior to the Department's purchase of the Program Loan. **A pest and dry rot inspection is required on all Existing Properties for Conventional Loans regardless of loan-to-value.** Approved Lenders must include all attachments required by the Program Loan.
4. Remaining Economic Life: The Program Loan granted for a Single-Family Residence may not in any case exceed the maximum remaining economic life of the Single-Family Residence as indicated on the appraisal form.
5. Maximum Appraised Value: The appraised value of the Single-Family Residence may not exceed 130% of the maximum Acquisition Cost established by the Department. This requirement may be waived by the Department for New Construction or manufactured housing if the Eligible Borrower has owned the land at least two years prior to commencing construction, but in this case the appraised value may not exceed the maximum Acquisition Cost by more than the value of the land.

## ***NEW CONSTRUCTION***

1. Total Acquisition Cost: The cost of new site-built housing or manufactured housing installations, including all site costs and improvements, utility connection costs, road construction costs, building permit costs and fees, must be included in the total Acquisition Cost as documented by the completed Acquisition Cost Affidavit (SFMP 12). The total Acquisition Cost must not exceed the Acquisition Cost limit in effect on the Closing Date.

2. Exclusion of Lot Cost: If the site has been owned by the Eligible Borrower for at least two years before the date on which construction of the Single-Family Residence begins, the site cost may be excluded from the Acquisition Cost. A copy of a recorded Deed or a Land Sale Contract, verifying ownership for at least the prior two years, must be in the Program Loan file. Any debt owed on the land that has been owned for more than 24 months must be paid off or subordinated, and may not be included in the Program Loan. Where the site is owned by the Eligible Borrower the Program Loan is limited to construction costs.
3. Equity as Down Payment: Cash equity the Eligible Borrower (or a relative of the applicant who has gifted the land to the Eligible Borrower) has invested in the building site may be considered as a portion of the down payment. Documentation of the Acquisition Cost (e.g., the recorded Deed or Land Sale Contract along with any site preparation receipts) must be furnished in the Program Loan file. No Program Loan proceeds may be disbursed to the Eligible Borrower (or a relative of the Eligible Borrower who has gifted the land to the Eligible Borrower) for land equity reimbursement.

### ***MISCELLANEOUS PROPERTY REQUIREMENTS***

1. Additional Land: The Single-Family Residence to be financed by a Program Loan must not have more land appurtenant to it than required to maintain the basic livability of the Single-Family Residence. Properties containing more than one legal building site are not eligible for a Program Loan unless it can be established that the additional property cannot be used for one or more separate residences. Additional land for nonresidential purposes also will not qualify.

Generally, land should be less than 35% of total value. The appraiser should explain why excess land value is reasonable considering subject neighborhood land values and lot sizes. The subject lot should not be greater than adjoining lots unless the Program Loan amount is reduced sufficiently to be covered by the depreciated value of the Single-Family Residence.

2. Private Roads and Common Driveways: Properties, including manufactured housing, that are not located on a publicly maintained street or roadway are required to have access by an all weather road surface and to have a road maintenance agreement executed by all lot owners between the Single-Family Residence and the public road. Those owners of lots behind the Single-Family Residence should also execute such agreement. The maintenance agreement must run with the land and be recorded at the County Recorder's Office prior to or at the Closing Date of the Program Loan. A copy of the recorded easement running with the land and providing ingress and egress from a public road to the Single-Family Residence lot must be in the Program Loan file. The private road easement should be at least 16 feet wide and be made part of the legal description. A driveway shared with a neighbor requires a recorded easement/joint use agreement.
3. Zoning: The improvements must conform to the current zoning regulations for Single-Family Residences. Any property not conforming to zoning regulations must be discussed with the Department prior to Program Loan approval.
4. Vacation/Second Home: A residence which will be used as a vacation home or second home will NOT qualify for a Program Loan. Ownership in an existing vacation or second home by the program Eligible Borrower must be sold prior to the Program Loan Closing Date.

5. Use of Residence in Business: No more than 15% of the total living area of the Single-Family Residence may be of a character subject to being rented for or used in the operation of a trade or business conducted on any part of the land or improvements (i.e., any use which would qualify as a deduction for federal income tax purposes under Section 280(A) of the Internal Revenue Code). In no case shall the Eligible Borrower or his/her business allocate more than 15% of the total living area of the Single-Family Residence as a business or rental use income tax deduction.)

If the Eligible Borrower derives income from self-employment conducted from the Single-Family Residence or the land, the Approved Lender must document this business use will not exceed 15% of the total living area of the Single-Family Residence, and the Single-Family Residence itself will not be physically altered in any manner away from its residential usability (e.g., no adding of fixtures used in a business or trade, removal of a bedroom closet, etc.).

6. Additional Living Unit: Properties which include an additional living unit in some part of the main residence, in a converted garage, or in an out building, **are not considered eligible Single-Family Residences**. An additional living unit is any living area having one or more of the following: kitchen, sleeping and bath facilities, or an outside entry. This generally means that in addition to a Single-Family dwelling being modified as stated above, a duplex, triplex, or other multi-family dwellings are specifically prohibited from financing under the Program.
7. Zero-Lot Line and Row Housing: Single-Family Residences built as zero-lot line or row housing are acceptable.
8. Foundations: New Construction and Existing Property site-built housing must have continuous concrete footing and concrete or masonry foundation walls. Any Single-Family Residences with footing or foundations other than as identified above must be acceptable according to local building codes. A satisfactory engineer's structural report, including soil stability, must be in the completed Program Loan file if the appraisal notes steep sloping topography, foundation settling, or if there is concern with the adequacy of the footings or foundation walls.

### ***MANUFACTURED HOUSING***

The Approved Lender and Eligible Borrower should determine that the manufactured home, site, and installation meet the requirements of this Procedural Guide and the Qualified Mortgage Insurer, if any, of the Program Loan. In addition to the property requirements set forth above, the following requirements must be met:

1. Program Loan Term: The loan term for a manufactured home permanently located on real property of the Eligible Borrower may not exceed 30 years. The Qualified Mortgage Insurer may require a shorter term depending on the age and condition of the manufactured home.
2. New and Existing: Program Loans may be made on either new or existing manufactured homes.

***NOTE: Manufactured homes manufactured on or after June 15, 1976, must bear both a HUD structural certification label and a HUD data plate. Units manufactured on or after June 15, 1976, must be exempted from Certificate of Title requirements in paragraph 5 below.***

3. Installation: All manufactured homes must be installed in compliance with Department of Consumer and Business Services, Building Codes Division regulations and must be placed on a permanent foundation. Installation inspections must be completed by the Building Codes Division, or by a city or county which has contracted to do the inspections. A list of local inspection agencies is available from the Building Codes Division. A copy of the final inspection report is required in the Program Loan file.
4. Property Description: In addition to the legal description of the land, to which it is affixed, the property description on the Deed of Trust must read as follows:

"Together with the manufactured home which is affixed to the land and is described as (describe year manufactured, make, model and serial number)."

5. Certificate of Title:

- a. *Existing Installations*

If the home is manufactured on or after June 15, 1976, and it is currently registered and titled by the DMV, the seller and the Eligible Borrower must obtain an exemption from the DMV from the requirements to register and title under the Vehicle Code that exempts the home as personal property. The DMV Exemption Form 735-6722 must be completed, signed, notarized, and approved by the DMV. The title and registration must be surrendered to the County Assessor. Copies of the signed DMV form and title surrender receipt must be in the Program Loan file.

- b. *New Installation*

A newly installed manufactured home must be exempted from the registration and title requirements, and the exemption must be documented in the Program Loan file.

## ***CONDOMINIUM AND PLANNED UNIT DEVELOPMENTS***

A Condominium or Single-Family Residence in a planned unit development may be purchased if it meets the Program Loan requirements in effect at the time the Program Loan is made.

## ***MORTGAGE INSURANCE***

1. Primary Coverage Requirements: Primary Mortgage Insurance issued by a Qualified Mortgage Insurer is required on all Program Loans unless the loan-to-value ratio is equal to or less than 80%. For the purposes of determining the required mortgage insurance coverage, the loan-to-value is defined as the Note amount divided by the lesser of the original sales price or the original appraised market value.

Listed below are the minimum required amounts of coverage for all Program Loans needing Primary Mortgage Insurance:

- 80.01% LTV to 85% LTV - 17% coverage
- 85.01% LTV to 90% LTV - 20% coverage
- 90.01% LTV to 95% LTV - 25% coverage
- 95.01% LTV to 97% LTV - 28% coverage

In all cases requiring Primary Mortgage Insurance, the coverage must reduce the Department's risk exposure to no more than 72%.

Primary Mortgage Insurance on any Program Loan must be in full force and effect, and its benefits must run to the Department. Nothing must have been done or omitted to impair the rights of the Department thereunder as of the date the Program Loan is submitted for purchase by the Department.

Primary Mortgage Insurance can be obtained from an insurance company Licensed by the State of Oregon, Department of Consumer & Business Services, Insurance Division.

2. Pool Coverage Requirements: For all reservations made on or after May 21, 2001, the Department contracted with Mortgage Guaranty Insurance Corporation (MGIC) to provide Pool Mortgage Insurance for all conventional insured Program Loans having a loan-to-value greater than 80%. Approved Lenders must submit the necessary documents to MGIC in order to obtain the required coverage. The Pool Insurance premium is a Department expense and should not be included in the cost of the loan.

### ***TITLE INSURANCE***

1. General Requirements: Each Program Loan must be covered by a title insurance policy insuring the Approved Lender **and** its successors or assigns or the Oregon Housing and Community Services Department for the original principal balance of the closed Program Loan on Schedule A or by an attached endorsement. The policy must be issued with a Standard ALTA endorsement and a Location of Improvements (Address) Endorsement. Any endorsement required by the Qualified Mortgage Insurer insuring the Program Loan, such as an Endorsement for Environmental Protection Lien, must be added to the title insurance policy. Program Loans for Single-Family Residences which constitute condominiums require a Condominium Endorsement.

Program Loans for Single-Family Residences which constitute manufactured housing require that the title insurance policy identifies and insures the manufactured housing as part of the real property and insure against any loss that might be incurred if the unit were later determined not to be part of the real property.

2. Survey or Plat: A survey or plat must be an exhibit to the title company insurance policy on each Program Loan where such is required by the title insurance company or Approved Lender's appraiser. The survey or plat must show location of the structure on the property and all easements on the property.
3. Approved Title Insurance Companies: All title insurance companies approved to conduct business within the State of Oregon will be acceptable to the Department.
4. Title Liens and Encumbrances: The prior liens and encumbrances listed below are acceptable:
  - a. Any subsurface public utility easement for local residential distribution, such as lines for gas or water, or cable for electric, telephone, or TV, the location of which is ascertainable and fixed, but only if the exercise of the rights thereunder will not interfere with the use of any present or potential future improvements on the Single-Family Residence;
  - b. Any surface easement for public utilities for local residential distribution along one or more of the property lines and extending not more than twelve feet therefrom, the location which is ascertainable and fixed, but only if the exercise of the rights thereunder will not interfere with the use of any present or potential future improvements on the Single-Family Residence or the use of that part of the Single-Family Residence outside of the easement and not occupied by improvements.
  - c. Encroachments on an easement for public utilities by a garage or other improvement, other than those which are attached to or a portion of the dwelling structure, but only if such encroachments do not interfere with the use of the easement or the exercise of rights of repair and maintenance in connection therewith;
  - d. Agreements or restrictive covenants of record relating to costs, use, set-back, minimum size, building materials, architectural, aesthetic or similar matters, but only if there is no reversion or forfeiture of title in the event of violation thereof, such agreements or restrictive covenants do not create or provide for a lien of any kind which would be prior to the lien of the Program Loan, the terms and provisions of such agreements or restrictive covenants are commonly and customarily acceptable to prudent private institutional mortgage lenders in the area where the Single-Family Residence is located and no violation of any such agreement or restrictive covenant exists;
  - e. Any mutual easement agreement of record which established a joint driveway or a party wall whether constructed partly or wholly on the Single-Family Residence or the adjoining property, but only if the easement agreement allows all present and future owners, their heirs and assigns forever, unlimited use of the driveway or party wall without any restriction other than restrictions by reason of the mutual easement owner's rights in common and duties as to the joint maintenance. Attach a copy of such agreement to the title policy in the Program Loan file.

- f. Any fence misplacement of one foot or less on either side of the subject property line, but only if neither the misplacement nor a future correction thereof will interfere with the use of any improvements of the Single-Family Residence or the use of the balance of the property not occupied by improvements;
- g. Encroachments on the Single-Family Residence by improvements on adjoining property where such encroachments extend one foot or less over the property line, have a total area of fifty square feet or less, do not touch any building and do not interfere with the use of property not occupied by improvements;
- h. Encroachments on adjoining property by eaves or other protections attached to improvements on the Single-Family Residence or by a driveway appurtenant to the subject property where such encroachments extend one foot or less beyond the property line, except that as to a driveway encroachment there must exist a clearance of at least eight feet between the buildings on the Single-Family Residence and the property line affected by such encroachment;
- i. Outstanding oil, gas, water, or mineral rights which are customarily waived by local private institutional lenders and will not result in damage to the Single-Family Residence or an impairment of the use of the Single-Family Residence for residential purposes, but only if:
  - such rights only attach below 500 feet;
  - there are no rights of surface entry incident to such oil, gas, water, or mineral rights; and
  - rights of subjacent support of the premises are provided.
- j. Liens for real estate or ad valorem taxes and assessments not yet due and payable. Those taxes and assessments already due and payable must be satisfied prior to closing the Program Loan. However, if assessments (e.g., for a Local Improvement District) are billed annually and the assessment balance unpaid plus the Program Loan amount does not exceed 75% of the Property Value, pay-off of the assessment balance may be waived. The Eligible Borrower must agree in writing to make monthly escrow payments sufficient to cover the annual assessment. The Approved Servicer must agree to make the annual assessment payment from the Eligible Borrower's escrow account.

If there exists any prior title lien or encumbrance other than those mentioned above, the Approved Lender must submit a written request to the Department for a waiver of such prior lien or encumbrance before a Program Loan is funded. This request must be accompanied by a statement from the Qualified Mortgage Insurer, if any, that the exception will not adversely affect the insurance coverage.

Where the Approved Lender, in reliance upon the general waiver set forth above, does not request a written waiver of exception, the Approved Lender must warrant that each condition stated in the general waiver has been met. The Department requires that the Approved Lender document such factual determinations in the file by certification of the surveyor or the appraiser, including a statement by the appraiser that the marketability or the use of the Single-Family Residence is not adversely affected. If the title lien or encumbrance is minor, the Approved Lender may request the Department waive this requirement.

5. Easements for Private Road Ingress and Egress: If street access is private, the plat map does not show subject site abutting a public road, or there is an easement of record or an indication that the property on which the Single-Family Residence is located could be landlocked, the Approved Lender must obtain before the Program Loan Closing Date an acceptable copy of an easement across all affected lands in order to provide legal ingress and egress from the public road to the Single-Family Residence. Such easement must be acceptable to the ALTA title insurer, be traced on the plat map by the title insurer, be signed by lot owners of property adjoining the roadway, run with the respective owners' land, and be recorded. If it is more than 100 feet long, the private road easement should be no less than 16 feet wide or wide enough to allow access by an emergency vehicle or two cars to pass. The private road easement should be made part of the legal description of the property on which the Single-Family Residence is located.

If the private road is shared by other lot owners, there must be an acceptable road maintenance agreement. It must be signed by a majority of lot owners between the Single-Family Residence and the public road. Those owners of lots behind the Single-Family Residence should also execute such an agreement. The agreement must run with the owners' respective land and be recorded. The agreement must provide for surface maintenance that would be adequate for all-weather access. *Copies of the recorded private road easement and maintenance agreement must accompany the title insurance policy in the Program Loan file.*

6. Legal Description: The legal description as set forth in the mortgagee's title insurance policy and other documents must be by metes and bounds, by reference to a lot and block on a recorded map or plat, or other acceptable reference.

## ***HAZARD INSURANCE***

1. Minimum Coverage: The Single-Family Residence securing any Program Loan must be covered by hazard insurance meeting the following requirements:
  - a. Fire and extended coverage insurance is required in an amount at least equal to that customary in the geographical area in which the Single-Family Residence is located but in any event sufficient, except for the deductibles permitted below, so that in the event of any damage or loss to the Single-Family Residence, coverage by the insurance will provide the greater of:
    - compensation equal to the full amount of damage or loss; or
    - compensation sufficient to cause the remaining value of the Single-Family Residence plus the amount of such compensation to equal the full amount of the unpaid balance of the Program Loan.
  - b. Such insurance must be in effect on the Delivery Date of the Program Loan and the expiration date of each policy must be more than six months after the Delivery Date. The premium on each policy must have been paid in full by the Eligible Borrower (no "courtesy receipts" or other secondary financing of such premium is permitted).

- c. Insurance policies must be sufficient in amount and scope of coverage to meet any applicable requirements of the Qualified Mortgage Insurer.
  - d. Policies should contain a deductible clause not to exceed \$250, unless a higher deductible is customary and usual for the location of the property.
  - e. Each Program Loan must provide that, in the event of any loss settlement on a hazard insurance policy, the Eligible Borrower has the option of applying the loss settlement proceeds against the principal amount of the Program Loan rather than restore the Single-Family Residence.
2. Flood Insurance: The Approved Lender is responsible for and warrants compliance with the provisions of the Flood Disaster Protection Act of 1973, whenever such provisions would be applicable to any Program Loans sold to the Department. If the Single-Family Residence is located in a designated Flood Area, evidence of flood insurance coverage must be in the Program Loan file submitted for purchase.
  3. Mortgagee's Endorsement: All policies of hazard insurance must contain, or have attached, the standard mortgage clause customarily used in the area in which the Single-Family Residence is located, naming the Approved Lender or its assigns, or the Oregon Housing and Community Services Department specifically, as insured. The policy must provide that the insurance carrier will notify the Servicer/Department at least ten days in advance of the effective date of any cancellation of the policy.

The Approved Lender must be sure each insurance policy is properly endorsed; give any necessary notices of transfer in order to fully protect, under the terms of the policy and applicable law, the interest of the Department as first lienholder; and have all insurance drafts, notices, policies, invoices, and other documents to be delivered directly to the Approved Servicer, regardless of the manner in which the insurance policy is endorsed. **Although the Approved Lender must name the Department as first lienholder, the Approved Lender must list the Approved Servicer's address to be used in the endorsement in lieu of the address of the Department.**

4. Additional Coverage for Planned Unit Developments: In addition to the hazard insurance requirements set forth above, planned unit developments must meet any additional requirements of the Qualified Mortgage Insurer, as applicable.
5. Additional Coverage for Condominium Units: Insurance coverage on condominium units must be in general conformity with the requirements of the Qualified Mortgage Insurer, as applicable.

## **8 - CLOSING PROCEDURES**

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### ***CLOSING DOCUMENTS***

The Approved Lender must insure that all Program Loan documents are properly executed and notarized where necessary.

- All Notes are to be prepared showing the true interest rate. Buydowns are not acceptable. (See Section 10 on how to endorse the Note.)
- Signatures on all documents must be consistent with one another and with the title vesting shown in the title insurance policy.
- A notarized Power of Attorney may be used, if necessary, and if it is specific to this Program Loan. The Power of Attorney must be acceptable to the escrow company closing the Program Loan. A copy of the Power of Attorney must accompany the Note in the Program Loan file. An original signature of the Eligible Borrower who signs the Power of Attorney should be provided on the Program Loan application or other Program Loan document, and the Eligible Borrower must sign in person and have notarized the Addendum to Residential Loan Application (SFMP 7). This may be done after the Program Loan Closing Date if it was signed with the Power of Attorney prior to the Closing Date.
- Any erasures or corrected errors on the Note, Deed of Trust, or Trust Deed Addendum must be initialed by the Eligible Borrower. "White-out" or covering an error is never acceptable.
- A manufactured home must be identified by year, model, and serial number and must be included in the property description on the Deed of Trust for Program Loans on manufactured homes.
- If the house was manufactured prior to June 15, 1976, it must be titled by the DMV. A titling exemption from the DMV must be obtained on those manufactured on or after June 15, 1976 and has not been previously exempt from titling.

### ***RECORDING DOCUMENTS***

The Deed of Trust, Addendum to Deed of Trust (SFMP 9A), and any addenda required by the Qualified Mortgage Insurer must be recorded as one document. The Assignment of Deed of Trust (SFMP 9B) may be recorded at a later date, but must be recorded before the Program Loan is submitted to the Department for purchase.

### ***ALLOWABLE FEES***

Fees may be charged for the following items only:

- The loan origination fee and discount points together cannot exceed 1.75% of the Note amount.
- Credit report, real property survey, and ALTA title insurance fees.
- Appraisal fee, not to exceed the amount normal for the area.
- Fees for required pest/dry rot, well flow and purity, sewage system, and other property inspection or reinspection reports not in excess of those normal for the area.
- Photographs, photocopies, amortization schedule, realty tax service fees, document shipping, and notary public services, not to exceed actual costs.
- Recording fees, transfer taxes, escrow closing fees or other charges incidental to preparing and recording Program Loan documents, deeds and related instruments.

The above fees may be paid by either the Eligible Borrower or the seller as regulated by the Qualified Mortgage Insurer, but may not exceed the maximum established by the Department.

Of the total loan origination and discount point fees, which combined may not exceed 1.75% of the Note amount, the Lender is entitled to retain a portion of these fees equivalent to a maximum of 1.25% of the Note amount and the Department is paid an Administrative Fee equivalent to .5% of the Note amount. In all cases, regardless of whether or not the maximum fees are collected by the Lender, the Department's Administrative Fee will equal .5% of the Note amount. The Department collects its Administrative Fee when it purchases the loan from the Lender by subtracting it from the total amount owed to the Lender.

In addition to the maximum 1.75% loan origination and discount fees, the Lender may also charge a Document Preparation, Processing, Underwriting, Funding, Application or Review Fee. The combined total of these fees may not exceed \$490.00. Higher fees attributable to reasonable and customary for the area must be explained. The Lender is entitled to retain 100% of the Document Preparation, Processing, Underwriting, Funding, Application, Administration or Review Fees. These fees may be paid by either the Borrower(s) or the Seller(s).

Lenders accepting broker generated loans may allow brokers to also charge a Document Preparation, Processing, Underwriting, Funding, Application, Administration or Review fee in addition to the Lender fees. The combined total of the broker generated fee may not exceed \$490.00. Higher fees attributable to reasonable and customary charges for the area must be explained. The broker is entitled to retain 100% of these fees. These fees may be paid by either the Borrower(s) or the Seller(s).

### ***ESCROW PAYMENTS***

Monthly payments must be made by the Eligible Borrower to an Approved Servicer and placed in an escrow reserve impound account for the payment of property taxes, assessments, hazard and mortgage insurance premiums, or other charges. Monthly collection of property taxes and hazard insurance is a requirement of all Program Loans regardless of loan-to-value.

## ***SETTLEMENT STATEMENT***

After closing has been completed, both the Eligible Borrower and the seller should receive an itemized statement of actual costs prepared on a settlement statement such as the HUD-1. The Department will require in the Program Loan file a copy of the final settlement statement signed by the Eligible Borrower and seller or escrow agent. The HUD-1 must list costs for both the Eligible Borrower and the seller.

## ***CASHADVANTAGE HOME LOAN***

- Funding: The Lender will arrange for and advance the funds for cash assistance at closing, just as funds would be advanced for the loan (Note) amount.
- HUD- 1: The payment of the cash assistance must be clearly documented on the final HUD-1 Settlement Statement as “Lender Paid cash assistance.” The specific amount of the cash assistance must be clearly and uniquely identified in the “Amounts Paid by or in Behalf of Borrower” section (lines 204-209). Do not commingle any other amounts of assistance or credits of any type on the specific line of the HUD-1 used for this purpose. OHCS requires a final HUD-1 Settlement Statement showing both the borrower’s and seller’s portions of the transaction prior to loan purchase.
- Reimbursement: Lender will be reimbursed 100% of the cash assistance upon purchase of the loan by OHCS.
- Escrow: Lender is responsible for providing escrow instructions to ensure the proper documentation and payment of the cash assistance funds.

## **9 - MORTGAGE BROKERS/ORIGINATORS**

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The Department will accept Program Loans originated by mortgage brokers or mortgage originators through an Approved Lender. The Approved Lender will be totally responsible for the underwriting, closing, and arrangements for servicing of Program Loans and will be expected to repurchase the Program Loan if it does not meet the Department's guidelines.

Under no circumstances can the combined fee charged to the Eligible Borrower by both the mortgage broker or correspondent and the Approved Lender be more than the total fee allowed under the Program Loan guidelines.

# 10 - LOAN PURCHASING

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## ***PROGRAM LOAN SUBMISSION AND REVIEW PROCEDURES***

Program Loans should be submitted to the Department for purchase within 60 days following the Program Loan Closing Date. Program Loans submitted for purchase must be accompanied by all of the required documents listed in this Section. Each Program Loan will be reviewed by the Department to determine if it meets the standards specified in the Program Loan Purchase Agreement, the Rules and this Procedural Guide. Any Program Loan, which is found to be lacking adequate documentation, or which does not meet the foregoing requirements, will be returned to the Approved Lender unpurchased. If the Program Loan submitted does not meet the specifications stated in the Procedural Guide and the Rules, but was purchased, the Department has the authority to request that the Approved Lender repurchase the Program Loan.

## ***COMPLETION OF PROGRAM LOAN DOCUMENTS***

A completed Program Loan Transmittal (SFMP 10) must be included with each submission of Program Loans for purchase. The current unpaid principal balance (at the time of submission) and the interest paid-to-date (one month prior to next payment due date) of each Program Loan must be shown and should be taken from the most recent loan history printout. Enclose a copy of the Program Loan payment history. The original Note must be endorsed as follows:

Pay to the order of Oregon Housing and Community Services Department,  
State of Oregon, without recourse.

\_\_\_\_\_  
*(Approved Lender's Name)*

By:

\_\_\_\_\_  
*(Officer's Signature and Title)*

Name: \_\_\_\_\_

Title: \_\_\_\_\_

All documents which require Eligible Borrower and co-Eligible Borrower signatures, Approved Lender signatures, or other authorized signatures must be properly executed. The Representations and Warranties and Certification of Hazard Insurance (SFMP 11) must be accurately completed for each Program Loan with information from the Program Loan documents, and must be executed by an authorized officer of the Approved Lender. All Program Loan documents requiring an authorized officer's signature, signed endorsement, or any other required certification must be included to complete the Program Loan file prior to shipping to the Department for purchase.

### ***LOST ORIGINAL DOCUMENTS***

If the original Note is lost prior to submission to the Department for purchase, a replacement Note executed by all parties to the Note, or a copy of the original Note certified as a true copy by the Eligible Borrower(s) and an authorized signer of the Approved Lender, and a properly executed and notarized lost note affidavit and indemnity agreement, must be included in the Program Loan file.

### ***PROGRAM LOAN FILE ARRANGEMENT***

Program Loans submitted for purchase must have all required documentation arranged in a legal size manila folder with a top tab. Each Program Loan must be submitted in its own folder with documents secured with fasteners. The required items are to be arranged as shown on the Program Loan file checklist (SFMP 26A, 26B, or 26C) applicable to the type of Program Loan submitted.

### ***ADMINISTRATIVE FEE***

As previously described in CLOSING PROCEDURES 8.2, the Department will collect an Administrative Fee equivalent to .5% of the Note amount when it purchases the loan from the Lender by subtracting the Administrative Fee from the total amount owed to the Lender. In all cases, regardless of whether or not the maximum fees are collected by the Lender, the Department's Administrative Fee will equal .5% of the Note amount.

# 11 - DUE DILIGENCE

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## *IN GENERAL*

The eligibility requirements for the Program have been established pursuant to State and federal law and generally cannot be waived. This Procedural Guide contains procedures to verify compliance with these eligibility requirements. The Approved Lenders should make a thorough check of all information prior to closing the Program Loan to verify compliance with requirements and avoid a rejected loan.

In addition, federal law places the State at risk financially even for inadvertent or non-negligent errors by the State or the Approved Lenders. The Approved Lender should maintain records that demonstrate the verification procedures used so that they may be verified by the Department or an independent reviewer on behalf of the Department.

## *REVIEW OF PROGRAM LOAN DOCUMENTATION*

The Approved Lender must review all of the information obtained in connection with the origination of the Program Loan to determine that sufficient evidence exists to support the conclusion that the Eligible Borrower, the Single-Family Residence and the Program Loan documentation satisfy the requirements of the Rules and this Procedural Guide. Tax returns, credit reports, written Verification of Employment (VOE) and other information must be consistent with and corroborate the statements made by each applicant in the Program Loan application (e.g., if the VOE indicated a place of employment remote from the Single-Family residence, questions would be raised concerning the accuracy of the applicant's statement of intent to use the Single-Family Residence as a Principal Residence).

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## **12 - RECORD KEEPING**

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The Approved Lender must maintain on file any documents required by this Procedural Guide to be obtained and reviewed by the Approved Lender, but which are not to be delivered to the Department with the Program Loan file. These documents must be maintained for two years after the delivery of such items to the Department. The Department may request maintenance of documents for an additional period beyond the two years. If during this time the Department requests original or certified copies of such documents, the same must be delivered to the Department. Approved Lenders must make all records maintained in connection with the Program available for inspection by the Department upon request at all reasonable hours.

## 13 - ASSUMPTIONS

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In addition to the terms and conditions of Program Loans set forth in the preceding Sections, the following requirements must be met for Assumptions and REO New Loans.

### *IN GENERAL*

The Department will not allow a transfer of a Single-Family Residence by a simple name change, wraparound financing, or contract of sale. If the purchaser is an Eligible Borrower, the Program Loan may be assumed by a Substitution of Liability with no increase in the original interest rate. If the purchaser is not an Eligible Borrower, the Program Loan shall be paid in full.

The Program Loan must be current before it is assumed by an Eligible Borrower. If a Conventional Loan is more than 90 days delinquent and it cannot be brought current through the sale, the Approved Servicer may contact the Qualified Mortgage Insurer to request financial assistance. If the Qualified Mortgage Insurer agrees to assist with the sale, the Approved Servicer must contact the Department for approval.

Any Assumption of a Program Loan is subject to the approval of the Qualified Mortgage Insurer prior to closing the transaction.

The Substitution Agreement (SFMP 104) shall be prepared prior to loan closing by the Approved Servicer and sent to the Department for signature. The names of the seller (grantor) and purchaser, the original Deed of Trust's recording information, and property legal description shall be completed. Once the Department has signed the SFMP 104, it will be returned to the Approved Servicer for recording at closing. The recorded SFMP 104 and completed Program Loan Assumption Package should be submitted to the Department within 60 days after loan closing.

If the original Eligible Borrowers have divorced, the spouse awarded the property shall sign as seller on the Substitution of Liability Agreement (a specific power of attorney is acceptable). The Approved Servicer shall include a copy of the divorce decree and property settlement evidencing the title transfer.

## ***BORROWER ELIGIBILITY***

All Borrower Eligibility requirements set forth above shall be met on all Assumptions and REO New Loans with the following exception:

Prior Homeownership Requirements: Where the original Program Loan was made from proceeds of bonds sold on or before September 15, 1982, the applicant for the Assumption or REO New Loan is not subject to the three year non-ownership requirement or to the sales price limits in effect at the date of the Assumption or REO New Loan application.

## ***ASSUMPTION FEES***

Fees for the Assumption of Program Loans insured by FHA or guaranteed by Rural Development must not exceed assumption fee limits set out by FHA or Rural Development, respectively.

Fees for the Assumption of a Conventional Loan are limited to the following:

- \$100 if the change of ownership does not require a review of the new Eligible Borrower's credit, or
- \$400 or 1% of the unpaid principal balance of the Program Loan, whichever is greater - up to a maximum of \$900 - if the change of ownership requires credit approval for the Program Loan.
- The Assumption fee is retained by the Approved Lender/Approved Servicer. The Department does not charge a fee for Assumption processing.

# 14 - FORMS

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<b><u>Form #</u></b>	<b><u>Title</u></b>
SFMP 7	Affidavit - Addendum to Residential Loan Application (03/2000)
SFMP 9A	Addendum to Deed of Trust (03/2000)
SFMP 9B	Assignment of Deed of Trust (03/2000)
SFMP 10	Program Loan Transmittal (8/06)
SFMP 11	Representations and Warranties and Certifications of Hazard Insurance (8/06)
SFMP 12	Acquisition Cost Certification (02/97)
SFMP 16	Notice to Buyers and Requirements Certification (8/06)
SFMP 25	Notice to Borrowers Regarding Application of Recapture Provision (8/06)
SFMP 26A	Order of Loan File for Submission - FHA Loans (8/06)
SFMP 26B	Order of Loan File for Submission - Conventional Loans (8/06)
SFMP 26C	Order of Loan File for Submission - Guaranteed Rural Housing Loans (8/06)
SFMP 26D	Order of Loan File for Submission - Assumption (4/06)
SFMP 27	Statement of Income Tax Filing (02/97)
SFMP 28	Reservation Request (8/06)
SFMP 104	Substitution Agreement (03/2000)

## 15 - MAPS

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The following pages contain maps of Qualified Census Tracts for Albany, Eugene, and Medford. Immediately following the maps is a list of streets and address ranges for Portland Qualified Census Tracts (Targeted areas). (Effective April 19, 1994)

Targeted Areas include:

Counties: Baker, Clatsop, Coos, Crook, Harney, Jefferson, Josephine, Klamath, Lake, Malheur, Union, Wallowa, and Wheeler.

Cities: Within the city limits of: Ashland, Milton-Freewater, Myrtle Creek, Port Orford, Silverton, Turner, and Vernonia.

Qualified Census Tracts: Areas of Albany, Eugene, Medford, and Portland.

# 16 - OREGON ADMINISTRATIVE RULES

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## OREGON ADMINISTRATIVE RULES

### CHAPTER 813, DIVISION 20

#### OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT

#### DIVISION 20

#### SINGLE-FAMILY MORTGAGE PROGRAM (also known as Residential Loan Program)

##### Purpose and Objectives

**813-20-005** The rules of OAR Chapter 813, Division 20 are established to administer and enforce ORS 456.515 through 456.720, specifically ORS 456.625, 456.635 and 456.640. These Rules, together with the Program's Procedural Guide, shall implement the Single-Family Mortgage Program. The Program's objective is to encourage and assist moderate- and lower-income persons in Oregon to purchase, improve, and rehabilitate owner-occupied new and existing residential housing by providing funds for long-term mortgage financing. The Department purchases loans that meet the standards set forth in these Rules and the **Program's Procedural Guide**.

##### Definitions

**813-20-010** (1) All terms are used in OAR Chapter 813, Division 20, as defined in the Act, and as provided in OAR 813-05-005 and herein.

(2) As used in these Rules, unless otherwise indicated by the context: "Income" means the total of the annualized gross household income, from any source and before taxes and withholding, of all non-minor persons who will reside in the Single-Family Residence.

##### Allocation of Funds to Approved Lenders

**813-20-015** Under the Single-Family Mortgage Program, the Department may rely on a commitment system or a first-come first-served reservation system to solicit and monitor participation by Approved Lenders when funds become available from the proceeds of Bonds or other sources. The Department solicits commitment requests or participation in the Program by Approved Lenders when the Department determines that the Single-Family Mortgage Program will serve to carry out the purposes of the Act and funds may be available.

##### Commitment System

**813-20-016** Under the commitment system, the Department shall solicit commitment requests by mailing a commitment invitation form to each Approved Lender at the address listed in the records of the Department. The Department shall seek commitment requests before the sale of Bonds or when funds are otherwise expected to become available.

(1) The commitment invitation form shall specify the terms on which the Department will accept commitment requests from Approved Lenders, including:

- (a) The minimum commitment amount, if any, which Approved Lenders may request;
- (b) The maximum interest rate applicable to Program Loans under the commitment;
- (c) The price the Department shall pay for such Program Loans and the origination fees, discounts, appraisal fees, inspection fees, sales fees, and other expenses which may be charged in connection with Program Loan origination;
- (d) The period during which the Department will purchase Program Loans;
- (e) The commitment fee the Department shall charge Approved Lenders in connection with the commitment requests;

- (f) The servicing fees the Department shall pay for Program Loan servicing; and
- (g) Such other similar terms as the Department may deem advisable. The Department shall consider:
  - (A) The cost of borrowing the funds required to carry out the Program;
  - (B) The costs associated with reserving funds to purchase Program Loans;
  - (C) The estimated cost of Single-Family Residences in Oregon;
  - (D) The interest rates the Department estimates Eligible Borrowers are able to pay when purchasing Single-Family Residences;
  - (E) The availability and cost to Eligible Borrowers of alternative borrowing sources; and
  - (F) Other similar factors the Department considers appropriate to increase the availability of funds for Eligible Borrowers to purchase Single-Family Residences, and to ensure the security for and the ability of the State to repay the Bonds.

(2) The Department may accept commitment requests as specified in the commitment invitation form. If the Department does not accept any request, the Approved Lender shall be notified promptly.

(3) (a) The Department shall allocate funds, taking into account the following factors:

- (A) Geographic area of the Approved Lender's residential lending;
- (B) Other participants in the area;
- (C) Capacity of the Approved Lender to accomplish Program objectives;
- (D) Availability of funds to the Department;
- (E) Prior experience with the Approved Lender; and
- (F) Participation by the Approved Lender in previous Programs.

(b) No allocation to an Approved Lender shall exceed the amount for which the Approved Lender applied, but may be less than the amount requested. The Department's allocation of funds shall be conclusive. However, an Approved Lender may assign funds to another Approved Lender with the Department's written consent.

(4) To assure that Approved Lenders perform their obligations under commitments entered into with the Department and to defray costs associated with processing and administering commitment requests and commitments, the Department may establish commitment fees in connection with commitment requests under the Single-Family Mortgage Program. The Department may refund a portion of the commitment fee as Program Loans are purchased. If the Department allocates an amount less than the commitment requested by an Approved Lender, the Department shall return a pro rata portion of the commitment fee to the Approved Lender.

(5) Disbursements under the commitment shall be subject to availability of Bond proceeds or other funds. Thereafter, the Department shall disburse funds to purchase Program Loans as specified in the commitment invitation form and the Program's Procedural Guide.

(6) The Approved Lender shall submit the Program Loan, related documents and a submission report for the Department's review before loan purchase. The purchase of any Program Loan is subject to the legal, sufficient and proper form of the loan documents, and adequate evidence the Program Loan satisfies all the criteria provided in the Act, the Program Rules and the Program's Procedural Guide.

(7) Approved Lenders shall report periodically during the commitment term. If, in the judgment of the Department, the Approved Lender will not use the amount of the commitment within the commitment period, the Department may reallocate the remaining balance.

### **Reservation System**

**813-20-017** (1) Under the reservation system, the Department shall purchase Program Loans pursuant to first-come first-served reservations made by Approved Lenders, and in compliance with the Program's Procedural Guide.

(2) (a) Program Loan funds shall be reserved on a first-come first-served loan by loan basis. When submitting a reservation, Approved Lenders must provide the applicant's name, property address, loan amount and any other information the Department deems necessary. The Department shall confirm each reservation with the Approved Lender in a timely manner.

(b) As needed, the Department shall maintain a list of standby reservations to be moved to the active reservation list on a first-come first-served basis in the event any confirmed reservation is cancelled by an Approved Lender.

(3) An Approved Lender may assign a reservation to another Approved Lender with the written consent of both Approved Lenders and approval by the Department.

(4) The Department may charge a non-refundable reservation fee to the Approved Lender in connection with each reservation. The Department shall specify the reservation fee rate and remittance instructions in connection with each Program Loan.

(5) The Approved Lender shall submit the Program Loan, related documents and a submission report for the Department's review before loan purchase. The purchase of any Program Loan is subject to the legal, sufficient and proper form of the loan documents, and adequate evidence that the Program Loan satisfies all the criteria provided in the Act, the Program Rules and the Program's Procedural Guide.

(6) Periodically, Approved Lenders shall report and confirm to the Department for each reservation, the correct Eligible Borrower name, property address, loan amount, and the dates on which the loan was canceled or approved and closed.

### **Approved Lenders**

**813-20-020** (1) Any commercial bank, savings and loan association, savings bank, mortgage banker or other Person legally authorized to engage in the business of making secured loans for residential housing may apply to become an Approved Lender. An applicant wishing to become an Approved Lender shall submit for the Department's review:

- (a) An application in the form prescribed by the Department;
  - (b) Counsel's opinion regarding power and authority of the applicant to enter into a purchase agreement with the Department;
  - (c) List and signatures of authorized officers;
  - (d) Most recent audited financial statements;
  - (e) Documentation evidencing applicant's bond and insurance coverage; and
  - (f) \$25 application fee.
- (2) Each Approved Lender shall make loans for Single Family Residences in the regular, usual, and normal course of business.

(3) An applicant may qualify as an Approved Lender if the Department determines that the applicant has the capability and resources to originate Program Loans in a sound and professional manner. The Department shall consider such factors as:

- (a) The number and experience of employees available to originate Program Loans;
- (b) The applicant's financial capability to originate Program Loans;
- (c) The applicant's qualification as a seller/servicer for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration or as a "Special Lender" under the Servicemen's Readjustment Act;
- (d) Whether the applicant's deposits are insured by the Federal Deposit Insurance Corporation; and
- (e) The applicant's reputation, experience and performance in the area of residential lending and any other area of the applicant's business.

(4) To qualify as an Approved Lender, an institution shall enter into an agreement with the Department providing for the manner and terms of sale of Program Loans. This purchase agreement shall be in the standard form prescribed by the Department for all Approved Lenders. Approved Lenders shall carry out such agreement in accordance with procedures set forth in the agreement and the Program's Procedural Guide. The Department may revise such procedures from time to time. Any revisions shall not affect the eligibility of any Approved Lender or the terms of sale of Program Loans for any commitment previously made by the Department. The Department may terminate its agreement with an Approved Lender at any time on the terms and conditions stated in such agreement and the Program's Procedural Guide.

## **Change of Ownership; Assumptions by Substitution of Liability for a Program Loan**

**813-20-024** (1) The Department shall allow transfer of properties by assumption only if such assumption results in a substitution of liability and the purchaser is an Eligible Borrower. Then the Program Loan may be assumed subject to the terms of the existing loan without an interest rate increase. The following requirements shall also be met:

(a) The Approved Servicer shall process the application in accordance with the Department's requirements as set forth in the Program Rules and the Program's Procedural Guide.

(b) The Acquisition Cost shall not exceed the limit established by the Department and in effect at the time the assumption application is made. This requirement shall not apply if the original Program Loan was made from the proceeds of Bonds sold on or before September 15, 1982.

(c) An applicant for an assumption on a Program Loan shall not have had a present ownership interest in a principal residence at any time within the three years immediately preceding the date of the assumption unless:

(A) The original Program Loan was made from the proceeds of Bonds sold on or before September 15, 1982; or

(B) The residence is located within a Targeted Area.

(d) The Eligible Borrower must have an annualized gross household income which does not exceed certain limits established by the Department in accordance with the Internal Revenue Code of 1986, as amended.

(e) (A) There is no minimum down payment requirement for an assumption if no secondary financing is involved in the transaction. However, the purchaser shall make at least a 5% down payment from liquid assets or cash equity if any part of the down payment is to be provided by secondary financing. The 5% down payment amount shall be calculated on the current purchase price of the Single-Family Residence.

(b) Any secondary financing shall amortize over a specified period; balloon payments are not acceptable. The secondary debt shall be included in calculating the purchaser's debt-to-income ratio to determine if the purchaser qualifies as an Eligible Borrower.

(1) (a) The Approved Servicer may collect a nonrefundable assumption application fee, which shall include the credit report fee, not to exceed \$150. If the assumption is denied, the Approved Servicer may retain the portion of the fee not applied to the costs of the credit report. If the assumption is approved, the portion not applied to the costs of the credit report shall be applied as a credit to the processing fee permitted under OAR 813-20-024(2)(b).

(b) The Approved Servicer may charge a fee for processing an assumption. Fees on conventional loans may be 1% of the loan balance or \$400, whichever is greater, but shall not exceed the customary fees charged in the geographic area for assumptions on mortgage loans owned by private lenders. Processing fees on loans insured by the Federal Housing Administration (FHA) shall not exceed the usual and customary fees allowed. All fees shall be commensurate with the work involved by the Approved Servicer.

(2) The Approved Servicer shall make any necessary disclosures, ensure that all insurance policies reflect the new ownership, and take any action necessary to continue the benefits of the mortgage insurance or guaranty without interruption.

(4) All assumption transactions shall retain the Department's original loan number.

## **Program Loans**

**813-20-025** (1) To be eligible for purchase by the Department a Program Loan must meet the requirements set forth in the purchase agreement between the Department and the Approved Lender and the conditions set forth in the Program Rules and the Program's Procedural Guide.

(2) (a) Each Program Loan shall have a final maturity at least fifteen and not more than forty years from the date of its making.

(b) Each Program Loan shall be secured by a first lien deed of trust granted by the Eligible Borrower on the Single-Family Residence being financed. The Eligible Borrower shall hold title to the Single-Family Residence in fee simple.

(c) Program Loans shall only be made to finance the purchase, construction, or purchase and rehabilitation of an existing or newly constructed Single-Family Residence for use as the permanent, principal residence of the Eligible Borrower.

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(d) No Program Loan shall be made to refinance an existing loan unless such loan was a temporary loan, with a loan term of 24 months or less, to construct or rehabilitate a Single-Family Residence. The temporary loan shall have been made on or after the commencement date of the commitment term during which the Program Loan is sold to the Department. If a Program Loan is made to refinance such a loan, the Approved Lender shall certify to the Department that construction or rehabilitation has been satisfactorily completed before the delivery of the Program Loan for purchase.

(3) Each Program Loan shall be executed on forms approved by the Department. Such forms shall prescribe Program Loan requirements regarding insurance, escrow payments, late charges, deficiencies, defaults, priority of liens, and similar matters. The Department may purchase Program Loans with a graduated payment schedule based on secured savings deposits or other criteria the Department deems appropriate; in this case the Program Loan forms shall contain provisions for application of the secured savings deposits to the loan balance.

(4) The Department shall require that Program Loans be subject to prepayment at the Department's option if at any time the Eligible Borrower does not reside in the Single-Family Residence financed by the Program Loan and the Eligible Borrower remains the owner of such Single-Family Residence, or if the Eligible Borrower is determined to have been ineligible at the time the loan was made.

(5) To establish the interest rate for Program Loans, the Department shall consider the rates of interest on the Bonds, prevailing rates for similar loans, and the ability of Eligible Borrowers to afford such rates. Interest or other charges established for any Program Loan shall not exceed the limits imposed by any applicable usury laws.

(6) The original principal amount of the Program Loan and any secondary financing shall not exceed 97% of property value, unless the Program Loan is insured by the Federal Housing Administration or a Qualified Mortgage Insurer; or guaranteed by the Veterans' Administration or Rural Economic and Community Development. Property value shall be calculated on the lesser of the purchase price of the property or its appraised value.

### **Eligible Borrowers**

**813-20-030** (1) To be eligible to receive a Program Loan, an Eligible Borrower shall, on the dates of application and loan closing:

- (a) Is a resident or intends to be a resident of Oregon;
- (b) Be a person whose Income does not exceed the applicable income limit established by the Department pursuant to the Act and the Internal Revenue Code of 1986, as amended;
- (c) In good faith intend to occupy the Single-Family Residence as a permanent principal residence;
- (d) Possess the legal capacity to incur the obligations of the Program Loan;
- (e) Have a credit standing acceptable to the Department;
- (f) Agree that any other residential property owned will be sold by the time of closing; and
- (g) Meet applicable requirements established by Section 143 of the Internal Revenue Code of 1986, as amended, if the Program Loan is to be made from the proceeds of Bonds sold after September 15, 1982. These requirements are described in OAR 813-20-070.

(2) Subject to the provisions of OAR 813-20-045 regarding refusals of Program Loans, the Approved Lender shall determine the applicant's qualifications as an Eligible Borrower.

(3) If the Program Loan is insured by the Federal Housing Administration or a Qualified Mortgage Insurer; or guaranteed by the Veterans' Administration or Rural Economic and Community Development, approval by these federal agencies or a Qualified Mortgage Insurer is considered satisfactory evidence of the creditworthiness of the applicant. In all other instances, the acceptability of the applicant's credit standing shall be determined after thoroughly evaluating the applicant's credit, taking into account such factors as:

- (a) The ratio between the applicant's stable monthly income and estimated housing expenses, including Program Loan repayment;

- (b) The ratio between the applicant's stable monthly income and the estimated monthly payments on all indebtedness of the applicant, including the Program Loan;
- (c) The applicant's ability to accumulate wealth, including funds needed for down payment and closing costs on the Program Loan;
- (d) The history of the applicant's previous ability to meet debt service requirements; and
- (e) Any other factors commonly considered by prudent institutional mortgage investors, such as prior bankruptcy of the applicant, history of slow payments on previous obligations, job tenure, frequent changes of residence and the existence of lawsuits, judgments or foreclosures involving the applicant.

**Permissible Use of Property Financed by a Program Loan**

**813-20-032** The Eligible Borrower shall continuously occupy the Single-Family Residence as his or her permanent and principal residence during the time the Eligible Borrower has a Program Loan, except under the conditions specified in section (2) of this rule. The Eligible Borrower shall not:

- (1) Sell, transfer or otherwise dispose of (and may not be a party to any formal or informal arrangement to sell, transfer or otherwise dispose of) the Single-Family Residence financed by a Program Loan prior to repayment or, if permitted, assumption of the Program Loan;
- (2) Vacate, rent or agree to rent the Single-Family Residence during the term of the Program Loan except after application to the Approved Servicer and the Department and under the following special conditions:
  - (a) Where the Eligible Borrower is making a good faith effort to sell the Single-Family Residence; or
  - (b) Where the circumstances causing the request to move out of the Single-Family Residence are beyond the Eligible Borrower's control, including but not limited to:
    - (A) When the Eligible Borrower or the Eligible Borrower's spouse is drafted into military service; or
    - (B) When the Eligible Borrower or the Eligible Borrower's spouse is involuntarily transferred by an employer on a temporary basis; or
    - (C) If the Eligible Borrower or the Eligible Borrower's spouse becomes disabled and needs medical rehabilitation and cannot live in the Single-Family Residence; or
    - (D) When the Eligible Borrower or the Eligible Borrower's spouse must move to finish an educational degree requirement, and has taken a temporary leave of absence from his or her job; or
    - (E) Other circumstances substantially similar to the above.
  - (c) The Department may require evidence from the Eligible Borrower of continuing sales efforts, or of the specific circumstances, such as an employer's certification of temporary job assignment, a school officials' certification of admission, a physician's certification of rehabilitation needs, or orders of military service and location.
- (d) The Eligible Borrower shall submit a request in writing to the Approved Servicer one month before the Eligible Borrower fails to occupy or rents the Single-Family Residence. The Department may grant permission for non-occupancy for a period of time not to exceed one year, with additional one-year extensions possible, if the Department determines that the conditions in this section have been met. The Eligible Borrower shall submit written request for a renewal to the Approved Servicer at least one month before the approved period ends.
- (e) If the Program Loan was made from the proceeds of Bonds sold after September 15, 1982, the principal residence requirements of Section 143 of the Internal Revenue Code of 1986, as amended, shall be applied to requests under this Section. The Department shall approve such requests only where evidence is provided that the Eligible Borrower will comply with federal residence requirements.
- (f) If the Eligible Borrower does not comply with the above provisions, the Approved Servicer or the Department may, at any time and without prior notice, accelerate all payments due under the Program Loan, and exercise any other remedy or civil penalty allowable by law.

**Program Loans After Foreclosure**

**813-20-033** (1) The Department may finance Program Loans for Eligible Borrowers to purchase properties acquired by the Department through foreclosure or deed-in-lieu of foreclosure. Such Program Loans shall bear the interest rate of the original Program Loan on the property financed. Except as provided in section (2) of this rule, such Program Loans shall meet all requirements of the Program Rules and the Program's Procedural Guide.

- (2) The Department may waive the provisions of OAR 813-20-030(1)(b) as necessary to allow Program Loans for the sale of property acquired by the Department through foreclosure or deed-in-lieu of foreclosure. The Department shall make such waiver only when a waiver is required to effect timely disposition of the property acquired, and to ensure the ability of the State to repay the Bonds. A Program Loan made pursuant to such waiver shall have a final maturity not less than five years and not more than forty years from the date of its making.

**Eligible Single-Family Residences**

**813-20-035** (1) A Single-Family Residence for a Program Loan shall:

- (a) Be located in Oregon;
- (b) Be structurally sound and functionally adequate;
- (c) Contain only one residential unit;
- (d) Conform with all applicable zoning requirements, building codes, and similar requirements; and
- (e) Have no more than 15% of the total living area of the residence be of a character subject to being rented for or used in the operation of a trade or business conducted on any part of the land or improvements (i.e., any use which would qualify as a deduction for federal income tax purposes under Section 280A of the Internal Revenue Code). This requirement applies only to Single-Family Residences for Program Loans made from the proceeds of Bonds sold after September 15, 1982.

(2) The Acquisition Cost of the Single-Family Residence shall not exceed the limits established by the Department. The Department shall set such limits after considering:

- (a) The cost and condition of housing within the state;
  - (b) Income levels established for the Single-Family Mortgage Program;
  - (c) Purchase price limits under applicable federal law; and
  - (d) Reasonable down payment requirements.
- (3) Any deferred, indirect, or non-monetary consideration (except labor of the Eligible Borrower and the Eligible Borrower's family) shall be included in the Acquisition Cost of the Single-Family Residence.
- (4) The appraised value of the Single-Family Residence shall not exceed the limits established by the Department. The Department shall set such limits as a percentage of the maximum Acquisition Cost, after considering:
- (a) The cost and condition of housing within the state;
  - (b) The market value of such housing, assuming arms'-length sales transactions;
  - (c) The probability of non-arms'-length sales transactions;
  - (d) The effect of such limit on the Approved Lender's ability to originate Program Loans; and
  - (e) The effect of such limit on the security of Program Loans.
- (5) Single-Family Residences which are a part of a condominium or planned unit development shall be subject to prior project approval as set forth in the Program's Procedural Guide.

**Mortgage Insurance**

**813-20-040** If the amount of the Program Loan is greater than 75% of the original Acquisition Cost (or, if lower, its value according to an appraisal acceptable to the Department) the Eligible Borrower shall obtain and maintain in force mortgage insurance or a guarantee of the Program Loan by a Qualified Mortgage Insurer.

- (1) The policy shall be in effect at the time of sale of the Program Loan to the Department;
- (2) The Department shall be named as the mortgagee insured or guaranteed; and
- (3) The amount, terms, and extent of coverage of the insurance or guaranty, shall meet the requirements of the indenture of trust and the bond indenture declaration governing the bonds used for the acquisition of the Single-Family Residence. These requirements shall be determined by the Department to provide reasonable security against loss in the event of default.

**Title Insurance**

**813-20-041** Each Program Loan shall be covered by a title insurance policy issued in American Land Title Association (ALTA) form by a title insurance company approved by the Real Estate Department of the State of Oregon. Such policy shall be in an amount at least equal to the outstanding principal balance of the Program Loan. The benefits of the policy shall run to the Department, as either named insured or assignee. The policy shall not be subject to any exceptions or conditions other than those previously approved by the Department or by the federal Department insuring or guaranteeing such loan, if any.

**Hazard Insurance**

**813-20-042** The Single-Family Residence securing a Program Loan shall be covered by hazard insurance which meets the requirements of the Program's Procedural Guide. Such hazard insurance shall be in effect at the time the Program Loan is made, and shall remain in effect for the term of the Program Loan.

**Refusal of Program Loans; Disclosure**

**813-20-045** (1) An Approved Lender shall proceed in good faith to process a Program Loan application and make the Program Loan if:

- (a) Loan funds are available;
  - (b) The application is complete;
  - (c) The application appears to comply with the Program Rules and the Program's Procedural Guide;
- and

- (d) The applicant appears to be an Eligible Borrower.
- (2) Any person who is refused a Program Loan by an Approved Lender may, in writing, demand a written explanation as to the specific reasons for the refusal. The Approved Lender shall comply with such demand within thirty business days.

**Approved Servicers**

**813-20-050** (1) Any commercial bank, savings and loan association, savings bank, mortgage banker or other Person legally authorized to engage in the business of servicing loans for residential housing may apply to become an Approved Servicer. An applicant wishing to become an Approved Servicer shall submit the following information for the Department's review:

- (a) An application in the form prescribed by the Department;
- (b) Counsel's opinion regarding power and authority of the applicant to enter into a servicing agreement with the Department;
- (c) List and signatures of authorized officers;
- (d) Most recent audited financial statements;
- (e) Documentation evidencing bond and insurance coverage; and
- (f) \$25 application fee.
- (g) Documentation indicating the volume of residential loans produced by the applicant's mortgage lending offices in Oregon.

- (2) To qualify as an Approved Servicer and continue as such, a financial institution shall demonstrate to the Department's satisfaction that:
- (a) One of its principal functions is servicing loans secured by residential real estate;
  - (b) Such servicing is a customary and regular business activity of the applicant;
  - (c) It is qualified to engage in servicing mortgage loans for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and is, if required, a mortgagee approved by the Federal Housing Administration or Veterans' Administration;
  - (d) It deposits funds to accounts in depositories which comply with the requirements of ORS 295.005, 295.015 to 295.018, 295.025 and 295.205 which are insured to the full extent legally possible by the Federal Deposit Insurance Corporation or other similar federal insuring Department; and
  - (e) It will maintain servicing facilities adequately staffed with trained personnel familiar with all rules, regulations and requirements pertaining to or affecting Program Loans.
- (3) Approved Servicers may assign Program Loan servicing to other Approved Servicers with the Department's written permission.

### **Program Loan Servicing**

- 813-20-051** (1) Approved Servicers shall service Program Loans in accordance with the servicing agreement, the Program Rules, and the Program's Procedural Guide, as amended by the Department from time to time. The servicing agreement is subject to termination as provided for in such agreement. Compensation for termination, if any, shall be provided in accordance with the terms of the servicing agreement.
- (2) The Department shall adopt uniform servicing rates based on the estimated costs of servicing Program Loans and prevailing rates for similar services. Such rates shall apply to the servicing of Program Loans by all Approved Servicers.
- (3) Eligible Borrowers shall make monthly Escrow Payments for real estate property taxes and assessments, hazard insurance premiums, and, if necessary, mortgage insurance premiums, except as provided in the Program's Procedural Guide. Such Escrow Payments shall continue for the term of the Program Loan. Approved Servicers may pay interest on Program Loan escrow reserve accounts, but are not required by the Department to do so.
- (4) On a case-by-case basis, the Department may approve action by the Approved Servicer to protect the Department's security in a Single-Family Residence financed by a Program Loan. Such actions may include, but are not limited to, loan modification, property maintenance and repair, foreclosure or deed-in-lieu of foreclosure proceedings, and representation of the Department's interest in bankruptcy proceedings.
- (5) In the event an Approved Servicer fails to comply with the Department's servicing, reporting, or remittance requirements, the Department may assess a penalty; or may request the Servicing Agreement with the Approved Servicer be terminated.

### **Qualifications as a "Special Purpose Credit Program"**

**813-20-060** The Program is meant to and does benefit an economically disadvantaged class of persons. As such, the Department establishes the Program as a "special purpose credit program" to satisfy the requirements of Interpretation section 202/8(a)(1) of Regulation B of the Federal Equal Credit Opportunity Act. (USC 15, Chapter 41, Subchapter 4, Paragraph 6091.)

### **Federal Eligibility Requirements**

- 813-20-070** (1) Section 143 of the Internal Revenue Code of 1986, as amended, requires the Department to meet certain requirements to preserve the federal tax exemption for Bonds issued to finance Program Loans:
- (a) The Single-Family Residence shall be used as a qualifying principal residence by the Eligible Borrower;
  - (b) Persons who have had a present ownership interest in a principal residence at any time within the preceding three years shall be prohibited from obtaining a Program Loan unless exempted as outlined in sections (2) and (3) of this rule;

(c) The Acquisition Cost shall not exceed the limits established by the Department pursuant to the Internal Revenue Code of 1986, as amended for new and existing Single-Family Residences;

(d) Only new mortgages may be financed, except as provided in section 813-20-025(2)(d) in these Rules; and

(e) Eligible Borrowers must have an annualized gross household income which does not exceed certain limits established by the Department in accordance with the Internal Revenue Code of 1986, as amended.

(f) The assumption of Program Loans shall be prohibited unless the above requirements are met by each person assuming a Program Loan.

(2) A limited number of Program Loans may be made to persons who have had a present ownership interest in a principal residence at any time within the preceding three years. The Department shall consider applications for such loans on a case-by-case basis, taking into account:

(a) Federal restrictions on the aggregate dollar volume of such loans for a specific commitment; and

(b) The circumstances of the prior ownership. The Department shall give preference to applicants who have lost prior ownership interests involuntarily, as through divorce settlements, eminent domain proceedings, or similar circumstances.

(3) In certain Targeted Areas, a higher maximum Acquisition Cost may be applicable and the limitation with respect to prior home ownership does not apply. Certain census tract areas are designated as Targeted Areas by Section 143 of the Internal Revenue Code of 1986, as amended. The Department may apply for approval of additional or revised Targeted Areas after considering certain statutory variables. In designating such areas, the Department shall solicit requests from all cities within the state, and apply certain criteria specified by the United States Department of Housing and Urban Development for such purpose to other urban and non-urban areas. The Department shall submit its findings for approval by the Secretary of the United States Department of Housing and Urban Development and the Secretary of the United States Treasury. The Department shall retain a current list of designated Targeted Areas.

(4) The Department is required to establish procedures which ensure compliance with applicable requirements of Section 143 of the Internal Revenue Code of 1986, as amended. Any failure to meet these requirements shall be corrected within a reasonable time. The Department shall grant no exceptions or waivers unless allowed by federal law.

(5) (a) Where permitted by federal law, the Department has elected to credit certain amounts which may become available to its Eligible Borrowers, rather than to the United States Treasury. The Department shall periodically determine the overall amounts subject to credit. The Department shall distribute any credits in compliance with federal law, taking into consideration such factors as the security of its Bonds, the ability of Borrowers to repay Program Loans, fluctuations in market interest rates, or such other factors which may affect the Department's ability to achieve its purpose and objectives.

(b) Where required by federal law, the Department shall calculate and rebate certain amounts, if any, to the United States Treasury.

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