

Southwest Nebraska Community Betterment Corporation (SWNCBC)

Down Payment/Closing Cost Assistance Program

Program Guidelines

Contract #s 19-TFHP-33016 17-TFHP33024; 15-TFHP-33023; 12-TFHP-3052; 07-TFHP-3054; 07-TFHP-3055

Serving: McCook and the Incorporated Communities located in the counties of Chase, Dundy, Hayes, Hitchcock and Perkins

Adopted April 24, 2019

It is the intention of Southwest Nebraska Community Betterment Corporation's Down Payment/Closing Costs Assistance program to provide families at or below 120% of area median income the financial resources toward the purchase of a home located within the incorporated communities of any of the following southwest counties of: Perkins, Chase, Dundy, Hayes, Hitchcock and the community of McCook in Red Willow County. The homebuyer assistance funds can be used for the down payment or closing costs, or any combination of these two needs.

PURPOSE :

- To promote safe, affordable and appropriate housing in the project service area.
- To increase local employment
- To help homebuyers with down payment and/or closing costs
- To upgrade and retain an affordable housing stock.
- To achieve affordable quality housing for LMI people.
- To promote continued homeownership.

1. EQUAL OPPORTUNITY AND FAIR HOUSING

No person shall on the grounds of race, color, national origin, religion, sex, age, disability, familial status or sexual orientation be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity administered by Southwest Nebraska Community Betterment Corporation (SWNCBC) and funded in whole or in part with Nebraska Affordable Housing Program Funds. SWNCBC acknowledges it may not discriminate in its operation or in Project activities on the basis of age, religion, sex, race, color, national origin, disability, or familial status.

SWNCBC will comply with all provisions of the Americans With Disabilities Act (ADA) with respect to hiring, training, and employment practices, including reasonable accommodation of persons with disabilities in hiring, training, and employment practices; and in assuring access by persons with disabilities to facilities and services provided by the Recipient to the general public.

SWNCBC will comply with all federal and local laws applicable to the Project and applicable to the use of Trust Funds, including, but not limited to, the following:

- Civil Rights Act of 1964.
- Age Discrimination Act of 1975.
- Section 504 of the Rehabilitation Act of 1973.



- Architectural Barriers Act of 1968.
- The Equal Employment Opportunity Act.
- Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.
- The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002).
- The Immigration Reform and Control Act of 1986.
- The Nebraska Fair Employment Practices Act.
- The Housing for Older Persons Act of 1995.
- Flood Disaster Protection Act of 1973.
- National Environmental Policy Act of 1969.
- National Historic Preservation Act of 1966.
- Lead-Based Paint Poisoning Prevention Act of 1971, the Residential Lead-Based Paint Hazard Reduction Act, and regulations at 24 C.F.R. Part 35.
- Clean Air and Federal Water Pollution Control Act, as amended.
- Fair Labor Standards Act of 1938, as amended.
- Contract Work Hours and Safety Standards Act.
- Section 3 of the Housing and Urban Development Act of 1968; and 24 C.F.R. Part 135.

2. AFFIRMATIVE FAIR HOUSING PLAN

As recipient of funds in the Nebraska Department of Economic Development (DED) Nebraska Affordable Housing Trust Fund Program, SWNCBC must fulfill affirmative action requirements of federal fair housing laws. (P.L 90-284, as amended by L. 1988 P.L 100-430; and E.O. 11063).

Actions taken include but are not limited to:

- a) Material about fair housing, including Equal Housing Opportunity logos, posted in the SWNCBC office
- b) Brochures on display at the SWNCBC office include the Equal Housing Opportunity logo and statement of non-discrimination. Brochures may be mailed upon request.
- c) SWNCBC Program Guidelines limit assistance to those under 120% area median income. Persons assisted with these funds for newly constructed housing, whether state and/or federal, will have incomes at or below the 120% of the area median income for the particular county where assistance is needed, as set forth by HUD.
- d) SWNCBC will continue to increase and further Fair Housing Awareness in the Perkins County area.
- e) In order to further fair housing in the service area, SWNCBC will display Fair Housing Brochures the month of April at the Mid Plains Community College McCook Campus. The brochures will list the contact information for the local Fair Housing Representative.

3. TYPES OF ASSISTANCE

- a) Down Payment and Closing Costs Assistance for homeowners in the incorporated limits

of the communities in the counties of Perkins, Chase, Hitchcock, Dundy, Hayes and the community of McCook in Red Willow County. (The home being purchased must serve as the buyer's principal residence.)

- b) The DPA/Closing Costs Assistance funds can be used for the down payment or closing costs, or any combination of these two needs.
- c) Applicants will be required to pay \$500 towards the DPA/Closing Costs.
- d) SWNCBC will offer up to \$20,000.00 to those who qualify. The final amount of the assistance given depends on how much the lender requires, and cannot exceed 20% of the purchase price of the home. Assistance will be in the form of a second mortgage, which will accrue 0% interest.
- e) Repayment Policy: DPA 0% interest loans will be deferred with no monthly payments as long as the original homebuyer occupies the home. If the property is sold, refinanced, or no longer the principal residence of the homeowner the recapture funds will be collected. If recapture provisions are utilized, and the program income is received, then the amount recaptured cannot exceed the net proceeds. Net proceeds are the sales price minus superior loan repayment and any closing costs. In the event an appraisal determines that insufficient equity exists in the home to meet the obligations of this program at the time of sale, the homeowner will pay SWNCBC 100% of any net proceeds received after the primary mortgage is satisfied and SWNCBC shall consider the loan paid in full. Funds recaptured during the open contract period must be used for the same activity and must be used prior to drawing down any additional NAHTF funds in the contract period.
- f) Hardship Provision: In the event of unforeseen hardship under the program the loan recipient may ask for a waiver for repayment and to provide necessary documentation to establish proof that this is necessary. The SWNCBC Board of Directors will review and make decision on approving the waiver of repayment.
- g) SWNCBC reserves the right to make inspection on homes during the affordability period that have been assisted and will give proper notice.
- h) Referrals for all appropriate applicants will be made to Nebraska Investment Finance Authority and USDA Rural Development: Direct or Guaranteed Loans, as a source of below market rate loans; Assistive Technology Partnership and the Nebraska Housing Developers Association: Home Ownership Program and Making Homes Accessible Program, as sources of rehabilitation and/or down payment assistance for households with a disability and First Down Nebraska to encourage partnering of funds for a common goal of assisting homebuyers.
- i) Must carry hazard insurance the entire affordability period and list SWNCBC as secondary loss payee on the policy in order to prove principal residence

**PROPERTY PURCHASED UNDER THIS PROGRAM MUST BE OCCUPIED
AS A PRINCIPAL RESIDENCE BY THE HOMEOWNER**

4. APPLICANT ELIGIBILITY:

- a) Applications for Down Payment/Closing Cost Assistance will be taken on a first-come first-served basis. Readiness will include income qualified with an eligible property.
 - 1) In the event of two applications qualifying at the same time, the homeowner whose income is lower will be given preference points.

- b) Meet LMI income guidelines as defined by HUD (gross income at or below 120% Area Median Income).
- c) Have no Conflict of Interest as defined in "Conflict of Interest" in this document.
- d) All clients going through the DPA program are required to complete a REACH affiliated Homebuyer Education Class prior to closing, and must provide a certificate of completion.
- e) Must be approved for a home mortgage with a commercial lender of his or her choice with a fixed rate mortgage for a minimum of at least five years.
- f) Monthly mortgage payment, which includes principal, interest, taxes and insurance, must not exceed 30% of applicant's gross income.
- g) Return beneficiaries will be considered for assistance if they can meet all other eligibility requirements, unless they have defaulted on a previous SWNCBC project.

5. INCOME ELIGIBILITY:

- a) Gross annual income must not exceed 120% of the Area Median Income. Please call the SWNCBC for the most current income limits.
- b) Gross annual income will be determined using the HUD 24 CFR Part 5 Annual Income. The part 5 definition of annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period.
- c) HUD's Technical Guide for Determining Income and Allowances for the HOME Program (Third Edition) serves as the resource for this step in the eligibility process.
- d) Income will be verified by third party verification forms.
- e) Applicant will receive an award letter or denial letter by mail after gross annual income has been determined.

6. PROPERTY ELIGIBILITY:

- a) Single-family units only, new or existing.
- b) Must be located within the incorporated limits of the communities located in the counties of Perkins, Hayes, Dundy, Chase and Hitchcock and the community of McCook in Red Willow County.
- c) Serve as the principal residence of the homeowner.
- d) Meet financial guidelines (appraisal).
- e) Be permanently attached to a permanent foundation.
- f) Not be a mobile home.
- g) Bears label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards.
- h) Taxed as real property.
- i) Home must meet mortgage inspection requirements as well as the NDED Standards.
- j) Properties must have safe, sanitary and adequate water supplies and sewage disposal currently available for use.
- k) Units with tenants will not be considered, unless tenant is the buyer.
- l) Achieve SHPO clearance.
- m) Properties within federally determined floodplains are not eligible for assistance under this program.

- n) A visual assessment of deteriorated paint will be done following the signing of the purchase agreement. When a substantial amount of LBP is present, a LBP inspection will occur prior to occupancy.
- o) Must carry hazard insurance the entire affordability period and list SWNCBC as secondary loss payee on the policy in order to prove principal residence.
- p) Newly constructed housing must meet or exceed the International Energy Conservation Code and the Nebraska Energy Office must approve building specifications.

7. NAHP MAXIMUM PURCHASE PRICE/MAXIMUM PER SUBSIDY

The maximum purchase price of any home using these NAHP funds under these guidelines will not allow the maximum after-rehab value to exceed 140 percent of the median purchase price for the area as defined by the NDED at <https://opportunity.nebraska.gov/grow-your-community/data-for-applicants-and-grantees/>. Assistance that does not exceed NAHTF maximum per unit subsidy will not include general administration in per unit costs. Subsidy limits can be found at <https://opportunity.nebraska.gov/grow-your-community/data-for-applicants-and-grantees/>

8. REPAYMENT

- a) DPA 0% interest loans will be deferred with no monthly payments as long as the original owner occupies the home. Renting the unit is not permitted. The unit must be Owner-Occupied.
- b) The unit must remain the principle residence for the applicant for the entire 10 year affordability period.
- c) Homeowner(s) will sign a Deed of Trust, Promissory Note and Owner Occupancy Agreement to ensure the affordability period when project is completed. SWNCBC will file a lien on all homes participating in the program and a related promissory note stipulating the amount owed in the event that the owner attempts to sell or rent the unit prior to repayment of the loan. The Owner Occupancy Agreement is a document in which the principle residence requirement is emphasized.
- d) If the property is sold, refinanced, or no longer the principal residence of the homeowner, the recapture funds/program income will be collected and used by SWNCBC in accordance with Nebraska Department of Economic Development's recapture requirements. In the event an appraisal determines that insufficient equity exists in the home to meet the obligations of this program at the time of sale, the homeowner will pay SWNCBC 100% of any net proceeds received after the primary mortgage is satisfied and SWNCBC shall consider the loan paid in full. Net proceeds are the sales price minus superior loan repayment (other than NAHP funds) and any closing costs.
- e) Hardship Provisions: In the event of unforeseen hardship under the program the loan recipient may ask for a waiver for repayment and to provide necessary documentation to establish proof that this is necessary. The Board will review and make decision on approving the waiver of repayment.
- f) SWNCBC reserves the right to refuse to subordinate the loan for funds received for assistance to any loan not currently in a superior position. The SWNCBC Board will consider subordination purposes of refinancing an existing home mortgage; however this subordination would not be approved if funds to pay additional debt were included in the refinancing.

9. DISABLED HOUSING

If a person with a disability applies and is approved for funds, they will be referred to the Assistive Technology Partnership (402-471-0734) and other organizations for consulting and possible grants in building or rehabilitating a disabled accessible house.

10. REFERRALS / LEVERAGE

In order to assist SWNCBC customers in their search for affordable housing, referrals are made to various partners who can leverage funds:

- USDA Rural Development: Direct or Guaranteed Loans, as a source of below market rate loans;
- Assistive Technology Partnership and the Nebraska Housing Developers Association: Home Ownership Program and Making Homes Accessible Program, as sources of rehabilitation and/or down payment assistance for households with a disability
- First Down Nebraska

11. CONFLICT OF INTEREST

- a) No official, employee or agent of SWNCBC who exercises policy and/or performs decision-making functions or responsibilities in connection with the planning and/or implementation of the program shall directly or indirectly benefit from this program. This prohibition shall continue for one year after an individual's relationship with the program ends. Any other employee, officer, or board member may be eligible, but will be treated without preference in the determination of the application accepted for funding. Enclosed with such an application shall be a statement of disclosure, which outlines any interest the applicant may have in the operation of the program.
- b) Employees, officers and agents cannot accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to subagreements.
- c) A waiver process shall be available to allow for the previously identified ineligible persons to be eligible for participation in the program. The waiver process will consist of request for approval by the following entities in order: SWNCBC Board of Directors. Each person requesting a waiver must describe their need for participation in the program and, if approved, agree to disassociate themselves from any decision-making that directly affects them.
- d) Upon written request, the Department on a case-by-case basis may grant exceptions to the Conflict of Interest provisions only after the following have been completed: 1) Disclosed the full nature of the conflict and submitted proof that the disclosure has been made public. 2) Provided a legal opinion stating that there would be no violation of state or local law if the exception was granted.

12. GRIEVANCE PROCEDURES

Persons and/or families who believe that their application was not given fair consideration or that they have been discriminated against should give the reasons, in writing, to the Southwest Nebraska Community Betterment Corporation Board of Directors within ten days of the decision. The SWNCBC Board shall take the letter under consideration at the next regularly scheduled meeting and reply, in writing, to the complaint no later than five days following the

meeting. If the homeowner is not satisfied with the response, Leigh Alexander with CDS Inspections, will be used as a third party to assess the situation and settle the dispute. Following review by the third party if the homeowner is still not satisfied they can contact the NDED office.

13. RELOCATION POLICY

- a) Only vacant units will be considered. Units with tenants will not be considered, unless the tenant is the buyer. Appropriate URA/Acquisition notices will be sent to the seller and documented in the file with copies sent to DED.
- b) In cases where either voluntary or involuntary acquisition is anticipated DED will be contacted prior to any action.

14. CONSTRUCTION STANDARDS

New construction housing must meet or exceed the 2009 (or most current) International Energy Conservation Code and the Nebraska Energy Office must approve building specifications. All homes and structures sold, constructed or transferred under this program shall be subject to the current building and zoning standards and ordinances of the city and county in which they are sold, constructed or transferred and any construction standards or codes adopted hereafter and shall meet or exceed the NDED Rehabilitation Standards. It shall be the intent of all concerned to build or rehabilitate a home that incorporates current building standards and methods of energy efficiency.

15. APPLICATION PROCESS

- a) Prospective applicant receives Program Guidelines from SWNCBC.
- b) Prospective applicant
 - becomes pre-income qualified using the application income information as a guideline for pre- income qualification
 - is income qualified by third party verification
 - receives written notification of selection/non-selection for the program
 - attends a Reach approved Homebuyer's Education Class
- c) SWNCBC
 - reviews the application, financial information and lender documents
 - inspects the house for health and safety deficiencies and conducts property eligibility requirements
 - conducts a visual LBP inspection on home built prior to 1978
 - sends written notification to the applicant of selection/non-selection for the program
 - works closely with the lender and homeowner to ensure affordable loan for the homebuyer
 - DPA funds will be paid to the financial institute or closing agent on behalf of the applicant

16. APPLICATION SELECTION:

- a) Applications will be taken on a first-come first-serve basis. Readiness will include income qualified with an eligible property.

- b) In the event of all necessary information on more than one project application, including commitment by the first mortgage lender, is provided to SWNCBC on the same day, and the balance of funds that are available are not sufficient to cover all projects, homeowner whose income is lower will be given preference points.

17. LEAD BASED PAINT PROCEDURES

SWNCBC will determine LBP issues for homes participating in the DPA program on a case-by-case basis. SWNCBC prohibits the use of Lead Based Paint in the home or on the exterior of the home. SWNCBC will comply with HUD's lead-based paint regulation requirements. Since rehab is not included in this program SWNCBC will also utilize the mortgage lenders inspections in order to meet DED standards.

18. PROPERTY

- a) All properties purchased with Nebraska Affordable Housing Program funding shall be maintained in compliance with local ordinances.
- b) All properties must be in prime inspecting condition in order to conduct adequate inspections.
- c) SWNCBC uses a permission statement signed by the homebuyer/owner as a voluntary release and authorization for collecting photographs of the project, including before, after, indoor, outdoor and grounds photos for publication.

19. REPORTING PROCEDURES, RECORD KEEPING AND FOLLOW-UP

- a) Files and records will be kept on all applications and clients. These records will be under the custody and control of SWNCBC. Since these files contain confidential information which is not public information, public access to these files is prohibited. The privacy of the applicants will be protected by restricting access to these files only to persons acting pursuant to the program and this administrative plan under the auspices of SWNCBC.
- b) These files will be available for review and audit by DED and will be made available to parties responsible for compliance to the extent necessary to verify activities and performance.

20. AFFORDABLE HOUSING PROGRAM CLOSEOUT

- a) The program shall be closed out when all funds to be closed out have been drawn down and expended for completed project costs or funds not drawn down and expended have been deobligated by DED.
- b) Matching requirements have been met.
- c) Appropriate project completion reports have been filed.
- d) An audit has been performed.

21. MARKETING STRATEGY

Affirmative marketing procedures including, but not limited to, marketing to local or regional residents and tenants of public housing and manufactured housing, other families assisted by public housing agencies, and households identified to be potentially eligible but least likely to apply.

22. APPLICABLE LAWS AND REGULATIONS

The following laws and regulations shall be enforced in the implementation of this Affordable Housing Program:

- a) Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4831 et. seq.)
- b) HUD's Implementing Regulations (at 24 CFR Part 570)
- c) Title VIII of the Civil Rights Act of 1968 and any related rules and regulations
- d) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d Et. seq.
- e) HUD regulations issued thereunder, 24 CFR, subtitle A, Part 1
- f) HUD requirements pursuant to these regulations; and Executive order 11063, to the end that, in accordance with that Act, the regulations and requirements of HUD and Executive order 11063, no persons in the United States, shall on the ground of race, color, creed, religion or national origin, be excluded from participation in, or be denied the benefits of, the Section 8 Existing Housing Program or be otherwise subjected to discrimination. This provision is included pursuant to the regulations of HUD, 24 CFR, Subtitle A, Part 1, issued under Title VI of the Civil Rights Act Of 1964, and the HUD requirements pursuant to the regulations.
- g) Section 109 of the Housing and Community Development Act of 1974, which provides that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity funded in whole or in part with funds made available under this title.
- h) Age Discrimination Act Of 1975, as amended (42 U.S.C. 6101, et.seq.) which provides that no person will be excluded from participation, denied program benefits or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance.
- i) Section 504 of the Rehabilitation Act Of 1973, as amended (29 U.S.C. 794) which provide that no otherwise qualified individual will, solely by reason of his or her handicap, be excluded from participation (including employment), denied program benefits or subject to discrimination under any program or activity receiving federal assistance funds.
- j) Anti-Displacement Act
- k) Fair Housing Act
- l) Nebraska Energy Office requirements
- m) 2009 International Energy Conservation Code
- n) No officer, employee or agent of SWNCBC participating in the selection, the award, or the administration of this grant obtained a personal or financial interest or benefit from the activity or had an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. This stipulation must be included in all subcontracts to this contract. Upon written request, exceptions may be granted upon a case by case basis when it is determined that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project. These exceptions are granted by DED.

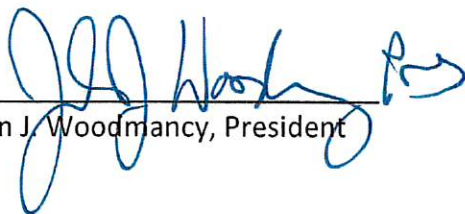
23. GUIDELINE AMENDMENTS

These Program Guidelines may be amended as appropriate by a majority vote of Southwest Nebraska Community Betterment Corporation Board of Directors with notice to and approval from the appropriate Nebraska Department of Economic Development Program Representative.

CONTACT PERSON

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These Down Payment Assistance Program Guidelines have been approved by the Southwest Nebraska Community Betterment Corporation Board of Directors on April 24, 2019.



John J. Woodmancy, President