

CITY OF FAIRBURY, NEBRASKA
HOUSING REHABILITATION PROGRAM GUIDELINES

Adopted 7/1/13

Amended 02/20/14, Amended 04/05/16, Amended 01/17/17

INTRODUCTION

The City of Fairbury, Nebraska is receiving funds from the Nebraska Department of Economic Development (NDED)-Affordable Housing Program (AHP) to implement a program for housing rehabilitation improvements **within the City**. The following is an outline of the program setting forth the key items, procedures, guidelines and forms.

I. PROGRAM

The program is based upon the rehabilitation of substandard units through **Conditional Grants depending upon household incomes**. It is anticipated that the total construction related costs for any individual rehabilitation project will not exceed **\$24,999**, not including any costs for lead-based paint situations. The Program will request approval through NDED for proposed projects that may exceed the \$24,999 amount. Assistance may not exceed the maximum per-unit subsidy limit. These limits are available at: <http://www.neded.org/community/community-info/documentslibrary-a-forms/trust-fund>.

II. PURPOSE

- A. To increase the attractiveness of existing neighborhoods within the City.
- B. To prevent the spread of blight and its influence.
- C. To increase the number of good, habitable dwelling units.
- D. To promote continued home ownership.
- E. To discourage the abandonment or neglect of residential dwelling units.
- F. To provide assistance to those persons of the greatest need.

III. ELIGIBILITY CRITERIA

- A. Eligible properties shall be single family, owner occupied dwelling units that do not meet Minimum Rehabilitation Standards. Rental properties are not eligible for rehabilitation assistance. Eligible properties will be the “principal residence of the homeowner applicant.” Security documents (Promissory Note and Deed of Trust) will include reference to requirements that the housing unit will be the “principal residence” of the participating family.
- B. The structure is not under contract or under negotiation for acquisition by any federal, state or local governmental agency. Properties shall be situated in locations where they will not be in conflict with the following types of government projects:
 - 1. Federally assisted government projects, which are to be constructed.
 - 2. Projects for the construction or development of public schools, parks, streets, highways, utilities or other public works.
- C. Properties shall be located within the City.
- D. The applicant's annual gross household income can not exceed the established income guidelines set forth as attached. (Income levels will be verified according to 24 CFR Part 5.609) Income eligibility guidelines are based upon a maximum Median Household Income for various family sizes as established for JEFFERSON COUNTY from Income



Guidelines established by the Nebraska Department of Economic Development (DED). Income limits are based on a maximum of at or below 100% of the area Median Family Income (MFI).

- E. The objective of the Housing Rehabilitation Program is to restore each housing unit receiving financial assistance to a physical condition, which will result in a life expectancy of at least 20-years. A limited number of occupied housing units in the Program Area may be deteriorated to such an extent that rehabilitation, no matter how extensive, will not achieve this objective. If the Project Inspector determines, and the Advisory Committee concurs, that a housing unit can not have a 20-year life expectancy after rehabilitation work is completed, then the Program will determine not to provide financial assistance to that homeowner.
- F. Property taxes must be paid by the homeowner and current. Homeownership will be verified by written confirmation from the Jefferson County Register of Deeds under a deed search.
- G. No person or family shall be eligible to receive assistance under this program who has in excess of Fifty Thousand Dollars (\$50,000) in total assets, excluding: the value of the dwelling and a minimum adequate site, the value of necessary items of personal property, the assets that are part of a business/trade/farming operation in which a member of the household is actively engaged in such operation, or the value of an established trust that is not revocable or is under control of a household member.
- H. Properties shall be in locations where safe, sanitary and adequate water supplies and sewage disposal are available. Project will not approve properties located within Floodways. Project may allow non-critical actions for properties located in 500-year floodplain (B Zone or shaded X Zone). Project may allow for improvements in 100-year floodplain (A Zone) on one- to four-family properties that do not meet the thresholds for “substantial improvement” under § 55.2(b)(8). No projects will be approved that are included in designated Wetlands.
- I. Only owner-occupied units will be eligible for rehabilitation. Both units of a duplex are eligible if one is owner-occupied and the second unit is occupied by a member of the owner's family. Mobile homes are ineligible. Rental properties are ineligible for assistance.
- J. The homeowner will be required to maintain homeowner's hazard insurance, with an amount equal to the replacement value of the dwelling for the duration of a program lien.
- K. Properties shall be free and clear of any debris that jeopardizes public safety and/or impairs the appearance of the neighborhood. Properties must remain debris-free for the duration of the program lien period. Debris shall include, but not be limited to: inoperable automobiles, machinery, appliances, tires and accessories, noxious weeds, discarded metal and other unsightly rubble.
- L. The value of the property after rehabilitation may not exceed the after-rehab value. The after-rehabilitation value estimate must be completed prior to investment of NDED grant funds. The published limit identifies maximum amounts for 1-unit and the unadjusted median value. “HUD has used the greater of these two figures as their HOME



homeownership value limit for existing housing in each area.” This level of cost is applicable to the rehab or purchase of **existing homes only**. See **Purchase Price or After-Rehab Value Limit for NAHTF, CDBG, and HOME at: <http://www.neded.org/community/community-info/documentslibrary-a-forms/trust-fund>**.

IV. **TYPES OF ASSISTANCE**

It is the expressed intent of this rehabilitation program to benefit low-and moderate-income owner-occupants within the Program Area. Actions taken by or on behalf of owner occupants to circumvent this intent are prohibited. To affect this intent, owner-occupants receiving housing rehabilitation assistance under this program shall immediately advise the Program of any event that may alter this intent.

Conditional Grant: The owner shall personally and at all times occupy and live in the rehabilitated structure as a “principal residence” for a period of **five (5) years** or sixty (60) months after the completion of the rehabilitation work.

In the event that the owner shall move, rent, sell, transfer or otherwise not occupy said property for the required five (5) year period, the Program shall be reimbursed at the monthly pro-rata rate for the sixty (60) month period. Recapture provisions are utilized, then the amount recaptured cannot exceed the net proceeds. Net proceeds are the sales price minus superior loan repayment (other than CDBG, HOME or NAHTF funds) and any closing costs.

V. **ELIGIBLE REHABILITATION PRIORITIES**

A. **Code Deficiencies**

The property must conform to municipal building codes and NDED Minimum Standards for Rehabilitation after rehabilitation work is complete. The correction of code deficiencies is given top priority in the rehabilitation process. When necessary to meet specific requirements of a local minimum housing code, program funds may be used for:

1. The provision, rehabilitation or removal of structural elements of the dwelling, including the repair or replacement of basic equipment, outbuildings, fences, steps, and walks. The term basic equipment refers to such items as furnaces, water heaters, plumbing, electrical fixtures, foundations, etc.
2. The provision of sanitary and related facilities, including the provision, expansion, and finishing of space necessary to accommodate such facilities;
3. The provision of additional or enlarged bedrooms; and,
4. The grading, filling, or landscaping of the lot for other than purely aesthetic purposes.

B. **Minimum Property Rehabilitation Standards Requirements**

If the existing City building codes are less stringent than the NDED Minimum Standards for Rehabilitation, the “Minimum Standards for Rehabilitation”, as attached, will apply. Bringing a property into conformance with the “Minimum Standards for Rehabilitation” requirements will be accomplished before any incipient deficiencies are corrected.



C. Incipient Deficiencies

Program funds may be used to correct incipient deficiencies of the local minimum housing code. An incipient deficiency exists if, at the time the house is inspected, it is determined that the physical condition of a particular structural element will deteriorate to an actual deficiency in the reasonable future (one or two years). An example of an incipient deficiency would be a leaky roof that could be patched at low cost, but would probably continue to develop additional leaks, and would eventually have to be totally replaced. Program funds could be used to replace the entire roof in this situation. Incipient deficiencies may be corrected after existing code deficiencies are corrected and the property conforms to the Minimum Property Rehabilitation Standards.

D. Energy Conservation

Once all local Program Area building codes and Minimum Property Rehabilitation Standards have been met and incipient code violations have been corrected, program funds may be used to finance energy conservation measures. Energy conservation refers to steps taken to lessen the consumption of fuels and electricity. Housing Rehabilitation Program resources may be used to finance such energy conservation measures as:

1. The insulation of attics and sidewalls, or increasing the amount of existing insulation;
2. The provision of storm windows and doors; and
3. The elimination of leaks in structural openings through the installation of weather-stripping, caulking, etc.

E. Fire Protection

Fire protection involves the provision of devices to warn dwelling occupants in the event of fire. Early warning fire alarm devices may be provided and installed using program funds.

F. General Improvements

General improvements include any rehabilitation work that does not fit into any of the previously discussed eligible cost categories. Only after all eligible applicant's needs, relative to the previous five categories have been met, will consideration be given to any general improvement work items. Typically, general improvements will not materially contribute to structural integrity or long term preservation of the unit and might include, but not be limited to: interior painting, paneling, carpeting, closets, shelving, cabinets, air conditioning, landscaping, etc.

The above paragraph does not prevent the homeowner from undertaking any general improvement work items, provided they supply whatever additional funds are necessary to finance that portion of the project.

VI. **PROPOSED ADMINISTRATION**

- A. Application Review Committee: The Advisory Committee for Housing Rehabilitation
- B. Program Managers/Project Inspector: Southeast Nebraska Development District (SEND)D
- C. Grievance Committee: The Advisory Committee for Housing Rehabilitation

VII. **APPLICATION PROCESS**

The application process for assistance under the Housing Rehabilitation Program has two stages--the application and the applicant interview. The rationale for this approach centers on saving the time and trouble of filling out a rather lengthy application when it is possible to determine the homeowner's basic eligibility through a streamlined preliminary application process.



A. Preliminary Application

The application consists of questions related to family size and composition, income, housing-related expenses, etc. Application information will be reviewed and evaluated by the Program Management Staff, on a confidential basis. Homeowners who do not meet basic eligibility requirements will be notified in writing, including a statement of the reason they are ineligible for assistance. Homeowners who are eligible will be notified in writing.

B. Full Application

Once basic eligibility has been determined through the preliminary application, the Project Inspector will contact the homeowner and arrange for an interview. The interview will take place in the applicant's home, and in addition to obtaining the information necessary to complete the application process, the Project Inspector will perform a preliminary inspection of the structure. This inspection will provide the Advisory Committee an indication of whether the house will stand rehabilitation, the extent of repairs needed, and a preliminary estimate for the cost of those repairs. The interview is to provide more specific information for determining whether the homeowner may take advantage of the Housing Rehabilitation Program. Review of the application and data acquired from the interview will begin as soon as practicable after it is received.

The review process includes verification of income, housing expenses, bank deposits, employment, etc. All applications will be rated on the project rating scale, as attached, and notification of final eligibility will be made to the homeowner, thereafter. Applicants who do not meet approval criteria will be notified in writing, including a statement of the reason for non-selection.

The program will collaborate with other agencies or organizations which provide housing rehabilitation related services or financing. Applicants under this program aged 62+ must also apply to the USDA-Rural Development Repair Program. If approved by USDA-RD, the applicant must first maximize the use of the USDA-RD Repair Program funds prior to assistance from this Program. The Program will also coordinate with Southeast Nebraska Community Action (SENCA) – and other programs for eligible weatherization activities.

C. Tier II Environmental Review

All properties will have a Tier II Environmental Review conducted. This review shall, at a minimum include submitting request for review to the State Historical Preservation Office (SHPO), review of location of property in relation to Special Flood Hazard Areas (SFHAs) as identified on the community's FEMA Flood Insurance Rate Map (FIRM), and review of onsite and nearby potential Contamination and Toxic Substances.

D. Comprehensive Property Inspection

All properties will have a comprehensive property inspection conducted. The purpose of this inspection is to compile a comprehensive list of all necessary and desirable repairs, categorize the repairs by type (i.e. code violations, Minimum Rehabilitation Standards, Lead-Based paint hazards mitigation, general improvements, etc.), and estimate the total cost of the work. Essentially, the Project Inspector will assemble all the information necessary for preparation of bid documents. An estimate of the total cost of the work is made so that the homeowner can be counseled on the extent of rehabilitation and the type and cost of the financial assistance. In addition, the Project Inspector shall review the work write-up with the applicant and receive in writing the applicant's concurrence with the identified work items.



- E. Bid Document Preparation
The Project Inspector will use the information gathered to prepare the Project Specifications, Work-Writeups and/or other documents necessary to obtain bids on the rehabilitation work.
- F. Contractor Selection
The solicitation of bids for the rehabilitation work will be conducted in accordance with Federal, State and local requirements for requesting bids. If “Competitive Sealed Bids” are requested for a project, normally the lowest responsible and responsive bid would be accepted. Alternate methods of selecting contractors to allow for increased homeowner involvement and the highest level of local contractor participation will be considered.
- G. Consideration, Recommendation, and Approval or Rejection
Once a contractor has been selected a project summary will be prepared and presented to the Housing Advisory Committee. The Housing Advisory Committee will then consider the project and provide a recommendation of approval or rejection to the City Council.
- Nothing herein shall be interpreted to require that the City grant approval to any project. The City reserves the sole right to accept or reject any and/or all of the applications for financial assistance.
- The City Council, after consideration and recommendation from the Advisory Committee, shall make the final decision to approve or reject any application within its respective jurisdiction.
- H. Contracts
The contract for rehabilitation work will be between the homeowner and contractor, with the Program as a third party acting as an Operating Agency (OA) to provide for oversight, construction observation and to provide financing, insuring that the contractor and homeowner meet agreed upon conditions.
- I. Security Instruments
At the time of contract signing each person listed as a property owner is required to sign a Deed of Trust and Promissory Note for the amount of assistance provided to the property. Upon completion of the rehabilitation work, these security instruments shall be revised if needed and then filed with the county.
- J. Construction Monitoring
Inspections will be necessary during the construction phase to monitor the rehabilitation. The primary purpose of these inspections is to insure that materials used and work done is accomplished in compliance with the contract. The Project Inspector shall visit each job site when necessary to assure adequate job performance. Should change-orders become necessary during the rehabilitation work which would change the total cost of the contract, the Program and the homeowner must agree on said change orders and any modification to the funding prior to the execution of the change-order.
- K. Project Completion
At the completion of construction the Project Inspector shall inspect the work, in the presence of the homeowner and the contractor, to assure that satisfactory work has been accomplished. If the quality of work is satisfactory to the homeowner and the Project



Inspector, and all contract conditions have been met, the Project Inspector will request final payment for the contractor. Any deficiencies must be corrected to the satisfaction of the homeowner and the Program, and all warranties, lien waivers, inspection reports from other Federal/State/Local agencies, etc., must be delivered before final payment will be made.

L. Sale of Assisted Unit During Lien Period

In the event that the owner moves, rents, sells, transfers or otherwise does not occupy the assisted property for the required five (5) year period, the Program shall be reimbursed at the monthly pro-rata rate for the sixty (60) month period. Recapture provisions are utilized, then the amount recaptured cannot exceed the net proceeds. Net proceeds are the sales price minus superior loan repayment (other than CDBG, HOME or NAHTF funds) and any closing costs. A closing statement from the sale of the subject property will need to be obtained and included within the project files.

VIII. COMPLAINT PROCEDURE

All grievances and/or complaints must be submitted in writing to the Housing Inspector or Project Administrator. A written response/determination must be provided to the aggrieved party within fifteen (15) days of receipt of the grievance/complaint. If unsatisfied with the response/determination of the Housing Inspector or Project Administrator, the aggrieved party may appeal the decision to the Fairbury Housing Advisory Committee in writing for their consideration. The appeal must be received by Housing Advisory Committee within 15 calendar days of the initial decision. Housing Advisory Committee will act on the appeal within thirty (30) calendar days of the receipt of the appeal. Final written decision of the Housing Advisory Committee will be provided to the aggrieved party within forty-five (45) days of receipt of the written request for appeal.

In the event of an owner and contractor dispute, an independent mediator, agreed on by both parties, shall be selected, and whose decision on the issue will be accepted as final by both parties. The applicant/beneficiary may contact the Department at his/her discretion.

IX. CONFLICT OF INTEREST

No member of the governing body of the City and any other official, employee or agent of those organizations who exercises policy, decision-making functions or responsibilities in connection with the planning and implementation of this program shall:

- a. be directly or indirectly eligible for this Program;
- b. accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to sub agreement;
- c. obtain a financial interest or benefit from a Program activity;
- d. have an interest in any contract, subcontract or agreement for themselves or for persons with business or family ties.

EXCEPTIONS: Upon written request, exceptions may be granted by the Nebraska Department of Economic Development on a case by case basis.

X. AMENDMENT OF THE GUIDELINES

The above Guidelines for the Housing Rehabilitation Program can be amended only after review by the Housing Advisory Committee and formal action by the City Council, with approval by DED.



XI. **ELIMINATION OF LEAD-BASED PAINT HAZARDS**

It is the expressed intent of the Housing Rehabilitation Program to eliminate lead-based paint hazards in all assisted projects in accordance with subpart C, Section 35 (b) and (c) of the H.U.D. Title 24 Federal Regulations as identified in the Rehabilitation Module of the CDBG Manual. During the Comprehensive Property Inspection, work items will be identified to provide treatment necessary to eliminate immediate lead-based paint hazards.

Testing for Lead-Based paint hazards, Risk Assessment Reports and Clearance testing after construction will be methods used to identify, develop mitigation plans and clearing projects involving lead-based paint and mitigation construction. (See the attached “Lead-Based Paint Procedures”)

XII. **RELOCATION**

The City of Fairbury Housing Rehabilitation Program will not pay for relocation expenses. Rehabilitation Construction contracts call for the contractor to maintain the home in a manner which does not trigger a need for relocation. The decision to relocate will typically be the voluntary decision of the client and not a condition of this program plan or work write-up. Any costs of relocation shall be the responsibility of the client/program recipient. As this Housing Rehabilitation Program is a voluntary program, the client/program recipient may elect to not participate in the program should they determine that they are not able to or do not desire to be responsible for any relocation costs.

While relocation is not anticipated, there may be times when construction issues arise (such as compliance with Lead Safe Work Practices) where temporary relocation is triggered. It is the policy of the City of Fairbury that the CDBG funded Housing Rehabilitation Program will not fund those relocation costs and the client/program recipient / owner occupant will be responsible for said relocation costs.

XIII. **FEDERAL COMPLIANCE**

The Housing Program will comply with the administrative requirements of the grant program, those applicable items in the 1995 Consolidated Plan, Title I of the Housing and Community Development Act of 1974, Public Law 93-383, as amended, and 24 CFR Part 570 (including parts not specifically cited below), and the following laws, regulations and requirements, both federal and state, as the pertain to the design, implementation and administration of the local project, if approved:

CIVIL RIGHTS AND EQUAL OPPORTUNITY PROVISIONS

- Public Law 88-352, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d), et. seq.) (24 CFR Part 1)
- Section 109 of the Housing and Community Development Act of 1974, As Amended
- Age-Discrimination Act of 1975, As Amended (42 U.S.C. 6101, et. seq.)
- Section 504 of the Rehabilitation Act of 1973, As Amended (29 U.S.C. 794) and the Americans with Disability Act
- Executive Order 11246, As Amended
- Executive Order 11063, As Amended by Executive Order 12259 (24 CFR Part 107)

ENVIRONMENTAL STANDARDS AND PROVISIONS

- Section 104(f) of the Housing and Community Development Act of 1974, As Amended
- Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831) and the Implementing Regulations found at 24 CFR Part 35



- The National Environmental Policy Act of 1969 (42 U.S.C. Section 4321, et. seq., and 24 CFR Part 58)
- The Clean Air Act, As Amended (42 U.S.C. 7401, et. seq.)
- Farmland Protection Policy Act of 1981, (U.S.C. 4201, et. seq.)
- The Endangered Species Act of 1973, As Amended (16 U.S.C. 1531, et. seq.)
- The Reservoir Salvage Act of 1960 (16 U.S.C. 469, et. seq.), Section 3 (16 U.S.C. 469 a-1), As Amended by the Archaeological and Historic Preservation Act of 1974
- The Safe Drinking Water Act of 1974 [42 U.S.C. Section 201, 300(f), et. seq., and U.S.C. Section 349 as Amended, particularly Section 1424(e) (42 U.S.C. Section 300H-303(e))]
- The Federal Water Pollution Control Act of 1972, As Amended, including the Clean Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et. seq.)
- The Solid Waste Disposal Act, As Amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et. seq.)
- The Fish and Wildlife Coordination Act of 1958, As Amended, (16 U.S.C. Section 661, et. seq.)
- EPA List of Violating Facilities
- HUD Environmental Standards (24 CFR, Part 51, Environmental Criteria and Standards and 44 F.R. 40860-40866, July 12, 1979)
- The Wild and Scenic Rivers Act of 1968, As Amended (16 U.S.C. 1271, et. seq.)
- Flood Insurance
- Executive Order 11988, May 24, 1978: Floodplain Management (42 F.R. 26951, et. seq.)
- Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961, et. seq.)
- Environmental Protection Act, NEB. REV. STAT. 81-1501 to 81-1532 (R.R.S. 1943)
- Historic Preservation

LABOR STANDARDS AND PROVISIONS

- Section 110 of the Housing and Community Development Act of 1974, As Amended
- Fair Labor Standards Act of 1938, As Amended, (29 U.S.C. 102, et. seq.)
- Davis-Bacon Act, As Amended (40 U.S.C. 276-a - 276a-5); and Section 2; of the June 13, 1934 Act., As Amended (48 Stat. 948.40 U.S.C. 276(c), popularly known as The Copeland Act
- Contract Work Hours and Safety Standards Act (40 U.S.C. 327, et. seq.)
- Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701(u)]

FAIR HOUSING STANDARDS AND PROVISIONS

- Section 104(a)(2) of the Housing and Community Development Act of 1974, As Amended
- Public Law 90-284, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601, et. seq.). As Amended by the Fair Housing Amendments Act of 1988
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, As Amended (42 U.S.C. 4630) and the Implementing Regulations Found at 49 CFR Part 24
- Relocation Assistance Act, NEB. REV. STAT. 76-1214 to 76-1242 (R.S. Supp. 1989)
- Nebraska Civil Rights Act of 1969 20-105 to 20-125, 48-1102 and 48-1116 Uniform Procedures for Acquiring Private Property for Public Use, NEB. REV. STAT. 25-2501 to 25-2506 (R.R.S. 1943)

ADMINISTRATIVE AND FINANCIAL PROVISIONS

- 78 FR 78589 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards “Cost Principles”
- 78 FR 78589 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards “Administrative Requirements”



- 24 CFR 570.503 - Grant Administration Requirements for Use of Escrow Accounts for Property Rehabilitation Loans and Grants
- 24 CFR 570.488 to 570.499a - States Program: State Administration of CDBG Nonentitlement Funds
- Community Development Law, NEB. REV. STAT. 18-2101 to 18-2144 (R.S. Supp. 1982)
- Public Meetings Law, NEB. REV. STAT. 18-1401 to 18-1407 (R.R.S. 1943)
- 24 CFR Subtitle A (4-1-98 Edition) – 85 Administrative requirements for grants and cooperative agreements to State, local and federally recognized Indian tribal governments

MISCELLANEOUS.

- Hatch Act of 1938, As Amended (5 U.S.C. 1501, et. seq.)

XIV. PROGRAM MARKETING

Pre-applications indicating homeowner interest were received prior to award of the program. All pre-applicants will be contacted and will be targeted for project funding with an application “round” deadline. If additional funding is available after the first “round” of applications received, the City will provide marketing and promotional materials to news outlets (newspaper, and websites) within the City of Fairbury. The materials will include program summary, how to obtain application forms, “round” deadlines, and contact information. The City will provide program materials to local organizations that represent or provide services to lower income persons/families in order to reach those persons most likely with need, but least likely to apply.

XV. PRE-QUALIFIED CONTRACTORS LIST

The City will utilize a pre-qualified list of contractors maintained by the Southeast Nebraska Development District, who are available to conduct Housing Rehabilitation for projects that are awarded minor rehabilitation conditional grants. The program will be promoted directly to local contractors who are eligible to be added to the pre-qualified list of contractors. Promotion to contractors may include but is not limited to contractor training, ads in the local newspapers, word of mouth, flyers and brochures requesting contractor assistance for the program. Pre-qualification requirements include submittal of the following documents to the Official Program Contact (SEND):

1. Proof of liability insurance;
2. Lead safe work practices training;
3. Completion of the Contractor’s Application (Proof of Responsibility);
4. Proof of State Licensure; and
5. Proof of SAM certification.

XVI. UNDERWRITING CRITERIA

The City will conduct underwriting on all program applicants whose income falls into financing category that require a direct 0% loan to ensure that no more than 30% of the homeowners’ verified income will be used to pay for the cost of housing (also referred to as the 30% rule). Program recipients that meet the “Deferred Loan” and “Conditional Grant” category of assistance will not be subject to the underwriting criteria for the “30% rule” as their grant/deferred loan is forgiven after time and paid back only through “Net Proceeds” when the grant recipient does not comply with the affordability period described above in Section IV - Types of Assistance.



Housing costs for purposes of this Owner Occupied Housing Rehabilitation program include payments toward the homebuyer/homeowner's:

1. Mortgage;
2. Mortgage insurance; and
3. Any housing rehabilitation loan.

Underwriting review to ensure not more than 30% of income is paid toward housing costs as defined in these program guidelines will be conducted by the housing manager, approved by the Housing Advisory Committee, and notated in the client file.

XVII. SUBORDINATION AND REFINANCE

Subordination

Future refinancing, home equity loans and all future liens will be handled on a case by case basis. Any subordination must fall within the guidelines outlined below before any subordination of the second, third, fourth, or fifth line will be considered:

Refinancing with No Cash-Out

A refinance with no cash-out is the situation when a homeowner wishes to refinance their existing first mortgage which may include refinance fees only. This type of subordination may be approved by all secondary lien holders.

Refinancing with Cash-Out

A refinance with cash-out is a situation where the homeowner refinances their existing mortgage and desires to consolidate other outstanding debt or obtain extra funds (cash) to spend on other items. This type of subordination may be approved by all secondary lien holders only if the combined Loan-to-Value of all items is at or below 87.5% of the value of the subject property.

Obtain an Equity/Home Improvement Loan

This scenario is when a homeowner wants to obtain an Equity Loan or Home Improvement Loan and the lender desires to file their lien in second (2nd) position. The type of subordination may be approved by all secondary lien holders only if the combined Loan-to-Value of all liens is at or below 87.5% of the value of the subject property.

APPLICATION RATING AND SELECTION

All applications received during a "round" will be reviewed together and rated on the priority rating scale below. In cases in which this rating yields equivalent scores, priority will be determined in accord with "first ready, first served." Applicants not selected in one round will be automatically considered in subsequent rounds and will be notified, in writing, of such action. Households with applications not funded will be notified in writing that they were unsuccessful in obtaining program funds for the repairs of their home.

Applicants will be rated and selected by Program Management Staff with review and approval by the Advisory Committee.

INCOME and FINANCING CATEGORY

1. Applicant's annual gross income meets Very Low Income threshold.....30
2. Applicant's annual gross income meets Low Income threshold.....20
3. Applicant's annual gross income meets Moderate Income threshold.....10



Income guidelines are based on Department of Housing and Urban Development (HUD) Housing Assistance programs as approved by the Nebraska Department of Economic Development (DED). Limits may be updated annually as they are received from HUD and approved by DED. (Income levels will be verified according to 24 CFR Part 5.)

Financing Categories

1. **Conditional Grant:** (at or below 100% Area Median Family Income)
 100% of project amount is a Conditional Grant and is forgiven if the homeowner personally and at all times occupies and lives in the rehabilitated structure as a “principal residence” for a period of **five (5) years** or sixty (60) months after the completion of the rehabilitation work.

In the event that the owner shall move, rent, sell, transfer or otherwise not occupy said property for the required five (5) year period, the Program shall be reimbursed at the monthly pro-rata rate for the sixty (60) month period. Recapture provisions are utilized, then the amount recaptured cannot exceed the net proceeds. Net proceeds are the sales price minus superior loan repayment (other than CDBG, HOME or NAHTF funds) and any closing costs.

HOUSEHOLD CHARACTERISTICS

- | | | |
|----|---|----|
| 1. | Head of household 62 years of age or older..... | 10 |
| 2. | Handicapped/disabled applicant..... | 5 |

IMPACT OF ASSISTANCE

- | | | |
|----|--|---|
| 1. | Eliminate housing overcrowding (over 5 persons)..... | 5 |
| 2. | Substantial weatherization and energy conservation improvements..... | 5 |

MAXIMUM TOTAL SCORE**.....	55
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If the property has a current lien, deed of trust, note or other loan/grant security instrument from any previous housing rehabilitation program, the property is ineligible for assistance.



Lead-Based Paint Procedures

The **City of Fairbury** (the City) will work closely with SENDD staff to keep abreast of HUD's lead-based paint regulations. Following is a summary of SENDD's efforts to disseminate information to contractors, paint inspectors and risk assessors:

- **Contractors:** The Housing Rehabilitation Program will consider bids from general contractors who have either successfully completed the HUD Sponsored "Lead-Safe Practice Training Course," or from contractors who have agreed to attend/complete the training, especially on projects where lead-based paint situations are found.
- **Risk Assessors:** SENDD staff members have successfully completed the necessary coursework and training and are Certified Paint Inspector and Risk Assessors. The City will utilize the services of SENDD, or other certified Paint Inspectors and Risk Assessors to perform lead-based paint inspections, risk assessments and clearance examinations.

All homes built before 1978 that are rehabilitated through this Program will be presumed to have lead-based paint.

All contractors that are awarded a CDBG contract must have received training in a HUD-sponsored/approved lead-safe work practices training course.

All work practices will be performed by the Contractor, in compliance with training received through a HUD approved lead-safe work practices training course.

A clearance examination will be conducted by a licensed Risk Assessor when the project is completed. The first clearance examination will be paid for by the Program. If the property does not pass the first clearance examination due to the contractor not cleaning properly, the cost of the second, and any subsequent clearance testing, will be paid for by the Contractor directly to SENDD until all areas pass.

Under certain conditions, homes may have a Paint/Risk Assessment Report completed by a licensed Risk Assessor. In such cases, areas of the property identified as having a lead hazard in the Paint/Risk Assessment Report will be labeled in the work write-up by numerical XRF readings that were conducted on the property.

REHABILITATION PROCEDURES

1. **Program Operations:** The City will follow all applicable rules and regulations to ensure that the lead-based paint issues are addressed on housing units that receive financial assistance. The City will work with the housing program manager and contractors in notifying clients of lead-based paint requirements.
2. **Client Outreach and Intake:** Each potential homebuyer will be notified as to the dangers of lead-based paint, where lead-based paint can be found, measures to protect/reduce lead hazards, and safety measures to undertake should the unit be rehabilitated. Each homeowner will sign the federal notification form "Watch Out for Lead-based Painting Poison" acknowledging that they have received



the pamphlet entitled “Protect Your Family from Lead in Your Home” and receive basic instructions as to its contents.

3. **Specifications and Feasibility:** Homeowners participating in the program will be limited in financial assistance. Therefore, each applicant’s housing unit will be reviewed on a case-by-case basis to determine the feasibility of addressing lead-based paint issues.
4. **Bidding and Contracts:** The program will consider bids from general contractors who have either successfully completed the HUD sponsored “Lead-Safe Practice Training Course”, or from contractors who have agreed to attend/complete the workshop. Prior to bid submittal, interested contractors must provide either:
 - A certificate showing their company has received and successfully passed a HUD sponsored lead-based paint training course; or,
 - Provide proof of registration to attend a HUD sponsored lead-based paint training course. This proof will include, but not be limited to, a copy of the completed registration form and receipt of payment. Upon completion of the course, the contractor must provide a certificate that they have successfully completed the training.
5. **Construction Monitoring:** Upon contract award, the contractor will be reminded that while he/she is addressing lead-based paint issues on the interior/exterior of the house, they must conform to all practices and construction applications that are stated in the work write-up, specifications and training that they have received in the HUD sponsored training course “Lead-Safe Work Practices Training”. Monitoring of the contractor’s work and corrective measures will be completed at appropriate intervals during the construction phase, and a wipe test will be completed by a certified Risk Assessor at the completion of construction activities. A clearance report must be issued prior to the City approving final payment to the contractor.
6. **Warranty and Evaluation:** At the time of the final inspection, a wipe test will be performed by a certified Risk Assessor to ensure that levels of lead-based paint meet state and federal regulations, or if the contractor would need to re-clean and reschedule another clearance test.



FAIRBURY, NEBRASKA
CITYWIDE HOUSING REHABILITATION PROGRAM
PROGRAM INCOME REUSE PLAN
Adopted by City Council with Program Guidelines 7/1/13

The City of Fairbury wishes to retain program income funds and reuse those funds for additional housing related activities and agrees to comply with the following NDED provisions:

- 1) The Grantee will use program income directly generated from the use of HOME or NAHTF funds to further affordable housing programs eligible under the Nebraska Affordable Housing Act.
- 2) Program Income funds are those funds returned to the Grantee during the Affordability Period when the property is sold or is no longer the initial and subsequent homebuyer's principal residence.
- 3) Program Income funds must be utilized for the current Project if the current Project has not been completed. This program income received must be applied to the current Project prior to requesting additional HOME or NAHTF funds.
- 4) The Grantee understands that if program income is utilized for another housing related activity, other than for the same activity from the Project which generated the program income, then the Grantee will be responsible for developing and utilizing new Program Guidelines for the new eligible activity.
- 5) Up to 10% of program income may be utilized for General Administration expenses.
- 6) If resale provisions are utilized for the Project, and program income is received, then the subsequent purchasers of each unit will be eligible homebuyers and the original homebuyer will receive a fair a return on investment.
- 7) If recapture provisions are utilized, the Project and program income is received, then the amount recaptured cannot exceed the net proceeds. Net proceeds are the sales price minus superior loan repayment (other than NAHP funds) and any closing costs.
- 8) All program income will be returned to DED for reuse unless DED offers the option to the Grantee to retain the program income or DED approves the grantee's Program Income Reuse Plan prior to receiving Release of Funds.

Housing Program Guidelines

The City has adopted Housing Program Guidelines that will be used through the AHP project period and after the grant period expires, which will be followed for reuse of any program income funds received.

The owner shall personally and at all times occupy and live in the rehabilitated structure as a "principal residence" for a period of **five (5) years** or sixty (60) months after the completion of the rehabilitation work. In the event that the owner shall move, rent, sell, transfer or otherwise not occupy said property for the required five (5) year period, the Program shall be reimbursed at the monthly pro-rata rate for the sixty (60) month period. Recapture provisions are utilized, then the amount recaptured cannot exceed the net proceeds. Net proceeds are the sales price minus superior loan repayment (other than CDBG, HOME or NAHTF funds) and any closing costs. A closing statement from the sale of the subject property will need to be obtained and included within the project files.

Household Income

Under this plan the City certifies that only those applicants, whose annual gross household income is less than the moderate income limits as established for the County by the Department of Housing and Urban Development under the Section 8 Housing and Assistance Payments Program shall be eligible for financial assistance. The income levels may be adjusted as they are adjusted and approved by H.U.D. Annual Gross Household Income will be reviewed according to 24 CFR 5.609.



Federal Compliance

The Housing Program will comply with the administrative requirements of the grant program, those applicable items in the 1995 Consolidated Plan, Title I of the Housing and Community Development Act of 1974, Public Law 93-383, as amended, and 24 CFR Part 570 (including parts not specifically cited below), and the following laws, regulations and requirements, both federal and state, as the pertain to the design, implementation and administration of the local project, if approved:

CIVIL RIGHTS AND EQUAL OPPORTUNITY PROVISIONS

- Public Law 88-352, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d), et. seq.) (24 CFR Part 1)
- Section 109 of the Housing and Community Development Act of 1974, As Amended
- Age-Discrimination Act of 1975, As Amended (42 U.S.C. 6101, et. seq.)
- Section 504 of the Rehabilitation Act of 1973, As Amended (29 U.S.C. 794) and the Americans with Disability Act
- Executive Order 11246, As Amended
- Executive Order 11063, As Amended by Executive Order 12259 (24 CFR Part 107)

ENVIRONMENTAL STANDARDS AND PROVISIONS

- Section 104(f) of the Housing and Community Development Act of 1974, As Amended
- Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831) and the Implementing Regulations found at 24 CFR Part 35
- The National Environmental Policy Act of 1969 (42 U.S.C. Section 4321, et. seq., and 24 CFR Part 58)
- The Clean Air Act, As Amended (42 U.S.C. 7401, et. seq.)
- Farmland Protection Policy Act of 1981, (U.S.C. 4201, et. seq.)
- The Endangered Species Act of 1973, As Amended (16 U.S.C. 1531, et. seq.)
- The Reservoir Salvage Act of 1960 (16 U.S.C. 469, et. seq.), Section 3 (16 U.S.C. 469 a-1), As Amended by the Archaeological and Historic Preservation Act of 1974
- The Safe Drinking Water Act of 1974 [42 U.S.C. Section 201, 300(f), et. seq., and U.S.C. Section 349 as Amended, particularly Section 1424(e) (42 U.S.C. Section 300H-303(e)]
- The Federal Water Pollution Control Act of 1972, As Amended, including the Clean Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et. seq.)
- The Solid Waste Disposal Act, As Amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et. seq.)
- The Fish and Wildlife Coordination Act of 1958, As Amended, (16 U.S.C. Section 661, et. seq.)
- EPA List of Violating Facilities
- HUD Environmental Standards (24 CFR, Part 51, Environmental Criteria and Standards and 44 F.R. 40860-40866, July 12, 1979)
- The Wild and Scenic Rivers Act of 1968, As Amended (16 U.S.C. 1271, et. seq.)
- Flood Insurance
- Executive Order 11988, May 24, 1978: Floodplain Management (42 F.R. 26951, et. seq.)
- Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961, et. seq.)
- Environmental Protection Act, NEB. REV. STAT. 81-1501 to 81-1532 (R.R.S. 1943)
- Historic Preservation



LABOR STANDARDS AND PROVISIONS

- Section 110 of the Housing and Community Development Act of 1974, As Amended
- Fair Labor Standards Act of 1938, As Amended, (29 U.S.C. 102, et. seq.)
- Davis-Bacon Act, As Amended (40 U.S.C. 276-a - 276a-5); and Section 2; of the June 13, 1934 Act., As Amended (48 Stat. 948.40 U.S.C. 276(c), popularly known as The Copeland Act
- Contract Work Hours and Safety Standards Act (40 U.S.C. 327, et. seq.)
- Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701(u)]

FAIR HOUSING STANDARDS AND PROVISIONS

- Section 104(a)(2) of the Housing and Community Development Act of 1974, As Amended
- Public Law 90-284, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601, et. seq.). As Amended by the Fair Housing Amendments Act of 1988
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, As Amended (42 U.S.C. 4630) and the Implementing Regulations Found at 49 CFR Part 24
- Relocation Assistance Act, NEB. REV. STAT. 76-1214 to 76-1242 (R.S. Supp. 1989)
- Nebraska Civil Rights Act of 1969 20-105 to 20-125, 48-1102 and 48-1116 Uniform Procedures for Acquiring Private Property for Public Use, NEB. REV. STAT. 25-2501 to 25-2506 (R.R.S. 1943)

ADMINISTRATIVE AND FINANCIAL PROVISIONS

- 78 FR 78589 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards “Cost Principles”
- 78 FR 78589 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards “Administrative Requirements”
- 24 CFR 570.503 - Grant Administration Requirements for Use of Escrow Accounts for Property Rehabilitation Loans and Grants
- 24 CFR 570.488 to 570.499a - States Program: State Administration of CDBG Nonentitlement Funds
- Community Development Law, NEB. REV. STAT. 18-2101 to 18-2144 (R.S. Supp. 1982)
- Public Meetings Law, NEB. REV. STAT. 18-1401 to 18-1407 (R.R.S. 1943)
- 24 CFR Subtitle A (4-1-98 Edition) – 85 Administrative requirements for grants and cooperative agreements to State, local and federally recognized Indian tribal governments

MISCELLANEOUS.

- Hatch Act of 1938, As Amended (5 U.S.C. 1501, et. seq.)

Financial Management

The City will use its existing financial management system and will create a separate "Housing Program Income Reuse Fund" to track payments received and disbursed.

