



Office of the City Manager

CONSENT CALENDAR

October 9, 2007

To: Honorable Mayor and
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Renelda Mary, Interim Housing Director

Subject: Audit: Seniors and Disabled Home Rehabilitation Loan Program Guidelines

RECOMMENDATION

Adopt a Resolution amending Resolution 55,664-N.S. to revise program guidelines for the Seniors and Disabled Home Rehabilitation Loan Program.

SUMMARY

The City Auditor's Office conducted an audit of the Seniors and Disabled Home Rehabilitation Loan Program. The objective of this audit was to determine whether the Housing Department's Seniors and Disabled Home Rehabilitation Program (SDHRLP) is in compliance with the program guidelines, the Department of Housing and Urban Development (HUD) Community Development Block Grants (CDBG) requirements, the California Department of Housing and Community Development (HCD) CalHome funding requirements, and if the loan program has an adequate internal control structure. The Auditor's report was submitted to the City Council on May 23, 2006.

Based on the results of the audit, the City Auditor's Office concluded that the SDHRLP serves its purpose of assisting senior and disabled Berkeley homeowners to perform necessary repairs to their home and to allow them to have a healthier and safer place to live. However, the City Auditor's Office recommends in order for the program to improve, the existing program guidelines must be updated.

The attached updated guidelines will cover or clarify policies on timeliness standards, relocation expenses, loan limit amount, loan write-offs, reimbursable expenses, and conditions under which a repayment is required. The guidelines also include procedures for assisting homeowners to secure bids, oversight of loan activities accounting, procedures for reviewing and monitoring rehabilitation projects, and documentation of final inspections.

The Seniors and Disabled Home Rehabilitation Loan Program (SDHRLP) provides rehabilitation loans for low-income seniors and disabled Berkeley homeowners. These loans provide the funds to assist these homeowners in making needed repairs that

would otherwise pose a threat to personal health and safety. The enhanced program guidelines will increase program consistency and will minimize delay of the project.

The need for the SDHRLP is apparent as Berkeley's population continues to age. In order for many low-income seniors and disabled homeowners to remain in their homes, their homes must be restored to meet the Housing Code, upgraded, or oftentimes modified for accessibility. Since the homes are owned outright in many cases, allowing the owner to remain in the home provides for very affordable housing.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The following provides an update on the implementation of recommendations since the audit report in May 2006. The Housing Department has also updated the Program Guidelines, related to implementation, and written procedures mentioned in these recommendations (Attachment 1). This report recommends that Council adopt these Program Guidelines.

FINDING 1

Program guidelines either have no guidance or unclear guidance on loan process time, loan limit for previously assisted properties, relocation expenses, loan write-off, reimbursement to homeowners, and conditions under which a repayment is required.

Auditor's Recommendation 1.1: Establish general guidelines for timeliness of loan process. Establish standard timeline as performance measure for key tasks that the City is responsible for. Extraordinary delays should be explained and documented in the loan file. Management should periodically review the performance measures to ensure program objectives are met and actions are taken to avoid unnecessary delays.

Department Response: Completed. Written program procedures were updated to incorporate this recommendation, and staff is now implementing it. Extraordinary delays are documented and included in the loan file. The Housing Department will review performance measures periodically to ensure program objectives are met and will take steps necessary to avoid loan-processing delays.

Auditor's Recommendation 1.2: Clearly define in the Program Guidelines total loan amounts that a property owner may obtain so that benefits may be distributed consistently and equitably.

Department Response: Completed. The Program Guidelines were updated to make clear that there is a total maximum loan limit that property owner can obtain under the Program, which is currently \$70,000.

Auditor's Recommendation 1.3: Clearly define in writing a policy on relocation expenses or refer to similar adopted policy so that benefits can be distributed consistently.

Department Response: Completed. Written procedures for relocation were added in the Program Guidelines to clearly define procedures and policy on relocation expenses.

Auditor's Recommendation 1.4: Establish clearly written policy on writing off uncollectible loans so that write-offs are properly documented and approved, and timely recorded.

Department Response: Completed. Written policy and procedures for writing off uncollectible loans were included in the Program Guidelines so that approval and timely recording of loan write-offs are properly documented.

Auditor's Recommendation 1.5: Establish clearly written policy on reimbursement of expenses paid by loan applicants or their family members. Establish dollar limits for labor cost reimbursement. Generally, costs incurred for repairs should be paid directly to the contractor instead of to the homeowner.

Department Response: Completed. Written policy and procedures for reimbursement to the homeowner or to their family members and the dollar limitations are included in the Program Guidelines to adhere to this recommendation.

Auditor's Recommendation 1.6: Clarify in the program guidelines whether a repayment is required when the property ceases to be occupied by the borrower/s and is occupied by a non-qualified co-owner.

Department Response: Completed. The Program Guidelines were updated to incorporate this recommendation.

FINDING 2

The method staff used to verify income eligibility was not formalized or clearly documented.

Auditor's Recommendation 2.1: Revise the application form to include a section for listing household members and their income sources so that the information can be verified if needed.

Department Response: Completed. The Housing Department has revised the loan application to include a section for all household members and their incomes. This has been implemented in July 2006.

Auditor's Recommendation 2.2: Establish consistent written procedures or requirements for verifying income sources. In addition, establish criteria for verifying

non-filing status by obtaining the borrower's transcript of tax return from Internal Revenue Service.

Department Response: Completed and implemented. The Housing Department updated the Program Guidelines to include procedures for clearly verifying applicant income sources. Beginning July 2006, those applicants who do not file a tax return are required to complete an IRS form 4506-T to verify non-filing status to the Internal Revenue Service.

FINDING 3

The procedures for assisting homeowners with the solicitation of contractor bids were not standardized.

Auditor's Recommendation 3.1: Bids submitted by the contractors should be sealed and mailed/delivered directly to the program coordinator or the supervising inspector, instead of to the inspector.

Department Response: Implemented. The Housing Department has implemented procedures requiring all bids submitted to be sent to the Program Coordinator to open, review, and record with the housing supervisor or one of the rental housing safety inspectors.

Auditor's Recommendation 3.2: Formalize written procedures to assist homeowners to secure bids. The procedures should stipulate:

- i. The process for identifying interested bidders.
- ii. The minimum number of bid invitations.
- iii. The minimum number of bids to be secured and the dollar threshold for such requirement.
- iv. The process for submitting bids, opening bids, and presenting bid results to homeowners.

Department Response: Implemented. The Housing Department has updated the Program Guidelines and implemented the following written procedures when securing bids:

- i. A minimum of six contractors are selected by the applicant from the City's list of qualified contractors and/or the contractor of the applicant's choosing who meets the City's qualifications
- ii. A minimum of six contractors are notified and invited to attend the bid walk.
- iii. A minimum of three bids should be submitted, but two will be acceptable if the client agrees to accept two bids.
- iv. Clients are notified of the bid date and have the option to attend. Clients must notify the program coordinator if they intend to be present at the opening. Otherwise, they will receive the results by mail or fax.

FINDING 4

Two out of four homeowners contacted indicated that the City selected a contractor for them.

Auditor's Recommendation 4: Update the program guidelines to document that staff must clearly explain to the homeowners that they are responsible for selecting a contractor.

Department Response: Implemented. The Housing Department has updated its Program Guidelines to include this recommendation, and staff clearly explains this responsibility to each homeowner.

FINDING 5

There was inadequate supervisory review over the accounting for loan activities.

Auditor's Recommendation 5.1: All journal entries to record loan activities should be reviewed and approved by a supervisor. Also, the review approval should be documented.

Department Response: Implemented. The Housing Department has implemented this recommendation since November 2005. Written procedures to record loan activities are also included in the Program Guidelines.

Auditor's Recommendation 5.2: The accountant provides a loan activity report on a quarterly basis to the program coordinator. The program coordinator should review the report for timely recording of loan activities. Evidence of this review should be documented.

Department Response: Implemented. The Housing Department has implemented this recommendation since April 2006. The Program Guidelines were updated to include this recommendation.

FINDING 6

The City has no on-going procedures in place to verify whether a borrower continues to reside in the property. The City was not aware that the titles of these properties were transferred.

Auditor's Recommendation 6.1: Follow up on the three properties identified during this audit to verify if the title has been transferred, and if the property continues to be occupied by the borrower. Pursue a repayment if appropriate.

Department Response: Implemented. The daughter who was appointed conservator of the estate of the borrower on the first property paid the City loan in full in March 2007. The title on the second property was transferred back to the borrower's name. Title

transfer was verified at the County records and documents were included in the loan file for confirmation.

The borrower on the third property passed away. Upon her death, title of the property was transferred solely to her son as the surviving joint tenant. The Housing Department has drafted a letter offering the titleholder the ability to assume the loan subject to its terms and conditions. If he declines to assume the loan, then it will be considered due and payable immediately.

Auditor's Recommendation 6.2: Require homeowners to certify occupancy every five years. This requirement should be stipulated in the program guidelines.

Department Response: Implemented. The Program Guidelines were updated to include homeowner certification of occupancy every five years. Staff will utilize home site visit and county records to confirm if the homeowner still occupies the property as his/her primary residence.

FINDING 7

(a) Supervisory reviews and inspections were not documented. (b) Supervisory reviews were performed after project completion, instead of before a project started.

Auditor's Recommendation 7.1: The supervising inspector should also review the final work write-up prior to bid solicitation to ensure:

- a) The scope of repairs is clearly stated and specifications are sufficiently detailed to form a basis for obtaining bids from contractors.
- b) The repairs are necessary to correct threats to the health and safety of the occupants or to bring the property into code compliance.
- c) The cost estimates are reasonable.

Department Response: Implemented. The housing inspector uses the inspection checklist and notes to prepare the scope of work and cost estimate. The supervising inspector, or one of the rental housing safety inspectors working under his supervision, reviews and approves the final work write-up prior to bid solicitation to ensure that the above Auditor's recommendations are being followed. This procedure has been included in the updated Program Guidelines.

Auditor's Recommendation 7.2: Document supervisor reviews and final inspections in the loan file. A punch list may be included to reflect unfinished jobs or issues that are to be resolved. After all work, including items in the punch list, is satisfactorily completed, the written final inspection should be signed by the contractor, the inspector, the supervising inspector, and the homeowner, and retained in the loan file.

Department Response: Implemented. Aside from a punch list document, a final inspection document is now being utilized by the housing inspector and supervising

inspector to document final inspections of a project. The loan file checklist has been expanded to make sure the final inspection document is executed and is in the loan file. These procedures are also included in the updated Program Guidelines.

Auditor's Recommendation 7.3: We further recommend the use of an evaluation form to document each homeowner's opinion about the contractors they used. Based on the review of the evaluation, the supervisor should assess whether there are indications of improperly awarded contracts. Frequent dissatisfaction expressed with the same contractor should be investigated.

Department Response: Implemented. When the project is completed, the housing inspector meets with the homeowner to perform an exit interview. An evaluation form is being used to appraise the program and the contractor performance. The evaluation will also allow staff to understand and improve the level of service for future participants. This procedure has been included in the updated Program Guidelines.

FINDING 8

For each loan, there was no formal loan agreement between the homeowner and the City governing the rehabilitation and loan terms.

Auditor's Recommendation 8: Work with the City Attorney's Office to develop a boilerplate loan agreement and a standard express approval process for the SDHRLP contracts. Loan agreements should be blue backed and executed in accordance with the City's contract policies.

Department Response: Implemented. A rehabilitation loan agreement boilerplate was developed by staff in consultation with the City Attorney's Office to comply with the City's contract policies, CalHome and CDBG program regulations. This formal loan agreement will be utilized under the Program in addition to the promissory note and deed of trust that are currently being used.

FINDING 9

The service agreement with the United States Escrow, Inc. (Now AmeriNational Community Services- the escrow company used for loan disbursement services) does not correctly reflect services currently received.

Auditor's Recommendation 9: Execute a new service contract with AmeriNational. The scope of services should be reviewed and updated to reflect the City needs.

Department Response: Implemented. A new service agreement with AmeriNational Community Services was executed on July 12, 2007 with an updated scope of services.

FINDING 10

Conditional and unconditional lien waivers were not obtained.

Auditor's Recommendation 10: Update program procedures requiring that lien waivers be obtained from the prime contractor and subcontractors before or after each payment where appropriate.

Department Response: Implemented since May 2006. Lien waivers executed by the prime contractor are being required before the final payment is released. Lien waiver item has been added to the existing loan file checklist to make sure a lien waiver is received and will be retained in the loan file. Procedure for obtaining the lien waivers from contractors is also included in updated Program Guidelines.

FINDING 11

Some loan documents were missing.

Auditor's Recommendation 11: Add "Notice to Proceed" to the existing loan file checklist to help ensure this document is received, properly completed, and retained in the loan files.

Department Response: Implemented on July 1, 2006. Existing loan file checklist was expanded to include "Notice to Proceed" item to make sure this document is completed and retained in the loan files.

FINDING 12

Documented safety inspections were not conducted periodically in accordance with the City's Injury and Illness Prevention Plan (IIPP).

Auditor's Recommendation 12: Management of the Housing Department should work with the IIPP Program Administrator to ensure appropriate training is given to the designated staff so that safety inspections can be properly conducted and documented in accordance with the City's IIPP over the Housing areas and identified unsafe conditions can be corrected in a timely manner.

Department Response: Implemented. Housing Department Area Safety Coordinator attended training in September 2006 given by Human Resources Department regarding Emergency Action and Fire Prevention Plan. The workshop included conducting periodic workplace safety inspections, documenting finding, and ensuring that each department has an emergency action plan in place. They executed their training as part of the Citywide fire drill in October 2006. In addition, in order to promote awareness and understanding of possible hazards at work and ways to counteract them, in June 2007, the Housing Department distributed the updated IIPP guidelines to all housing staff. The Housing Department Area Safety Coordinator also periodically inspects cubicles to eliminate potential airborne projectiles from cabinet tops.

BACKGROUND

In 1990, the Berkeley City Council established the Seniors Home Rehabilitation Loan Program as part of its strategy of preserving the City's housing stock by providing low cost loans to very low-income seniors so they could undertake much-needed repairs to their homes. The initial loan limit was \$10,000. In 1994, the program was amended to include non-elderly, low-income disabled homeowners. This amendment allowed the program to pay for the costs associated with retrofitting homes to provide the physical features and access dimensions needed by people with mobility and self care limitations.

Given the age of housing stock in the City, the rising costs of construction, and the requirement for the removal of lead-based paint by qualified contractors, in 2003 the City of Berkeley increased the loan funds available to each homeowner to \$70,000.

Funds for these rehabilitation loans come from HUD's CDBG program and the State of California's CalHome funds, and are provided at zero percent interest. The term for the CalHome loan is 30 years. The borrowers have the option to pay off the loan in equal monthly installments over a thirty-year period or less and no prepayment penalty for an early pay off is imposed. The loan is also payable upon the sale or transfer of the property or when the eligible homeowner ceases to occupy the property.

RATIONALE FOR RECOMMENDATION

The updated written Program Guidelines will be incorporated as routine tools to enhance program consistency, improve program accountability, and minimize delays in completing the projects.

CONTACT PERSON

Ener N. Cueva, Associate Management Analyst, Housing Department, 981-5433

Attachments:

1: Resolution

Exhibit A: Seniors and Disabled Home Rehabilitation Loan Program Guidelines

RESOLUTION NO. ##,###-N.S.

AMENDING RESOLUTION 55,664-N.S. TO AMEND GUIDELINES FOR SENIORS
AND DISABLED HOME REHABILITATION LOAN PROGRAM (SDHRLP)

WHEREAS, on November 27, 1990, the City Council adopted Resolution No. 55,664–N.S. establishing a home rehabilitation loan program for very low income senior homeowners residing in the City of Berkeley; and

WHEREAS, on May 24, 1994, the City Council adopted Resolution No. 57,486–N.S. amending Resolution No. 55,664–N.S. which established the Seniors Home Rehabilitation Loan Program, to allow non-elderly disabled homeowners who meet the program guidelines to be eligible for rehabilitation loan; and

WHEREAS, the City Council continues to support housing rehabilitation loans for seniors and disabled homeowners in the City; and

WHEREAS, due to the rising costs of construction, on December 14, 2004 the City Council adopted Resolution No. 62,749–N.S. amending Resolution No. 62,192–N.S. to increase the Program’s maximum loan amount to \$70,000 and to allow the loan to be funded through CDBG or CalHome funds or combination of both or any other future funds designated for the program.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley to rescind Resolution No. 60,374–N.S. adopted by City Council on January 11, 2000 to adopt revised guidelines for the SDHRLP; and

BE IT FURTHER RESOLVED by the Council of the City of Berkeley to adopt the Seniors and Disabled Home Rehabilitation Program Guidelines attached hereto and incorporated herein as Exhibit A.

**PROGRAM GUIDELINES
Seniors And Disabled Home Rehabilitation Loan Program**

1. Purpose

The purpose of the Seniors and Disabled Home Rehabilitation Loan Program (“Program”) is to assist very low-income senior and disabled homeowners perform necessary repairs on their homes and to provide information about other available forms of housing assistance.

2. Eligibility for Assistance

A. Property

1. The building to be rehabilitated shall be located within the City of Berkeley.
2. The property shall contain no more than two residential units. Only the residential unit occupied by the senior or disabled homeowner is eligible to receive assistance. Rehabilitation funds for common areas shall be prorated based on the owner’s unit as a percent of total square footage.
3. If the property is owned by more than one person, all legal owners must execute the loan documents.

B. Applicant

1. The Applicant shall reside in the property to be assisted as his/her primary residence.
2. The Applicant shall hold title to the property to be assisted or the title must be in held in trust whose sole beneficiary is the Applicant.
3. The Applicant shall be a minimum of 62 (sixty two) years of age or disabled. A person is considered to have a disability if he/she has a mental, physical, or developmental disability which is (a) severe and chronic that is likely to continue indefinitely; (b) results in substantial functional limitations in two or more of the following areas of major life activity: (i) self care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and (c) reflects the person’s need for a combination and sequence of special, interdisciplinary or generic care, treatment, or other services which are of lifelong or of extended duration and are individually planned and coordinated.

4. The Applicant household shall be very low income as defined by the U.S. Department of Housing and Urban Development pursuant to 24 CFR 5.609 and shall have insufficient equity apart from any equity in the residential unit to be rehabilitated to readily generate the capital needed for the rehabilitation work. Verification of income is required for all adult household members even if they have no ownership interest. A household means all the persons who occupy a housing unit. The household may be single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

The following supporting documentation must be obtained in order to verify income:

- a. Paycheck stubs for the one-month period preceding the loan application date for each employed adult.
 - b. Most recent completed federal tax returns including relevant W-2 (or similar forms) and all related schedules.
 - c. Most recent TANF, SSI or Social Security check stub (or verification of direct deposit) or latest authorizing letter.
 - d. Those Applicants who do not file a tax return must complete an IRS form 4506-T to verify non-filing status.
 - e. A copy of the Applicant's credit report.
5. No employee or near relative of an employee who exercises any function or responsibility in connection with the policies or administration of the Program is eligible for assistance.

3. Debt Ratios and Credit Worthiness

The City of Berkeley will allow a higher income and expense ratio of ninety percent which is more than the industry standard of forty percent as the Program is designed for low-income senior and disabled households who must allocate higher percentage of their income to housing and other debts. However, the City will check all outstanding balances on loans against the information provided on the loan application. Any discrepancies should be noted and the Applicant will be questioned as to the accuracy of the information provided. The presence of other liens and judgments on the title of the residential unit to be assisted will be verified and the Applicant must provide a written explanation of the circumstances.

4. Eligible Repairs and Reimbursement

A. The eligible repairs funded through the Program are the following:

1. To correct threats to the health and safety of the occupants and be necessary to bring the property into code compliance. This may include reconstruction, room additions to prevent overcrowding, seismic retrofitting or lead paint abatement; or
2. For loans made with CDBG funds only, to make the residential unit accessible to a disabled homeowner; or
3. For loans made with CDBG funds only, to make the residential unit environmentally safe for homeowners with chemically related disabilities.

B. The owner shall have the choice of which repairs he/she wishes to undertake.

C. The minimum loan shall be \$1,000. The maximum loan limit shall be \$70,000. Borrowers who previously received assistance under the Program, but find themselves in need of additional repair, may apply for an additional loan not to exceed the total loan limit of \$70,000 when all loans are combined.

D. Direct homeowner reimbursement will be permitted on a limited basis with a maximum reimbursement amount of \$3,000. All direct homeowner reimbursement must be pre-approved by a City Housing Inspector. The original invoices or receipts for materials and labor must accompany any direct reimbursement to homeowner.

5. Appraisals

A. The City of Berkeley does not secure an appraisal on every property assisted. With the high property values and low loan amounts, the loan-to-value ratio is usually small. Based on the data obtained from 2006 Alameda Assessor's Records, the median sales price for single-family homes in Berkeley is about \$750,000 and the median sales price for condominiums in Berkeley is about \$494,000. However, when CalHome funds are to be used in the project, the applicant shall be required to submit an appraisal prior to loan approval as follows:

1. An appraisal can be prepared by using the sales of comparable properties to determine the value using the Real Quest program.
2. If comparable sales are not available, a State-licensed residential appraiser shall prepare the appraisal.

3. The appraisal shall take into consideration the estimated value of the rehabilitation work to be completed on the property.

6. Terms of the Loan and Financial Assistance

- A. Financial assistance from the CDBG and CalHome loans shall be in the form of a deferred payment loan. The term for a loan utilizing CalHome funds shall be 30 years. A loan utilizing CDBG funds is payable upon sale or transfer of the title of the property. The Applicant has the option to pay off the loan in equal monthly installments over a thirty-year period or less and no prepayment penalty for an early pay off shall be imposed.

If it is determined by City staff that repayment of the CalHome loan at the maturity date causes a financial hardship to the borrower, the City may offer the borrower the following two options:

1. Amending the loan agreement, promissory note and deed of trust to defer repayment of the amount due at loan maturity, for up to 30 years at 0% additional interest for one time only; or
 2. Converting the debt at loan maturity to an amortized loan payable in 15 years at 0% additional interest.
- B. No interest shall be charged.
 - C. The loan shall be secured by a deed of trust.
 - D. Financial assistance shall be provided on a “first-come, first-served” basis. The City shall undertake, or cause to be undertaken, an effective outreach program to educate eligible seniors or disabled homeowners about the program and its benefits and requirements.

7. Assistance to be Provided

- A. Services – In order for the City to provide any of the following services, the Applicant and all of his/her adult household members shall first execute a waiver that states the following:

“In exchange for the services the City is willing to provide in connection with a loan application, loan approval, scope of work development, assistance with contractor selection, ensuring satisfactory and timely project completion and any other related services provided by the City to the owner and his/her adult household members pursuant to the Senior and Disabled Home Rehabilitation Program (collectively referred to as “Program-related services”), the owner and his/her adult household members agree that they shall not commence any legal action, of any nature, against the City, or its employees, arising out of the Program-related services the

City provides whether or not a City employee's actions or inactions are negligent or cause damages.”

The City shall provide the following services to homeowners to facilitate processing of requests for financial assistance pursuant to the Program:

1. Initial intake interviews, screening prospective applicants, and assisting in the preparation of loan applications and related documents.

In order to assist the Applicant in completing the loan application, the following documents are required to be submitted:

- a. Copies of most recently filed tax return or source(s) of income documentation.
 - b. Homeowner's current property insurance binder or evidence of other coverage.
 - c. Most recent property tax statement.
 - d. Copies of most recent bank statement.
 - e. Copies of most recent utilities bill.
 - f. Copy of driver's license or California Identification or equivalent.
2. Information provided regarding private financing and other forms of assistance available if the owner wishes to undertake rehabilitation beyond the maximum loan amount. The Program coordinator will describe to the homeowner the financial assistance available both through the City of Berkeley and other sources that may assist them in accomplishing their rehabilitation objectives.
 3. Performance of a comprehensive initial inspection to assess the nature and eligibility of repair requests. A City Housing Inspector shall inspect the property to determine whether the repairs necessary are eligible under the Program. The Inspector shall photograph the property and identify deficiencies and repair items to be considered. The inspection findings and the relative priority of repairs will be discussed with the homeowner.
 4. Preparation of work write-ups and specifications. The Inspector shall use an inspection checklist and notes to prepare the scope of work and costs estimate. The final scope of work will be reviewed by the Supervising Inspector or one of the Rental Housing Safety Program inspectors to ensure the following:
 - a. The scope of repairs is clearly stated and specifications are sufficiently detailed to form a basis for obtaining bids from contractors.

- b. The repairs are necessary to correct threats to the health and safety of the occupants or to bring the property into code compliance.
 - c. The cost estimates are reasonable.
5. Assistance in securing bids from licensed contractors to perform eligible work. At the time of the initial meeting and property inspection with the homeowner, the Housing Inspector will clearly explain the bidding process to the homeowner as follows:
- a. Bids will be solicited based on the scope of work developed by the Housing Inspector and accepted by homeowner.
 - b. The homeowner may select contractors from the City's list of eligible contractors. The list was developed and is maintained through the following process. Contractors seeking to participate in the Program complete a contractor's qualification form. Based on submitted information, the Housing Inspector verifies whether their state contractor's license is current and if they are in good standing and checks given references. If the contractor is licensed and in good standing and the reference checks are positive, their name/company name is included on the list and they will be invited to bid on the next project.
 - c. Homeowners may also chose a contractor who is not on the approved list as long as the contractor meets the City requirements including: a valid state license and good standing, have no pending complaints against them, and be fully qualified to perform the required work outlined in the scope of work. The contractor must also provide at least 3 references from similar rehabilitation jobs and be able to provide the required liability insurance.
 - d. The Housing Inspector will provide bid packages to selected contractors. Bid packages include all information that the contractor may need to be an informed bidder on the rehabilitation of the property, including all the Program requirements and a copy of final scope of work. Contractors will be invited to attend the bid walk.
 - e. The Housing Inspector will inform a minimum of six (6) qualified contractors by mail, email or by phone inviting them of the availability of bid packages.
 - f. The bid package states the bid due date and the sealed bid must be submitted to the Program Coordinator to open, review, and

record with the Supervising Housing Inspector or with the Housing Inspector who developed the final scope of work.

- g. The Homeowner will be notified of the bid due date and have an option to attend the opening of the bids.
 - h. A minimum of three (3) bids must be submitted, but two (2) will be acceptable if the homeowner agrees to accept two bids for all contracts in excess of \$1,000.
 - i. The homeowner is not obligated to accept any of the bids. If the homeowner finds that none of the contractor bids are satisfactory, the Housing Inspector can help the homeowner select new contractors to bid. If no new contractors offer bids, the Housing Inspector will ask the homeowner if he/she will consider previous bids. If the homeowner will not accept any previous bids, then the City will not approve a loan for the Applicant.
 - j. While the Housing Inspector provides some guidance in selecting contractors, it is ultimately the homeowner's responsibility to select the contractor. However, the City strives to ensure that homeowners choose a cost-effective, capable and responsible contractor who will perform quality work on time.
 - k. Once the homeowner selects the contractor, a project timeline will be established and the homeowner will enter into construction contract with the chosen contractor. The Housing Inspector will issue a Notice to Proceed once the project funding and all required clearances are secured. The Notice to Proceed must include the following information: a) homeowner and property information; b) contractor information; c) reference to construction contract (contract amount); and d) commencement and completion date.
6. Preparation and recordation of documents necessary to commit, close, and secure loans. In preparation for loan closing, the Program Coordinator performs the following tasks:
- a. Requests a current title report from the title insurance company. The title report fee will be paid by the loan proceeds.
 - b. Requests a lender's loss payable endorsement on the borrower's hazard insurance policy for the property to be effective as of the projected closing date. The minimum amount of hazard insurance required is based upon the total outstanding indebtedness, including the proposed loan.

- c. Prepares the following closing documents: Loan Agreement, Deed of Trust, Promissory Note, instructions to title insurance company and control instructions to the escrow company which will administer the Rehabilitation Escrow Account, notice of opportunity to rescind transaction, Truth in Lending disclosure, and a request for notice of default (a document which is recorded together with the Deed of Trust requesting other senior lien holders to notify the City in case of default or notice of sale under the their recorded deeds).
 - d. The Program Coordinator meets with the borrower(s) to obtain the signature(s) on the closing documents. The required closing documents are forwarded to the title company for recording and title insurance. Control instructions and the loan proceeds are forwarded to escrow company in order to administer the Rehabilitation Escrow Account.
7. Convening a pre-construction meeting to ensure that both homeowner and contractor are in agreement and fully understand the scope of work and proposed schedules and to discuss any unusual issues that might arise during course of construction. The homeowner, contractor and the Housing Inspector will perform a walk-through of the property together to clarify the work to be performed before construction begins. At the pre-construction meeting participants will also discuss and accomplish the following:
- a. Finalize the construction schedule, including commencement and completion dates.
 - b. Review and discuss the following procedures: payment requests, inspections, progress payments and retainage payment.
 - c. Review and discuss Change Order procedures.
 - d. Review and discuss Punch List procedures for incomplete and/or unsatisfactory work.
 - e. Review and discuss contractor, homeowner and City staff roles and responsibilities.
 - f. Review and execute the Notice to Proceed.
8. Monitoring construction, conducting interim inspections, monitoring progress, and authorizing payments to contractors.

- a. After the date of the Notice to Proceed, the Housing Inspector shall monitor the project's progress.
 - b. The Housing Inspector shall verify if the project meets construction contract requirements, Housing Code standards, and shall advise the owner and contractor of pertinent codes.
 - c. The Housing Inspector shall verify that the project is on schedule and meeting its project budget. If the project is not in compliance with its schedule and budget, the Housing Inspector will investigate the cause and will document any findings.
 - d. The Housing Inspector shall make progress inspections upon payment requests to verify that the requested portion of work is complete and meets the construction contract and Program requirements.
9. Reviewing and authorizing any required changes in construction contracts and final payment.
- a. Changes to the scope of work will only be authorized by the City where necessary and only to the extent that the changed scope of work enhances the Program's goal of increasing the decent, safe and sanitary condition of the property.
 - b. Borrower shall submit any changes to the Approved Project Budget to the City for approval within five (5) calendar days of the date Borrower receives information indicating that the actual costs of the Project vary or will vary from the costs shown on the Approved Budget. Written consent of the City shall be required to amend the Approved Project Budget.
 - c. All changes are subject to City funding limitations.
 - d. According to the Housing Inspector's sole determination, all incomplete and/or unsatisfactory work shall be listed on a Punch List. The contractor and owner shall execute the Punch List to indicate that the items were not completed to the owner's satisfaction. All items included on the Punch List will have to be satisfactorily completed according to the Housing Inspector's sole determination prior to release of any progress payment.
 - e. The Supervising Housing Inspector or one of the Rental Safety Housing Program inspectors will conduct a final inspection to ensure all rehabilitation work is satisfactorily completed in

accordance with the construction contract and identify any outstanding work which has yet to be completed.

- f. After all work, including that listed on the Punch List, is satisfactorily completed, the final written inspection report will be signed by the homeowner, the contractor, the Housing Inspector, and the Supervising Housing Inspector or the Rental Safety Housing Program inspector and will be retained in the loan file. If the homeowner is in agreement with its contents, the homeowner will sign the Notice of Completion form, have it notarized, and the Program coordinator will request that the County Recorder's Office record the Notice on the title of the property.
- g. To protect homeowner from unwarranted claims by sub-contractors and suppliers, the prime contractor must execute and submit an unconditional lien waiver before the final payment is released.

10. Conducting exit interview and project evaluation.

After the project is completed, the Housing Inspector will meet with the homeowner to perform an exit interview. The homeowner will complete an evaluation form to appraise the Program and contractor performance. The Housing Services Manager will review the completed evaluation form to assess whether there are indications of improperly awarded contracts. Frequent dissatisfaction with the same contractor will be thoroughly investigated.

B. Contractors

When contractors are used, they shall be licensed and bonded in accordance with State law.

8. Timeframe Loan Processing

The Program coordinator and the Housing Inspector will monitor the progress of all loan applications. The Program coordinator will track origination and completion dates in each application. These dates will be used to assess performance and Program productivity, as well as identify project delay and problems. Any extraordinary delay will be documented in the loan file.

The following timetable is to be used as a guide in accomplishing acceptable performance and productivity in processing the loan:

<u>Activity</u>	<u>Working Days</u>
Eligibility Determination	10
Property Inspection	10
Preparation of Scope of Work/Cost Estimate	20
Bid Package Out	5
Bids Received	30
Contract Selection	10
Loan Approval	5
Loan Check From Finance	10
Loan Signing and Establishing Escrow	5
Contract Signing	5
Start Construction	30
Complete Construction	365
Final Acceptance & Payment	45

9. Relocation/Displacement

HUD regulations governing the displacement by a rehabilitation loan project of any person (family or individual) shall be followed (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 49 C.F.R. 24). Any rehabilitation loan project that requires the relocation of household members during any part of the project will be referred to the Department's Relocation Officer for relocation assessment and payment determination. In most cases, the costs associated to temporarily relocate a household may be included as part of the rehabilitation loan.

10. Primary Loan and Subordination Requirements

The City will assess the number of real estate loans and amount of each relative to the eligible property. The loan to value ratio including the City loan should not exceed 90%. If there is an existing loan prior to the CDBG or CalHome loan, the CDBG or CalHome loan is to be recorded behind the last loan.

If a borrower requests that the City subordinate its existing CDBG or CalHome loan to a new first mortgage, several documents including, but not limited to, a new appraisal report and the term and conditions of the new loan must be provided to the City before approval can be given. After receipt of the required documentation, an income/expense analysis will be conducted to ensure that the City would not be jeopardizing its loan by subordinating to the new loan.

If the loan-to-value ratio is 90% or less, and payments on the new loan will be more or less equal to the payments being currently made for mortgages and other monthly obligations, the subordination request shall be approved. The Program coordinator will secure the signature of the City Manager, or the Housing Director as his designee, and the City Attorney on the Subordination Agreement and send it to the title company when

and if the subordination is approved. All documents sent for City consideration will be retained in the loan folder, whether or not the subordination is approved.

11. Loan Servicing

The loan servicing function for the Seniors and Disabled Home Rehabilitation Program shall be undertaken as part of the City's Housing Rehabilitation Loan servicing for other loan programs like the Housing Trust Fund Program, Economic, and Redevelopment loan program.

Servicing the loan begins when the loan is closed and funds have been disbursed in accordance with the Loan Agreement, and the loan files have been checked for completeness and accuracy.

The fiscal staff of the Department will enter the loan in the system within five working days of receipt of the loan documents from Program coordinator. The fiscal staff will check the accuracy of the document and will generate a coupon payment book, if necessary.

If the loan is amortized, repayments are due on the first of each month. However, no late fees shall be charged if the loan payment is received later than due date.

All CalHome repayments will be deposited to a separate CalHome reuse account or must be credited to a specific revenue code that is entirely different from other Rehabilitation loan repayments. CalHome funds will be used as a revolving loan under the Program to eligible homeowners in accordance with CalHome program requirements.

The Accounting Supervisor will review and approve all accounting entries associated with the Program. This includes, but is not limited to, setting up new loans, entering account balances in FUND\$ and GMS to allow for drawing down on CDBG or CalHome funds.

The fiscal staff will provide a loan activity report on a quarterly basis to the Program coordinator to ensure the timely recording of loan activities.

12. Default And Foreclosure Procedures

All amortized loans carried by the City of Berkeley on its loan portfolio are due on the first of each month starting with the month stipulated in the Promissory Note for each loan. No late charges will accrue on the rehabilitation loans, however, payments that are not received on the 15th of the month are considered delinquent.

It is important to note that most of the borrowers are low-income persons. Many are living on pensions and social security and it is sometimes very hard for them to maintain their loan in a current status at all times. It is the responsibility of the collection officer to

work cooperatively with every homeowner who demonstrates that they are trying to keep the loan current. Partial payments and interest only payments can be utilized for a short while and should be utilized before any foreclosure proceedings are initiated. On the other hand, if the borrower makes no effort to make payments or contact the Rehabilitation Office to discuss their situation, the City will follow the procedures outlined below:

1. A borrower who has not made the payment by the 15th of the month will be sent a past due notice and advised of the delinquent status of the loan. The notice will outline the amount due and date due. The borrower will be given 14 days to bring the loan current.
2. If the borrower does not respond to the first delinquent notice by the due date and is delinquent by the 15th of the following month, two payments will be due and a second delinquency notice will be mailed showing two payments are past due. The borrower will be given 7 days to bring the loan current.
3. If the borrower does not respond to the two notices by the first of the third month, the collection officer will try to contact the borrower via telephone. If the collection officer fails to contact the borrower, a pending foreclosure letter will be sent. This letter will advise borrower that the loan is seriously delinquent and, if not brought current by the 15th of the month, foreclosure proceedings will commence with substantial cost to the borrower.
4. If borrower does not respond to the pending foreclosure letter by the 15th of the third month of delinquency, a foreclosure commencement letter will be sent. At this time, the collection officer will refer contact to the T.D. Service Company and request up to date costs and procedures.

Foreclosure is expensive for the borrower and can adversely affect how the public perceives the City. The City will pursue foreclosure in cases where it has determined that all resolution measures have failed and the delinquency is so substantial that the City's financial interest in collection outweighs the City's interest in preventing the displacement of low-income homeowners. The City will take into account the City's risk of loss of its capital and the situation of the borrower.

13. Writing Off Uncollectible Loans

When a loan or part of the loan made pursuant to this Program has been determined to be uncollectible due to foreclosure initiated by a senior lien-holder, the Program coordinator must submit a report with supporting documents to the Housing Director explaining the event of the foreclosure. At this time, the Program coordinator will also request the Director's approval to write the loan off from the City's loan portfolio. The fiscal unit staff must take the necessary steps to write-off the loan in a timely manner upon the Housing Director's approval.

14. Monitoring Compliance with Program Requirements

At five-year intervals from the date the Loan Agreement was executed and until the loan is either repaid in full or written off pursuant to Section 13 above, staff will require that the homeowner complete an occupancy certification report to validate their primary residence and compliance with the Program requirements. Staff will also utilize home site visits and county records every five years to confirm if the homeowner still occupies the property as his/her primary residence.

15. Insurance Requirements

The borrower shall maintain insurance on the Property to provide for compensation in the event of loss or damage by fire and such other hazards, casualties, and contingencies in the amount of the replacement cost of the Property, and shall deliver the original of all such policies to the City. Such policy shall be endorsed to name as additional insureds the City and its agents, employees, and members of the City Council. All such policies shall provide that the City shall be given thirty (30) days advance written notice of cancellation, expiration or termination of any such policy or any material change in the coverage afforded by it.

16. Federal Requirements

When CDBG funds are utilized in the loan, the borrower shall comply with all applicable laws and regulations governing the use of CDBG funds as set forth in 24 C.F.R. 570 *et seq.* In the event of any conflict between these Guidelines and applicable laws and regulations governing the use of CDBG funds, the applicable laws and regulations shall govern.

17. Reporting

Quarterly and Annual Status reports shall be provided to the State of California, Department of Housing and Community Development to allow monitoring of the CalHome program.

For CDBG funds utilized through the Program, a yearly Grantee Performance Report is prepared to indicate the number of applicants, number of projects in progress, total number of projects completed, income range of clients, ethnicity of head of household, sex of household, and disability of head of household.