

CITY OF ELK GROVE
NSP DOWNPAYMENT ASSISTANCE
PROGRAM
FINAL GUIDELINES



CITY OF ELK GROVE
MAY 2008

NSP DOWNPAYMENT ASSISTANCE PROGRAM GUIDELINES

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ELIGIBILITY REQUIREMENTS

BORROWER REQUIREMENTS

First-time Home Buyer

Borrowers must be first-time home buyers. A first-time home buyer is defined as a person who has not owned their primary residence within the previous 36 months.

All persons who will hold title to the home must be first-time home buyers. Both members of a married couple must meet the first-time home buyer test without regard to how they intend to hold title to the property.

At the discretion of the City, the following persons may be considered to be first-time home buyers.

- 1) A "displaced homemaker" who, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse. A displaced homemaker is an adult who has not, within the preceding two years, worked on a full-time basis as a member of the labor force for a consecutive twelve-month period and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment and worked primarily without remuneration to care for his or her home and family.
- 2) A single parent who, while married, owned a home with his or her spouse or resided in a home owned by the spouse. A single parent is an individual who is un-married or legally separated from a spouse and has one or more minor children for whom the individual has custody or joint custody or who is pregnant.
- 3) An individual or individuals who owns or owned, as a principal residence during the three-year period before the purchase of a home with assistance, a dwelling unit whose structure is:
 - a) not permanently affixed to a permanent foundation in accordance with local or state regulations; or
 - b) not in compliance with state, local, or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

Owner-occupant

The applicant must be purchasing a home in order to occupy that home as a primary residence. The purchase of homes for use as rentals, share rentals or for subsequent sale is not allowed.

Low, Moderate or Middle Income

The applicant must be a "low, moderate or middle income" household. This is defined as not having a gross annual household income greater than 120% of the Area Median Family Income adjusted for family size.

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"120% of the Area Median Family Income" is determined by multiplying the "Section 8" very-low income limit (50% AMI) by 2.4.

The "Section 8" very-low income and low-income limits are the limits most recently calculated and published by HUD in accordance with Section 3(b)(2) of the United States Housing Act of 1937, as amended.

Applicant income will be determined using the "Part 5" method as described at 24 CFR 5 Subpart F and in general accordance with the "Technical Guide for Determining Income and Allowances for the HOME Program, Third Edition -- January 2005."

Assets

There is no limit on the assets that may be owned by an applicant or value of those assets other than real property. An applicant is expected (but not required) to make a reasonable financial contribution to the purchase of a home under this program above the required minimum if they do have substantial liquid assets.

The value of assets and income from assets will be determined pursuant to 24 CFR 5 Subpart F and in general accordance with the "Technical Guide for Determining Income and Allowances for the HOME Program, Third Edition -- January 2005."

Pre-purchase education

Applicants must complete an "8-hour" HUD-approved pre-purchase counseling course conducted by a HUD-certified Housing Counseling Agency

Credit

There is no specific credit requirement for applicants. Applicants will be required to explain any derogatory items on their credit record. The City may request additional information from the applicant after a review of credit history.

SENIOR LOAN REQUIREMENTS

Type and term

The senior loan must be a conventional fixed-rate fully-amortizing loan with a term of not more than 30 years. The senior loan must be level payment throughout the term of the loan and may not have a pre-payment penalty.

FHA, VA, RHS and other government-insured and government subsidized loans are permissible. The payment of mortgage insurance (private or public) should be avoided.

Housing and Debt Ratios

Housing ratio is defined using the same method as that used on the FNMA Form 1008 (Uniform Underwriting and Transmittal Summary). This is the ratio of Primary Housing Expense to gross monthly income. Primary Housing Expense is the monthly cost of principal, interest, taxes, hazard insurance, mortgage insurance, HOA fees and any other monthly costs required to finance the purchase or to occupy the home (excluding utilities).

The qualifying housing ratio may not be less than 28.00% or more than 36.00%.

Debt ratio is defined using the same method as that used on the FNMA Form 1008 (Uniform Underwriting and Transmittal Summary). This is the ratio of Total Monthly Obligations to gross monthly income. Total Monthly Obligations is the sum of Primary Housing Expense and all other debt obligations.

The qualifying debt ratio may not be more than 42.00%.

In order to meet the overall goals of the program and in light of the differing needs and financial capacities of borrowers, exceptions may be made to housing and debt ratio limits. Factors that compensate for less stringent housing and debt ratios may also be considered to the degree they offset additional lending risk. In no case can the debt ratio exceed 45.00%

Impounds

The monthly cost of property taxes, hazard insurance, mortgage insurance and HOA fees must be impounded in an escrow account held by the senior lender or loan servicing agent.

Layering

The use of other subordinate forms of assistance is allowed at the time of purchase with City approval. The City must have second lien position. Performing subordinate loans are not allowed. Seller-financed down payment assistance is not allowed.

PROPERTY REQUIREMENTS

Type

The property must be a single-family detached home, townhouse, or an approved condominium located within the city limits of Elk Grove.

Mobile homes or manufactured housing are not permitted.

Tenure

The home must be vacant at the time an initial purchase offer is made. The home must also be foreclosed upon or abandoned at the time of the initial purchase offer.

"Foreclosed upon" is when the mortgage or tax foreclosure is complete under state or local law. Complete means title has been transferred from the original homeowner to a new owner, investor or lending institution (REO).

"Abandoned" is when all of the following are true:

- mortgage or tax foreclosure proceedings have been initiated (Notice of Sale); and
- no mortgage or tax payments have been made on behalf of the property for at least 90 days; and
- the property has been vacant for at least 90 days.

Sales price limit

The contract sales price for properties purchased through this program may not exceed the current published FHA 203(b) loan limit for Sacramento County.

Sales price discount

The sales price must be at least one percent (1.00%) below the "current market appraised value."

The "current market appraised value" must be established by an appraisal completed prior to the initial purchase offer but not more than 60 days prior. The appraisal must conform to the requirements of the Uniform Relocation Act (49 CFR 24.103).

Repair standards

Foreclosed properties must comply with all local codes and pose no health or safety issues. A City inspection is required. Properties that require rehabilitation are not eligible for this program.

Properties must be equipped with operable smoke detectors and pressure relief valves on hot water heaters. Any installed GFCI devices must be functioning. A pest inspection clear of all "Section 1" items must be provided prior to the City funding its loan.

The City will verify the reported conditions and health and safety conditions during its inspection.

Flood Insurance

Homes located in the 100 year flood hazard area must obtain flood insurance.

Lead-based Paint

All housing units built prior to January 1, 1978 must undergo a visual assessment by a person who has taken HUD's online Visual Assessment course. Deteriorated paint must be stabilized using work safe methods. Clearance must be obtained after paint stabilization by a DHS certified LBP Risk Assessor/Inspector.

The following requirements must be met:

Notification

Prior to a homebuyer being obligated to purchase a home built prior to January 1, 1978, the home buyer must be given a copy the EPA pamphlet "Protect Your family From Lead in Your Home".

A notice to any residents of the home and the potential purchaser is required following a risk assessment/inspection by the DHS-certified Risk Assessor/Inspector.

A notice to residents and the potential purchaser is required following lead-based paint mitigation work.

Disclosure

Prior to a homebuyer being obligated to purchase a home built prior to January 1, 1978, the seller must provide a "Seller's Lead-based Paint Disclosure" to the potential homebuyer.

Lead Hazard Risk Assessment

The risk assessment will be completed by a certified risk assessor or a certified lead-based paint inspector, and will conform to accepted standards of lead hazard issued by the EPA. The results of the risk assessment will be provided to the homeowner in the form of a "Notice of Lead Hazard Evaluation or Presumption."

Abatement

If the results of the risk assessment show a lead hazard, abatement of all lead-based paint hazards must be completed prior to the commitment of funds. Abatement measures include permanently removing the sources of lead hazards, permanently encapsulating lead-based paint, replacing components painted with lead-based paint, and removing or permanently covering soil-lead hazards. Abatement is required on all interior surfaces disturbed by rehabilitation. Interim controls are only acceptable on exterior surfaces that are not disturbed by rehabilitation. Clearance of all surfaces must be obtained.

The person performing the abatement must have completed a HUD-approved course on lead-based paint abatement or be supervised by a certified lead-based paint abatement supervisor. As with all work where lead-based paint is known or presumed to exist, safe work practices must be observed and clearance of all worksites must be obtained.

Purchase Contract Contingency Language

Before a homebuyer is obligated to purchase a pre-1978 housing unit, the seller shall permit the homebuyer a 10-day period (unless the parties mutually agree, in writing, upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

TERMS OF CITY ASSISTANCE

GENERAL TERMS

The City will provide assistance to eligible borrowers for the purchase of eligible properties in the form of a loan. The City's loan will be for 30 years (360 months). Payment will be deferred for the term of the loan. The loan will be due and payable at the end of the term.

RATE

The interest rate will be 3.00% per annum calculated on a simple basis. Interest will accrue in years 1 through 10 (months 1 - 120). At the end of month 120, the interest rate will be reduced to zero (0.00%). In years 11 through 20 (months 121 - 240) 1/10 of the accrued interest will be forgiven at the end of each year (end of months 132, 144, 156, 168, 180, 192, 204, 216, 228 and 240).

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SECURITY/LIEN POSITION

The City's loan will be evidenced by a Loan Agreement and Promissory Note secured by Deed of Trust. The City's Deed of Trust must be recorded in second position junior only to the approved senior loan.

PAYMENT

Loan payments prior to loan maturity are not required. Payments may be made at any time. Payments will be applied first to accrued interest and then to principal. There is no penalty for repayment or pay-off prior to loan maturity.

AMOUNT

The loan amount will not exceed the amounts in the following table based on the income level of the borrower household adjusted for household size. The applicable income limits are the "Section 8" income limits most recently published by HUD.

Income Level	Definition	Loan Limit
Low-income	Gross annual income at or below 80% of Area Median Income (AMI) (Section 8 "low income")	\$60,000
Median Income	Gross annual income above 80% AMI and at or below 100% AMI (2 x Section 8 "very low income")	\$45,000
Moderate Income	Gross annual income above 100% AMI and at or below 120% AMI (2.4 x Section 8 "very low income")	\$30,000

The limit may be exceeded by not more than 10% if doing so would promote general program goals. In no case may the loan amount exceed 20% of the appraised value of the home.

The City loan is intended to provide "gap" financing. In no case will the amount of assistance exceed the difference between the sum of the senior loan, the borrower contribution and any seller contributions and total amount required for the purchase of the home and costs of financing.

BORROWER CONTRIBUTION

The borrower household must contribute towards the purchase an amount equal to at least 1.00% of the purchase price. Low-income borrowers must contribute an amount equal to at least 0.50% of the purchase price.

The source of borrower funds must be verified and funds must be in borrower accounts prior to the City funding its loan. Gift funds are allowed. Gift funds in borrower accounts less than 90 days at the time of loan application must be evidenced by a gift letter.

LOAN-TO-VALUE

The City's loan may not exceed 20.00% of the appraised value of the home. The combined amount of the senior loan, the City's loan, any other loan senior to the City's lien position, and

any performing loan secured against the property at the time of loan funding may not exceed 100.00% of the appraised value of the home. Non-performing loans subordinate to the City's lien position will not be considered in the calculation of CLTV.

USE OF FUNDS

City loan proceeds may be used to provide a downpayment or pay for non-recurring closing costs. Payment of closing costs with City funds is limited to 3.00% of the City loan.

Loan proceeds may not be used to pay for impounds, pre-pays, or discount points. Loan proceeds may also not be used to fund borrower reserves, to off-set the payment of borrower's bills in escrow or to pay for property repairs from escrow.

At close of escrow, the borrower may not receive proceeds from escrow in excess of \$500.00 without prior approval from the City. The City may request that excess proceeds be applied as a payment against the City's loan.

OCCUPANCY REQUIREMENT

The borrower must occupy the home as his/her principal residence for the term of the loan. The borrower is prohibited from renting all or part of the home during the term of the loan.

In the event the borrower no longer occupies the home as his/her principal residence or the title to the property is transferred to another person or entity, the City's loan will be considered to be in default and it will become immediately due and payable. The City will periodically verify that the home is occupied by the borrower.

GENERAL CITY LENDING POLICY

LOAN COMMITTEE

The Loan Committee will consist of the Assistant City Manager or designee, the Planning Director or designee, and the Finance Director or designee. The Loan Committee will be convened at the request of staff when a loan request is ready to be considered.

The Loan Committee will review all loan requests and decide whether to lend funds to the applicant. At least two members must be present to conduct a meeting of the Loan Committee. At least two members must approve a loan request for it to be considered approved by the Committee.

The Loan Committee has the authority to approve minor deviations from the underwriting standards of these guidelines provided that such deviations serve to advance the overall goals of this loan program and that they do not conflict with the requirements of the source of funds. Any approved deviation must be documented. At least two members must approve such a deviation for it to be considered approved by the Committee.

The actions of the Loan Committee are subject to review by the City Manager.

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LOAN DOCUMENTS

The City loan will be evidenced by a Promissory Note and secured by Deed of Trust. The form of these documents to be specified by the City Attorney.

MONITORING

The City shall monitor units for compliance with residency and insurance requirements on a regular basis. The City may monitor units as frequently as desired, but generally will monitor them on an annual basis. Each year, the homeowner will be required to submit a current utility bill, a statement of continued occupancy as the homeowner's primary residence, and a declaration that other titleholders do not reside on the property. Homeowners must also submit proof of required insurance, showing the City as a loss payee, on an annual basis.

REFINANCING (CITY LOAN)

The City will not re-finance the City's loan. The loan is one-time assistance with the purchase of a home.

SUBORDINATION AND REFINANCING OF SENIOR DEBT

All requests for the subordination of the City's loan must be made in writing and must come from the homeowner. Requests sent by lenders on behalf of homeowners will be returned. The request for subordination must clearly state the reason for the request.

The City will consider requests for subordination for the following reasons:

- To obtain a lower interest rate (must result in lower APR, not just a lower nominal rate).
- To re-finance from an adjustable-rate mortgage to a fixed-rate mortgage.
- To re-finance from a short-term mortgage (less than 30 years) to a 30-year mortgage (may not extend beyond the City's loan term).
- To repair damage to the home resulting from fire or natural catastrophe in excess of insurance proceeds (provided that the minimum insurance coverage required by the City was in effect).
- A documented medical need.

The City will not consider requests for subordination for the following reasons:

- To receive cash out.
- To pay-off revolving, automotive or other consumer debt.
- To pay off loans junior to the City's loan or other debt secured by the property.
- To pay property taxes, utilities or assessments.

The City will only subordinate under the following conditions:

- 1) Proceeds of the new loan will only be used to re-finance a loan that is currently in senior position.
- 2) The borrower does not take cash out.
- 3) The new loan is not re-cast to extend the final pay-off date beyond the term of the City's loan.
- 4) The new loan may not be greater than the lesser of:
 - a) 90% of the current appraised value;
 - b) the current pay-off amount of the existing senior loan(s);
 - c) the amount of the original senior Deed of Trust.

The City will only subordinate to a new first Deed of Trust in favor of an institutional lender. (No personal loans.)

The City will consider requests to subordinate an existing loan secured as a lien on real property, but is under no obligation to subordinate and reserves the right to deny any request. The consideration of a request for loan subordination is subject to the terms and conditions of the individual loan made by the City. The terms of an individual loan will prevail if they are more restrictive than those of the City's general subordination policy.

The City may ask that fees, points, and/or commissions be limited. Nominal and reasonable third-party fees (for example, title and recording) will generally be allowed. These costs may be financed as long as the new loan complies with the City's limits on new loan amount.

To consider your request, the City will require the borrower to submit the following documents:

- preliminary title report
- loan application (FNMA 1003)
- appraisal report or statement of current value from new lender
- commitment letter from the proposed new lender (or other document disclosing the terms of the loan to the borrower)
- truth-in-lending statement from new lender
- documentation of pay-off amount(s) for the existing senior loan(s)
- estimated settlement statement (HUD-1) from escrow
- lenders loan transmittal (FNMA 1008)
- verification of borrower funds on deposit (if funds required)
- draft form of Subordination Agreement

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There is a \$50.00 fee for subordination requests. Requests that are not approved will have the fee refunded.

APPEALS

The appeal of the determinations of staff prior to Loan Committee review must be appealed to the Planning Director. The decisions of the Planning Director may be reviewed by the Loan Committee.

The actions of the Loan Committee must be appealed to the City Manager. In all cases, the City Manager's decision is final.

Appeals must be submitted in writing. Appeals must clearly state the action or actions being appealed and the basis for the appeal as it relates to conformance with these guidelines. Appeals that argue the merits of the guidelines or matters that are not material to the action being appealed will not be considered. Specious or defamatory appeals will also not be considered.

Prior to submitting an appeal, the appellant must have made an effort to resolve the matter with staff.

LENDING PROCESS

APPLICATION

The borrower will obtain and complete an application for the program. The application will be returned to the City with an executed Release of Information Authorization. The borrower must also submit with the application copies of the following documentation pertaining to all adults in the borrower household.

- Pay statements for the most recent 90 days.
- Bank statements for the most recent 90 days.
- Most recent statements for investment and retirement accounts.
- Most recent 3 years federal income tax returns with all forms.
- Documentation for any other source of income or owned asset.
- Most recent 12 months profit and loss statement for business or self-employment income.

At the time of application the primary borrowers (borrower and co-borrower) must have completed the required pre-purchase counseling within the past 12 months. A certificate of completion must be submitted with the application.

The City may request additional information or documentation as it deems necessary to document income eligibility.

If the borrower is represented by a real estate agent a representation agreement should be submitted at the time of application.

BORROWER ORIENTATION

After the complete application has been received, and the applicant appears to be income eligible the City will schedule a borrower orientation. At the orientation staff will review the information in the application with the borrower and confirm all sources of income and all banking and investment accounts. The borrower will also be informed of the program requirements including that:

- the City's assistance is in the form of a loan that must be repaid;
- the loan accrues interest;
- the loan must be repaid if they sell the home;
- the loan must be repaid if they move out or no longer occupy the home as their principal residence;
- the borrower may not rent the home;
- the City will occasionally verify that the home is still occupied by the borrower;
- if the borrower rents or sells the home, or no longer occupies the home as their principal residence at any time during the term of the loan without repaying the loan the City will consider this a default and may foreclose to recover its investment.

The borrower will also be informed that they may not re-finance the senior loan without City approval and that the City will not permit cash-out refinancing.

At the orientation, staff will photocopy the borrowers' photo ID (driver's license or passport). If the borrower is currently represented by a real estate agent or working with a mortgage lender, staff will obtain their contact information.

DETERMINATION OF BORROWER ELIGIBILITY

Staff will review the income documentation provided by the borrower and request third party verification of employment and rental.

Income will be determined using the "Part 5" method as described at 24 CFR 5 Subpart F and in general accordance with the "Technical Guide for Determining Income and Allowances for the HOME Program, Third Edition -- January 2005."

Income will be projected forward based on current income. Borrowers with irregular or seasonal income should have income documented and a projection created based on a longer period. The length of period should encompass a period that is most likely to reflect total annual earning.

Income will be stated in terms of gross annual income. Income inclusions and exclusions will be those of the Part 5 method.

In determining income eligibility, staff will compare past and present income sources and amounts. Staff will also compare documented income (pay records, benefit statements, profit and loss) with banking records. Staff may request that miscellaneous banking deposits be

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explained in writing. Income that is not supported by banking records may require certification of payroll records from the employer.

Tax records will be reviewed to determine if a mortgage interest credit was claimed.

In the event the applicant appears to be over-income or otherwise ineligible for the program, staff will contact the applicant to review the determination. If after the review staff believes that the determination of ineligibility is correct, staff will send the applicant a formal determination letter.

When the applicant is determined to be eligible, a formal letter of eligibility will be sent. The letter will summarize the income determination, the terms of the program, and the next steps in the process. The letter will also affirm that the City has not made a lending decision at this point.

LOAN REQUEST

Once the applicant has selected a home, they will submit a loan request packet. This packet may be submitted by the applicant's lender or agent on the applicant's behalf. The packet will include the following.

- Lender loan application and underwriting (FNMA 1008 and 1003 or MCAW).
- Lender truth-in-lending disclosure.
- Good Faith Estimate.
- Lender Commitment Letter.
- Verification of Deposit (FNMA 1006)
- Credit report (three bureau)
- Executed sales contract
- Appraisal.
- Preliminary Title Report
- Pest Inspection Report

Any other documentation used by the senior lender to make their lending decision or deemed necessary by the City to determine eligibility and/or conformance with these guidelines.

If the home was built prior to January 1, 1978 a Lead Hazard Assessment must be obtained by the seller and submitted to all parties prior to loan review. If a home inspection was obtained, a copy must be forwarded to the City.

SENIOR LOAN REVIEW AND CITY LOAN UNDERWRITING

City staff will review the Loan Request and accompanying documentation for compliance with these guidelines. Information will also be reviewed for consistency and accuracy. City staff will work with the applicant, lender and real estate agent to resolve any discrepancies.

Staff will review local property records (Sacramento County Assessor) to document the location of the property within city limits.

If the loan request conforms with these guidelines, staff will schedule an inspection of the property. The inspection will serve as due diligence to verify the information reported in appraisal and pest inspection as well as to verify basic health and safety conditions. Photos of the property will be taken and placed in the file with an inspection report. If corrections to health and safety hazards are required, staff will inform the applicant and real estate agent in writing. Corrections must be made and verified by inspection prior to funding.

LOAN COMMITTEE REQUEST

Once staff has determined that the loan request conforms with these guidelines, the property is eligible, and there are funds available a request will be made to the Loan Committee.

The request to the Loan Committee will summarize the factors used to make the income determination, and compliance of the property and senior loan with these guidelines. The request will include the amount requested from the City, the source of funds, and the use of City funds. The request will disclose all funds to be used in the transaction, their sources and uses.

Any facts relevant to the lending decision will be noted in the request as will any conditions precedent to loan funding.

The senior lender's underwriting summary (1008 or MCAW) and Good Faith Estimate will be attached to the request. (Social security numbers and any protected consumer credit information will be blacked-out.)

The Loan Committee will receive a copy of the loan request along with a meeting request/announcement/agenda. The request will be treated as confidential.

The loan request will include staff's recommendation as to approval or denial. If to deny, staff will indicate the reasons.

LOAN COMMITTEE ACTION

Staff will review the loan request with the Loan Committee at the scheduled Loan Committee meeting. The Loan Committee can take four possible actions:

Deny – The Loan Committee does not approve the loan request. The applicant will be informed in writing of the reason(s) for denial. The denial will include the applicant's appeal rights.

Deny with direction – The Loan Committee will deny the loan request. The applicant will be informed in writing of the reason(s) for denial, the modification(s) to the request that would cause the Loan Committee to reconsider the request, and direct the applicant to modify the request and re-submit.

Conditional approval – The Loan Committee approves the request with conditions. The applicant will be informed in writing of the conditions of approval. Staff will be required to document that conditions have been met and certify those conditions have been met prior to City funding of its loan.

Approve – The Loan Committee approves funding the loan as requested.

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The action of the Loan Committee will be forwarded to the City Manager in anticipation of the request for funding.

LOAN COMMITMENT AND FUNDING

Once the Loan Committee has approved the loan request and all funding conditions have been met, staff will prepare loan documents and a request to fund escrow. The escrow funding request will be contingent on executed loan documents. Loan documents will be provide to the borrower at least 3 days prior to the scheduled loan signing.

Loan documents will be signed by the borrower in the presence of city staff. All documents to be recorded must have all signatures notarized.

The original executed Promissory Note must be returned to the City with a certified copy of the executed Deed of Trust. Copies of all signed documents will be provided to the borrower after signature.

Once all loan documents have been fully executed, a funding request will be forwarded to the City Manager for approval. Once the City Manager approves, the City will disburse funds into escrow.

CLOSING

Within 3 business days of close of escrow, the City should receive a Final Settlement Statement (HUD-1). The HUD-1 will be reviewed by staff to confirm the details of the transaction as approved by the City and that the borrower did not receive excess proceeds.