

**Follow Up Q&A to the Florida Homebuyer Opportunity Program  
Telephonic Public Meeting on  
July 7, 2009**

**Have local governments been submitting their revised LHAP's including the FHOP strategy?** *FHFC has been receiving a small flow of FHOP LHAP strategies. Some contain the generic text of the sample strategy in section E "Terms, Recapture and Default", when they were actually supposed to include some local policy, like charging 1% interest after 18 months.*

**Can a Local Government increase their maximum purchase price for this strategy?** *FHFC has heard of some jurisdictions increasing their Maximum Purchase Price. This is acceptable as long as the new limit meets SHIP statutory guidelines.*

**What should local governments be doing prior to the funds being released in August?**

- *Adopt the FHOP Strategy into your LHAP "with technical changes" in Section E addressing "Terms, Recapture and Default". Alternatively, you can also write your own strategy. Get the resolution for the strategy amendment and provide this to FHFC.*
- *Advertise availability of funds which should indicate that FHOP assistance is "based on funding availability".*
- *Do outreach now with Lenders, Realtors and others in order to be prepared to 'hit the ground running' in August.*
- *Do not wait for Rule Making for FHOP. This will not happen, although FHFC recently has mentioned it will update the SHIP Rule.*

**Can we have applicant sign a form to direct the tax refund check to our jurisdiction? This is similar to a form and procedure used by H&R Block form. Is this legal and acceptable?** *No.*

**Can bank verifications be used instead of SHIP verification procedures?** *The use of lender methods of income verification was added to the SHIP statute this past year as a result of HB 360 which gives more flexibility in using bank verifications. However, this does not eliminate the need to annualize income forward for 12 months under the SHIP rule.*

**How do you address multiple 'single tax filers' in a household? Is the income for such a household still limited to \$75,000?** *Yes. The income limit in the FHOP legislative text is only up to \$75,000 for single tax filers. FHOP also requires documentation of an applicant's income with the third party verification method outlined in the HUD Handbook 4350.3. The SHIP verification process requires counting the income of all household members that will reside in purchased unit.*

**Can we add details to Section E, which outlines “Terms, Recapture and Default”.** **Will these details be considered mere ‘technical changes’ by FHFC and quickly accepted?** *FHFC staff is trying greatly to interpret most all of these Section E details as technical changes. Each strategy is reviewed on a case by case basis, but hopefully FHFC can complete its strategy reviews quickly.*

**Can we charge the staff cost of completing a home inspection as a cost to be paid with FHOP “program dollars”, as opposed to “administrative budget dollars”?** *Yes, this is an allowable project cost. Remember that you are limited to devoting no more than \$8000 of FHOP program dollars to each recipient*

**What are the steps involved with advertising FHOP funds?**

*You may advertise the availability of FHOP funds once your jurisdiction has adopted an FHOP strategy and it has been approved by Florida Housing. Section 420.9075 3(b) of the SHIP Statute requires the advertisement of funding availability at least 30 days before the beginning of the application period. Advertisements should indicate that assistance is ‘based on funding availability’ since jurisdictions have not yet received funds. Advertising in July may work well, since it is possible that Florida Housing may disburse funds during August.*

**Will each jurisdiction prepare its own legal documents?** *Yes.*

**Can we use funds with Lender Portfolio loans?** *Yes you can. It is not restricted to just FHA.*

**Can Realtors help the public understand the right way to apply and receive funds?** **Who is the local contact?** *Yes, start by forming a relationship with the local SHIP staff who will administer this. If FHFC needs to do something at a statewide level, it could. Add FHOP information to your Realtor websites.*

**Is it going to be possible to get the process rolling in August?** *Local policies vary greatly from one jurisdiction to another which determines when the program will begin in each jurisdiction. Remember also that the tax credit may be extended, which will extend the time during which this FHOP money may be used for its intended goal.*

**What TA is available?** *FHFC staff is providing lots of answers and should be your first point of contact. Coalition has been providing answers over the phone, in concert with FHFC.*

**How do we know how much money each applicant can receive?** *Consider that the most effective way to determine the amount of an applicant’s tax credit is to amend the applicant’s 2008 tax return. Jurisdictions may choose to restrict assistance only to those who agree to amend their 2008 tax return.*

**There are several reasons why our jurisdiction does not want to restrict FHOP assistance only to those who agree to amend their 2008 tax return. Instead of**

**having them amend their 2008's taxes, can I have perspective homebuyers sign affidavits providing me an estimate on their 2009 adjusted gross income and confirming they are eligible for a tax credit?**

(Here is one example of a reason to use the 2009 Tax Return:

- A buyer's amended 2008 tax return is for a single filer, and shows an income of \$74,000. Yet the buyer has recently married or has taken on a roommate. The SHIP verification process requires counting the income of all household members—including the new spouse or roommate—and it exceeds \$75,000.)

*Obtain documentation of the buyer's year to date income. No asset information needs to be collected, since this is not reported on a tax return. To approximate the income for the entire period of 2009, use the income data to calculate the amount of income for a 12 month period. For example, a buyer applies to purchase a home at the end of September, 2009. The joint-filing income for the first 9 months of 2009 is \$90,000. At the same rate, the household will have \$120,000 of income in a 12 month period. Complete this process by having applicants sign affidavits confirming this estimate of their 2009 adjusted gross income and confirming that they are eligible for a tax credit.*

**Do lenders have to become eligible or approved to work with this FHOP program?**

*This is a local policy. There could be a lender selection process locally.*

**Will FHOP expenditures be tracked through the normal SHIP tracking and annual reporting process?**

*Yes, although FHFC staff have not finalized whether the annual report form will look very different due to the 3 FHOP exceptions to 3 SHIP rules. FHFC will likely want to know details about the incomes of the buyers who were assisted. We will likely look for as much information as possible'.*

**Why do we perform 2 separate income certifications?** *The FHOP legislation does not exempt the program from SHIP's income qualification process. At the same time, however, the program requires jurisdictions to also confirm that a buyer is eligible for the tax credit, which is a separate income calculation activity.*

**Consider a situation where a household's income is \$149,000 on the 2008 amended tax return but is over \$150,000 using the SHIP income verification process, which documents estimated income for the next 12 months. Would such a household be FHOP eligible?** *No, this household is not eligible. The legislative language enacting FHOP outlines two eligibility tests, but the household in your case has only passed one test.*

*FHOP requires two separate processes for documenting income. First, one must determine if an applicant is eligible to receive the first time homebuyer tax credit, which may best be accomplished by amending the tax filer's 2008 tax return. Second, the applicant's income is documented with third party verification forms using the HUD Handbook 4350.3 requirements that all SHIP jurisdictions have adopted for income documentation. This is required because the FHOP legislative language indicates that these funds must be expended in accordance with the SHIP Statute (ss. 420.907 –*

420.9079, Florida Statutes) with only four exceptions. There is no exception provided to the SHIP income verification process. For both eligibility tests, the FHOP legislative language indicates that “the maximum income limit shall be an adjusted gross income of \$75,000 for single taxpayer households or \$150,000 for joint-filing taxpayer households”.

Consider some scenarios when an FHOP applicant may pass one but not both of the FHOP eligibility tests:

- A buyer’s 2008 amended joint-filing tax return shows an income of \$149,000, but the applicant’s income from the next 12 months—recorded with SHIP verification forms—is \$151,000.
- A buyer’s amended 2008 tax return is for a single filer, and shows an income of \$74,000. Yet the buyer has recently married or has taken on a roommate. The SHIP verification process requires counting the income of all household members—including the new spouse or roommate—and it exceeds \$75,000.

**Can we restrict FHOP assistance just for helping those on the waiting list for our current SHIP purchase assistance strategy?** *You may prioritize FHOP assistance to these folks, but you must keep it open to all that are eligible.*

**If we know an FHOP applicant has a large tax liability and they will therefore not receive the full \$8000 of the tax credit, should we still provide them with \$8000 of purchase assistance?** *No—subtract out the known tax liability/lien/garnishment from the purchase assistance you provide.*

**Can we use a deferred payment loan like the one we currently use with SHIP?** *Yes, but remember that a FHOP lien should not be forgiven; it must stay on the dwelling until repaid. The SHIP Statute indicates that an FHOP lien may have a period of no more than the first mortgage, often a 30 year period. Specifically state the length of the line, since a lien that does not indicate a length of time is interpreted by the Florida Statutes to be a 20 year lien.*

**Does the buyer have to have a purchase contract to be eligible?** *This is a local policy. It goes back to how a jurisdiction normally operates its regular purchase assistance strategy.*

**Will the SHIP agency provide a gift (award) letter to submit for the underwriting process?**  
Yes.

**The FHOP FAQ has previously confirmed that FHOP loans may cover all down payment assistance and closing costs, even the 3.5% cash from buyer requirement. Yet I called the FHA Resource Center, which indicated that this is not the case. Please clarify the policy.** *Borrowers with an FHA mortgage are not responsible for independently locating*

3.5% for a down payment when they receive FHOP down payment assistance. The confusing response from the FHA Resource Center results from how an FHOP question is worded. The key phrase one must use when asking the resource center about FHOP is that this assistance is from “an instrumentality of government”. When an instrumentality is providing the assistance, there is no down payment requirement from the borrower. With this key phrase, the resource center staff will conduct a key word search that results in the following question and answer:

Question: “Can an individual or other organization provide a second mortgage for the buyer's downpayment?”

Answer: Generally, only government agencies and nonprofit organizations considered instrumentalities of government can provide secondary financing for the buyer's downpayment. An individual (not related to the borrower) or other organization cannot provide a second mortgage or other secondary financing for the buyer's downpayment. Under certain conditions, buyers who are 60 years of age or older can borrow the downpayment. In addition, certain family members of the buyer can lend the buyer the money for the downpayment. See the referenced Handbook sections for more information on borrowing the downpayment by a buyer 60 years of age or older and for a buyer borrowing the downpayment from a family member. Handbook 4155.1: 5.C

**Can FHOP or SHIP funds be used to hire a collection agency if a person does not repay?** *The repayment approach for FHOP can be no different than what your jurisdiction does if SHIP funds are not repaid. There is a lien on the property which will be repaid some day when the house is sold.*

**Can a jurisdiction have a minimum down payment requirement from the buyer?** *There isn't anything in the legislation that would prohibit this.*

**When we get repaid, can we use 5% of the repayment for administrative expenses?** *Yes, the repayment is considered program income. The normal rule applies about using 5 or 10% of program income for administrative expenses.*

**Will we receive any income verification outline or format (similar as we have for SHIP) to follow to verify AGI Income per the IRS guidelines for FHOP.** *No.*

**How do you confirm the amount if the applicant is planning on applying for credit in 2009 return?** *This makes it very difficult in case the applicant miscalculates their 2009 income. This is why the preferred method is to amend the 2008 taxes.*

**Is the amount of the FHOP award to the eligible applicant only the amount that is determined by the use of the IRS form 5405?** *Yes.*

**When a person defaults, is there an applicable interest rate to charge, since our current program is zero percent deferred?** *You can use current program rates or submit a new rate as part of your strategy.*

**How will loans be handled after December 1, 2009, when the first time homebuyer tax credit ends and a buyer is no longer eligible to receive a credit?** *After December 1, or more accurately, after the tax credit expires, there is no requirement to continue this program and all SHIP restrictions would apply. So, if they are over income for SHIP at that point, then they are not eligible.*

**Once a determination has been made that a client is already receiving at least \$8,000 off of their 2008 amended return, should we direct them to wait for their money?** *No, the purpose of the program is to advance the funds against the tax credit.*

**If we are to underwrite the applicants programmatically using SHIP Income Rules, are we to adjust the Future Anticipated Income by household size?** *Yes.*

**How do we calculate income for a multiple single filer household such as two unrelated individuals that are purchasing the property together?** *IRS states that 2 single filers each receive 50% of the tax credit up to \$150,000 AGI.*

**If we run the FHOP program through our regular down payment assistance program and provide no more than \$8,000 secured with a mortgage due on sale or forgiven after 30 years then are we still liable to be sure they are not exceeding their tax credit maximum? What do we do, for example, if we provide \$8000 without knowing that if they owe \$1500, so the tax credit amount they actually receive is \$6500?** *They can repay with tax credit or any other funding.*

**Despite the language stating that the borrower is "expected to fully repay", Can local governments offer incentives to FHOP applicants to repay the loans within the 18 months such as reducing the payback from \$8000 to \$4000?"** *The language below only contemplates when a homebuyer fails to repay a loan. There is no provision for forgiveness.*

*The homebuyer shall be expected to use their federal income tax refund to fully repay the loan. If the county or eligible municipality receives repayment from the homebuyer within 18 months after the closing date of the loan, the county or eligible municipality shall waive all interest charges. A homebuyer who fails to fully repay the loan within the earlier of 18 months or 10 days after the receipt of their federal income tax refund, shall be subject to repayment terms provided in the local housing assistance plan, including penalties for not using his or her refund for repayment. Penalties may not exceed 10 percent of the loan amount and shall be included in the loan agreement with the homebuyer.*

**Can FHOP loans be sold to secondary markets so that local governments can receive repayment of the loans quicker?** *Not sure if these loans would be attractive to a secondary market, but there is nothing to prevent it.*

**If a borrower receives less than the expected tax credit and is unable to fully repay the loan, is there any recourse other than the recapture provisions in the LHAP?**  
*The language does not contemplate any other recourse.*

**Is it a requirement for FHOP mortgages to be placed in second lien position?** *There is no such written requirement in the FHOP legislative language or in the SHIP Rule and Statute. The FHOP legislative language simply indicates that FHOP assistance is provided as a loan, and recipients “shall be expected to use their federal income tax refund to fully repay the loan”. A FHOP lien should not be forgiven; it must stay on the dwelling until repaid. The SHIP Statute indicates that an FHOP lien may have a period of no more than the first mortgage, often a 30 year period. Specifically state the length of the lien, since a lien that does not indicate a length of time is interpreted by the Florida Statutes to be a 20 year lien.*

**Are subordinations allowed?** *Normal SHIP regulations would apply and would be no different from your standard practice.*

**Regarding FHOP homebuyer education classes, may \$2,000 (for example) of program dollars be budgeted for homebuyer education classes, while dedicating the remainder of program dollars to assisting FHOP buyers? Or do we have to allocate a ‘per unit cost’ for each buyer taught?** *You may pay a portion of program dollars to pay for classes that will be attended by your FHOP buyers. A cost per unit is not necessary.*