



COLORADO

Department of Local Affairs

Division of Housing

Revolving Loan Fund Program Guidelines, 2015

TABLE OF CONTENTS

	<u>Page</u>
1) Introduction	1
2) Application to DOH for RLF Funding	3
3) Local Program Guidelines	8
4) DOH Program Guidelines	10
A. Program Purpose & Service Area	10
B. Client Eligibility Criteria	10
1. Minimum Income	
2. Maximum Income	
3. Part 5 Annual Gross Income	
4. Calculating Income	
5. Verifying Income and Assets	
6. Primary Residence	
7. Forms and Verification of Ownership	
8. Lawful Presence	
9. Homebuyer Education (N/A for Rehab)	
10. Local Client Eligibility Policies	
C. Property Eligibility Criteria	18
1. Housing Types	
2. Maximum Purchase Price or After-Rehabilitation Value Limit	
3. Uniform Relocation Act	
4. Property Standards for DPA and For Sale programs	
5. Property Standards for Rehab programs	
6. Lead Based Paint	
D. Loan Approval/Denial Policy & Procedures	22
1. Eligible Uses of Funds Provided to Clients	
2. Minimum Loan Amount	
3. Maximum Loan Amount	
4. Minimum Homebuyer Equity Contribution (DPA and For Sale programs only)	
5. HUD Affordability Period (DPA and For Sale programs only)	
6. Recapture	
7. Resale	
8. Loan Terms	
9. Underwriting Criteria	

10. Additional Lending Guidelines	
11. Loan Fees	
12. Loan Security	
13. Use of DPA with FHA first mortgage loans	
14. Sale of Foreclosed Property	
E. Rehab-Specific Policies and Procedures	34
1. Housing Rehabilitation Standards	
2. Eligible Rehab Work	
3. Replacement or Reconstruction of Housing	
4. Emergency Repairs	
5. Steps to Housing Rehabilitation	
6. Monitoring	
F. Rehab and New Construction For-Sale Specific Policies & Procedures	39
1. Contracting for Construction	
2. Minority and Women Business Enterprises Marketing	
3. Section 3 Economic Opportunity	
4. Davis Bacon Wages	
G. Program Administration	41
1. Board of Director's Roles and Responsibilities	
2. Loan Committee's Roles and Responsibilities	
3. Program Staff's Roles and Responsibilities	
4. The SAFE Act	
5. Affirmative Marketing	
6. Equal Opportunity Statement	
7. HUD Environmental Review	
8. Program Income	
9. Agency Administrative Procedures	
10. Conflict of Interest	
11. Code of Ethics	
12. Dispute Resolution	
H. Appendices	
1. DOH Rehabilitation Standards	
2. Programmatic Agreement with SHPO	

1) Introduction

The Colorado Department of Local Affairs, Division of Housing (DOH) and the State Housing Board authorize and direct the use of Revolving Loan Fund (RLF) programs to increase, improve, and sustain the affordable housing stock in the State of Colorado. DOH currently funds RLFs for Single Family Owner Occupied Rehabilitation (Rehab), Down Payment Assistance (DPA), and certain homeownership development programs (New Construction/For Sale).

These Guidelines give direction to agencies applying to DOH for revolving loan fund programs. They do not apply to housing developers applying to DOH for grant funds to acquire or build for-sale homes, unless the developer proposes to recycle DOH funds in an ongoing program of new home development. Although these guidelines may not always apply, all for-sale housing development projects are subject to DOH's Program Income Guidelines (section "G. 8. Program Income").

Agencies may apply for RLF funds on an annual basis, each November 1st for DPA and each July 1st for Rehab. Key factors for award of continued funding include an agency's production level and their use of program income.

Once they have an award and contract with the State, agencies may submit pay requests for reimbursement for loans and administrative costs for the program. All awards are subject to the State's contracting policies and standards.

The guidelines, policies, and procedures that follow are based on DOH policies and on the federal regulations of the Home Investment Partnership Program (HOME) and Community Development Block Grant (CDBG) programs that are the source of funding for the RLFs. Therefore these guidelines are subject to change if the regulations for those programs change. Agencies are required to implement RLF programs in accordance with these policies and procedures.

Each agency must draft and adopt its own local guidelines to address all items listed in the RLF guidelines. Agencies may impose further restrictions to target their local programs to the needs of their unique areas. Any other variances from the guidelines must be noted and approved in writing by DOH prior to expenditure of RLF funds.

New in the 2015 edition of the RLF Guidelines:

- HOME changes - see green highlights.
- Other changes - see yellow highlights.
- Please note, DOH made the following additional changes based on comments on the draft RLF Guidelines:

- Section B. 4. b. Anticipating income - HOME requires all assets to be included, not just assets over \$5,000.
- Section B. 6. c. DPA & For-Sale Agencies must confirm that clients are using the home as their primary residence at least annually throughout the affordability period (not the life of the RLF loan).
- Section B. 6. d. Extended stays in a rehabilitation hospital or nursing home do not necessarily trigger repayment, if the client continues to own the property and to consider it their primary residence.
- Section C. 2. Maximum Purchase Price or After-Rehabilitation Value - For CDBG programs, this is only relevant for setting the maximum DPA loan amounts (section “D. 3. Maximum Loan Amount”).
- Section C. 4. b. HUD has not yet provided guidance on how to apply Uniform Physical Conditions Standards (UPCS) to single-family housing. As soon as such guidance is available, DOH will notify agencies.
- Section D. 3. a & b. The maximum loan amount includes ALL federal sources used to make the loan, including Program Income.
- Section D. 5. a. The HOME affordability period for new construction is 20 years, regardless of the amount of HOME funds invested in each unit.
- Section D. 5. b. CDBG requires DOH to set an affordability period for DPA & For-Sale programs, and to require principle residency during the affordability period.
- Section D. 5. d. Neither the Recapture nor Resale provisions prevent clients from selling, although Resale does restrict the sales price.
- Section D. 6. Recapture - this section is reorganized for clarity.
- Section D. 12. Loan Security - Only DPA & For-Sale loans (not Rehab) have to be protected for the affordability period by a recorded “enforceable instrument.” Programs using the Resale model must use a Beneficiary and Use Covenant. Programs using the Recapture model may use a Beneficiary and Use Covenant, or they may instead incorporate it into their loan documents - but only if the client is not allowed to fully pay off the loan before the affordability period expires.
- Section D. 12. b. (Insurance) DOH no longer needs to be listed as additional insured.
- Section D. 13. Use of DPA with FHA first mortgage loans - This is new information for DPA & For-Sale agencies.
- Section G. 8. c. deleted “during the term of the contracted funds.”
- Section G. 8. d. Added detail on using HOME & CDBG program income.
- Section G. 9. b & c. “Beneficiary Use Covenant Tracking” changed to “Compliance Tracking.” Also separated the requirements for DPA & For-Sale programs vs. Rehab programs.
- Section G. 9. f. CDBG funded Rehab programs must complete a “Summary Report,” not a “Set-Up Report.”

2) Application to DOH for RLF Funding

The DOH application form is available as a Word document and the “Programs Spreadsheet” is available in Excel on the DOH website. Please check the DOH website at <http://dola.colorado.gov/cdh/developers/index.htm> for the most current version before completing or submitting these forms. The Programs Spreadsheet also includes a staff allocation chart and a project assessment chart that must be submitted with applications. New Construction/For Sale projects would use the “Budget Spreadsheet” instead - contact your Housing Development Specialist for help completing it.

A. Eligible Applicants to DOH:

1. Local governments, housing authorities and non-profit organizations (“Agencies”)
2. Agencies with on-going, active RLF programs
3. Agencies with RLF loan portfolios that intend to re-activate their program.
4. Agencies that are new to DOH-funded RLF programs, that intend to start a new program in an underserved area.

B. Application Underwriting Criteria for Both DPA and Rehab RLF programs:

The primary underwriting criteria that DOH uses to determine its financial support for a RLF program includes: management capacity, compliance with RLF Guidelines, compliance with regulations, and the level of local financial and political support for the program.

DOH uses a “Project Assessment Chart” to summarize key program metrics for evaluation by DOH staff and the State Housing Board. This chart also includes typical ranges for the data. Agencies with program metrics that fall outside the range need to explain the difference in their application. Please see DOH’s Application Instructions for a current version of this chart.

1. Program Outcomes/Production - A sustaining level of production is considered to be the completion of at least 15 to 30 housing loans a year. If an agency intends to do more or less, DOH will take that into

consideration during the application review process, and the actual production goal will become part of the contract.

2. Funding Levels -

- a. The funding level for each RLF program will be determined by the amount of new grant funds needed, in combination with RLF program income and local financial support, to sustain a level of production that maintains the financial and management capacity of the program.
- b. Agencies that have previously received RLF funds from DOH must provide documentation of their current loan portfolio, showing information on each outstanding loan (see section “G. 9. c. Loan Tracking”), as well as an up to date report on their program income use and account balance. Please see DOH’s Program Income Guidelines for more detail, at: <http://www.colorado.gov/cs/Satellite/DOLA-Main/CBON/1251593065651>.

3. Local political and financial support for RLF Programs is essential to the on-going performance of the program. While there is no established minimum local financial contribution, each agency is expected to demonstrate support at the community level.

- a. Eligible evidence of local political support includes:
 - Government sponsorship of the DOH Grant Application
 - Letters of support for the program from local governments
 - Letters of support from local service organizations
- b. Eligible kinds of local financial contributions include:
 - Cash from federal, state, or local sources
 - In-kind contributions of personnel, office space, vehicle use, or other program administration expenses
 - Building permit and fee reductions or waivers
 - Construction materials and/or on-site construction assistance

4. Program Service Area - Each RLF Program has a specific geographic territory defined in the contract between the DOH and the agency.

- a. DOH encourages the expansion of existing or creation of new Revolving Loan Fund Program(s) into areas of the State without a current program. Any expansion should have support from the local community and local governments.

- b. DOH expects that funds provided to an agency for a multi-county RLF Program will be equitably distributed across the program's service area.
 - c. The minimum program service area is a single county (if it contains a Metropolitan Statistical Area [MSA]) or two or more rural counties (no MSA in service area). DOH may grant exceptions upon request.
5. Administrative Cost Ranges - DOH may fund reasonable administrative costs to operate the RLF program. Agencies must ensure that their financial management procedures allow for tracking the amount of funds spent for program administration and what these funds were spent on. For more detail, see section "G. 9. f. Agency Reimbursement from DOH."

Agencies that have multiple RLF programs must track their expenses and funding sources separately. Please see DOH's Program Income Guidelines for more detail, at: <http://go.usa.gov/3CFcQ>.

HUD's HOME program defines administrative costs and project-related soft costs in CPD Notice #96-09, available at: www.hud.gov/offices/cpd/lawsregs/notices/1996/96-9.pdf. DOH has adopted the same definitions for its CDBG funded programs. The following is summarized from that Notice:

- a. Program Overhead: These costs include staff (or third parties with whom the agency has contracted) salaries and benefits as well as expenses for:
 - General management, oversight and coordination (program planning, budgets & schedules; office rent, utilities, insurance, equipment & supplies; monitoring & evaluating program activities).
 - Providing program information to the general public.
 - Fair Housing outreach.
 - Indirect costs under a cost allocation plan (rent, utilities, and other costs that are shared among several departments).
 - Reporting.
 - Program or neighborhood-wide HUD environmental reviews.
- b. Project Delivery: These costs include the direct costs associated with operating the RLF, including staff (or contractor) salaries and benefits as well as expenses for:
 - Program marketing to potential clients.
 - Homebuyer education classes and counseling, but only if the

individual becomes a client and purchases a home. Note: Agencies may instead charge clients a reasonable fee for housing counseling.

- Applicant intake and review.
- Title searches, credit reports, appraisals, recording fees, and client's legal fees. Note: Agencies may instead charge clients for reasonable and customary fees commonly charged to a loan applicant in unassisted real estate transactions, such as the cost of credit reports or appraisals.
- Loan Underwriting and document preparation.
- Preparation of work write-ups, specifications and cost estimates.
- Lead-based paint evaluations (including visual assessments, inspections, and risk assessments).
- Site-specific HUD environmental reviews.
- Project Delivery Staff - equipment, supplies, communication, training, time spent on project inspections and oversight.
- Loan Servicing, including staff time and computer software.

HUD's CDBG program requires that Program Overhead costs may not exceed 20% of the entire program budget. DOH policy is to apply this standard to HOME funded programs as well.

6. Management Capacity - agency's ability to:
 - a. Leverage other funding sources,
 - b. Find qualified applicants across their service area,
 - c. Originate and service loans,
 - d. Perform under the last grant (number of loans closed, average cost, number of rehab jobs completed, etc.),
 - e. Comply with DOH reporting and RLF Guidelines.
7. Local Program Guidelines - compliance with minimum standards set forth in this document. Local guidelines may have additional restrictions, as appropriate for their market area. For Rehab programs, these include the agency's Housing Rehabilitation Standards (see section "E. 1. Housing Rehabilitation Standards").
8. Program budget - estimate the cost to run the program, demonstrating specific sources of funds to cover all costs (including program income and the requested amount of new funding from DOH).
9. Market - information that supports the need for the program. For continuing programs, include current waiting list information.

10. Supporting documents - there is a complete list of documents to submit in a checklist on the last page of the DOH application form.

C. Application Underwriting Criteria for DPA & New Construction/For Sale Construction only:

1. Market - the number of renter households in the service area below the HUD Low Income limit (generally 80% of AMI).
2. Supply - the inventory of for-sale homes that are affordable to the target population.
3. Availability of homeownership education classes and homebuyer counseling from a HUD/CHFA approved counseling agency.

3) Local Program Guidelines

Each agency shall establish and implement board-approved local program guidelines. Guidelines will be reviewed by DOH staff as part of the annual application review process. DOH policies and federal regulations must be met as a minimum - they are described on the following pages. Agencies may impose further restrictions to target their local programs to the needs of their unique areas. The following items should be specified for each program that will use DOH RLF funds:

A. Program Purpose & Service Area

B. Client Eligibility Criteria

1. Minimum Income
2. Maximum Income
3. Part 5 Annual Gross Income
4. Calculating Income
5. Verifying Income and Assets
6. Primary Residence
7. Forms and Verification of Ownership
8. Lawful Presence
9. Homebuyer Education (N/A for Rehab)
10. Local Client Eligibility Policies

C. Property Eligibility Criteria

1. Housing Types
2. Maximum Purchase Price or After-Rehabilitation Value Limit
3. Uniform Relocation Act
4. Property Standards for DPA and For Sale programs
5. Property Standards for Rehab programs
6. Lead Based Paint

D. Loan Approval/Denial Policy & Procedures

1. Eligible Uses of Funds Provided to Clients
2. Minimum Loan Amount
3. Maximum Loan Amount
4. Minimum Homebuyer Equity Contribution (DPA and For Sale programs only)
5. HUD Affordability Period (DPA and For Sale programs only)
6. Recapture
7. Resale
8. Loan Terms
9. Underwriting Criteria
10. Additional Lending Guidelines

11. Loan Fees
12. Loan Security
13. Use of DPA with FHA first mortgage loans
14. Sale of Foreclosed Property

E. Rehab-Specific Policies and Procedures

1. Housing Rehabilitation Standards
2. Eligible Rehab Work
3. Replacement or Reconstruction of Housing
4. Emergency Repairs
5. Steps to Housing Rehabilitation
6. Monitoring

F. Rehab and New Construction For-Sale Specific Policies & Procedures

1. Contracting for Construction
2. Minority and Women Business Enterprises Marketing
3. Section 3 Economic Opportunity
4. Davis Bacon Wages

G. Program Administration

1. Board of Director's Roles and Responsibilities
2. Loan Committee's Roles and Responsibilities
3. Program Staff's Roles and Responsibilities
4. The SAFE Act
5. Affirmative Marketing
6. Equal Opportunity Statement
7. HUD Environmental Review
8. Program Income
9. Agency Administrative Procedures
10. Conflict of Interest
11. Code of Ethics
12. Dispute Resolution

4) DOH Program Guidelines

A. Program Purpose & Service Area:

Down Payment Assistance (DPA) and For-Sale Construction - The goal of the DPA and For-Sale Construction (“For Sale”) Programs is to help qualified low- to moderate-income families afford to purchase a home.

Rehabilitation Program - The goal of the Single Family Owner Occupied Rehabilitation (“Rehab”) Program is to remove deficiencies or health and safety hazards, correct substandard conditions, correct violations of local housing codes, improve accessibility and improve energy efficiency for owner occupied housing.

Each RLF Program needs to define its own service area, based on a county or counties (especially in rural areas).

B. Client Eligibility Criteria:

1. Minimum Income (only for DPA and For Sale programs) - DOH prefers that agencies set a minimum client income of 50% AMI, unless they provide additional pre-purchase homebuyer counseling, above and beyond the standard HUD or CHFA approved classes. Agencies that serve clients below 50% AMI should also offer ongoing post-purchase homeownership counseling, preferably by involving their clients in a supportive program that keeps them engaged.
2. Maximum Income - All client households must qualify as Low-Moderate Income (LMI). In other words, the household’s gross annual income at the time of the award must be at or below the HUD Low Income limit (generally 80% of the Area Median Income, or AMI) for their county of residence, as adjusted for household size. Agencies must demonstrate that clients meet this criteria based on section “B. 3. Part 5 Annual Gross Income” and section “B. 4. Calculating Income.” The client does not need to remain low income after the acquisition or rehabilitation of the home.
3. Part 5 Annual Gross Income - The following two sections on “Calculating Income” and on “Verifying Income and Assets” are based on HUD regulations and annual income as defined in 24 CFR 5.609, “Part 5 annual gross income.” For more detail, please see the HUD website at: <http://www.hud.gov/offices/cpd/affordablehousing/training/web/calculator/requirements/> .

4. Calculating Income - All clients who hold (or will hold) title to the property must be accounted for in the preliminary application to the agency. This includes a listing of all household members (including those not on the title), and all sources of income and asset information.
 - a. Household Size: Proof of household size includes (but is not limited to) the following:
 - Birth certificates for minors
 - Driver's license or state issued identification for adults
 - Custody orders for minors or disabled adults
 - School records for minors
 - b. Anticipating Income: Annual income is the gross amount of income that is anticipated to be received by all members of the household, even if they are not related to each other, during the twelve months following the effective date of determination. Income includes:
 - Wages of all adults (including reoccurring seasonal jobs)
 - Earnings on all assets
 - Public benefits
 - Alimony
 - Child support
 - Pensions and routine payments from retirement accounts
 - Benefits and unearned income of dependents under the age of 18.

To determine a household's income, use a "snapshot" of the household's current circumstance to project future income. In general, the agency should assume that today's circumstances will continue for the next 12 months, unless there is verifiable evidence of the contrary. For example, if a head of household is currently working for \$10.00 per hour, 40 hours per week, the agency should assume that this household member will continue to do so for the next year. Thus, estimated earning will be \$10.00 per hour multiplied by 2,080 hours or \$20,800 per year.

This method should be used even when it is not clear that the type of income received currently will continue in the coming year. For example, assume a household member has been underemployed, earning only \$100 per week at the time of income certification. The household member is actively looking for a new job. However, because it is not known whether or when the household member will find new employment, the agency should use the current circumstances to

anticipate annual gross income. Income would therefore be calculated as follows: \$100 per week X 52 weeks, or \$5,200.

The exception to this rule is when documentation is provided that current circumstances are about to change. For example, an employer might report that an employee currently makes \$7.50 per hour, but it will increase to \$8.25 an hour eight weeks from the time of income certification. In such cases, income can be calculated based on the information provided. In this example, the calculation would be as follows:

- $\$7.50/\text{hour} \times 40 \text{ hours/week} \times 8 \text{ weeks} = \$2,400$
- $\$8.25/\text{hour} \times 40 \text{ hours/week} \times 44 \text{ weeks} = \$14,520$
- $\$2,400 + \$14,520 = \$16,920$

5. Verifying Income and Assets - The agency is responsible for collecting income and asset verification documentation and such evidence must be retained in each client's file.
 - a. Clients must provide at least two (2) months of source documents to demonstrate their income. They must also provide proof of any assets. Acceptable source documents include but are not limited to the following:
 - Most recent two months of pay stubs
 - Retirement, disability or social security award letters
 - Most recent federal income tax return
 - Last two months of all bank statements - checking, savings and any other accounts
 - Child support order
 - b. Income and assets shall be verified utilizing third party verification format and other such procedures as necessary. Under this form of verification, the agency contacts a third party (employer, Social Security Administration, or public assistance agency) to verify income. Although written requests and responses are generally preferred, conversations with a third party are acceptable if documented through a memorandum to the file that notes the contact person, information conveyed, and date of call. In addition, an agency may obtain third party written verification by fax, email or internet. The agency must make adequate effort to ensure the sender is a valid third-party source.
 - c. Documents provided by the client (pay stubs, tax returns, etc.) can be used as an alternative to third party verifications. Although easier to

obtain than third-party verifications, a review of documents provided by the client often does not provide all necessary information. For instance, an employed client's pay stubs may not provide sufficient information about the average number of hours worked, overtime, tips and bonuses. In this case, the agency may also need to contact the employer to accurately project annual income.

- d. To conduct third-party verifications, an agency must obtain a written release from each income-earning household member that authorizes the third party to release required information.
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6. Primary Residence - HUD does not allow assistance to vacation homes. The home must be a primary residence, or "Main Home" as defined by IRS publication 936, found at: www.irs.gov/pub/irs-pdf/p936.pdf. It states: "You can have only one main home at any one time. This is the home where you ordinarily live most of the time."
 - a. Clients must sign a clause on their application form certifying that the property is (or will be) their primary residence.
 - b. Agencies may also verify that a home is currently the client's primary residence by requesting a government-issued ID that shows home address, e.g., a driver's license or non-driver photo identification. Clients may also provide other forms of documentation, such as:
 - Vehicle registration
 - Last year's federal income tax return
 - Utility bill that shows 12 months of use at the home, e.g., phone, cable, electricity, water
 - A document, dated within 6 months of their application, showing they received government benefits such as Social Security payments, Medicaid, Medicare, SSI, or food stamps
 - c. DPA & For-Sale agencies must confirm that clients are using the home as their primary residence at least annually throughout the affordability period, by obtaining a written statement that the client resides in the home as their primary residence. DOH requires agencies to retain copies in the client's file. See section "G. 9. b. Compliance Tracking" for more information.
 - d. If the client does not continue to both occupy and own the property, the remaining balance of the RLF loan is immediately due and payable (see

section “D. 8. c. Due on Sale Clause”). Extended stays in a rehabilitation hospital or nursing home do not necessarily trigger repayment, if the client continues to own the property and to consider it their primary residence.

- e. Agencies may ask DOH for permission to allow temporary exceptions for military families.
7. Forms and Verification of Ownership - The client’s ownership interest must be in good, marketable title, subject to only certain restrictions (such as HOME resale restrictions, mortgages, deeds of trust, liens or instruments that secure debt on the property, or other resale restrictions imposed through locally funded affordable housing programs), provided these are approved by the agency.
- a. Current ownership (for Rehab) and future ownership (for DPA and For Sale) must be one of the following types:
 - Fee simple title - demonstrated by a Warranty Deed or an Ownership and Encumbrance (O&E) title report
 - Leasehold interest - demonstrated by a 99-Year Lease or a 50-year Lease on Community Land Trust property. For manufactured housing, HOME requires a ground lease that is at least equal to the applicable affordability period.
 - b. For Rehab, current ownership may also include:
 - Inherited property with multiple owners. This is for housing for which title has passed, by inheritance, to several heirs, not all of whom reside in the housing. This most often occurs when siblings inherit a family home that is occupied by one sibling. The agency may provide rehabilitation assistance to the owner-occupant when he/she: (1) is low-income, (2) occupies the housing as his or her principal residence, and (3) pays all the costs associated with ownership and maintenance of the housing (e.g., mortgage, taxes, insurance, utilities).
 - Life estate. Under a life estate, the occupant of the property has the right to live in the housing for the remainder of his or her life and does not pay rent. This might be a situation where a disabled adult occupies a dwelling owned by another family member under a life estate, or in which a deceased spouse leaves a property to the children of a previous marriage but permits the other spouse to occupy the property for the remainder of his or her life. Agencies are permitted to provide rehabilitation assistance to the person

holding the life estate, provided the person is low-income and occupies the housing as his or her principal residence.

- Inter vivos trust, also known as a living trust. A living trust is created when the owner of property conveys his or her property to a trust for his or her own benefit or for that of a third party (the beneficiaries). The trust holds legal title and the beneficiary holds equitable title. The trustee is under a fiduciary responsibility to hold and manage the trust assets for the beneficiary. This is a common estate planning tool. Agencies may provide rehabilitation assistance to a property if all beneficiaries of the trust qualify as a low-income family and occupy the property as their principal residence. The contingent beneficiaries, who receive no benefit from the trust and have no control over the trust assets until the beneficiary is deceased, need not be low-income. The trust must be valid and enforceable and must ensure that each beneficiary has the legal right to occupy the property for the remainder of his life.
- Beneficiary deed. A beneficiary deed conveys an interest in real property, including any debt secured by a lien on real property, to a grantee beneficiary designated by the owner and that expressly states that the deed is effective on the death of the owner. Upon the death of the owner, the grantee beneficiary receives ownership in the property, subject to all conveyances, assignments, contracts, mortgages, deeds of trust, liens, security pledges, and other encumbrances made by the owner or to which the owner was subject during the owner's lifetime. Agencies may assist the owner if he or she qualifies as low-income and occupies the property as his or her principal residence.

- c. Per HUD/HOME policy, a contract for deed (also known as an installment contract or land sales contract) is **not** an eligible form of homeownership.

8. Lawful Presence - All programs funded by HOME or CDBG must comply with the eligibility and verification requirements of the Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform Act) , found at: <http://www.gpo.gov/fdsys/pkg/CPRT-104WPRT27305/html/CPRT-104WPRT27305.htm>.

- a. All members of a benefitting household must be lawfully present. HUD funds may not be prorated based on the percentage of legal residents in the household.

- b. Exemptions:
 - Nonprofit charitable organizations are not required to determine, verify, or otherwise require proof of eligibility of a client for any federal public benefit, unless they make a practice of it in their other programs.
 - If a local government grantee subcontracts with a nonprofit charitable organization to operate the program, that nonprofit is still exempt.
 - Any agency providing services, such as emergency repairs, that are necessary to protect life or safety are also exempt from the Welfare Reform Act.

- c. Non-exempt agencies must verify eligibility for all of their clients' household members when they apply for public benefits:
 - All of the clients' household members must execute a Residency Declaration form, including minors - parents are permitted to sign for minor children.
 - All of the clients' household members must produce documentation which may be required pursuant to Federal law, Interim Guidelines published by the United States Department of Justice (62 FR 61344) or, if applicable, Colorado laws and regulations, if the Colorado laws are not inconsistent with Federal law.

9. Homebuyer Education (N/A for Rehab) -

- a. All new homebuyer clients must successfully complete a home ownership education/counseling program and present a copy of the course completion certificate to the agency. DOH recommends HUD/CHFA/NRAC certified programs.

- b. DOH also encourages agencies to make additional pre- and post-purchase and foreclosure prevention counseling available to their clients, and requires access to it for clients under 50% AMI. Counseling may be provided by the agency itself or by a third party.

10. Local Client Eligibility Policies - Local Guidelines may want to further specify:

- a. Whether DPA clients must be 1st time home buyers.

- b. Limits on net worth, such as whether clients can own other real estate or have other kinds of substantial assets (not including retirement accounts).
- c. Whether clients must be employed in the agency's program area.
- d. Other preferences, if allowed by the Fair Housing Act and appropriate for the local market.

C. Property Eligibility Criteria:

1. Housing Types

- a. The following housing types are eligible:
 - Single-family homes
 - Duplexes
 - Town homes
 - Condominiums
 - Manufactured and modular homes on permanent foundations or properly tied down, on land owned by the homeowner client.
 - Any of the above, on Community Land Trust property
 - b. The following housing types are NOT eligible:
 - Rental housing
 - Manufactured homes on a rented lot. However, Rehab programs may perform emergency repairs, per DOH policy. Please see section “D. 3. Maximum Loan Amount” for more detail.
 - Any home/structure in the floodway.
 - Homes/structures in the 100- or 500-year floodplain are not eligible for DPA or New Construction/For-Sale programs.
 - Vacation homes - all homes must be occupied by households that consider it their primary residence.
 - c. Homes in the floodplain are eligible for Rehab, but only if owners obtain both flood insurance coverage from the National Flood Insurance Program (NFIP) and building permits, and the project successfully completes the HUD Environmental clearance as required under 24 CFR Part 58.
 - The HUD Environmental review must include a thorough cost/benefit analysis of all options to mitigate the risk of future flooding, and all practical mitigation measures must be implemented.
 - Flood insurance must be maintained on the home. Agencies must confirm at least annually that this insurance is in place for the life of the loan, or during the affordability period, whichever greater.
2. Maximum Purchase Price or After-Rehabilitation Value Limit - The HOME program statute requires that no housing have a purchase price or after-rehabilitation value that exceeds 95 percent of area median purchase price, in order to ensure that HOME-assisted housing is modest and non-luxury. HUD will determine and issue limits that represent 95 percent of

the area median purchase price separately for newly constructed and existing single family housing units. **DOH policy is to NOT apply this standard to CDBG funded programs.** For CDBG funded programs, it is only relevant for setting maximum DPA loan amounts, as described in section “D. 3. Maximum Loan Amount.”

- a. For DPA, this applies to the sales price, which must be documented with a copy of the sales contract, HUD-1 or similar closing statement.
 - b. For Rehab, this applies to the property value after completion of the rehabilitation work, which must be documented with:
 - Assessor records
 - Appraisal (no older than 6 months)
 - Comparable sales (no older than 6 months)
 - Sale price of home, if purchased within the past 6 months.
 - c. Two options are available to determine the maximum purchase price or after-rehab value limit:
 - Refer to HUD’s FY 2015 HOME Homeownership Value Limits Effective April 13, 2015, at:
<https://www.hudexchange.info/news/fy-2015-home-homeownership-value-limits-effective-april-13-2015>.
 - Perform a local market survey to determine the median purchase price for the county. For more information, see the HOME regulations at: [24 CFR 92.254](#). See section (a)(2)(iii).
3. Uniform Relocation Act - this applies to DPA programs when the client will acquire an existing, occupied home. For more information, see HUD’s Tenant Assistance, Relocation and Real Property Acquisition Handbook (1378.0) (found at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/cpd/13780).
- a. Agencies must send the seller a “Voluntary Acquisition” letter and keep proof that it was delivered in the client file. A Guideform letter is in Appendix 31 of the HUD handbook.
 - b. If the home is renter-occupied, it may not be acquired unless the tenant moves voluntarily. Agencies must send the tenant a “General Information Notice - Residential Tenant Not Displaced” letter and keep proof that it was delivered in the client file. A Guideform letter is in

Appendix 3 of the HUD handbook (it will need to be modified to fit the situation).

4. Property Standards for DPA and For Sale programs (no rehab activity) -
 - a. HUD's HOME program requires new construction projects to meet State and local codes, ordinances, and zoning requirements. In the absence of an applicable State or local code for new construction, HOME-assisted projects must meet the International Code Council's (ICC's) International Residential Code or International Building Code, whichever is applicable to the type of housing being developed. In addition, these projects must meet:
 - Accessibility requirements as applicable, in accordance with Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and the Fair Housing Act.
 - Disaster mitigation standards, in accordance with State and local requirements or as established by HUD, where they are needed to mitigate the risk of potential disasters (such as earthquakes, hurricanes, flooding, and wildfires).
 - DOH policy is to apply this requirement to CDBG funded programs as well.
 - b. HUD's HOME program requires that existing housing acquired for homeownership must be decent, safe, sanitary, and in good repair. At minimum, the housing must meet all applicable State and local housing quality standards and code requirements. In addition, the housing must be free of any deficiencies identified by HUD in the Uniform Physical Conditions Standards (UPCS) (pursuant to 24 CFR 5.705) based on the inspectable items and inspected areas in HUD-determined physical inspection procedures. If the housing does not meet these standards, the housing must be rehabilitated to meet the standards or it cannot be acquired with HOME funds. HUD will issue guidance that specifies which components of UPCS will apply.
 - c. The agency must inspect the housing and document this compliance based upon an inspection conducted no earlier than 90 days before the commitment of assistance. DOH policy is to apply this requirement to CDBG funded programs as well.
 - d. HUD's HOME program requires that agencies perform inspections themselves, or contract directly with a qualified third party to do the inspections. Agencies may not rely on independent inspectors working

for the homebuyer, seller, etc. DOH policy is to apply this requirement to CDBG funded programs as well.

- e. DOH encourages DPA programs to verify that the property meets these standards as early in the home purchase process as possible.
 - f. The agency will retain a copy of the property inspection report(s) in the individual loan file.
5. Property Standards for Rehab Programs - It is DOH policy that each property must have a minimum of one Housing Quality Standards (HQS) or Building Code deficiency to be eligible for rehabilitation. For after-rehab housing standards, see section "E. 1. Housing Rehabilitation Standards."
6. Lead Based Paint - All agencies that use DOH funds (new grant and/or program income) must comply with lead-based paint regulations from HUD (24 CFR Part 35) and the EPA (40 CFR Part 745).
- a. Properties built after 1978 are exempt only if their date of construction is documented in the agency's file.
 - b. Contractors are required to be certified in Renovation, Repair and Painting (RRP) by the EPA, certified in lead-safe work practices, their employees must be trained in use of lead-safe work practices, and they must follow lead-safe work practices that minimize occupants' exposure to lead hazards. For more information, see the Environmental Protection Agency's (EPA) website at <http://www.epa.gov/lead/pubs/renovation.htm>.
 - c. Properties constructed prior to 1978 will require that a Lead Based Paint Notice be given to all clients. Evidence that the notice has been provided to the client must be retained in each file.
 - d. Prior to or during the initial inspection, a qualified inspector shall complete the appropriate lead-based paint assessment.
 - e. If lead based paint issues are found, the agency will determine the required actions and estimate costs to determine whether the property is suitable for DPA or Rehab.

D. Loan Approval/Denial Policy & Procedures:

1. Eligible Uses of Funds Provided to Clients

a. For DPA Programs:

- Down payment assistance for fee simple home acquisition
- Down payment assistance for Community Land Trust homes.
- Down payment assistance for Shared Equity program homes.
- Write-down mortgage principal amounts (mortgage assistance)
- Closing costs

b. For Sale Programs:

- The cost of developing homes including: acquisition, site work, construction, construction financing, etc.
- Write-down mortgage principal amounts (mortgage assistance).
- Closing costs.

c. For Rehab Programs:

- Rehabilitation to the home and its site - permits, supplies and labor
- Relocation
- Reconstruction
- If a general contractor is hired to complete the work, then their overhead, general conditions and profit are also eligible.
- Closing costs.

2. Minimum Loan Amount - The minimum loan amount is \$1,000, based on HOME program regulations. DOH policy is to apply this requirement to CDBG funded programs as well.

3. Maximum Loan Amount -

a. For DPA and For Sale Programs:

- Agencies must set their own maximum loan amounts. This maximum covers ALL DOH sources used to make the loan, including Program Income.
- Per DOH policy, the maximum may be as high as 8.5% of the area's Maximum Purchase Price or After-Rehabilitation Value Limit, as defined in section "C. 2." For CDBG funded programs, this is the only application of those limits.
- Regardless of the established maximum, the agency must analyze each client's financial resources and transaction costs and only provide as much funding as the client needs to fill the gap between

- what they can afford and the cost to complete the purchase.
- CDBG regulations only allow those funds to pay for up to half of the required down payment. CDBG can also be used to subsidize mortgage principal amounts and to pay reasonable closing costs. The regulation can be found in HCDA Section 105(a)(24), and it applies to both State and Entitlement CDBG programs.
- DPA funds from DOH may be used in conjunction with other programs (i.e. CHFA loans and down payment assistance, Section 8 homeownership, or other local programs).
- Total indebtedness against the property cannot exceed one-hundred percent (100%) of its value. The only exception is if the first mortgage is a government-backed loan (such as USDA-RD, FHA or VA) with a mortgage insurance premium, and that premium is the only reason that the loan amount is over 100% of value. In that case, the agency's underwriting still must show that the total payment will be affordable to the client.

b. For Rehab Programs:

- DOH has established a loan limit of \$24,999, plus the cost of any lead based paint mitigation activities and inspection costs. This maximum covers ALL federal sources used to make the loan, including Program Income.
- Loans exceeding the \$24,999 cap may be approved on a case by case basis. Approval must be obtained in writing from DOH and retained in the individual participant's file.
- For emergency repairs to mobile or manufactured homes on rented lots, the maximum is based on the value of the home (determined by assessed value, appraised value, or comparable sales).
 - i. If the home is worth less than \$10,000, then the maximum is \$5,000.
 - ii. If the home is worth over \$10,000, then the maximum is 50% of its value, up to the cap of \$10,000 for emergency loans.
- Total indebtedness against the property cannot exceed one-hundred percent (100%) of its value.

4. Minimum Homebuyer Equity Contribution (for DPA and For Sale only) -

- a. DOH policy requires the client to contribute at least \$1,000 or one percent (1%) of the purchase price, whichever is greater, to the home purchase. Agencies may choose to increase the minimum.

- b. Reasonable and customary fees commonly charged to a loan applicant in unassisted real estate transactions, such as the cost of credit reports or appraisals, may be charged to clients. Those fees, as well as clients' upfront costs for earnest money, etc. may go toward their required contribution.
- 5. HUD Affordability Period (for DPA and For Sale only, Rehab programs do not have any ongoing affordability restrictions) -
 - a. The length of the affordability period for HOME funds is based on the amount subject to recapture (100% of the HOME loan amount), as follows:
 - Under \$15,000 = 5 years
 - \$15,000 - \$40,000 = 10 years
 - Over \$40,000 = 15 years
 - If New Construction = 20 years
 - b. CDBG regulations require DOH to set an affordability period. The length of the affordability period for CDBG funds is five (5) years.
 - c. Clients do not need to remain low income after their project is complete. They will need to ensure that their home is treated as a principle residence for the entire affordability period (at least five years).
 - d. Agencies must ensure ongoing compliance by using either a "Recapture" or "Resale" model. DOH and the agency must agree on which model to use before the program begins, and that choice must be reflected in the contract between DOH and the agency. Neither option prevents clients from selling their home, although Resale does restrict the sales price.
- 6. Recapture - DOH policy is to follow the Recapture model for all DPA and For Sale programs (except certain For Sale programs - see below). The agency must incorporate the following agreements into their loan agreements (Deed of Trust, Promissory Note or other documents):
 - a. Key terms of the mortgage note
 - b. Length of the affordability period

- c. Principle residency is required of the client throughout the affordability period. If a client fails to use the home as a principle residence, the remaining balance of their loan becomes due and payable.
 - d. Loan payoff does not end the affordability period, but selling the home or losing it to foreclosure does end it, and releases any use covenant.
 - e. If the client sells their home or loses it to foreclosure before the end of the affordability period, then the agency will recapture the remaining balance of the loan, up to the amount of "Net Proceeds."
 - o Net proceeds = Sales price - Senior debt repayment - Closing costs.
 - o DOH requires that the client demonstrate that the sale price was supported by an appraisal.
 - f. Any excess net proceeds, after repayment of the loan to the agency, may be kept by the client, unless their loan is structured with an equity ratio instead of an amortizing interest rate (for Shared Equity Programs).
 - g. HOME now permits a subsequent low-income purchaser to assume the existing HOME loan and recapture obligation entered into by the original buyer, but only when no additional HOME assistance is provided to the subsequent homebuyer.
 - h. DOH recommends that the agency seek legal advice about incorporating these provisions into their loan documents.
7. Resale - DOH will consider using the Resale model with For Sale programs run by non-profit agencies that have ongoing relationships with their homebuyers. Resale requires:
- a. The subsequent purchaser must be a low-income family (80% or less of area median income) that will use the property as its principal residence.
 - b. The sale of the property to the new low-income family must be at a price that allows for "fair return on investment, including any improvements" to the seller (the former homebuyer).
 - o The former homebuyer's investment is defined as their down payment plus the value of any improvements they made to the house. For example, the homebuyer made a \$1,000 down payment to purchase an existing home. They also invested in a new kitchen

that added \$5,000 to the value of the home. Their investment equals \$6,000.

- “Fair return” is defined as the percentage change in the value of the home, based on the percentage change in median home prices and documented by appraisals from the former homebuyer’s purchase and the subsequent (new) homebuyer’s purchase. For example, the median sales price for the home’s unit type (single family vs. condo; existing vs. new construction) and market area, according to the local Multiple Listing Service, was \$200,000 when the homebuyer purchased it. When they decide to sell, the same measure of median sales price indicates an increase of 2.5% to \$205,000. The seller must be allowed to sell the home for enough to recoup both their original investment (\$6,000) and a 2.5% fair return on that investment ($\$6,000 \times 2.5\% = \150), a total of \$6,150.
- NOTE: if median sales prices actually decline between sales, the seller may not receive a return on their investment.

- c. Ideally, the property would also be sold at a price that is affordable to a reasonable range of low-income buyers, specifically to households at 75% to 80% of area median income that will pay not more than 30% of their income for principal and interest.
- d. If the affordable sales price (described in c.) is not enough to allow the seller to realize a fair return on their investment, then qualified buyers would need to apply for their own DPA loan to enable them to afford a sales price that does ensure a fair return.

8. Loan Terms -

- a. Interest Rate and Length/Term of Loan:
 - DOH encourages loans to be fully amortized with regular monthly payments whenever possible. The agency’s Loan Committee may establish a range of possible interest rates (from 1% up to market rate) and loan terms (from 1 to 30 years).
 - Community Land Trust and Shared Equity programs may, in lieu of an amortizing loan, establish an equity ratio as the basis for pay back of loans upon title transfer or change in owner occupancy.
- b. Loan Deferrals: DOH recommends that loans be amortized whenever possible. However, if a client does not qualify for an amortizing loan, DOH allows agencies to defer all or part of their RLF loan.
 - The agency’s Loan Committee will establish guidelines for providing

deferred loans, using criteria such as age of household, household income, and ability to make monthly loan payments.

- Up to 25% of the value of the agency's loan portfolio may be deferred at any one time. Shared Equity loans are not considered deferred, and do not count towards the 25%.
- Agencies may increase the percentage of deferred loans only with approval from DOH.

c. Due on Sale Clause: All loans shall contain a "Due on Sale" clause, making the entire outstanding balance due upon:

- Sale (amount due is limited to "Net Proceeds")
- Transfer
- Refinance (exceptions - see below)
- Move - if it is no longer the client's primary residence, or
- Death (unless inherited by a co-borrower).

d. Refinance Options: Agencies may allow some flexibility for refinancing the primary loan if, after review, the agency consents to sign a subordination agreement.

- Clients must continue to meet all eligibility criteria, except for income limits.
- The agency must review the refinance and confirm that the new loan is not predatory.
- Borrowers with deferred loans may take cash out with the refinance to pay off secured loans, medical debt, and/or make necessary capital improvements to the property.

9. Underwriting Criteria -

a. DOH will assess New Construction For Sale development projects:

- To ensure that the profit or return to the developer is reasonable for the size, type, and complexity of the project.
- To understand the sources and uses for each project and determine whether the costs are reasonable.
- To assess the market conditions of the neighborhood in which the project will be located.
- To assess the experience and financial capacity of the developer.
- To determine whether there are firm financial commitments for the project.

- b. Agencies must evaluate/underwrite DPA, For Sale and Rehab clients in accordance with the following:
- To understand the sources and uses for each client and determine whether the costs are reasonable.
 - If other funding sources will be utilized, then the agency must determine whether there are firm financial commitments in place.
 - Total indebtedness against the property cannot exceed one-hundred percent (100%) of its value. The only exception is if the first mortgage is a government-backed loan (such as USDA-RD, FHA or VA) with a mortgage insurance premium, and that premium is the only reason that the loan amount is over 100% of value. In that case, the agency's underwriting still must show that the total payment will be affordable to the client.
 - Overall household debt generally should not exceed 43% of gross income. Agencies' Loan Committees may, on a case-by-case basis, approve a "back-end ratio" as high as 55%, if there are significant compensating factors such as a high credit score, strong employment history and/or significant cash reserves in the bank.
 - The Agency's loan approval must be based on a review of the client's ability to repay the loan. The amount of assistance and the loan terms must make the home purchase or rehabilitation affordable to the client without over-subsidizing them, taking into account: recurring household expenses (including but not limited to monthly bills), assets available to contribute, and the client's financial resources available to sustain homeownership.
 - Agencies should also evaluate the client's first mortgage (whether existing or proposed) and determine whether or not it is a predatory loan. If it is, then the agency should help the client find an alternative first mortgage with better terms.
 - Agencies may also use credit scoring or other methods of determining the client's ability to repay the loan.
 - If an agency provides Rehab to a home in a floodplain, they must take into account the cost of flood insurance when determining each client's ability to repay a loan. Due to the requirements of the Biggert-Waters Flood Reform Act of 2012, the cost of flood insurance premiums are rising dramatically to reflect the actuarial risk associated with being in a floodplain

10. Additional Lending Guidelines -

- a. Equal Opportunity Lender: Agencies will not discriminate against anyone through their lending practices or in any other decision making

processes due to race, color, religion, gender, disability, sexual preference, age, family status and/or national origin.

b. General Lending Requirements:

- Loan terms and rates must be consistently applied
- All loans are non-forgivable, unless the client can demonstrate that net sale proceeds are not adequate to pay off 100% of the loan.
- DOH prefers to be in second position
- Clients may not receive cash back at closing unless it is part of an escrow account established for the original loan closing.
- The property must be current on property taxes and agencies must retain proof, in the form of a property tax receipt or a year-end statement from the client's first mortgage loan, in each client file.

c. Second or Supplemental Loans: allowed for Rehab only. DOH strongly recommends that as much rehab work as possible be done on each home under one loan request. Additional loan funds are allowed only if an agency realizes the need for additional work while a rehab or an emergency repair is in progress, in an emergency, or for a homeowner affected by a natural disaster.

- If a client requests a supplemental RLF loan more than 120 days after their first application, they must update their application to reflect current income, any changes to the project, etc.
- The agency must re-underwrite the request. The agency may either raise the monthly payment amount or modify the loan terms to keep the loan affordable for the client.
- The agency must release and re-record the updated loan documents and the Beneficiary and Use Covenant to reflect changes in the loan.
- The agency should complete a supplemental work write up, even if they are only performing an emergency repair.
- Once a rehab job is complete, DOH will not allow a second loan to the same client, unless it is for an emergency repair. Agencies may request an exemption, but must get written approval from DOH before proceeding.
- If a DPA client also needs a Rehab loan, the client must complete a separate application; the agency must treat their Rehab request separately and if approved, set up separate loans. This is to ensure that the agency's DPA and Rehab RLF accounts are kept separate. Additional HUD regulations apply when both DPA and Rehab are used on a property at the same time - please contact DOH for more information.

11. Loan Fees -

- a. Origination fee: Agencies may not charge clients an origination fee.
- b. Closing costs and fees: Agencies may charge clients the cost of a credit report, title work, home ownership counseling, and/or other reasonable closing costs. These fees may be funded by their loan, or credited to their minimum contribution.
- c. Late fees and legal costs: Agencies may charge clients reasonable late fees and, in the event of delinquency or foreclosure, reasonable legal fees. The basis for determining “reasonable” must be defined and consistently applied.
- d. Loan Servicing Fees: Agencies may not charge clients a loan servicing fee.
 - For agencies which have an open DOH contract and service their own loans, DOH will include in its contract reasonable administrative costs. To determine what is “reasonable,” agencies must justify the cost and compare their cost with those of private loan servicing companies.
 - For agencies that have an open DOH contract and use a loan servicing company, DOH will include in its contract administrative funds sufficient to reimburse the agency for the costs.
 - Agencies that do not have an open DOH contract must re-apply to DOH for additional funding, or find other sources of funding to support their loan servicing costs.
 - Loan servicing fees cannot be taken out of loan payments. Agencies must track all such payments as Program Income.
 - The amount paid to the agency for loan servicing cannot exceed the actual cost of providing this service.

12. Loan Security - Loans will be evidenced by a Promissory Note secured by a Deed of Trust on the property. In the case of emergency repair funding for manufactured homes on rented lots, the loan will be secured as a lien against the home’s title.

- a. All DPA and For-Sale loans will be protected for the affordability period by an enforceable instrument that is recorded against the property and requires:
 - Affordability period language as described in section “D. 5. HUD

- Affordability Period,” including principle residency.
- Programs using the Resale model must use a Beneficiary and Use Covenant.
 - Programs using the Recapture model may use a Beneficiary and Use Covenant. They may instead incorporate it into their loan documents, but only if the client is not allowed to fully pay off the loan before the affordability period expires.
- b. A Deed of Trust will be legally recorded in the county of jurisdiction, and will include the following provisions:
- Property and Casualty insurance coverage is required for the amount adequate to pay off all loans on the property or the appraised value, whichever is higher. The loss must be payable to the agency as additional insured. Agencies must retain proof of insurance in the client’s file. Coverage must continue for the term of the Promissory Note or until payment in full is received and the recorded documents have been released.
 - If the property will not be insurable until after Rehab work is completed, then the owner should secure construction insurance for the interim. Once the rehab is done, the agency must verify that Property and Casualty insurance is in place as soon as possible.
 - Houses in residential areas designated by FEMA’s National Flood Insurance Program as high-risk areas (Special Flood Hazard Area, shown on the flood maps as zones labeled with the letters A or V) must continually carry flood insurance in an amount adequate to pay off all loans on the property and the appraised value, whichever is higher. The loss must be payable to the agency as additional insured. Agencies must retain proof of insurance in the client’s file for the affordability period, the term of the Promissory Note, or until payment in full is received and the recorded documents have been released - whichever is longer.
 - If the property is transferred by sale or descent, the unpaid balance of the loan will be due and payable immediately (limited to Net Proceeds). Descent to co-borrower is excluded from this provision. Transfers by inheritance or other estate planning tools may be excluded from this provision, so long as the home and its occupant continue to qualify - the new resident must qualify as Low-Income and treat the home as their primary residence. For the purposes of this Program, “sale or transfer of title” shall mean any sale or transfer that will cause the assisted property to be reassessed by the Assessor’s Office.

- c. The Loan Agreement and/or the Promissory Note shall identify the following:
- The annual percentage rate or equity share ratio.
 - The finance charge.
 - The amount financed.
 - The total of all payments.
 - The number of monthly payments.
 - The amount of the monthly payments.
 - When the monthly payments are due.
 - The maturity date of the note.
 - Legal description of property given as security.
 - Itemization of fees charged (filing, O&E, credit report, etc.).
 - The potential for future adjustments in response to changes in the financial capability of the client
 - Affordability period language as described in section “D. 5. HUD Affordability Period (DPA and For-Sale programs only).”
 - In the event that the property is refinanced, resulting in net proceeds (beyond the amount needed to pay off secured loans and/or make necessary capital improvements to the property), then any such net proceeds shall be applied to reducing the principal amount of the agency’s RLF loan (see section “D. 8. d. Refinance Options” for more information).
- d. All RLF Program legal documents must be approved as-to-form by the agency’s attorney prior to use.

13. Use of DPA with FHA first mortgage loans - FHA requires non-profit 501(c)3 corporations that provide DPA for clients with a new FHA first mortgage to be pre-approved by FHA. Contact them at 1-800-CallFHA to start the process. FHA does not require pre-approval of government entities that provide DPA. This does not apply to Rehab loans, unless the Rehab loan closes simultaneously with a new FHA first mortgage loan.

14. Sale of Foreclosed Property -

- a. If a first mortgage holder or an RLF agency acquires a property through foreclosure, they may sell it to anyone, regardless of income. Foreclosure (or deed in lieu of foreclosure) ends the HUD affordability period for DPA/For Sale program loans, and there is no such affordability period for Rehab loans.

- b. If a potential buyer is income qualified and unable to acquire adequate conventional financing, then DPA agencies may choose to provide them a new DPA loan. The new client shall be required to submit a complete application and be evaluated as any other client would be.

- c. If an agency has difficulty selling the home due to market conditions, the agency may ask DOH for written permission to rent the home until conditions improve and they are able to sell, or to engage in a lease-purchase agreement with the prospective buyer. Any Net Operating Income (rental income less reasonable costs to manage and maintain the unit) would be considered Program Income, as would any Net Proceeds (sales price less senior debt repayment less closing costs) from the eventual sale. See section “G. 8. Program Income” for a general description and a link to DOH’s Program Income Guidelines.

E. Rehab-Specific Policies and Procedures

1. Housing Rehabilitation Standards - Each agency must develop and implement written rehabilitation standards that define the quality of materials and workmanship, including durability and aesthetics. Agency Rehab Standards must be based on DOH's Rehabilitation Standards (see Appendix 1) and the HUD CPD Green Building Retrofit Checklist, found at: <https://www.onecpd.info/resource/3684/guidance-on-the-cpd-green-building-checklist/>.
- a. HUD's HOME program requires that after rehab, each property must meet both locally written rehabilitation standards and state and local code requirements. If no state or local codes apply, the property must meet the International Existing Building Code of the ICC (IEBC).
- b. CDBG funded programs are not subject to this standard, although DOH encourages all agencies to try to correct as many issues as possible at one time, to the extent feasible for the client.
- c. Agencies' Rehab Standards must specify mid-grade materials, based on local building practices. If a homeowner chooses to upgrade materials to a higher quality than those called for in the agency's Rehab Standards, then they must pay for the cost difference with their own funds.
- d. It is DOH policy that each property must have a minimum of one building code or HQS deficiency to be eligible for rehabilitation, and that after rehab, all homes meet HQS. The work performed must also meet the agency's Rehab Standards and local building code.
- e. Note on Building Code and Rehab Standards Compliance: Most building codes, including the International Existing Building Code of the ICC (IEBC), allow building components that were constructed in compliance with the building code that was in effect at the time, and that do not pose a health or safety threat, to remain as is. Generally, they do not need to be improved to meet current code unless they are a threat to health or safety. The same applies to the DOH Rehab Standards - if a building component is not a threat to health or safety, and if it complies with the building code that was in effect when it was built, then the agency does not need to bring it into compliance with the DOH Rehab standards. Only the actual rehabilitation work performed must comply.

2. Eligible Rehab Work -

- a. All improvements must be physically attached to the property and permanent in nature. Site work on the client's private property is eligible only if the client's home also receives Rehab services, or if it will correct a threat to health and safety (see c., below).
- b. Public sidewalks, driveways, roads and streets are not eligible.
- c. All threats to health and safety must be completed before general improvements (see d., below). They include building code and HQS violations as well as any site work needed to stabilize the property, control erosion, correct drainage problems, remove fire hazards, and otherwise protect it from potential natural disasters.
- d. General property improvements may also be completed. Such secondary measures are eligible for up to 20% of the loan, per DOH policy. Secondary measures improve the appearance of the property but are not health, safety or resiliency items.
- e. For more detail on prioritization of rehabilitation work, please see DOH's Single Family Housing Rehabilitation Standards (see Appendix 1).
- f. Examples include:
 - Exterior work such as roofs, foundations, paint or siding, non-public sidewalks, site grading (to control flooding), site clearing (to protect from fire), utility connections (from property line to the adjacent street), septic systems, well water systems, doors, locks, skirting, leveling and bracing.
 - Interior work including electrical repair or rewiring, plumbing, replacement of damaged flooring where it poses a hazard, doors, locks, painting, abatement of lead-based paint, replacement of inoperable built-in appliances and the installation of flood vents in basements and crawl spaces.
 - Weatherization and energy conservation measures such as insulation, caulking, weather stripping, E-star appliances and repair or replacement of windows, doors, and heating systems.
 - Modifications to aid the mobility of the elderly and physically disabled such as accessible showers, lever hardware, retrofitting toilets to achieve adequate height, moving power points and light switches, ramps, widening doorways, lowering sinks in kitchens and bathrooms.

3. Replacement or Reconstruction of Housing - This is an eligible activity if the costs associated with the repair of the existing home exceed the costs of providing a replacement home.
 - a. The client must have the ability to finance the difference between the maximum rehabilitation cost (\$24,999) and the total replacement cost.
 - b. The HOME program permits reconstruction of units that are not standing on the site at the time of project commitment, provided that funds are committed within 12 months of the date of destruction.
 - c. Typically, replacement housing is a new or used manufactured housing unit. The new home must be:
 - the same size and character as the former home,
 - built in accordance with the Manufactured Home Construction and Safety Standards codified at 24 CFR part 3280.
 - on a permanent foundation
 - connected to permanent utility hook-ups and
 - be located on land that is owned (or leased for a period at least as long as the affordability period) by the homeowner.
 - d. The new home must be on the same lot and same footprint. The only exception is if the former home was in the floodplain or floodway. In those situations, DOH requires moving it out of the floodway - contact your DOH Asset Manager for more information.
4. Emergency Repairs - Loans may be made to address any specific hazards that pose an immediate danger to the health and safety of the applicant, including critical damage to the structure due to acts of nature, or mechanical system failures creating unsafe or unsanitary conditions.
 - a. Clients and properties must meet the all of the eligibility requirements for the program, except they do not need to comply with the eligibility and verification requirements of the Welfare Reform Act (see section "B. 8. Lawful Presence").
 - b. Manufactured housing on rented lots is eligible only for emergency repairs, and only for CDBG funds.
 - c. Emergency repair loans shall not exceed \$10,000.00 per applicant. If the home needs additional non-emergency work, the agency may take a

second loan application through the full approval process and (if approved) provide a supplemental rehabilitation loan. The emergency repair work may begin before the supplemental application is approved.

- d. DOH does not require the agency's Loan Committee to approve loans in emergency situations.

5. Steps to Housing Rehabilitation -

a. Initial Property Inspection & Cost Estimate:

- HUD's HOME program requires that agencies perform inspections themselves, or contract directly with a qualified third party to do the inspections. Agencies may not rely on independent inspectors working for the homebuyer, seller, etc. DOH policy is to apply this requirement to CDBG funded programs as well.
- The first step is to evaluate each home for compliance with both state and local codes (or if none apply, the International Existing Building Code of the ICC (IEBC)), with the agency's Rehab Standards, and with the HUD Section 8 Housing Quality Standards (HQS). Agencies must use code, Rehab Standards and HQS as the basis for identifying needed repairs and appropriate improvements.
- Agencies using HOME funds must also evaluate each home for compliance with Uniform Physical Condition Standards (UPCS). UPCS is an inspection protocol that is used to evaluate the condition of housing and to establish minimum property condition standards for rehabilitation. HUD will issue additional guidance to establish which critical deficiencies must be corrected as a minimum requirement for each type of rehabilitation – rental, homebuyer, and homeowner housing. Once HUD issues that guidance, DOH will update its Rehabilitation Standards.
- The inspector should base the cost estimate on current industry prices for the type of work being completed.

- b. Before and After Photographs: Agency staff must take photos of the interior and exterior of the property prior to and after the completion of the work. Agencies must date photos and keep them in the client's file.

- c. Historical Review Inspection: If a home is over 50 years old, the agency must consult with the State of Colorado Historical Society unless such properties are covered under the Programmatic Agreement between the Division of Housing and the State Historic Preservation Office (see

Appendix 2). Agencies will keep copies of all correspondence in each client's file.

- d. Work Write-up or Scope of Work: Agency staff, in consultation with the client, will create a detailed work write-up describing the scope of the planned rehabilitation activities.
 - e. Contractor Walk Through and Bid Opening: Agencies must provide a contractor walk-through and an open bid process that allows all qualified and interested contractors access to each project. Multiple-task rehab projects will generally be bid to general contractors. Agency staff can coordinate single-task rehab projects. For more detail on contracting, see below.
 - f. Cost Estimate: Agencies must determine that the work write-up and selected bid are in compliance with the PJ's written rehabilitation standards and that costs are reasonable.
 - g. Prioritization of Work: If rehabilitation costs exceed the maximum loan amount (\$24,999), agency staff, in consultation with their client, will prioritize the list of rehabilitation activities, with top priority to correcting any health or safety issues. For more detail, see DOH's Rehabilitation Standards, Appendix 1.
 - o HUD's HOME program requires that after rehab, each property (in its entirety) must meet state and local codes (or if none apply, the International Existing Building Code of the ICC (IEBC)). If the Rehab program is funded with HOME, the agency must find another source of funds so that all building code and UPCS violations can be corrected, or the agency cannot approve the loan.
 - o CDBG funded programs are not subject to this standard, although DOH encourages all agencies to try to achieve it.
 - h. Interim and Final Inspections: Agency staff must conduct interim progress inspections as well as a final inspection to ensure the quality of all construction, adherence to the scope of work and conformance with both building codes and the agency's Rehab Standards. The agency must conduct such inspections prior to the release of any payments.
6. Monitoring - DOH staff will inspect for compliance with federal requirements, HQS and will check building permit records to confirm that applicable state and local codes are met, in addition to other routine monitoring practices.

F. Rehab and New Construction For-Sale Specific Policies and Procedures

1. Contracting for Construction - The Rehab agency or For-Sale developer will maintain verification of construction contractor eligibility in each client file along with all applicable documentation.
 - a. Contractor Insurance: Contractors must have the following:
 - Worker's Compensation Insurance
 - Liability Insurance, a minimum of \$500,000 with the homeowner (or, for new construction, the developer) listed as additional insured.
 - b. Contractor License: Contractors must be licensed in the type of work they are providing, as required by the jurisdiction.
 - c. SAMs Registration: All contractors must be registered in SAMs, at www.sam.gov.
 - d. Contractor Debarment: A Contractor is not eligible to perform work if they are listed on the Federal Debarment List. The agency or developer is responsible for verifying each contractor's eligibility by checking www.sam.gov to ensure that the contractor has "NO" exclusions and that their status is "ACTIVE." The agency or developer must print the contractor query and place a copy in the project file.
 - e. Procurement: All Agencies must follow the bidding process described in the State of Colorado's Procurement Manual, found here: <https://www.colorado.gov/pacific/osc/procurement-manual-other-guidance>. Please contact your DOH Asset Manager for guidance.
 - f. Contractor Selection: Contracts shall include a description of the work, contract amount, warranties, provisions, conditions and restrictions for parties, start and completion dates, schedule of payments and other contractual items.
 - Rehab Programs: the homeowner will be responsible for selecting the contractor. Construction contracts shall be between the homeowner and the contractor.
 - For Sale Projects: the developer will be responsible for selecting the contractor and signing the construction contract.
 - g. Contractor Responsibility: The contractor will be responsible for making sure all required permits have been secured, depending on the type of

work to be performed. The contractor will be responsible to ensure that all inspections that are required by permit are conducted and that applicable items pass inspection.

2. Minority and Women Business Enterprises Marketing - The agency or developer must conduct affirmative marketing outreach efforts to notify minority business enterprises and women business enterprises of bidding and contract opportunities under this program. Agencies and developers will be required to provide written reports on their efforts, as part of contract close-out reports.
3. Section 3 Economic Opportunity - Agencies must comply with this HUD regulation to the greatest extent feasible. When additional employment or contracting opportunities are generated because of a rehabilitation or development project, preference must be given to low- and very low-income persons or business concerns residing in the community where the project is located. Agencies and developers will be required to provide written reports on their efforts, as part of contract close-out reports.
4. Davis Bacon Wages apply if -
 - a. An agency or developer bids out work on eight (8) or more housing units at one time, and is using CDBG funds.
 - b. An agency or developer bids out work on eleven (11) or more housing units at one time, and is using HOME funds.

G. Program Administration:

1. Board of Director's Roles and Responsibilities - Each agency is required to have a Board of Directors, responsible for the overall management of the agency's program, including:
 - a. Program policy formulation, review and approval
 - b. Periodic review of program implementation
 - c. Grant compliance and reporting
 - d. Development and implementation of guidelines for their program
 - e. Establishment and oversight of the loan committee
 - f. The development and implementation of policies on the types of loans made from the revolving loan fund
 - g. Implementation of grievance and complaint procedures and review of grievances and complaints

2. Loan Committee's Roles and Responsibilities - Each agency shall have a Loan Committee with the authority, within these program guidelines, to approve or deny all applications for loans and to recommend policy regarding the agency's program.

The Loan Committee should have representation from the entire program service area and have experience within the field such as lending, banking, real estate, etc. The Board of Directors may also function as the Loan Committee, if it has the appropriate representation.

Loan Committee responsibilities include:

- a. Review and approval or denial of all loan applications
- b. Determination of loan terms
- c. Development and implementation of loan policy
- d. Development and implementation of loan default policy
- e. Review and approval of boilerplate Loan Approval/Denial Letters. The Loan Committee also determines who signs these letters.
- f. Determination of who should be the contact in the event of an appeal of the loan decision.

Some of the functions of the Loan Committee may be delegated to agency staff. At a minimum, the Loan Committee will annually review staff decisions made regarding loan terms, client selection, problem loans and foreclosures.

3. Program Staff's Roles and Responsibilities - Each agency shall have qualified staff or may outsource for qualified individuals to administer the agency's program. Responsibilities include:
 - a. Helping clients complete loan applications.
 - b. Client eligibility determination.
 - c. Property eligibility determination.
 - d. Loan underwriting.
 - e. Approving emergency repair loans up to \$5,000.
 - f. Preparing a summary that provides anonymous borrower information to the Loan Committee including:
 - o Amount requested
 - o Borrower's income
 - o Activity to be undertaken (if Rehab, the scope of work)
 - o Proposed term, interest rate, and payment amount
 - o Loan to Value calculation, including all debt on the property
 - o Debt to Income Ratio calculation to estimate ability to make payments
 - g. All administrative procedures set out below.

In addition, Rehab agency staff responsibilities also include:

- a. Preparing the rehabilitation scope of work
 - b. Rehabilitation inspection
 - c. Project management
4. The SAFE Act - the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008" requires licensure of all loan originators, EXCLUDING those employed at state or local governments, housing authorities, HUD-approved housing counseling agencies, community development organizations, or self-help housing organizations.
 - a. Agencies' local RLF guidelines should include a statement that they are exempt from the SAFE Act and why.
 - b. Agencies may want to ensure that their clients' first mortgage loan originators are licensed.
 5. Affirmative Marketing - Each agency must develop and follow affirmative marketing and advertising programs to further fair housing opportunities and to promote the use of the program by qualified households across the entire program service area. The HUD form may be found at:

http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35515.pdf.

The advertising and marketing plan will include:

- a. Agency staff responsibilities concerning advertising and marketing
 - b. Training for staff and Board members responsible for advertising and marketing
 - c. A commitment to provide bilingual materials for prospective clients. Agencies, when requested, shall provide bilingual interpretation to clients to help them understand all program and application materials and to answer their questions.
 - d. Procedures designed to measure the success of each marketing strategy.
 - e. Marketing strategies may include:
 - Brochures
 - Speakers bureau
 - TV and radio advertisements
 - Realtors
 - Contacts at senior centers, child care facilities, and social services
 - Church groups
 - Yard signs
 - Banks and other local lenders
 - For Rehab programs - Local Building Code departments and Rehab Contractors
6. Equal Opportunity Statement - Agencies must operate as equal opportunity lenders, and will not discriminate against anyone in their lending practices or in any other of its decision making processes because of race, color, religion, gender, handicap, family status or national origin.

HUD requires that all agencies receiving federal funds collect client demographics. Agencies must:

- a. Ask clients to identify race and ethnicity, disability status and if they are a female head of household in their application.
- b. Explain to the client that this is to meet federal reporting requirements and is not part of their application review.

7. HUD Environmental Review -

Per HUD regulations, before any funds can be obligated, expended or drawn down, the agency must complete the appropriate environmental review, submit it to DOH, and be issued a Release of Funds (ROF) letter from the Colorado Department of Local Affairs (DOLA). Agencies should review the environmental review guidelines section of the CDBG Guidebook, located on DOLA's website at <http://www.dola.colorado.gov/environmentalreview>.

Agencies are encouraged to contact their DOH housing development specialist or asset manager with any questions pertaining to the environmental review process.

- a. ROF for DPA programs: most will qualify as “Categorically Excluded Projects Not Subject to CFR 58.5” or CENST. The agency will need to complete Exhibit IV-B, found on the DOLA website. Once completed and signed by the local government’s certifying official, send Exhibit IV-B to DOLA/DOH. DOLA will generate a Release of Funds letter and send it to the agency.
- b. ROF for For Sale programs: some will qualify as “Categorically Excluded Projects Subject to CFR 58.5” or CEST like Rehab programs (below). If the developer is building more than 4 new units within 2000 feet of each other, then those projects will need a full Environmental Assessment. The agency will need to complete Exhibits IV-D.1 through IV-D.7, found on the DOLA website. Once completed and signed by the local government’s certifying official, send Exhibit IV-D to DOLA/DOH. DOLA will generate a Release of Funds letter and send it to the agency.
- c. ROF for Rehab programs: most will qualify as “Categorically Excluded Projects Subject to CFR 58.5” or CEST. The agency will need to complete Exhibit IV-C - for Instructions, see Exhibit IV-C.1. Both documents may be found on the DOLA website.
 - For projects where property locations are known at the time the environmental review is completed, the local governments’ certifying official will make a determination as to the environmental impact of the project. If no federal laws or authorities are found to be impacted by the project, the certifying official may convert the project to exempt under 24 CFR 58.34(a) (10).
 - Normally, project locations are unknown at the time the Statutory Checklist is completed. Environmental compliance factors cannot

- be fully cleared until the rehab sites are identified, therefore the project cannot convert to exempt and will require the publication of a “Notice of Intent to Request Release of Funds” or Exhibit IV-C.6 and the submittal of the “Request for Release of Funds and Certification” form, Exhibit IV-C.7. Once properties are identified, a Site Specific review, Exhibit IV-E, will need to be completed for each property prior to the start of rehabilitation activities.
- For agencies that work in multiple counties, each county’s certifying official must complete the environmental review process and necessary forms.
 - Completed Exhibit IV-C forms are sent to DOLA/DOH. DOLA will generate a Release of Funds letter and send it to the agency.
- d. ROF for Home Replacement/Reconstruction projects: these may trigger a full Environmental Assessment. Please consult with your DOH representative for these projects.
- e. Ongoing Rehab programs with new contracts may be able to qualify as “Categorically Excluded Projects Not Subject to CFR 58.5,” and get their ROF letter as an “Approval of supplemental assistance for a project previously approved.” Check with DOH staff to see if your program qualifies. If it does, then follow the instructions in “a.” above.
- f. All programs with unknown properties at the time the environmental review is completed will require the completion of Exhibit IV-E (Site Specific Environmental Clearance Checklist, found on the DOLA website) for each property assisted. Agencies must keep these forms in each client file, but do not need to send a copy to DOH.
- g. Agencies may be required to complete the Eight-Step Floodplain review for projects in a floodplain, depending on the activity.
8. Program Income - Please see DOH’s Program Income Guidelines for more detail, at: <http://www.colorado.gov/cs/Satellite/DOLA-Main/CBON/1251593065651>.
- a. All RLF revenues that result directly from a HUD subsidized activity are considered Program Income.
 - For DPA and Rehab, 100% of loan payments and payoffs are Program Income.
 - Sales proceeds from For Sale programs are also considered Program Income, in proportion to the share of the Total Development Cost

funded by HUD. If the developer holds a mortgage on the home after the sale, then the same proportion of loan payments and payoffs are Program Income. In other words, if HUD funds are half of the total development cost, then half of any sales proceeds, loan payments &/or loan payoffs are Program Income.

- b. All Program Income is subject to CDBG &/or HOME regulations (depending on the original source). DOH may adopt policies that are more restrictive than HUD's.
- c. DOH permits agencies that operate RLF programs to retain Program Income and use it to continue the originally funded activity, for eligible projects and eligible clients. It may not be used for any administrative expenses.
- d. Agencies must use all of their Program Income before drawing additional project funding (administrative funds may not be drawn from Program Income).
 - o Agencies with both HOME and CDBG funded RLF accounts should not mix those two sources in one home. There may be times that the agency draws new HOME *or* CDBG funds from their DOH contract, even if there is a balance left in the other's Program Income account.
 - o Agencies with current CDBG contracts may use CDBG admin funds on jobs that are otherwise funded with HOME Program Income. However, HUD does not allow HOME program funds to pay for admin on CDBG Program Income jobs.
 - o Please consult with your DOH Asset Manager.
- e. Agencies operating multiple RLF programs must track their Program Income separately, and keep them in separate bank accounts.
- f. All agencies with DOH-funded RLF programs must report their Program Income and expenditures to DOH on a quarterly basis during the term of their contract. After that, reports are due on a semi-annual basis, until all Program Income is returned to DOH.
- g. Community Based Development Organizations, using CDBG funds: These agencies have Miscellaneous Income as opposed to Program Income. DOH requires the same reporting, until the end of the affordability period.

- h. DOH reserves the right to recapture Program Income from agencies that fail to meet DOH policy or regulatory requirements, or if their Program Income balance exceeds the amount that can be used within a two-year period.
9. Agency Administrative Procedures -
- a. Agencies that have multiple RLF programs must track all aspects of their programs separately.
 - b. Compliance Tracking for DPA & For-Sale programs: Agencies must contact each recipient at least annually to confirm their compliance with their loan documents (or use covenant) for the affordability period. Contact should be through a certified letter or a personal visit to the home. They must receive a written statement that:
 - o The home is occupied by a principle resident. This could also be accomplished by printing out a property tax records search to confirm that the owner is still receiving their tax bill at that address.
 - o The home is properly insured (see section “D. 12. Loan Security”). DOH recommends that agencies continue to contact clients annually for the life of the loan to verify insurance coverage.
 - c. Compliance Tracking for Rehab programs: DOH recommends that agencies contact each recipient at least annually for the life of the loan to confirm their compliance with their loan documents, especially principle residency and insurance coverage.
 - d. Loan Tracking: Agencies must have a system to track the loans and payments in the revolving loan fund. This system may be automated or manual, and should provide security to keep clients’ personal and financial data private. At a minimum the following items must be tracked:
 - o Name and address of borrower
 - o Principal amount
 - o Term and interest rate
 - o Date of loan closing
 - o First and last payment due date
 - o Amount of monthly payment
 - o Sources and percentage of funds used for loan
 - o Delinquent payment notations
 - o Default flags

- Payoff amount calculation
 - Borrower demographics
- e. Loan Servicing: The agency must use a loan servicing system that, at a minimum, can perform the following:
- Accepts and logs current payments
 - Splits payment into principal and interest
 - Splits payment into appropriate funding source(s)
 - Splits payment into program and administration
 - Has the ability to accept extra payments
 - Recognizes loans that are delinquent or in default and issues late letters
 - Prepares a year-end statement for the borrower's tax returns
 - Summarizes loan portfolio information upon request (include all items listed above, in 9b), for annual reports to DOH and for applications for additional funding from DOH.
- f. Default/Foreclosure: The agency must define:
- Stages of delinquency or default (30 days late, 60 days late, etc.)
 - Steps to be taken at each stage of a delinquency action
 - A workout process for curing deficiency
 - The foreclosure process
- g. Agency Reimbursement from DOH (Pay Requests):

Reimbursement by DOH for RLF activities may only occur if:

- After the execution date of the DOH contract.
- The activities occur after the Environmental Review is complete, **and**
- The activities are being completed according to the policies and procedures contained within these guidelines, and any applicable Federal regulations.

In order to receive reimbursement for activities covered by the DOH grant, agencies need to do the following:

- Complete and sign 3 copies (all 3 need original signatures) of the "Request for Payment" form supplied by the DOH asset manager.
- Attach one copy of back-up documentation for each client for which reimbursement is being requested.
- For DPA, back-up documentation should include a copy of the HUD-1, or similar loan document, which indicates the purchase price, property address, client(s)' name, closing costs, funds from the

- buyer, DOH funds in the deal, etc.
 - For Rehab, back-up documentation should include a copy of the Work Write-Up, listing the property address and client name as well as a description of the rehabilitation work that has been completed.
 - HUD's HOME program requires that agencies draw administrative costs on a per-unit basis, as jobs are completed. DOH policy is to apply this standard to CDBG funded programs as well.
 - For HOME-funded Rehab programs, the agency must complete and attach the HUD-40094 "Rental/Homebuyer/Homeowner Rehab Set-Up Report" (available at <http://www.hudclips.org/cgi/index.cgi>) for each client.
 - HOME-funded Rehab agencies also need to complete the HUD-40096 "Homebuyer/Homeowner Rehab Completion Report" for each client before DOH can close the contract.
 - CDBG-funded Rehab programs must complete a Summary Report for each client. The DOH asset manager will provide the form.
 - The packet containing the above documents must be mailed to the DOH asset manager. Once received by DOH, reimbursement requests take two to three weeks to process and mail payment to the agency.
- h. Quarterly Reporting: DOH requires that all agencies with open contracts submit the following reports (the DOH asset manager will provide these forms):
- Quarterly financial report
 - Quarterly narrative report (also known as the Project Performance Plan or "PPP"), which is Exhibit D of the DOH contract.
 - Program Income report
 - Any additional forms or reports as specified in the grant contract.
- i. Client Files: Agencies must maintain client files for five (5) years after the affordability period expires. Since owner-occupied rehabilitation does not require an affordability period, agencies must keep those files for five (5) years after the Project Close-Out report is completed and reported by DOH to HUD.
- j. Audit Requirements: Each agency with a RLF must send a copy of its annual audit to DOH.
- k. DOH Technical Assistance and Monitoring: DOH staff provides on-going technical assistance to agencies to maximize the use of the new grant

and program income funds used in revolving loan fund programs. DOH will monitor all agencies for compliance with these policies, as well as federal requirements, at least bi-annually. This review will include an evaluation of the agency's performance in meeting service provision goals, and compliance with local lending guidelines.

At a minimum, DOH staff will monitor the following:

- Loan portfolio information including: portfolio value, total number of loans, deferred loans and delinquencies.
- Number and value of amortized and deferred loans completed during the current contract.
- Amount of monthly program income from regularly scheduled loan payments during the current contract.
- Number and amount of loan pay offs during the current contract.
- The agency's progress in meeting the goals defined in the Project Performance Plan or "PPP", which is Exhibit D of the DOH contract.
- Household selection process (income and prioritization).
- Marketing plan implementation.
- File reviews to determine income eligibility and compliance with other applicable regulations.
- Project File Documentation - DOH will provide sample forms upon request.
- Federal cross-cutting requirements.

10. Conflict of Interest -

No person who is an employee, agent, consultant, officer, elected official or appointed official of the recipient agency, or of any designated public agencies, or of a sub recipient, who exercises or has exercised any function with respect to the agency's RLF program, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from any DOH-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a DOH -assisted activity, or with respect to the proceeds of the DOH-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

If an agency encounters a conflict of interest scenario, the following steps shall be followed:

- a. Agency must send written notification to the DOH asset manager, answering the following questions:
 - What is the nature of the conflict?
 - What is the name of person requesting funds from DOH funded RLF?
 - Is an employee, agent, consultant, officer, elected official or appointed official of the recipient agency, or of any designated public agencies, or of a sub recipient, the party that has received funds from DOH?
 - Has the party participated in any functions or responsibilities with respect to the agency's RLF program?
 - Is the party in a position to participate in a decision making process or gain inside information with regard to such activities?
 - Might the party obtain a financial interest or benefit from an assisted activity?
 - Might the party have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity, or with respect to the proceeds of the assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter?

- b. Employees of the agency whom this affects are not permitted to perform eligibility or certification, re-certification, HQS inspections or any other function concerning the family member's file or their own. A third party must perform these functions for the family or the employee and the agency must inform DOH of who will be the responsible party.

- c. The agency must provide written documentation to DOH that the nature of the conflict of interest and relevant information has been disclosed to the agency's housing board or board of directors and accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made.

- d. DOH may consider an exception for the following factors:
 - Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
 - Whether an opportunity was provided for open competitive bidding or negotiation;
 - Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being

- made available or provided to the group or class;
 - Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
 - Whether the interest or benefit was present before the affected person was in a position as described above; and
 - Whether undue hardship will result either to the agency or the person affected when weighed against the public interest served by avoiding the prohibited conflict.
- e. DOH may conclude that an exception will serve to further the effective and efficient administration of the agency's program or project, taking into consideration the cumulative effect.
- f. DOH asset manager will respond in writing that the conflict of interest prohibition has been be waived for good cause or has been denied for good cause, citing the factor(s) that were taken into consideration in making the determination.

11. Code of Ethics -

Colorado adopted the following Code of Ethics in 1999. DOH has chosen to adopt this same code for agencies utilizing a DOH-funded RLF. DOH has included "State Contractors" to the list of those required to follow this code.

- a. Public confidence in the integrity of state government demands that public officials demonstrate the highest ethical standards at all times. Those who serve the people of the State of Colorado as public officials should do so with integrity and honesty, and should discharge their duties in an independent and impartial manner. At the same time, qualified individuals should be encouraged to serve in state government and have reasonable opportunities with all citizens to develop private economic and social interests. This Executive Order strives to accomplish these ends by providing standards by which the conduct of all who serve in the Executive Department of the State of Colorado can be measured.
- b. Code of Ethics: All elected officers, appointees, state contractors and employees of the Executive Department:
- Shall serve the public with respect, concern, courtesy and responsiveness;

- Shall demonstrate the highest standards of personal integrity, truthfulness and honesty and shall through personal conduct inspire public confidence and trust in government;
- Shall not use public office to bestow any preferential benefit to anyone related to the officer, appointee or employee by family, business or social relationship;
- Shall not disclose or use or allow others to use confidential information acquired by virtue of state employment for private gain;
- Shall not accept any compensation, gift, payment of expenses or any other thing of value which would influence him or her to depart from the faithful and impartial discharge of his or her duties;
- Shall not accept any compensation, gift, payment of expenses or any other thing of value as a reward for official action taken;
- Shall not engage in outside employment unless: (1) the outside employment is disclosed to their board of directors or, in the case of an employee, the employee's immediate supervisor; and (2) the outside employment does not interfere with the performance of state duties;
- Shall not use state time, property, equipment or supplies for private gain;
- Shall not knowingly engage in any activity or business which creates a conflict of interest or has an adverse effect on the confidence of the public in the integrity of government;
- Shall carry out all duties as a public servant by exposing corruption or impropriety in government whenever discovered;
- Shall support equal access and employment opportunities in state government for all citizens of the State of Colorado;
- Shall comply at all times with the standards of conduct set forth in title 24, article 18 of the Colorado Revised Statutes

12. Dispute Resolution -

Each agency shall develop an informal hearing process to address disputes concerning the administration or work of the RLF program funded by DOH.

- a. The following is a suggested format to conduct informal hearings for dispute resolution:
 - The agency shall provide the client the right to an informal hearing at the client's request to resolve any disputes concerning the program.

- The Executive Director of the agency will select a Hearing Officer. The Hearing Officer should be someone who understands the basics of the program or project and has no bias concerning the dispute.
 - The procedure for requesting and conducting a hearing will be provided to each client when they are briefed on the program or project. If a program dispute occurs, the agency shall make a reasonable attempt to contact the client to inform them of their right to an informal hearing. Sending a certified letter is viewed as a standard way of informing a family of the informal hearing as well.
- b. The Hearing Officer will be responsible to conduct the hearing in accordance with the following guidelines:
- The client or the client's representative will first be given an opportunity to present his/her issues regarding the dispute. The client may present evidence or question witnesses at this time.
 - The agency's representative will then have an opportunity to explain their decision or point of view regarding the issue at hand. The representative may present evidence and question witnesses. The client will have the opportunity to question any agency witnesses at this time also.
 - The Informal Hearing is not intended to duplicate procedures under judicial review so the rules of admissibility under such proceedings will not be applied in the course of the hearing.
 - The Hearing Officer will issue a written decision within 10 business days of the Informal Hearing. Factual decisions related to the individual circumstances of the participant will be based on the evidence presented at the hearing. A copy of the hearing decision will be sent certified mail to the client. The written decision will contain the following: a summary of the decision and the reasons for the decision; if the decision is based on money owed, the amount owed; and the date the decision goes into effect.
- c. Clients have the right to:
- Examine and copy (at the client's expense) relevant documents before the Informal Hearing
 - Present any or all information pertinent to the issue of the Informal Hearing
 - Request that the agency program staff be available or present at the Informal Hearing to answer questions pertinent to the case
 - Be represented by legal counsel or other designated representative at his or her own expense (with five days notice to the agency of

the designated person)

- d. Agencies have the right to:
 - Present evidence and all or any information pertinent to the issue of the Informal Hearing;
 - Examine relevant client documents before the Informal Hearing
 - Be notified if the client intends to be represented by legal counsel or another party
 - Have its attorney present; and
 - Have the staff person familiar with the case present.

- e. The agency or client is not bound to the Informal Hearing decisions. The purpose for having an Informal Hearing is to try to remedy a situation prior to an action being taken in civil court. Contrary to HUD regulations or requirements, or Federal, State and local law, evidence presented at the Informal Hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.