

# Revolving Loan Fund Program

## Guidelines



State of Colorado  
Department of Local Affairs  
Division of Housing

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## 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 is currently funding RLFs for Single Family Owner Occupied Rehabilitation (Rehab), Down Payment Assistance (DPA), and similar homeownership assistance programs. 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.

Agencies may apply for RLF funds on an annual basis, each January 1<sup>st</sup> for DPA and each July 1<sup>st</sup> 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. 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.

New in the 2011 edition of the RLF Guidelines:

- These Guidelines now cover both DPA and Rehab programs, instead of having two different Guidelines.
- There is a separate section (#2) describing how to apply to DOH for funding.
- The content is reorganized so that the DOH Program Guidelines follow the same outline that we ask Local Program Guidelines to follow. This is intended to make it easy for agencies to copy, paste and update the document to suite their unique market needs.
- DOH has made an effort to clarify regulations that apply to HOME and/or CDBG funds, and to clearly state when a requirement originates from DOH policy or from federal regulation.

## 2) Application to DOH for RLF Funding

The DOH application form is available as a Word document and the Program Budget is available as an Excel spreadsheet 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 Program Budget also includes a staff allocation chart and a project assessment chart that must be submitted with applications.

### 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. Specifically:

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 F, #9b Loan Tracking), as well as an up to date report on their program income use and account balance.
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:
    - o Government sponsorship of the DOH Grant Application
    - o Letters of support for the program from local governments
    - o Letters of support from local service organizations
  - b. Eligible kinds of local financial contributions include:
    - o Cash from federal, state, or local sources
    - o In-kind contributions of personnel, office space, vehicle use, or other program administration expenses
    - o Building permit and fee reductions or waivers
    - o 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.

Agencies that have both DPA and Rehab programs must track their expenses and funding sources separately.

- a. Program Administration: These costs include staff (or third parties with whom the agency has contracted) salaries and benefits as well as expenses for:
  - General management and oversight
  - Indirect costs
  - Public information
  - Fair Housing requirements
  - Reporting
- b. Project Administration: 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
  - Applicant intake
  - Loan Underwriting
  - Preparation of work write ups and cost estimates
  - HUD Environmental Review
  - Project inspections and oversight
  - Title searches, credit reports
  - Appraisal fees, recording fees
  - Loan Servicing
  - Project staff training and licensing (SAFE Act – see Section 4) F. 4.)

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),
  - e. Comply with DOH reporting.

7. Local Program Guidelines – compliance with minimum standards set forth in this document (see Section 4) DOH Program Guidelines). Local guidelines may have additional restrictions, as appropriate for their market area. For Rehab programs, include the agency’s Housing Rehabilitation Specifications (see Section 4) E. 1.).
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 only:

1. Market – the number of renter households in the service area below 80% of AMI.
2. Supply – the inventory of for-sale homes that are affordable to the target population.
3. Availability of homeownership counseling from a HUD/CHFA approved counseling agency.



### **3) Local Program Guidelines**

Each agency shall establish and implement board-approved local program guidelines. Guidelines must also be approved by DOH prior to an award of funds. 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. Calculating Income
  - 4. Verifying Income and Assets
  - 5. Primary Residence
  - 6. Legal Residence
  - 7. Homebuyer Education (DPA only)
  - 8. Local Program Policies
- C. Property Eligibility Criteria
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- D. Loan Approval/Denial Policy & Procedures
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## **4) DOH Program Guidelines**

### **A. Program Purpose & Service Area**

The goal of the DPA Program is to help qualified low- to moderate-income families afford a down payment to purchase a home.

The goal of the Rehab Program is to remove deficiencies or health and safety hazards, correct substandard conditions, correct violations of local housing codes and improve energy efficiency.

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 for DPA – 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 – HUD requires that the client's income at the time of the loan be at or below 80% of the Area Median Income (AMI) for their county of residence, as adjusted for household size. The client does not need to remain low income after the acquisition or rehabilitation of the home.

The following two sections on Calculating Income and Verifying Income & Assets is based on HUD regulation and annual income as defined in 24 CFR 5.609, referred to as "Part 5 annual income". For more detail, please see the HUD website at:

<http://www.hud.gov/offices/cpd/affordablehousing/training/web/calculator/requirements/> .

3. Calculating Income – All clients who hold (or will hold) title to the property must complete a preliminary application to the agency. This includes a listing of all household members (including those not on the title), their income and asset information, and household bills including mortgage/rent and utility payments.
  - 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 during the twelve months following the effective date of determination. Income includes:
    - Wages
    - Earnings on assets over \$5,000 (interest, dividends, etc.)
    - Public benefits
    - Alimony
    - Child support

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:

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

4. Verifying Income & Assets – The agency is responsible for collecting income and asset verification documentation and such evidence must be retained in each client's file.
  - a. Proof of income and assets include but are not limited to the following:
    - Most recent 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 household member that authorizes the third party to release required information.
5. Primary Residence – The home must be the client's primary residence.
- a. Clients must sign a clause on their application form certifying that the property is (or will be, for DPA) their primary residence.
  - b. Agencies must confirm that clients are using the home as their primary residence at least annually throughout the life of the RLF loan, by obtaining a copy of a current utility bill *and* a statement that the client resides in the home as their primary residence. DOH requires agencies to retain copies in the client's file.
  - c. If the client does not continue to both occupy and own the property, the RLF loan is immediately due and payable. Agencies may ask DOH for permission to allow temporary exceptions for military families.
  - d. For Rehab only: Current ownership must be verified, by using any of the following documents:
    - Warranty Deed
    - 99-year Lease
    - Ownership and Encumbrance (O&E) title report

6. Legal Residents – 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).

a. Exemptions.

- Nonprofit charitable organizations are exempt from the Welfare Reform Act, so they have no obligation to determine, verify, or otherwise require proof of eligibility of a client for any federal public benefit.
- Any agency providing services, such as emergency repairs, that are necessary to protect life or safety are also exempt from the Welfare Reform Act.

b. 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 (including minors - parents are permitted to sign for minor children) must execute a "Declaration of Section 214 Status" on the form required by the Welfare Reform Act.
- All of the clients' household members must produce documentation in a form described in the Welfare Reform Act. There is no waiver process for documentation in federal law.

7. Homebuyer Education (DPA only):

- a. All DPA 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 DPA clients under 50% AMI. Counseling may be provided by the agency itself or by a third party.

8. Local Program 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, as appropriate for the local market

## C. Property Eligibility Criteria

### 1. Housing Types

- a. For DPA and Rehab Programs, the following housing types are eligible:
  - Single-family homes
  - Duplexes
  - Town homes
  - Condominiums
  - Manufactured homes on permanent foundations (or properly tied down) on land owned by the homeowner.
  - Any of the above, on Community Land Trust property
- b. For DPA and Rehab Programs, the following housing types are NOT eligible:
  - Rental Housing
  - Manufactured homes on a rented lot
- c. However, Rehab Programs may perform up to \$5,000 in emergency repairs for manufactured housing on rented lots, per DOH policy.
- d. For DPA, DOH prefers that agencies prioritize existing homes over newly built homes.

2. Maximum Purchase Price or After-Rehabilitation Value Limit – HUD’s HOME program requires that the maximum house price/value not exceed ninety-five percent (95%) of the area median purchase price. *HUD has an interim policy allowing the use of Section 203(b) limits (also known as FHA Limits), but HUD plans to issue a new regulation that would remove this option.* DOH policy is to apply this standard to CDBG funded programs as well.

- a. For more information, please see HUD’s HOMEfires - Vol. 10 No.1, January 2009 available at:  
<http://www.hud.gov/offices/cpd/affordablehousing/library/homefires/volumes/vol10no1.cfm> .
- b. 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.
- c. 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.
- d. Two (2) options are available to determine the maximum purchase price or after-rehab value limit:
  - Refer to HUD's Values Limits Spreadsheet, which currently includes both the FHA Limits and the 95% of Median Limit, at: <http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/maxprice.cfm>.
  - 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](#).

3. Housing Quality Standards for DPA Programs (no rehabilitation activity) –

- a. HUD's HOME program requires that each property must meet state and local code requirements. If no state or local codes apply, the property must meet Section 8 Housing Quality Standards (HQS). DOH policy is to apply these standards at the time of acquisition, and to CDBG funded programs as well.
- b. HUD's HOME program requires that agencies perform HQS 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.
- c. DOH encourages the agency to verify that the property meets these standards as early in the home purchase process as possible.
- d. The agency will retain a copy of the property inspection report(s) in the individual loan file.

4. Housing Quality Standards for Rehab Programs –

- a. It is DOH policy that each property, whether funded by CDBG or HOME, must have a minimum of one HQS deficiency to be eligible for rehabilitation.
- b. For after-rehab housing quality standards, see Section 4) E. 5.

5. 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 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.
  - b. Prior to or during the initial inspection, a qualified inspector shall complete the appropriate lead-based paint assessment.
  - c. 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

#### a. For DPA Programs:

- Down payment assistance for fee simple home acquisition
- Down payment assistance for Community Land Trust homes (Note: these guidelines do not apply to CLTs applying to DOH for grant funds to acquire or build CLT homes).
- Down payment assistance for Shared Equity program homes.
- Write-down mortgage principal amounts
- Closing costs
- Homeownership education/counseling
- Administrative costs (staff time, expenses & overhead)

#### b. For Rehab Programs:

- Rehabilitation – supplies and labor
- Administrative costs – staff time, expenses & overhead
- Closing costs

### 2. Maximum Loan Amount

#### a. For DPA Programs:

- 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, Section 8 homeownership, or other local programs).
- Agencies must set their own maximum loan amounts. Per DOH policy, up to 8.5% of the area's Maximum Purchase Price or After-Rehabilitation Value Limit, as defined in Section 4) C. 2.
- Total indebtedness against the property cannot exceed one-hundred percent (100%) of its value.

#### 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.

- 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.
- Total indebtedness against the property cannot exceed ninety-five percent (95%) of its value.

### 3. Minimum Homebuyer Equity Contribution

#### a. For DPA Programs:

- 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.
- Clients' upfront costs for appraisal, inspection, earnest money, etc. may go toward their required contribution.

#### b. For Rehab Programs: Not applicable.

### 4. Principle Residency for the HUD Affordability Period (for DPA only, Rehab programs do not have any ongoing affordability restrictions) – HUD's HOME program requires that agencies ensure ongoing affordability of homes by using either a "Recapture" or "Resale" model.

DOH policy is to follow the Recapture model, and to apply it to CDBG funded programs as well. Recapture requires:

#### a. Principle residency is required of the client throughout the affordability period.

#### b. The length of the affordability period is based on the amount subject to recapture (100% of the loan amount), as follows:

- Under \$15,000 = 5 years
- \$15,000 - \$40,000 = 10 years
- Over \$40,000 = 15 years

#### c. The agency must incorporate the following agreements into their Deed of Trust and/or Promissory Note:

- Length of the affordability period
- Key terms of the mortgage note
- Loan payoff does not end the affordability period, but selling the home does.
- Principle residency is required of the client throughout the affordability period.

- The agency will recapture 100% of the DPA funds if the client sells their home before the end of the affordability period, unless the client can demonstrate that net proceeds are not adequate to pay off 100% of the loan. Net proceeds = Sales price – Senior debt repayment – Closing costs.
  - Any excess net proceeds, after repayment of the DPA 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).
  - DOH recommends that the agency seek legal advice about incorporating these provisions into their loan documents.
5. Loan Underwriting Criteria – Agencies must set their own criteria, based on the following DOH policies for both DPA and Rehab:
- a. For DPA, the total debt on the home must not exceed its value.
  - b. For Rehab, total indebtedness against the property cannot exceed nine-five percent (95%) of its value.
  - c. For both DPA and Rehab:
    - The Agency’s loan approval must be based on a review of the client’s ability to repay the loan.
    - Agencies may use credit scoring or other methods of determining the client’s ability to repay the loan.
6. 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 requires that the client demonstrate that the sale price was supported by an appraisal. Net proceeds = Sales price – Senior debt repayment – Closing costs.
    - All loans must be secured by a promissory note and deed of trust
    - DOH prefers to be in at least second position

- Clients may not receive cash back at closing unless it is part of an escrow account
- 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's 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 is in progress, or in an emergency.
  - If a client requests a supplemental RLF loan more than 120 days after their first application, they must complete a new application.
  - The agency must re-underwrite the loan request and re-write the loan documents to ensure that the new total loan amount and terms are affordable to the client.
  - 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 re-record the loan documents to reflect the change 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.

## 7. 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.
  - o The agency's Board of Directors or 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.
  - o Up to 25% of the value of the agency's loan portfolio may be deferred for the life of the loan.
  - o 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:
  - o Sale
  - o Transfer
  - o Refinance
  - o Move – if it is no longer the client's primary residence, or
  - o Death (unless inherited by a co-borrower).
  
- d. Loan Fees
  - o Origination fee – Agencies may not charge clients an origination fee.
  - o 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.
  - o Late fees and legal costs – Agencies may charge clients reasonable late fees and, in the event of delinquency or foreclosure, reasonable legal fees.
  
- e. Loan Servicing Fees – Agencies may not charge clients a loan servicing fee.
  - o For agencies that 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.
  - o 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.
  - o 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.
  - o Loan servicing fees cannot be taken out of loan payments. Agencies must track all such payments as RLF Program Income.

- The amount paid to the agency for loan servicing cannot exceed the actual cost of providing this service.
8. Loan Security – Loans will be evidenced by a Promissory Note secured by a Deed of Trust on the property.
- a. A Deed of Trust will be properly recorded, and will include the following provisions:
    - Fire and extended insurance coverage is required for the amount of the total indebtedness against the property, with the loss payable to the agency and DOH as beneficiaries. Agencies must retain proof of insurance in the client's file. Coverage must continue for the term of the note, or until payment in full is received.
    - 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 have flood insurance in an amount adequate to pay off all loans on the property, with the loss payable to the agency and DOH as beneficiaries. Agencies must retain proof of insurance in the client's file. Coverage must continue for the term of the Note, or until payment in full is received.
    - If the property is transferred by sale or descent, the unpaid balance of the loan will be due and payable immediately. Descent to co-borrower is excluded from this provision. 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.
    - Affordability period language as described in Section 4) D. 4. c.
  - b. 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 to loan (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 4) D. 4. c.



- 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.
- c. All RLF Program legal documents must be approved as-to-form by the agency's attorney prior to use.

## 9. Sale of Foreclosed Property

A foreclosed property may be sold to anyone, regardless of income. If a potential buyer is income qualified and unable to acquire adequate conventional financing, the agency may choose to provide them a new DPA loan. The new client shall be required to submit a complete application and demonstrate the ability to make any required monthly payments. The Loan Committee shall make this decision after review of the application and credit report.

## E. Rehab-Specific Policies and Procedures

1. Housing Rehabilitation Specifications – Each agency must develop and implement written rehabilitation standards that define the quality of materials and workmanship, including durability and aesthetics.
  - a. HUD’s HOME program requires that after rehab, each property, in its entirety, must meet both locally written rehabilitation standards plus state and local code requirements. If no state or local codes apply, the property must meet one of the following national model codes:
    - Uniform Building Code (ICBO)
    - National Building Code (BOCA)
    - Standard Building Code (SBCCI)
    - Council of American Building Officials one- or two-family code (CABO)
    - Minimum Property Standards\* at 24 CFR 200.925 or 200.926 (FHA)
  - 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. It is DOH policy that each property, whether funded by CDBG or HOME, must have a minimum of one building code or HQS deficiency to be eligible for rehabilitation, and that all homes meet HQS after rehab.
  
2. Eligible Rehab Work
  - a. All improvements must be physically attached to the property and permanent in nature. Public sidewalks, driveways, roads and streets are not eligible.
  - b. After all building code and HQS violations are corrected; general property improvements may be completed. Such secondary measures are eligible for up to 20% of the loan, per DOH policy. Examples include fence repairs, exterior paint or items to improve the appearance of the property but are not health and safety items.
  - c. Examples include:
    - Exterior work to preserve or protect structures such as roofs, foundations, paint or siding, non-public sidewalks, site grading (to control flooding), utility connections (from property line to the adjacent street), doors, locks, skirting, leveling and bracing.
    - Interior work to improve the condition of the unit, including electrical repair or rewiring, plumbing repair, replacement of damaged flooring

where it poses a hazard, door and lock repair or replacement, painting, abatement of lead-based paint, and replacement of inoperable built-in appliances.

- 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, ramping reconstructing doorways, lowering sinks in kitchens and bathrooms.

3. Replacement 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. The client must have the ability to finance the difference between the maximum rehabilitation cost (\$24,999) and the total replacement cost. Typically, replacement housing is a new or used manufactured housing unit.
  
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 both 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 (i.e. legal residency – see section B. Client Eligibility Criteria, #6 Legal Residence, on page 12).
  - b. Manufactured housing on rented lots is eligible only for emergency repairs.
  - c. Emergency repair loans shall not exceed \$5,000.00 per applicant.
  - 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, one of the model codes listed above, in #1a) and the HUD Section 8 Housing Quality Standards (HQS). Agencies must use both code and HQS as the basis for identifying needed repairs and appropriate improvements.
  - The inspector should base the cost estimate on current industry prices of material and wages for the type of work being completed.
- b. Before and After Photographs: Agency staff needs to take photos of the interior and exterior of the property prior to and after the completion of the work. Agencies must date photos and place them in the client's file.
- c. Rehabilitation Work Write-up: Agency staff, in consultation with the client, will create a detailed work write-up describing planned rehabilitation activities.
- d. Historical Review Inspection: If a home is over 50 years old, the agency must consult with the State of Colorado Historical Society. Agencies will keep copies of all correspondence in each client's file.
- 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 be bid to general contractors. Agency staff can coordinate single-task rehab projects. For more detail on contracting, see below.
- f. 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.
- HUD's HOME program requires that after rehab, each property (in its entirety) must meet state and local codes (or if none apply, one of the model codes listed above, in 1. a.). DOH policy is that homes also meet Section 8 Housing Quality Standards (HQS) after rehab. If the Rehab program is funded with HOME, the agency must find another source of funds so that all building code and HQS violations can be corrected, or the agency cannot approve the loan.
  - CDBG funded programs are not subject to this standard, although DOH encourages all agencies to try to achieve it.
- g. Interim Inspections: Agency staff needs to conduct interim progress inspections to ensure the quality of all construction, adherence to the scope

of work and conformance with building codes. The agency must conduct such inspections prior to the release of any progress payments.

6. Contracting – The agency will maintain verification of construction contractor eligibility in each client file along with all applicable documentation.
  - a. Contractor Insurance: Contractors must have the following:
    - o Worker’s Compensation Insurance
    - o Liability Insurance, a minimum of \$500,000
  - b. Contractor License: Contractors must be licensed in the type of work they are providing. Contractors must also be licensed within that jurisdiction, if required by the jurisdiction.
  - c. Contractor Debarment: A Contractor is not eligible to perform work if they are on the Federal Debarment List. The agency is responsible for verifying each contractor’s eligibility by checking the Excluded Parties website for each contractor at [www.epls.arnet.gov](http://www.epls.arnet.gov). The agency must print the contractor query and place a copy in the client’s file.
  - d. Contractor Selection: The client will be responsible for selecting the contractor. Construction contracts shall be between the client and the contractor. 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.
  - e. 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.
  - f. Minority and Women Business Enterprises Marketing: The agency must conduct affirmative marketing outreach efforts to notify minority business enterprises and women business enterprises of bidding and contract opportunities under this Program.
7. Monitoring – DOH staff will inspect for HQS and will check building permit records to confirm that applicable state and local codes are met.

## F. 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 program loans
  - 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. 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
  - f. 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. Construction management
- 
4. The SAFE Act – the “Secure and Fair Enforcement for Mortgage Licensing Act of 2008” requires licensure of all loan originators, including those employed at non-profit organizations, governments and housing authorities.
    - a. The SAFE Act covers any individual who accepts applications for residential mortgage loans and who offers or negotiates terms of a residential mortgage loan. *Loan originators should become licensed as soon as possible.*
    - b. The Colorado Division of Real Estate has developed a checklist for loan originators to assist in the licensing process. The checklist can be viewed at the DRE web site here: <http://www.dora.state.co.us/real-estate/applications/mortgagebroker/index.htm> .
    - c. The SAFE Act is a federal statute enforced by state regulators in accordance with Colorado House Bills 09-1085 and 10-1141. The relevant statutes may be found in part 9 of article 61 of title 12, Colorado Revised Statutes.
      - o The text of House Bill 09-1085 is available online here: [http://www.dora.state.co.us/real-](http://www.dora.state.co.us/real-estate/applications/mortgagebroker/index.htm)

[estate/applications/mortgagebroker/index.htm](http://www.dora.state.co.us/real-estate/applications/mortgagebroker/index.htm)

- The text of House Bill 10-1141 is available here:  
<http://www.dora.state.co.us/real-estate/mortgagebrokerregistration.htm>
  - d. It should be noted that while House Bill 09-1085 exempted government agencies and affiliated organizations such as housing authorities from the licensure requirements, House Bill 10-1141 removed the exemption amid concerns that the exemption did not conform to the requirements of the SAFE Act.
  - e. House Bill 10-1141 also stipulates that agencies employing loan originators must be registered with the Nationwide Mortgage Licensing System (NMLS).
5. Affirmative Marketing – Each agency must develop and maintain 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 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 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/cdbg\\_guidebook](http://www.dola.colorado.gov/cdbg_guidebook).

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.” 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 Rehab programs: most will qualify as “Categorically Excluded Projects Subject to CFR 58.5.” 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.
  - o Upon completion of the Statutory Checklist, the agency and its local governments' certifying official will make a determination as to the environmental impact of the project. If project locations are known and if no federal laws or authorities are found to be relevant to 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.4 and the submittal of the “Request for Release of Funds and Certification” form, Exhibit IV-C.5.
  - For agencies that work in multiple counties, each county’s certifying official must make a finding that the project is exempt.
  - Once the ROF is completed and signed by the certifying official(s), the agency will send the form(s) to DOLA/DOH. DOLA will generate a Release of Funds letter and send it to the agency.
- c. 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.
- d. Both DPA and Rehab programs require 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. Since locations of the homes to receive assistance are not usually known at the time of application to DOH, the agency will not be able to complete this form until homes have been identified.

## 8. Program/Miscellaneous Income

- a. Tracking: All RLF revenues (with the exception of loan servicing fees) received by an agency that result directly from a CDBG &/or HOME subsidized activity are considered Program Income. All agencies with DOH-funded RLF programs must report their Program Income and expenditures to DOH on a quarterly basis.

Program Income includes, but is not limited to:

- Principal and interest payments from clients’ loan payments
- Loan payoffs
- Proceeds from the sale of loans and/or acquired real property (i.e., foreclosures)
- Interest earned on all funds held in a RLF account, including new grant funds and Program Income

HUD regulations regarding Program Income state that agencies may not retain more than \$25,000 in Program Income before submitting a draw request to DOH for new grant funds.

Agencies must ensure that Program Income is used and that balances do not lie dormant. **DOH may recapture any dormant Program Income.**

Agencies that have both DPA and Rehab programs must track their Program Income separately.

- b. Quarterly Reporting: all agencies with DOH-funded RLFs must submit quarterly reports indicating the status of their revolving loan fund, regardless of whether or not the organization has an active, open contract. These Program Income reports must continue as long as there is a RLF balance. The report form is available from the DOH asset manager.
- c. Use: Program Income must be used to continue the activity for which initial funding was provided (a DPA or Rehab Program), in accordance with the Agency's RLF Program Guidelines and all applicable CDBG, HOME and/or State rules and regulations.
- d. CDBG Miscellaneous Income: Agencies that have been designated "nonprofit organizations serving the development needs of the communities in non entitlement areas" are not subject to federal Program Income requirements. DOH must approve this designation for each agency.

## 9. Agency Administrative Procedures

- a. Agencies that have both DPA and Rehab programs must track all aspects of their programs separately.
- b. 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

- Default flags
  - Payoff amount calculation
  - Borrower demographics
- c. 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.
- d. 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
- e. Agency Reimbursement from DOH:

Reimbursement by DOH for RLF activities may only occur if:

- The activities occur after the execution date of the DOH contract,
- The activities occur after the Release of Funds letter is signed by DOLA, **and**
- The activities are being completed according to the policies and procedures contained within these guidelines.

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.

- Administrative cost draws should be spread over the term of the contract – they may not be all drawn down at the beginning of the contract term.
  - 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.
  - 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 to the agency.
- f. 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
- g. Audit Requirements: Each agency with a RLF must send a copy of its annual audit to DOH.
- h. 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, number of deferred loans and number of 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.

## 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 a assisted activity?
  - Might the party have a financial interest in any contract, subcontract, or agreement with respect to a 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:
  - o 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;
  - o Whether an opportunity was provided for open competitive bidding or negotiation;
  - o 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;
  - o 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;
  - o Whether the interest or benefit was present before the affected person was in a position as described above; and
  - o 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 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:
  - o Shall serve the public with respect, concern, courtesy and responsiveness;
  - o Shall demonstrate the highest standards of personal integrity, truthfulness and honesty and shall through personal conduct inspire public confidence and trust in government;
  - o 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;
  - o Shall not disclose or use or allow others to use confidential information acquired by virtue of state employment for private gain;
  - o 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;
  - o Shall not accept any compensation, gift, payment of expenses or any other thing of value as a reward for official action taken;
  - o 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;
  - o Shall not use state time, property, equipment or supplies for private gain;
  - o 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 homeowner the right to an informal hearing at the homeowner'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 homeowner when they are briefed on the program or project. If a program dispute occurs, the agency shall make a reasonable attempt to contact the homeowner 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 homeowner or the homeowner's representative will first be given an opportunity to present his/her issues regarding the dispute. The homeowner 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 homeowner 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 homeowner. 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. Homeowners Have the Right To:
  - Examine and copy (at the homeowner'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 homeowner documents before the Informal Hearing
  - Be notified if the homeowner 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 homeowner 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.