

Developing the Program Design

When CDBG funds will be used for housing production, a CDBG Agreement will not be issued until the Grantee creates and adopts a Housing Rehabilitation or Production Program Design setting forth the policies and guidelines that the Grantee will use to implement the program. The Program Design must be approved by DHCD and adopted by the local governing body. The executed Program Design must be scanned in its entirety and as a single document and uploaded into “Reports and Communication” in CAMS as a *contract* document.

The Program Design should include policy on all facets of the program and include procedures that must be followed in implementing the program in a fair and consistent manner. The Grant Manager must work closely with the Community Development Specialist in determining what needs to go into the Program Design.

Purpose and Objective

Provide a general description outlining the broad objective of the housing rehabilitation or production program as funded.

Project Area Boundaries

The Program Design must adopt project area boundaries that identify the location in which housing rehabilitation benefits will be made available. These project boundaries must coincide with the project area boundaries of the CDBG funded project. A copy of the project area map should be attached to the Program Design.

Benefit Requirements

The following benefit requirements must be incorporated into the Program Design:

- 100% of single-family structures and multi-family units that are rehabilitated with CDBG funds must be inhabited by LMI households verified to meet HUD’s income limits for the project area;
- When CDBG funds are for site development for single family subdivisions, 51% of the housing units in that development must be occupied by LMI households, as identified in the CDBG Agreement, within two (2) years of administrative closeout;

- When CDBG funds are used to bring multi-family housing units up to DHCD HQS, said units must be occupied by 100% LMI households;
- In instances when CDBG funds are used to improve building-wide components e.g.; roof and HVAC improvements 51% or more of the units in said building must be occupied by LMI households as identified in the CDBG Agreement;
- Unless prior approval is obtained from DHCD, 100% of all beneficiaries must have been project residents at the time of the grant application's submission;
- Moderate-income households may not benefit to the exclusion of low-income households. Low-income households are defined as those whose cumulative income by household size is below 50% of the locality's median household income;
- The program may not act to deny reasonable benefit to low-income minority, elderly or female-headed households through its guidelines and loan structuring;
- The program may not set aside funds or specific goals that adversely affects the benefit of low-income, minority, elderly or female-headed households;
- Rent charged to the current and subsequent LMI tenants may not be raised for ten (10) years unless the costs to the owner have increased and these costs are directly attributable to the rehabilitation work i.e., monthly payments on a rehabilitation loan, increased insurance costs, or increased property taxes;
- Regardless of housing income, all LMI households receiving housing rehabilitation assistance must make a minimum \$25 per month loan payment. If the Grantee has identified potential project participants who cannot afford to pay the minimum \$25 Ability to Pay (ATP) required by the Virginia CDBG program, the Grantee must submit a letter requesting a waiver of the \$25 minimum payment to DHCD for approval. The request must include a printout of a completed HUD Income Form for those participants; and
- Regardless of direct costs incurred by the landlord, rent must be affordable and not exceed the fair market rent limits for the locality as established annually by HUD at <https://www.hudexchange.info/programs/home/home-rent-limits/>.

Program Requirements

The program design must include information on the following:

- Staffing and Oversight;
- Applicant eligibility criteria & application process;

- Property eligibility criteria;
- Rehabilitation Standards
- Permanent and temporary Relocation policies and procedures;
- Financial assistance available;
- Contracting procedures;
- Loan Servicing;
- Home Maintenance Education Program description;
- Liens, debt & clear title policy and procedure;
- Subordination policy;
- Conflict of interest policy; and
- Complaint and appeals policy;

The Program Design may also need to include:

- Cost of housing, including how the developer's fee and architect's fee were derived;
- Cost to homebuyers, including down payment requirements and assistance;
- Construction management;
- Homebuyer's Club;
- Security and resale requirements; and
- Default policy.

Staffing and Oversight

The Program Design must include information related to who will oversee and staff the project to ensure its timely, effective and fair implementation. This information must include *at least* the following:

Housing Rehabilitation Oversight Board

The Housing Rehabilitation Oversight Board (Rehab Board) is appointed by the local governing body to oversee the implementation of the Housing Rehabilitation Program. The Board consists of one elected official, the chief administrative official and at least one neighborhood resident who will not benefit from the program. If it is not feasible to include non-beneficiaries, a waiver must be obtained from DHCD. It should also represent a cross section of the community. The Program Administrator may not be a member of the Board. The Board's main responsibility is to review and implement the Program Design. Duties of the Rehab Board must be discussed and must include at least:

- Develop and adopt a set of operating rules or bylaws;
- Monitor staff or consultant work progress and performance;
- Approve contractors qualified as eligible to bid on work;
- Approve applicants for assistance and assure that benefits are being provided in accordance with the Program Design;
- Approve bids and contracts for work performed;
- Review and adhere to a DHCD approved Program Income Plan; and
- Resolve complaints or disputes which may develop according to the written Complaints and Appeals Procedure.

The Oversight Board's membership roster and by-laws should be attached to the Program Design

Housing Rehab Program Administrator

The Housing Rehab Program Administrator needs to be identified and his or her broad responsibilities should be described. The Program Administrator's main responsibility is to oversee all day-to-day program activities to assure that they are carried out fairly and in conformance with the adopted Program Design. In addition, the Program Administrator is expected to:

- Conduct an initial and final DHCD HQS inspection, independently of the Rehab Specialist, filling out an HQS inspection form and placing it in the client file;
- Oversee the work of the Rehabilitation Specialist;
- Review and approve all pay requests and change orders;

- Receive all complaints and investigate and make recommendations to solve them; and
- Oversee the application process and the rehabilitation loan packaging process as described in Chapter 9: Housing.

Rehabilitation Specialist

The Rehabilitation Specialist needs to be identified and his or her broad responsibilities should be described. The Rehabilitation Specialist takes primary responsibility for designing, bidding, controlling the quality of the work completed by the housing contractor and ensuring the timely completion of all housing construction contracts. The Rehabilitation Specialist also assures compliance with lead paint requirements, *or* the Grantee contracts with someone who does.

Risk Assessor

Typically the Rehabilitation Specialist will provide any required risk assessor services. However, if this is not the case, it is especially important that the Program Design states clearly who is responsible for completing risk assessments as part of the initial inspections, how these findings will be incorporated into the job specifications, who will assure use of Lead Safe Work Practices, and who will perform clearance testing.

Intake Surveyor

If not the Program Administrator, the Intake Surveyor needs to be identified and the Survey's broad responsibilities should be described. The Survey's main responsibility is to screen applicants, fill out applications and inform the applicants of the program requirements prior to signing of the applications. It is important that this person be identified, if possible, in any advertisements and be present at the stated time and place advertised as to when applications will be taken. This person *must* be familiar with all program policy, procedures, and guidelines since most applicants initial contact will be with the Intake Surveyor.

Loan Officer

The Loan Officer needs to be identified and the Officer's broad responsibilities should be described. The Program Administrator or a qualified agency or institution which services loans can handle the activities of the Loan Officer. The Loan Officer's main responsibility is to collect, record, and forgive payments monthly. The Loan Officer is also to maintain records of loan balances, final payment due dates, issue annual statements to beneficiaries regardless of ability to pay, and to make a good faith effort to collect delinquent loans. The Loan Officer is under *no liability* for loss of funds due to lack of repayment or default by program beneficiaries.

Financial Manager

The Financial Manager needs to be identified and his or her broad responsibilities should be described. The Financial Manager's main responsibility is to ensure that the Grantee adequately budgets and tracks expenditures as outlined in Chapter 5: Financial Management.

Neighborhood Stakeholders

Housing projects are highly dependent upon an organized and active neighborhood stakeholder group. This group must be represented on the Rehab Board and on the Project Management Team. Members of this group should also be active in recruiting participants for programs, sharing information with fellow neighborhood residents, and providing general input on all decisions that are made that will impact the neighborhood.

Applicant Eligibility

The Program Design must delineate who is eligible for housing rehabilitation assistance. In doing so, it must consider the following:

- Allowable income and asset limits for the applicant;
- Fairness and equitable distribution of benefits;
- Prioritization of applicants;
- Application procedures; and
- Conflict of interest as defined fully in Chapter 4: Grant Management.

Allowable Income and Asset Limits for the Applicant

Programs may design their own limits regarding income and assets as long as these limits do not violate the policies listed here:

- CDBG funds may be used only to directly benefit LMI households;
- A household's first automobile cannot be counted as an asset;
- The monthly payment from a pension, IRA or ROTH account and the like are counted as monthly income;
- The current passbook rate is posted on the HUD website. As of 2/1/2016, if the household's net assets are over \$5,000 the rate to be used is 0.06%.
- Any CDBG funds spent in support of an activity requires that the beneficiaries of the activity be LMI;

- LMI households must be defined as 80% of the locality’s median household income as determined from HUD’s Section 8 Income Guidelines. These guidelines are updated and published annually. They are available at www.huduser.org. Click on “Data Sets.” The initial Section 8 Income Guidelines that will be used must be included in the Program Design;
- Multi-family structures must be occupied by at least 51% LMI households. CDBG funds must be targeted only to those units which are occupied or will be occupied by LMI households;
- The Program Design must define what is considered an asset. It may choose not to allow so great an amount of assets as to provide assistance to persons who should be able to afford the cost of rehabilitation through their own resources. Programs may choose to set asset limitations beyond what is presented here; and
- All income and assets must be counted and verified according to DHCD requirements. See “Income and Asset Verification,” as found in Chapter 9: Housing, for more details. Total annual income is the aggregate income of all persons who occupy a housing unit. Sources of income to be verified are outlined in Chapter 3: Benefits.

Fairness and Equitable Distribution of Benefits

- The Program Design may not benefit moderate-income households to the exclusion of low-income households. Low-income households are defined as those whose aggregate income by household size is below 50% of the locality’s median household income;
- The Program Design may not act to deny reasonable benefit to minority, elderly or female-headed households through its guidelines and loan structuring;
- The Program Design must state that it may not set aside funds or specify goals that adversely affect the benefit of low-income, minority, elderly or female-headed households; and
- The Program Design may state a residency time requirement.

Prioritization of Applicants

The Program Design must explicitly state which applicants will be given priority for approval. DHCD recommends that the program adopt a priority system based on the following:

- Housing Types. The Program Design may state that certain housing types and conditions may be addressed before all others; and

- Household Characteristics. A priority system must be established. DHCD recommends a system which gives numerical weight for certain households, depending on the characteristics of the residents of that household.

Given the use of the two above, a typical weighted system for determining beneficiaries who meet the eligibility criteria would be as follows:

- 5 points if the house lacks indoor plumbing facilities;
- 2 points for elderly (62 years or older) head household (not to exclusion of other households);
- 2 points for each person with a handicap that relates to the need for accessibility improvements (other than elderly);
- 2 points if the household income is below 50% of the locality's median household income;
- 2 points if very substandard dwelling unit (major structural and mechanical deficiencies);
- 1 point if female-headed household (other than elderly) (requires one or more legal dependents under 18 years of age); and
- 1 point for each dependent child (under 18 years of age).

The method of prioritization adopted by the Program Design must take into consideration the characteristics of the neighborhood for which the Program Design is created.

Whatever method the program chooses to use, it must be explicitly stated so that there are no questions as to which applicants will receive housing rehabilitation services first.

Application Procedures

The Program Design must address the issue of when, where, and how applications will be received. The program may choose to accept applications on an ongoing, first-come, first-served basis or it may establish time frames within which applications will be accepted. The procedures must be simple enough as not to discourage participation in the program. However, they must contain enough safeguards to ensure fairness and equal access to the program while complying with DHCD requirements. See "Application Process," as found in Chapter 9: Housing, for more details.

Properties Eligible for Rehabilitation

The Program Design must define which properties are eligible (“suitable”) for rehabilitation and which are not. The Program Design must include the definitions as indicated here and may, at its choosing, further define the terms.

Suitable for Rehabilitation

An LMI occupied unit that can be rehabilitated to DHCD Housing Quality Standards (HQS) with a base CDBG investment of \$25,000 or less is considered suitable for rehabilitation. In the event that extra bedrooms, a bathroom, well or septic or handicap accessible structures are required, these “exceptions” may exceed the base \$25,000 limit. See “Property Eligibility and Cost Feasibility,” as found in Chapter 9: Housing, for more details about cost limits.

Unsuitable for Rehabilitation

An LMI occupied unit that has major structural deficiencies such that it can be documented that rehabilitation is not feasible, desirable and/or cost effective as rehabilitation costs would exceed the base \$25,000, not including in this cost the cost of “exceptions,” is considered unsuitable for rehabilitation.

Properties deemed Unsuitable for Rehabilitation must be addressed by the Program Design in one of three ways: Permanent Relocation, Partial Rehabilitation, or Substantial Reconstruction. See “Alternatives to Rehab,” as found in Chapter 9: Housing for more details.

Eligible Property Types

The Program Design must also identify if any of the following types of eligible properties will be assisted during the project and apply DHCD policies as stated here:

1. Investor-Owned Properties. Rental units are eligible for rehabilitation. However, in the case of investor-owned properties, a legally-recorded Investor-Owner Rental Commitment must be executed. This document is the Deed-of-Trust for investor-owners. The Commitment’s purpose is to provide the improved housing units to LMI households for no less than ten (10) years at affordable rents. Provisions must be included in the Commitment, preserving the benefits to the renter and objectives of the program including:
 - a. Identification of the tenant and tenant's personal property;
 - b. Amount of current (base) rent;
 - c. Amount of rent after rehabilitation (contract rent) if different due to rehabilitation loan;

- d. Restrictions regarding rent increases;
- e. Affordability requirements for the unit. However, the rent shall remain at the same level for all subsequent tenants for the balance of the loan term;
- f. Timing of annual review and inspection to ensure the tenant is properly maintaining the unit;
- g. The term of the agreement;
- h. Items included in the Construction Agreement; and
- i. Any applicable provisions of the *Fair Housing Act* and the *Landlord Tenant Act*.

☒ As part of the Investor-Owner Rental Commitment, require landlords to inspect and insure maintenance of their improved property. If a tenant is found to have vandalized the structure, the landlord should be required to warn the tenant and then evict, if necessary. The landlord will be required to replace the tenant with another LMI resident.

The Program Design must include guidelines that prohibit windfall profits to landlords and substantial rent increases for the tenant. At a minimum, the following policies regarding Investor-owned properties must be incorporated into the Program Design:

- Eligibility is based upon the income of the tenant residing in the structure at the time of application as documented with either the HUD Household Income Report as found at Appendix 58 or the on-line HUD Income Eligibility Calculator located at <https://www.onecpd.info/incomecalculator/>.
- Houses that receive CDBG investment must include execution of a legally-recorded Investor-Owner Rental Commitment to provide the improved housing units to LMI households for no less than 10 years at affordable rates;
- Rent charged to tenants of properties that have been rehabilitated with CDBG funds may not be raised for the term of the loan, unless the costs to the owner have increased due to increased insurance costs, or increased property taxes;
- Regardless of direct costs incurred by the landlord, rent must be affordable and not exceed the fair market rent limits for the locality as established annually by HUD at <https://www.hudexchange.info/programs/home/home-rent-limits/>;
- The rent amount charged to the tenant must be clearly established in the Investor-Owner Rental Commitment and in a written lease with a one-year minimum; and

- The rent amount shall be maintained at the same level for all subsequent tenants during the ten (10) year time frame.

☒ It is highly recommended that the Grantee *verifies* that there is a signed one (1) year lease in place between the tenant beneficiary and the investor owner before the construction contract is executed. The lease must clearly identify the rent amount charged to the tenant.

2. Contract Purchase Properties. Contract Purchases allow the occupant of the house to purchase the property directly from the owner at a moderate interest rate with little or no down payment. The owner of the property finances the purchase. Terms and conditions for each sales contract may differ. The increase in value of the house after it is rehabilitated may encourage the financing owner to enforce the terms of the contract, thereby forcing a default by the occupant. In the event the Program chooses to deal with Contract Purchase Properties, the Program Design must include guidelines that assure continued occupancy by the family for which eligibility was established.
3. Heir Properties. The Program Design must require that the applicant prove he/she is one of the heirs and has control over the property. DHCD does not require that the occupant own the property free and clear, but the Grantee must verify ownership status and must determine the likelihood of continued occupancy by the applicant.

In cases where ownership is clouded by questions of inheritance (heir properties), the following requirements are in effect:

- A reasonable effort must be made to identify all heirs and the Program must document the effort to contact each heir in writing to request transfer of their interest to the beneficiary. The Title must be recorded with the local government in the intended beneficiary's name or the landlord's name;
 - Where heirs are unknown or unable to be contacted, proof of control of the property for the previous three (3) years by the resident must be documented. Proof must include continued residence, payment of property taxes, payment of homeowners insurance or other house payment by the resident; and
 - Where heirs or co-owners are known but unwilling to convey the property or it is undesirable to convey interest in the property to the intended beneficiary, a legally recorded Life Estate will be provided that the grantor(s) will execute an agreement to either (a) repay the outstanding balance upon death or removal of the resident or (b) agree to reside in the property and take over the obligations of the resident if the grantor(s) meet program qualifications.
4. Life Rights. Properties held by occupants who have "life-rights" to the property are eligible if the Program Design allows this type of property to be rehabilitated

and if both the owner(s) of the property, the life estate is recorded prior to the construction contract's execution, and the occupant who has the life-rights sign the construction contract, demolition contract and the Deed-of-Trust. Should the individual who has life-rights cease to live in the property during the mandatory ten (10) year term of the loan, the owner(s) of the property must either buy-out the loan at full value, less what has been paid or forgiven, or find an eligible LMI occupant for the property. DHCD must be notified in writing of any change in a beneficiary's "life-rights" status.

5. Vacant Property. No **vacant unit** shall be rehabilitated with CDBG funding unless the house has a history of being consistently occupied over the last five years and was rented for at least six months of the preceding year, the unit was purchased by an LMI household, or the unit is owned by a locality, housing authority, or non-profit and will be sold to or lease-purchased by an LMI household. **Prior written approval must be received from DHCD.**
6. Manufactured (Mobile) Homes. Localities may not exclude mobile home owners from the benefits of the program. The Program Design must include the Mobile Home Cost Limits and policy requirements as found in Chapter 9: Housing. Vacated dilapidated manufactured homes must be demolished.

Property Ownership

The Program Design must explicitly define how it will address owner-occupied properties or investor-owned (renter-occupied) properties. CDBG funds may be used for either, as determined by the Program Design. In either case the Program Design must adopt policies that assure that public expenditures are protected from fraud, waste and mismanagement. Safeguards must be in place to prevent benefit to persons unintended to receive program benefit. In meeting this purpose, the following policies must be a part of the Program Design:

- All improvements must be secured by a recorded lien which extends for at least ten (10) years;
- Ownership for all properties must be verified and documented; and
- Properties with unclear titles due to questions regarding inheritance and/or liens and judgments, must be dealt with by the Program to ensure that applicants are given the opportunity to prove their ability to participate in the program. Please see "Heir Properties" above for more details.

Rehabilitation Standards

The Program Design must specify that the following standards and policies are in place when CDBG funds are used to rehabilitate a property:

- All properties receiving CDBG assistance must be rehabilitated to DHCD Housing Quality Standards (HQS); and
- Cosmetic improvements are not eligible for CDBG funding.

DHCD HQS include:

- All properties must be inspected for termite and other structural infestation by a licensed exterminator (if infestation is discovered, treatment must be provided);
- All chimneys must be inspected thoroughly for structural damage, including loose masonry units and open mortar joints, and for blockage of flue. All damaged chimneys must be repaired. Chimneys with substantial blockage must be cleaned;
- All debris, abandoned vehicles, and derelict buildings must be removed from property. The owner should remove whatever he or she is physically able to remove;
- All electrical components including service, meter, wiring, and fixtures must be inspected by a qualified electrical inspector. Unsafe components must be replaced. All exposed wiring, switches, and light bulbs in living areas must be encased;
- All homes must be equipped with a smoke detector installed in conformance with the one and two family dwelling code;
- All homes must be weatherized with at least R-38 ceiling insulation and all windows and doors be caulked and weather stripped;
- All homes to be rehabilitated must be tested before and after rehabilitation for air infiltration by means of a Blower Door. Air infiltration through sidewalls must be mitigated where found. Weatherization measures should be designed to meet the minimum air flow of 1,500 CFM and weatherization targets established by the Weatherization Guidelines;
- Homes inhabited by handicapped or elderly persons must be analyzed as to the special physical needs of such persons. Improvements such as widened doorways, ramps, level entry and doorways, and grab bars in bath areas must be installed if appropriate;
- Houses built prior to 1978 will be presumed to contain lead-based paint (LBP). All repairs will be designed to eliminate these hazards using interim controls to any defective paint surface, and any breached friction, impact or chewable surface showing excessive dust and/or deterioration e. g., window sill, window trough, flooring or stair treads. All rehabilitation involving the elimination of

LBP hazards shall receive a passing Clearance Examination documented by a licensed Risk Assessor; and

- DHCD HQS requirements. See Appendix 55 for detailed information about these requirements.

Permanent Relocation

The Program Design must establish policies that allow the relocation of homeowners or tenants residing in substandard housing to housing that meets or will meet, after rehabilitation, DHCD HQS. If the property to which a family is being relocated will require repairs to meet DHCD standards, the cost of the repairs and the relocation payments (excluding moving expenses) may not exceed the current rehabilitation cost limits. In undertaking the permanent relocation option, the Program Design must adopt policies as dictated by Chapter 7: Acquisition and Relocation and Chapter 9: Housing.

Temporary Relocation

The Program Design must adopt policies that will apply to temporary relocation in the event that occupants will be displaced while their abode receives rehabilitation work. Temporary Relocation should be provided either because of an inconvenience to the occupant or possible lead paint hazards associated with the construction. The Program Design must adequately define “inconvenience” to the occupant. Note that no potential beneficiaries may be denied assistance or their priority affected due to the presumption of lead paint in the house in question. Before any beneficiary is temporarily relocated, a written agreement should be signed between the beneficiary and the Grantee. See “Temporary Relocation Cost Limits” and “Temporary Relocation,” as found in Chapter 9: Housing, for more details about DHCD policy requirements.

Financial Assistance Available

The Program Design must adopt policies regarding the financial assistance that will be made available to beneficiaries. At a minimum, these policies must incorporate DHCD’s requirements. See “Minimum Repayment Requirements,” as found in Chapter 9: Housing, for more details.

Ability-to-Pay Calculation

Ability-to-pay (ATP) calculations must be completed and documented for all owner-occupied housing applicants as outlined in Appendix 60: ATP and Loan Repayment Worksheets. The minimum monthly payment will be \$25 for all beneficiaries. Waivers may be requested in writing from the Grantee to DHCD with a strong justification. See “Ability-to-Pay Waivers,” as found in Chapter 2: Pre-Contract Activities, for additional information on the waiver request process.

✱ **ATP may be reviewed on an annual basis. It must be recalculated if the composition of the household changes or if requested by the beneficiary, and the monthly payment toward the loan payment adjusted accordingly.**

Types of Financial Assistance

Within the parameters of the cost limits, as found in Appendix 3: Project Budget, the following types of financial assistance may be used and should be explicitly discussed in the Program Design:

1. Amortized Loans. A straight amortized loan using only CDBG funds must meet the requirements as described above.
2. Loan Leveraging. CDBG funds may be used to leverage other public or private funds to increase the amount of the overall loan and increase the amount of work to be completed on the property, thereby increasing the value of the property. To do this, CDBG funds may be “blended” with the leverage funds. The security and re-payment of the leveraged funds may extend beyond the life and amount of the CDBG requirements, but CDBG funds must be secured by the Grantee for ten (10) years and for the value of the work that is being funded by CDBG. In certain circumstances, DHCD will, upon request by the Grantee, allow the Grantee to accept a second position on the Deed of Trust behind the entity offering the loan. It should be noted that the resident’s ability-to-pay cannot increase as a result of the additional leverage funds. However, payments may extend beyond ten (10) years.

DHCD does not require the Grantee to take a second or other position to facilitate mortgage refinancing after rehabilitation is complete.

3. Program Income. Program Income received from residents may be rolled into a loan that will be used for improvements to the structure, thereby leveraging extra funds beyond the allowable CDBG cost limits. As the locality is the recipient of the program income, it should act as an intermediary in using the program income to access the home improvement loan. See Chapter 5: Financial Management for more details about active and inactive program income.

✱ **CDBG funds may not be used for deferred loans.**

Contracting Procedures

The Program Design must define the process by which it will bid and award contracts for the rehabilitation of houses. This process must abide by the *Virginia Public Procurement Act* and Appendix 10: Procurement and Contracting Process. The Program Design should discuss the following:

- Selecting and Qualifying Contractors;

- Bidding and Construction Process, including how bids will be phased;
- Contracts and Agreements, including the policy regarding the number of contracts to be awarded to a single contractor who can complete all of the contracts within a 60-90day construction period;
- The daily amount of liquidated damages, if applicable.
- Final Completion and Acceptance, including the policy that all completed work must be inspected and approved by the appropriate permitting entities, the home owner/occupant, the Program Administrator and Rehabilitation Specialist. The Program Design should also contain a provision allowing the Program Administrator to sign in case the homeowner refuses to sign on grounds not related to the construction contract;
- Payment policy and procedures,; and
- Retainage must be held until the home owner/occupant and the Program Administrator have visited the home and found the work to be satisfactory.

Deed-of-Trust

The *Deed-of-Trust* (DOT) is a security instrument that secures the beneficiary's commitment to adhere to the loan, resale, and residency requirements to the title of the house and property, and references the Deed-of-Trust Note. See Appendices 62 and 63 for DOT and Note samples.

✱ A Deed-of-Trust must secure all loans, including loans to heir-occupied and life estate properties. It must cover the cost of all improvements, including any exceptions and demolition. Construction-related soft costs, home maintenance education program, temporary relocation and administrative costs are not included in the DOT and Note.

Loan Servicing

The Grantee or a qualified agency or institution which services loans under this program will be under *no liability* for loss of funds due to lack of repayment or default by program beneficiaries.

The responsibility of entities servicing loans is to collect, forgive and otherwise manage payments monthly. The servicing agents are to maintain records of loan balances, final payment due dates, and to make a good faith effort to collect delinquent loans. An annual loan payment history summary must be provided to the beneficiary.

Collection of delinquent loans may be conducted according to local policy (up to and including foreclosure) but must adhere to all requirements under State and Federal law related to the collection of delinquent or bad debts. DHCD prefers that any missed payments (ATP and forgiven amounts) be added to the lien period^{BE(1)}.

A Grantee may charge a maximum of \$5 per loan per month service fee to offset the cost of loan collection. This fee is to be taken from inactive program income/miscellaneous revenue. The loan servicing assessment is in addition to the up to 10% of annual inactive program income/miscellaneous revenue that may be used for actual administration costs, at the time program income is expended.

✱ The Grantee must issue an annual payment history statement to each beneficiary regardless of ability-to-pay.

A detailed outline of the local policy/process used to track, manage and properly address delinquent loan payments from rehab beneficiaries must be included in the Program Design. Call your DHCD Community Development Specialist for guidance.

Home Maintenance Education Program

Grantees must incorporate their Home Maintenance Education Program (HMEP) into the Program Design. In order to be approved, programs *must* include the following components:

- An explanation of how the heating system, the plumbing system, the electrical system, and the water heater functions, description of the proper use of these systems, and a description of potential common problems and solutions;
- An explanation and, if necessary, demonstration of how to properly clean and maintain these systems on a routine, seasonal and annual basis; and
- Instruction on household budgeting and personal financial management. It must explain how to establish and use checking and savings accounts, how to select and purchase insurance coverage, and how to establish and follow a household budget.

It is expected that each training session shall be “hands on” in nature and take at least four hours, including one hour on budgeting. This training should be conducted in a group setting and provide, at a minimum, a tool kit, a cleaning kit and the *Housekeeping: A Guide to Caring for Your Home* and *Home Maintenance* handbooks to recipients of the training. English and Spanish language copies of the two handbooks are available through DHCD until the supply is exhausted.

☒ As part of the HMEP, discuss predatory lending and the importance of having a will with your beneficiaries.

It is not acceptable to hold one training class at the end of the project due to the time lag between completion of construction and when the training is provided.

At least one (1) member of each household receiving assistance must attend the HMEP. The sign-in sheet must be kept in the project file, along with a signed certification listing all handouts and warranties given to the attendee. A copy of an agenda that outlines the topics covered, the name of the individual(s) who taught each topic, and the length of time allocated to each topic must also be placed in the project file.

Liens, Debt and Clear Title

As the program is not intended to harm applicants, they cannot be disqualified solely because of a tax or other lien on their property. Nevertheless, Grantees need to know the complete financial picture of their applicants, especially as it pertains to liens, debt and title so the Grantee can evaluate the level of risk they are willing to assume. Grantees must identify the policies and procedures they will follow when evaluating applications and servicing loans that are made for applicants who have liens, significant debt load, or have a cloudy title. The amount of debt load allowed, how clouded a title may be, and the amount of risk the Grantee is willing to assume must be defined. Grant funds may not be used to retire existing debts.

Conflict of Interest

DHCD observes a very strict conflict of interest position. No work can be done on the property of any person, or his/her immediate family, who has or had decision-making power in the CDBG program from the time the application was planned, developed and submitted to DHCD to the grant's execution and implementation without DHCD's prior written approval regardless of any prior approval of a Program Design. This includes any elected and appointed officials, employees of the Grantee, and Rehab Board member members, in accordance with Virginia and federal conflict of interest requirements. See Chapter 4: Grant Management for details on how to request a waiver.

Complaint and Appeals Procedures

The Program Administration and Assistance Office of the Virginia Department of Housing and Community Development (DHCD) expects all of its Grantee localities and organizations to have a written complaint and appeals process. In the event that a Grantee does not have a written procedure, the procedure identified below becomes the process to be used. This process must be exhausted before DHCD will become formally involved in any sort of resolution.

1. Informal resolution is attempted by the Housing Rehab Program Administrator. If informal resolution is not possible, the complaint must be put in writing and forwarded to the Housing Program Administrator. [However, contractor complaints, disputes or appeals may involve use of local building code review committees, as outlined in the

Invitation to Bid.] If the complainant requires assistance in putting his or her complaint in writing, the Housing Program Administrator must make assistance available. The same is true for any appeals.

2. The Housing Program Administrator is required to investigate the complaint and respond to it, in writing, in a timely manner. The response must include an explanation of the reason(s) for the decision reached, information on how the decision can be appealed, and how many days from receipt of notice the complainant has to appeal the decision.
3. Appeals of the Housing Program Administrator's decision should be addressed, in writing, to the Housing Rehab Oversight Board (Rehab Board).
4. Appeals of that Rehab Board's decision should be appealed, in writing, to the Chief Administrative Official.
5. Appeals of the Chief Administrative Official's decision should be addressed, in writing, to the local governing body.
6. All written appeals *must* be addressed within 15 days of receipt and resolved within 30 days of the appeal and retained for review. All appeals are to be responded to in writing. The response must include an explanation of the reason(s) for the decision reached, information on the next step in the appeals process and how many days from receipt of notice the complainant has to appeal any decision.
7. Final appeals may be addressed, in writing, to DHCD. The appeal should include a copy of all correspondence that has taken place to this point. The appeal should identify the problem and the desired solution. DHCD will review the complaint and respond, in writing, in a timely manner. All involved parties will be copied.

Recordkeeping

The Program Design must describe the process that will be used to track required applicant and beneficiary information. Persons must be tracked by their name, property address and LMI and non-LMI status. In addition to the general LMI status, grantees must track LMI households by extremely low- (0-30%) and very low- (31-50%) income categories when beneficiaries receive a direct benefit such as housing.

Applicants and beneficiaries must also be tracked by race and ethnicity as categorized by HUD, as well as by owner-occupied or tenant status, female-head of household (occupied by one or more children under the age of 18), elderly household (62 years of age or older), and disabled household.

- ☒ If beneficiaries do not want to identify their ethnicity, inform them that it is a requirement and that you will identify them based upon your observation.

All of the above demographic data must be further broken down by project activity e.g., owner-occupied housing rehabilitation, investor-owned housing rehabilitation, substantial reconstruction and homeownership creation.

The property address of all vacant structures demolished must be also tracked.

The Program Design must also note that minutes must be kept of all decisions made at the Oversight Board's meetings.

See Chapter 3: Benefits for details on how long these records must be retained by the Grantee.

Revising the Program Design

Because the Program Design is an official contract document, all revisions must be reviewed and approved by DHCD and amended by formal action by the local governing body. The revised Program Design must be uploaded into "Reports and Communication" in CAMS.