

DOH Residential Rehabilitation Program Guidelines

Rehabilitation is an eligible activity under several types of projects (residential rehabilitation, neighborhood or commercial revitalization, elimination of slums and blight and economic development). The most important considerations have to do with:

- 1) special requirements under residential rehabilitation,
- 2) the issue of how benefit to low and moderate income people is measured under each type of activity, and
- 3) how an appropriate program and set of rehabilitation guidelines may be designed for a given target area.



A. Written Rehab Program Guidelines

You must submit a copy of your proposed rehab program guidelines to the Department for review. The guidelines should be a comprehensive and clearly written statement of your grant and loan underwriting policies and procedures for owner-occupied and renter-occupied dwellings, including a discussion of the following topics:

- Application Process
- Determining applicant and resident eligibility;
- Income eligibility standards
- Rehabilitation standard(s) to be used; (minimum Section 8 HQS);
- Maximum Grant Amounts for Deferred Repayments;
 1. DOH recommends \$25,000 per unit
 2. Additional \$5,000 for lead abatement
- Maximum loan amounts available to owner-occupants and owner-investors;
 3. DOH recommends 50% total cost up to \$20,000 per unit
 4. Additional \$10,000 for lead abatement
- Determine Long term affordability
 5. under \$5,000 – minimum 5 years affordability
 6. \$5,000 to 25,000 – 10 years affordability
 7. \$25,000 and above –15 years affordability
- Establish Loan terms, loan-to-value ratios (DOH recommends 90% debt-to-income ratios), verify applicants' income, and repayment plans (any deviation

from this recommendation must be reported to DOH with reasons for such deviation);

- Remediating loan defaults and delinquencies up to and including foreclosure;
- Process for sale or transfer of property or change of use of the property;
- Subordination agreement procedures;
- Grantee's role in contracting (putting projects out to bid for homeowner);
- Resolution of grievances between homeowners and contractors, both during and after completion of construction; (language for arbitration)
- Owner-builder (self-help) rehabilitation with guidelines that allow for reimbursement of materials only; establish written contract procedures for owner/contractors;
- Lead-based paint notification, inspection, mitigation, and clearing procedures for pre-1978 housing;
- Owner-occupant/tenant temporary relocation assistance;
- Affordable rent provisions for owner-investor properties; and
- Listing of ineligible property improvements.
- General property improvements should be limited to 15% of the rehabilitation loan amount.

B. Project Documentation

You need to document the condition of the property and the work you propose to do before you rehabilitate it. You also should have a good boilerplate contract for homeowners to use in contracting for the work. You must document compliance with lead-based paint requirements. Project files should contain an initial inspection report and an initial cost estimate of the work to be completed. Files should contain contract documents, payment records, ongoing work inspections, final payment, release of liens and mortgage deed and note (security for use restrictions). It is recommended to have a three-party final inspection agreement between the municipality/building inspector/consultant, homeowner, and contractor, stating that the work has been done as per the contract and that appropriate entities have inspected the work performed and are satisfied with the work. The work must have a one year warranty along with other warranties as may be applicable.

C. Other Considerations

Under residential rehabilitation, for example, no building may be done unless a majority of the units are occupied after rehabilitation by low- or moderate-income people at affordable rents. A two-unit structure may now be done as long as at least one of the units is occupied after rehabilitation by low/moderate income persons. An agreement must be obtained from the owner that the benefit (i.e., affordable rents) will remain in place for at least five years from the date of completion of the work, or, in the case of vacant units, from the time of rent-up. Buildings should be selected with the above criteria in mind.

Facades and the commercial portion of mixed-use structures must be counted either as indirect area-wide benefit (under commercial or neighborhood revitalization), or done under elimination of slum and blight, unless the owners are of low or moderate income or if some direct

employment of low and moderate income people results. No funds may be counted toward low and moderate income benefit if they are used for an activity that is carried out solely for the elimination of slum or blight or to meet community development needs having a particular urgency (discretionary grants)

If proposed rehabilitation is extensive, contact DOH staff for guidelines on distinguishing it from new construction, which is largely an ineligible activity.

The restriction against new construction has been somewhat eased by the new 1987 federal legislation. Substantial reconstruction can now be funded as long as (a) the need for such could not be determined until rehabilitation had begun or (b) where the reconstruction is part of a neighborhood rehabilitation effort, the grantee must determine that the housing is not suitable for rehabilitation as well as demonstrate that the cost of substantial reconstruction will be less than the cost of new construction and less than the fair market value of the property after substantial rehabilitation.



Reconstruction became explicitly eligible for CDBG assistance as a result of a legislative change under Section 225 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (P.L. 104-234, enacted April 26, 1996). This change [in Section 105(a)(4) of the Housing and Community Development Act of 1974 as amended] broadens grant recipients' ability to use CDBG funds for "reconstruction" of properties. While the HCDA does not define the term "reconstruction," for CDBG purposes, it is generally defined as meaning the rebuilding of a structure on the same site in substantially the same manner. Deviations from the original design are permitted for reasons of safety or if otherwise impractical. The structure to be reconstructed may be residential or nonresidential, and either publicly or privately owned. A reconstructed unit need not contain the same number of rooms as the unit it replaces. States are cautioned that reconstruction that involves increasing the number of housing units on a site may constitute new housing construction. However, there could be situations in which a single-unit structure could be reconstructed as a multi-unit structure, such as to allow existing residents to comply with local housing standards on occupancy standards. (Note that any decrease in the number of units on a site may require compliance with the one-for-one replacement of L/M income dwelling units at 24 CFR Part 42, Subpart C.) Reconstruction of residential structures would also permit replacing an existing substandard unit of manufactured housing with a new or standard unit of manufactured housing.

It is essential that considerable planning be done in advance in regard to program design and rehabilitation guidelines, and proposals should concretely reflect this -- not only to realistically anticipate costs and the numbers eligible to benefit but also to ensure a program that is appropriately designed for the housing stock and residents characteristic of a given target area. A survey should be done of buildings, code problems, owners and tenants, to give a clear idea of

what work is needed, what structures are eligible, what priorities will be set, what level of rehabilitation may be done while keeping rents affordable, whether owners and/or tenants are potentially eligible and interested in participating, etc. A target area of single-family elderly owner-occupants, for example, will require a different approach than one of larger multi-family investor-owned units or mixed use. A blighted area may require certain types of work to eliminate safety hazards and eyesores.

The type of financial assistance offered likewise should be appropriately designed and targeted. There are advantages and disadvantages associated with both loans and grants. A revolving loan program makes the money go farther and may benefit more people, but a program of grants or deferred loans may be more appropriate for lower income residents or elderly on fixed incomes. Some towns use a combined approach for flexibility, particularly if the target area contains a mix of buildings, applicants and problems, in order to ensure the best approach to each. DOH staff has resources available to assist with this prior to application.

It is also important to anticipate any potential displacement, as a Displacement Plan for the entire municipality then becomes a requirement. Relocation must be carried out under Federal Relocation Regulations (copies available from DOH) and relocation and temporary shelter costs paid for displaced residents, businesses, organizations, or farm operations. This can become very costly and needs to be anticipated in the proposed budget. Temporary relocation may be unavoidable if certain types of rehabilitation are needed; but permanent relocation is to be avoided.

In summary, each applicant should submit well thought out rehabilitation guidelines as part of its application. These guidelines should include a rationale for why its proposed program design is appropriate for the target neighborhoods chosen.

D. Walk-Away Policy Guidance

The purpose of the walk-away policy is to prevent investment in a home which is so deteriorated that compliance with the HUD Housing Quality Standards (HQS) and/or Rehabilitation Standards cannot be achieved within limited financial resources.

All the grantees must consider and utilize these criteria when drafting this policy:

- Overall condition of the house
- Ownership disputes
- Insufficient equity (over 90% loan to value ratio)
- Insufficient program funds
- Use of a disproportionate amount of the available funding
- Cost reasonableness/excessive cost
- Inability to meet HQS and/or Rehabilitation Standards upon completion
- Reduction of living units
- Permanent relocation
- Homeowner's ability to secure funds from other funding sources (homeowner's contribution, if sufficient equity in the house)

- Differentiate between needs vs. wants; urgent vs. future improvements
- Type of maintenance done in the past (when?)
- Examples of emergency repairs include failing septic, deteriorated and leaky roof, failing water heater, failing heating system, unsafe electrical system, leaky plumbing system, lead/asbestos abatement if the house meets the requirements of 24 CFR Part 35, and other health and safety items that need immediate repair or replacement.

The Department of Housing (DOH) recommends that grantees, in the administration of a housing rehabilitation program, develop a “walk away” policy for projects when the cost to bring it into compliance with HUD Housing Quality Standards (HQS) exceeds \$30,000 per house or \$50,000 per property (if 2 or more units).

Under no circumstances, will a project be undertaken when the cost of rehabilitation is greater than 75% of the total cost of replacement after rehabilitation.

DOH also recommends that a written notification be provided to the homeowner if the project is deemed not feasible with appropriate reasoning and such documentation be filed for future monitoring.

DOH’s consent is required if deviating from above policies and dollar thresholds. Grantee is required to provide justification when making such a request.