



BOULDER COUNTY COLLABORATIVE

CDBG-DR

Down Payment Assistance

Housing Assistance Program

Program Policies and Procedures

For residents affected by the September 2013 flood

City of Longmont

Administrative Entity

Housing and Community Investment Division

350 Kimbark Street

Longmont, CO 80501

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Introduction

In September 2013, Boulder County experienced serious flooding that resulted in over 10,000 housing units being damaged or destroyed. These Program guidelines provide the policies and standards for the management and operation of the Boulder County Community Development Block Grant- Disaster Recovery (CDBG-DR) Down Payment Assistance Program (DPA Program), administered by the City of Longmont (the city). The DPA Program is designed to address the unmet needs of residents whose housing was directly affected by the flood by assisting them with the purchase of a home that is decent, safe, and sanitary in order to regain stability in their lives.

Loans are available to assist low/moderate-income households with down payment and closing cost assistance to purchase a home in Boulder County. It is the intent of these guidelines to create a consistent and equitable DPA Program.

Exceptions to these guidelines will require the approval of the City of Longmont CDBG Coordinator and/or the Longmont Housing and Human Services Advisory Board.

For the purposes of these guidelines, the Boulder County Collaborative has allocated \$1,000,000 of its CDBG-DR sub-allocation award from HUD toward the Boulder County CDBG-DR DPA Program.

I. Program Information

A. Authority

The following document establishes the policies and procedures to be used to implement the Boulder County CDBG-DR DPA Program, administered by the City of Longmont. This DPA Program operates in Boulder County and is funded by a CDBG-DR grant from the Department of Housing and Urban Development.

B. Equal Opportunity Lender

The DPA Program operates as an equal opportunity lender. The Program does not discriminate against anyone in its lending practices or in any other of its decision making processes because of source of income, race, color, religion, sex, handicap, family status, sexual orientation, or national origin as defined in the Equal Credit Opportunity Act.

C. SAFE Act

The city is exempt from the 'Secure and Fair Enforcement for Mortgage Licensing Act of 2008'. This Act requires licensure of all loan originators excluding those employed at state or local government, housing authorities, HUD-approved housing counseling agencies, community development organizations, and/or self-help housing organizations.

II. Advisory Committee

A. Authority

The Longmont Housing and Human Services Advisory Board (Advisory Board) serves as the Advisory Board for the Program. There are nine (9) voting members who are volunteer representatives from the community-at-large.

B. Responsibility

The Advisory Board will assist in policy development and treatment of management issues. City of Longmont Housing and Community Investment Division staff will, within these policies and procedures, review all routine applications for loans and take action on these applications. The Advisory Board will be informed at regular intervals of all routine applications which are approved by staff according to established guidelines. The Advisory Board will review all non-routine applications and recommend action on these applications.

C. Meetings

The Longmont Housing and Human Services Advisory Board (Advisory Board) serves as the Advisory Board for the Program. There are nine (9) voting members who are volunteer representatives from the community-at-large.

The Advisory Board will assist in policy development and management issues. City of Longmont Housing and Community Investment Division staff will, within these policies and procedures, review all routine applications for loans and will take action on these applications. The Advisory Board will be informed at regular intervals of all routine applications which are approved by staff according to established guidelines. The Advisory Board will review all non-routine applications and recommend action on these applications.

The Advisory Board meets monthly and will review applications as needed, recommend actions and conduct other business pertaining to the DPA Program in a timely and efficient manner. Five (5) voting members of the Advisory Board constitute a quorum for conducting business.

Whenever possible, decisions will be reached by consensus of members present. When consensus cannot be reached, a simple majority vote of members present will be necessary for action regarding a loan application.

III. Records and Accounting

The City of Longmont will maintain sufficient records to permit the U.S. Department of Housing and Urban Development (HUD) and DOLA to determine whether the DPA Program has met the requirements of 24 CFR Part 92.508 and all other legal requirements pertinent to the program.

IV. Conflict of Interest

A. Personal Benefit

No member of the Longmont Housing and Human Services Advisory Board, nor any employee of the City of Longmont who exercises responsibilities with respect to the Program or participates in its decision-making processes, may obtain a personal or financial interest or benefit from the Program, or have any interest in any contract, subcontract, or agreement or the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their employment or for one year thereafter.

V. Boulder County CDBG-DR Down Payment Assistance Program

A. Purpose

The purpose of the DPA Program is to promote and facilitate the availability of homeownership for low/moderate income households in Boulder County whose housing was directly affected by the September 2013 flood. The Program will accomplish this by marketing the Program to potential buyers, assisting eligible buyers with down payment and closing cost assistance, homeownership counseling, and case-by-case intervention and support in default situations.

B. Down Payment Assistance

A DPA loan for the Round 2 funding allocation can range from \$1,000 to a maximum of \$100,000 per household to purchase single family detached homes, townhomes, and condominiums. A maximum of \$50,000 will be available for mobile homes (either on rented pads or on land owned by the applicant).

The loan is a second mortgage and a deed of trust or a chattel mortgage is placed on the property. The loan is contingent on approval of a first mortgage loan from a licensed and registered mortgage loan originator in Colorado working for a mortgage company registered to do business in the State of Colorado, and on documentation that homeownership is financially feasible for the applicant. The exception to requiring a first mortgage is when the home selected is a mobile home and the sales price does not exceed the maximum allowable DPA assistance.

The city will not lend to any applicant receiving a subprime, interest-only, or an adjustable-rate first mortgage loan. The city reserves the right to deny eligibility based on any loan terms and/the affordability analysis.

The CDBG-DR DPA funds are to be the last financing into a purchase transaction. All other assistance including principal financing, other assistance/grant programs, gift funds, and the homebuyer's own money must be considered before the final amount of the CDBG-DR DPA loan will be determined. An applicant is not guaranteed to receive the maximum assistance available unless it is demonstrated that the full amount is needed to complete the purchase transaction.

Households may only receive enough CDBG-DR DPA assistance necessary to bring their house payments to be between 30% and 40% of their gross income. House payments include principal, interest, taxes, insurance, and HOA dues (utility expenses are not included). Gross income is the base amount a household member receives before taxes but does not include overtime wages. Overtime is not considered because it is not a guaranteed source of income. Gross income used for budgeting purposes may be different than the gross income calculated using the Form 1040 method to determine a household's income-eligibility for the CDBG-DR DPA program. If a household's house payment is less than 30% of their gross income, they can use the assistance to increase the purchase price for which they qualify up to a maximum monthly payment between 30 and 40% of their monthly gross income not to exceed a purchase price of \$480,982.

All households must demonstrate that their budget supports the proposed mortgage and monthly house payments. This is determined by the city's review of their pre-purchase budget appointment with the Boulder County Housing Counseling Program. The city reserves the right to deny eligibility based on any budget concerns.

C. Eligible Applicants

Households whose previous housing was directly damaged or destroyed by the September 2013 flood, that have incomes at or below 80% of the Area Median Income (AMI), and who wish to purchase a home in Boulder County are eligible to apply to the Program.

Applicants must provide sufficient documentation demonstrating that their previous housing was directly damaged or destroyed by the September 2013 flood.

D. Income Verification

Total household income is calculated according to the IRS Form 1040 Method (24 CFR 570.039(1)(iii)), commonly known as the Adjusted Gross Income Method. If the applicant is divorced or separated, a copy of the court-ordered custody arrangements and any alimony payments is required. For more information on income calculation, see the **Boulder County Collaborative CDBG-DR Form 1040/AGI Calculation Method Policy and Procedures**.

E. Verifiable Flood Damage

It must be demonstrated that an applicant's home was directly impacted by the September 2013 flood. Direct impact means the applicant's home was

- Damaged or destroyed during the disaster, including flood, rain or fire damaged.
- Not accessible because their community was evacuated, whether or not their home was actually damaged.
- Not accessible because of damaged or destroyed access roads, bridges and/or culverts.

F. U.S. Residency Requirements

All members of the household must be a citizen of the United States or be lawfully present in the Country. Before any assistance may be provided, all household members must complete a Declaration of Residency form (obtained from the City of Longmont Housing and Community Investment Division) and provide appropriate documentation. Parents or legal guardians may sign the form for minor children.

G. Duplication of Benefits

Applicants must disclose all financial assistance awarded and/or received in response to the flood, including but not limited to FEMA, the Small Business Administration (SBA), private insurance, other state, local or federal

programs, and private/ non-profit organizations. The city reserves the right to adjust the amount of assistance available for an applicant based on the receipt of previous assistance in order to prevent the Duplication of Benefits (DOB). Failure to disclose all financial assistance is considered fraud and can have serious legal consequences. Recipients of assistance must report any flood-related assistance they receive for a minimum of one year after the award of CDBG-DR funds. The Housing and Community Investment Division will monitor compliance with the agreement for a minimum of one year, by contacting the various agencies as noted above or listed in the original DOB calculation and by contacting the recipient of City CDBG-DR funds. The applicant must repay any assistance later received for the same purpose as those awarded and received from the CDBG-DR DPA Program. Refer to **Appendix A** for the complete Duplication of Benefits Policy.

If the applicant applied for and was offered an SBA loan but declined all or part of the loan, the amount of the loan declined may be considered a duplication of benefits. The applicant must document the reason they declined the loan on the city's SBA Hardship Documentation form. The city, on a case by case basis will make a determination whether the household qualifies for a Hardship determination.

Demonstrable Hardship

Demonstrable hardship is defined using its two component words.

- Demonstrable-proved or shown, by objective evidence (not by subjective feelings).
- Hardship-an economic impact which is burdensome or very difficult to bear, causing economic distress well beyond mere inconvenience.

A demonstrable hardship is a substantial change in an applicant's financial situation that will prohibit or severely affect their ability to provide a minimal standard of living or the basic necessities of life including food, housing, clothing and transportation without causing economic distress well beyond mere inconvenience as shown by objective evidence. A demonstrable hardship must occur after the 2013 flood event. The term is not necessarily a definable term of fixed and inflexible content or meaning.

The demonstrable hardship must be of a severe, involuntary, and unexpected nature. It must not be one that is generally shared by other property owners affected by the 2013 flood event or within the disaster area. Examples of a demonstrable hardships may include job loss, failure of a business, divorce, severe medical illness, injury, death of a family member or spouse, unexpected and extraordinary medical bills, disability, substantial income reduction, unusual and excessive amount of debt due to a natural disaster, etc. None of the listed examples above, individually or taken together, automatically establish a demonstrable hardship nor is the listing above exhaustive as there may be other factors relevant to the issue of demonstrable hardship in a particular case.

The existence of a demonstrable hardship will be evaluated on a case-by- case basis after review of all of the circumstances. Whether there is a demonstrable hardship heavily depends upon the facts and circumstances. Persons claiming a Demonstrable Hardship shall be required to provide evidence to support the Hardship claim to the city. A written decision shall be rendered and provided to the person claiming the Hardship. The city's DOB policy is attached (Appendix A).

H. Application and Loan Processing

Loan applications must be submitted on the DPA Application. The final DPA loan amount is based on actual project costs. Costs incurred for loan processing and closing costs may be included in the loan amount. In accordance with provisions of the Equal Credit Opportunity Act, there shall be no discrimination against an applicant on the basis of age, income, sex, race, marital status, sexual orientation, national origin, religion, or handicap. Information obtained by staff and used by the Advisory Board to evaluate a loan application is kept confidential. A numbering system will be used to reference loans in committee and staff reports. Completion and submission of the DPA Application does not guarantee an applicant the receipt of a loan. Applicants must apply to the DPA Program before they have signed a purchased contract and to have their final eligibility for the Program determined.

I. Application Cycles and Prioritization of Applicants

Applications will be accepted during pre-publicized application periods. The Program is intended to serve households whose income falls below 80% of the Area Median Income by family size for Boulder County. Prioritization will be given to households who were living in a damaged or destroyed mobile/manufactured housing at the time of the flood.

Households living in mobile/manufactured housing at the time of the flood will be prioritized over other eligible households. Final eligibility will be determined once a household has completed the application process. The application process requires that a household:

- Be determined income-eligible. All applicants will be notified of their income eligibility in writing. Households who are income-eligible will also receive notification of the period for which income is verified (12 months from date of verification).
- Demonstrates that housing at the time of the flood was damaged or destroyed.
- Provide documentation of all other financial assistance received in response to the flood.
- Attend a CHFA-approved homebuyer education class.
- Meet with a housing counselor for a pre-purchase budget counseling appointment and receives city approval of proposed budget and any additional financing required to complete the purchase.

On a monthly basis, the city will prioritize households who have completed the above application process based on the following categories:

- Households previously residing in damaged or destroyed mobile homes.
- Households at or below 80% of AMI.

All households will be notified of their final eligibility determination and whether funds are committed for the purchase of a home. Eligible households who are not in the priority category will have their application considered once priority applications have been considered and depending on available funding.

J. Employment Requirement

At least one applicant who will be on the mortgage and title of the home receiving a Down Payment Assistance loan must work at least 30 hours a week unless they are retired and/or disabled.

K. First Mortgage Requirements

A homebuyer must be able to qualify for an acceptable first mortgage from a licensed and registered mortgage loan originator in Colorado working for a mortgage company registered to do business in the State of Colorado. The Program accepts 30-year fixed rate and amortizing loans. Adjustable Rate Mortgages (ARMS), interest-only, or sub-prime loans are not accepted. If an applicant is receiving additional financing for the purchase of a mobile home, the terms of the financing must be approved by the city. The city reserves the right to deny eligibility based on any loan terms.

L. Homeownership Training and Counseling

A first-time homebuyer is defined as an applicant who has not owned a home for the three years prior to purchasing with down payment assistance funds. Owning a home includes being on the mortgage and/or deed and/or title of a property.

Applicants who are first-time homebuyers are required to complete a Homeownership Training Course through the Boulder County Housing Counseling Program (or another CHFA-approved course) before eligibility for the DPA Program will be determined. Homeownership Training is offered at no charge to participants and is open to all applicants. Households who previously owned a mobile home and wish to purchase a stick-built home must also attend a homebuyer education class.

All income-eligible buyers must meet with a Boulder County Housing Counseling Program counselor for a one-on-one pre-purchase budget counseling meeting. Housing Counseling is offered at no charge to participants. Homebuyers must demonstrate that their household budget is sufficient to afford the proposed mortgage

payment, including principal and interest payments; taxes and insurance payments; and homeowners' association dues if applicable. Homebuyers must also demonstrate that they will have the ability to build a savings or home maintenance account if they purchase a home with Program funds. Homebuyers must bring a copy of the Loan Estimate form (obtained from their lender) to the meeting with the housing counselor. Homebuyers receiving additional financing for the purchase of a mobile home must provide documentation on the loan amount, interest rate, loan term, and monthly payment for review by the housing counselor. For the purpose of the pre-purchase budget appointment, a household member's overtime income will not be considered. Overtime wages are not guaranteed and are not a reliable source of income to determine if homeownership is sustainable for a household. Overtime will be considered when determining a household's income eligibility for the Program using the Form 1040 method.

Final eligibility for the Program will only be determined after all required documentation has been received and reviewed by the city. The city reserves the right to deny eligibility based on any loan terms and/or budget.

M. Post Purchase Counseling

The Boulder County Housing Counseling Program offers Post Purchase Counseling free of charge to all County residents. This counseling can assist owners who are in default on their first mortgage or down payment assistance loan or who are in foreclosure. Information regarding default and foreclosure counseling can be found at www.bouldercountyhc.org.

N. Property Requirements: Property must be located in Boulder County.

O. Maximum Purchase

The maximum purchase of a home purchased with the CDBG DR-DPA assistance cannot exceed \$480,982. The maximum purchase price is the median purchase price for single family homes in Boulder County for the previous six months of this policy's most recent update. The city will evaluate Boulder County sales data every six months to determine if an adjustment in the maximum purchase price is required.

P. Principal Residence

Single family detached houses, townhomes, condominiums, and mobile homes are eligible for purchase under the DPA Program. Mobile homes to be placed on rented lots in mobile home parks are eligible. Mobile homes must be placed on a permanent foundation or properly tied down.

A property purchased through the DPA Program must be the principal residence of the buyer as evidenced by the conditions outlined in the Deed of Trust, Promissory Note, and the Participant's Agreement for all homes. A deed restriction for stick built homes will also include this provision. Homes may not be rented out while there is an outstanding DPA deed of trust on the property. Homes will be subject to recapture provisions for a period of five years.

Primary Residence is defined as the Participant is the legal and equitable owner of the real estate receiving CDBG-DR funds. The Participant must live in the home a minimum of 11 months out of the year and it must be used as their legal address. The home must be used exclusively for housing throughout the year. Failure to occupy the home as the homeowner's principal residence will cause the DPA loan to be in default. If at any time the homeowner must vacate the property for any reason (e.g., illness, temporary move to an assisted living or nursing home, long-term vacation, job transfer, etc.) the DPA Program must be notified. Failure to do so will result in the DPA loan being in default.

Each year a homeowner DPA loan recipient will receive a Verification of Occupancy form from the city that must be signed and returned certifying that they still live in the home. In addition, a homeowner may be required to submit a copy of their most recent utility bill with the Verification of Occupancy form. Failure to return the form and a copy of a utility bill, if requested, will result in the homeowner being in default of their DPA loan.

Q. Owner's Acknowledgement of Acquisition Form

This form verifies that the property was vacant or owner-occupied at the time the contract was signed, it must be signed by the buyer and the seller and that the transaction is an “arm’s-length purchase transaction”. A completed form must be provided to the Housing and Community Investment Division prior to closing. **Funds may not be used to purchase properties that displace tenants or otherwise involve tenants (persons not owners).**

R. Inspection Requirements

Homes purchased with Program funds must meet all applicable local and state building codes and standards at the time of acquisition. Once an eligible household has a valid purchase contract, the city will conduct a home inspection at its own expense. For mobile homes, a Housing Quality Standards (HQS) inspection will be completed by the city. For stick-built homes, a home inspection will be conducted by a home inspector contracted with by the city. Documentation from the inspection, including the written report and any pictures will be shared with the homebuyer and their real estate professional. A homeowner may choose to have their own home inspection conducted at their own expense. The City of Longmont is not responsible for the condition of the home at the time of the inspection or for any issues that may arise after the applicant has purchased the home.

Any health or safety concerns and/or code violations must be fixed prior to closing and documentation of the repairs must be submitted to the city prior to closing. In some circumstances, with prior approval from the city, money may be allowed to be escrowed for the repairs to be conducted after closing but before occupancy. If inspection issues are unable to be fixed, the property will be determined ineligible for the DPA Program. Mobile homes must be built after June 15, 1976. A mobile home must be built to the Manufactured Home Construction and Safety Standards (HUD Code) and display a red certification label on the exterior of each transportable section. Homes built prior to June 15, 1976, even with modifications, do not meet the HUD standards and cannot be accepted as compliant with the HUD Code.

S. Lead Based Paint

Homes built in or before 1978 must have a lead-based paint visual inspection completed prior to closing. A visual test will be conducted by the city after an applicant’s eligibility has been determined and there is a valid purchase contract. Any chipped, peeling, flaking or otherwise deteriorating paint must be physically tested for lead-based paint. If the test is positive, the lead paint must be abated and receive clearance prior to closing. The Program does not cover the cost of physical testing, abating, and/or clearance testing.

T. Hazard/Homeowners Insurance

Homeowners are required to maintain hazard insurance (homeowners insurance) on all property purchased with DPA funds. The city must be listed as an additional lien holder for the duration of the DPA loan. Proof that the homebuyer has obtained hazard or homeowners insurance must be provided to the city prior to closing a transaction utilizing the DPA Program.

U. Floodplain and Floodway

A property may not be purchased that is located in the floodplain or the floodway.

V. Property Taxes

Homeowners who receive a DPA loan must remain current on their property taxes as long as there is an outstanding DPA Deed of Trust and Promissory Note on the property.

Loan Terms and Legal Documents

W. Total Property Debt

The **total** debt on a property receiving a DPA loan, including the first mortgage and all subordinate financing, cannot exceed 100% of the value of the property based on an independent appraisal at the time of closing. The only exception is if the first mortgage is a government-backed loan (such as FHA or VA) with a mortgage

insurance premium, and that premium is the only reason that the loan amount is over 100% of the home's value. Mobile homes will be assessed through the NADA value based on the make, model, year, dimensions of the mobile home, condition of the home, and amenities.

X. Loan Amount and Terms

A maximum of \$50,000 may be provided as a forgivable loan to eligible households with a gross household income at or below 80% of Area Median Income (AMI) by household size. Twenty percent (20% or 1/5th) of the loan amount will be forgiven each year over a five -year period. If the home is sold, refinanced, title is transferred, or the home is no longer the owner's primary residence, the remaining outstanding loan balance will be due and payable.

Y. Security

All DPA loans for real property will be secured by a Promissory Note and a Deed of Trust, which will be recorded on the property. Loans may be approved with the DPA Program loan in a second position, but not in a third position unless in conjunction with a Community Land Trust project, Colorado Housing and Finance Authority loans and/or approved by the Advisory Committee. If the homebuyer is not receiving any other financing for the purchase of the home, the DPA Program loan will be in first position. The deed of trust will be released from the property once the loan has been repaid in full or completely forgiven.

Mobile homes will be secured with a Chattel Mortgage and a Promissory Note. The city will be listed on the title as the senior lien holder if the purchaser is not receiving any other financing. The city will be listed as the junior lien holder on the title if the purchaser is receiving additional financing for the purchase of the home.

Except for mobile homes placed on a rented lot, all properties will also have a deed restriction requiring that the home be the owners' primary residence. If at any time the home is no longer the owner's primary residence, the remaining loan balance will be due and payable. The deed restriction will remain recorded on the property as long as there is an outstanding DPA loan.

VI. Loan Collection and Refinancing

If any or all parts of the property are sold, refinanced, or transferred at any time, the Program will require immediate payment in full of all sums owed and secured by the promissory note.

In certain circumstances, a household may refinance without any cash out. All homeowners must first meet with a Boulder County Housing Counselor before the city will consider subordinating the DPA loan to the refinanced mortgage. The city will not agree to subordinate to any refinance mortgage that is a subprime, interest-only, or adjustable-rate mortgage. Furthermore, the city may decline to subordinate for any reason.

The only exception to the no-cash out refinance policy may be if the household can document a bona fide medical emergency where refinancing to obtain the equity is needed to cover medical expenses. In all instances, a homeowner must first meet with the Boulder County Housing Counseling Program counselor to identify any alternative options to taking out a home's equity and/or to ensure that the refinanced loan otherwise meets the city's requirements and is appropriate for the household's financial situation. The Advisory Board will then be consulted for approval if alternative options are determined not to be feasible. If approved by the Advisory Board, the DPA Program loan may be subordinated to a refinanced loan with cash out. Under no circumstances will the city refinance to a subprime, interest-only, or adjustable-rate mortgage.

VII. Grievance and Appeal Procedures

An applicant may appeal a decision by the city in regards to their application to the Down Payment Assistance Program or the funding they receive from the Program. An applicant must appeal any issues with their ineligibility and /or award within 15 days of the determination as set out in the determination letter or from the date of their notification of the appeals process, whichever is later. After 15 days, the status is considered final and can no longer be appealed.

For more information on the appeal process, please refer to the **CDBG-DR Housing Assistance Program Appeals Procedure**. This policy may be obtained from the city.

VIII. Compliance with Appropriate Laws and Regulations

The DPA Program is committed to helping applicants purchase a home in Boulder County in order to return to a permanent housing solution. The program must be operated in strict compliance with the appropriate laws and regulations governing State and Federal funds. These policies are intended to ensure that the program will be compliant in accordance with State and Federal fraud prevention requirements.

1. Record retention

Each DPA Program manager shall maintain all records related to products, transactions or services under this program for a period of five (5) years after the State grant is closed by HUD pursuant to 24 CFR 570.490(d).

2. English Proficiency

It is the Program's policy that applicants without sufficient English language proficiency to represent themselves through the DPA process will be provided support to allow their participation in the Program.

3. Elderly and/or Special Needs

DPA Program policies and operating procedures are designed to ensure that eligible elderly persons and persons with special needs are able to successfully participate in the program.

4. Environmental

The National Environmental Protection Act (NEPA) requires Federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. To fully consider the environmental consequences of a proposed action, the Federal agency often prepares and Environmental Assessment (EA). For CDBG-DR funded actions, the primary purpose of the EA is to (1) assess the applicant property for environmental issues, and (2) propose mitigation measures to offset environmental impacts. A site specific environmental review will be conducted prior to the City providing any CDBG-DR funds. An environmental review will be conducted once an applicant's final eligibility for DPA has been determined and they have identified a property for purchase.

5. Anti-Fraud Compliance

- **Fraud Prevention:** The city will put in place internal fraud prevention methods to protect the grant funds from improper payments, intentional or unintentional. Below are some of the approaches that will be taken to address them.
- **Public Website:** The city's CDBG-DR website will address the DPA Program and include the contact details for the Fraud Prevention Hotline in applicant materials. The telephone number for the fraud reporting hotline is 303-886-6234 and the e-mail address is osafraudhotline@state.co.us. All communications will be kept confidential. The hotline and e-mail address are maintained by the Office of the State Auditor.
- **Cooperation with Federal and State Monitors and the HUD Office of Inspector General:** All Program staff will provide cooperation to State and Federal monitors and inspectors. This means allowing access to program related materials and providing support to the monitors or inspectors when requested.
- **Referral of Suspected Fraud:** It is the affirmative responsibility of any city employee and any Program staff that has reasonable suspicion that any form of fraud is occurring, to notify the appropriate State or Federal agency or department. Notification of suspected fraud can be made to the Office of the State Auditor. Referrals should be based on a reasonable belief that a fraud has been committed.
- **Draw/Payment process:** The CDBG Coordinator will review and approve all draw requests submitted by staff under the Program. Requests for payments will be accompanied with all required back up documents and kept in the appropriate applicant's file.

IX. Mobile Home Park Optional Relocation Policy

The Mobile Home Park Optional Relocation Policy (Optional Relocation Policy) only applies to mobile home parks where the City is acquiring or intends to acquire land for flood mitigation work. When determined to meet an urgent community need under 24 CFR 570,.208(c), CDBG/CDBG-DR funds may be used for the relocation of an owner of a mobile home legally residing at a mobile home park that the City is purchasing for flood mitigation. Funding for the purchase of a new home will be an eligible cost under the DPA Program.



Duplication of Benefit Policy

Boulder County, Colorado, experienced a catastrophic flood event from September 11th, 2013 through September 15th, 2013. Boulder County and the units of local government within the county formed the Boulder County Collaborative (BCC) partnership among its impacted communities with a focus on strategic coordination for long-term recovery. The City of Longmont will be the Lead Agency in administering these programs throughout the county. The Boulder County Collaborative is comprised of the following eight (8) Participating Governmental (PG):

1. Boulder County
2. City of Boulder
3. Town of Jamestown
4. City of Lafayette
5. City of Longmont
6. City of Louisville
7. Town of Lyons
8. Town of Nederland

Purpose

Each CDBG-DR program administered by a Participating Government is subject to the Duplication of Benefit (DOB) policy. Each CDBG-DR program will have operational procedures which contain detailed provisions identifying the documents to be provided by applicants for assistance, as well as the procedures for how these documents will be verified.

The first step of the DOB calculation for each program is to determine the amount of funds previously received or made available to assist with disaster needs related to the September 2013 flood. During the intake/application process, persons, business concerns and other entities receiving BCC CDBG-DR financial assistance will be required to disclose all sources of disaster recovery assistance received and/or anticipated to receive due to the flood impacts. The PG will verify the amount received by reviewing source documents and contacting 3rd parties when required by HUD.

Authority

The Boulder County Collaborative (BCC) has been allocated Community Development Block Grant Disaster Recovery (CDBG-DR) funds from the State of Colorado. The CDBG-DR funds have been appropriated by the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2). CDBG-DR funds are for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Act of 1974.

Section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5155) prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster for which he or she has received financial assistance under any other program or from insurance or any

other source. In accordance with the Stafford Act, CDBG DR funds issued through the BCC may not be used for any costs for which other disaster recovery assistance was previously provided for the same purpose.

The Stafford Act directs administrators of Federal assistance to ensure that no person, business, or other entity will receive duplicative assistance and imposes liability to the extent such assistance duplicates benefits available to the person for the same purpose from another source. The amount of the duplication is the amount of assistance provided in excess of need. The BCC Duplication of Benefit (DOB) policy adheres to the guidelines published in the Federal Register/Vol.76, No. 221/Wednesday, November 16, 2011.

The State of Colorado through its Colorado Department of Local Affairs (DOLA) is the HUD Grantee for the CDBG-DR funds provided to the State. The BCC has received a sub-allocation of these CDBG-DR funds from the State through its Lead Agency, the City of Longmont. The State of Colorado has provided the updated *Colorado CDBG-DR Duplication of Benefits Policies and Procedures* (October 5, 2016) with specific compliance requirements for meeting the HUD Federal Register notice 76 FR 221 (November 16, 2011). The BCC has adopted the State's DOB Policy and Procedures and these will be implemented through the following steps.

DOB Process

For each CDBG-DR program established in the Action Plan, the BCC will provide forms and procedures addressing DOB. Each procedure will require the PG to:

1. Determine and document the total need of assistance for the eligible activity.
2. Identify all assistance received or reasonably anticipated for the project or by the applicant related to flood recovery.
 - The application for assistance will require documentation for all sources of funding received or reasonably anticipated to be received and certification that all assistance is reported.
 - Third-party verification of all sources of assistance should be received. When third-party verification is not possible, documentation should be added to the project file explaining why it was not available.
3. Identify assistance determined not to be duplicative for the activity because:
 - Funds were used for a different, eligible purpose
 - Funds were not available to the applicant, e.g., forced mortgage payoff, contractor fraud, etc.
 - Funds were from a private loan not guaranteed by SBA; however, Forgivable Loans are considered duplicative
 - Any other asset or line of credit available to the applicant, e.g. checking or savings accounts, stocks, etc.
4. Perform a calculation to determine the total funds received from other sources for the activity to be funded with CDBG-DR (e.g., repairs).
 - Calculate by subtracting the total assistance received from the total funds needed to complete the activity (e.g., repairs).
5. Perform a calculation determining the maximum eligible award.
 - Calculate by subtracting the assistance from other sources (duplicative assistance) from the total need for assistance for that activity.
6. Require all applicants to sign an agreement to repay any assistance provided using CDBG-DR funds when/if other funds were later received for the same purpose as the CDBG-DR funds. The PG will monitor compliance with the agreement for one year, by contacting the various agencies as noted above/and or listed in the original DOB calculation.
7. Recapture funds if necessary. If additional need is established, subsequent funds would not be considered a duplication of benefits (76 FR 221, 71062). If additional need is not demonstrated, disaster recovery funds must be recaptured to the extent they are in excess of the need and duplicate other assistance received by the beneficiary for the same purpose. If CDBG-DR funds or non-Federal funds were provided last and unknowingly

create duplication, the method of recapturing the CDBG-DR funds the PG provided will be consistent with 2 CFR 200.403 (a) Factors Affecting Allowability of Costs. Time frames will include an annual review of DOB as noted above and the PG's normal collection policies.

The following represents the basic framework that will be utilized for DOB verification in all CDBG-DR programs. The example below is based on a scenario where the applicant requires assistance with repairs to the damaged home in the amount of \$100,000. Per program policy, there is a cap of \$50,000 for repairs. The applicant received the following flood recovery assistance: \$50,000 from insurance (\$30,000 for repairs/\$20,000 for personal property); \$11,500 from FEMA (\$10,000 for repairs/\$1,500 for temporary living); and \$2,000 from a local charity for gas and clothing. Total assistance received was \$63,500. This example has also been input into the attached BCC DOB Worksheet for Housing Assistance as a reference.

Basic framework:

1. Determine Applicant's Total Need	\$100,000
2. Identify and verify all assistance received	\$ 63,500
3. Deduct assistance determined to have a duplicative purpose (i.e., repair = \$30,000 insurance and \$10,000 FEMA)	\$ 40,000
4. Maximum eligible award (item 1 less item 3)	\$ 60,000
5. Program cap (maximum award allowed by policy)	\$ 50,000
6. Final award (lesser of items 4 and 5)	\$ 50,000

The PG will use a Duplication of Benefit Affidavit as part of the DOB determination (or have equivalent DOB Affidavit as part of the CDBG-DR application), listing all sources of assistance received for the 2013 flood, the purpose of the funds, and a Certification signature on the Affidavit to ensure compliance with DOB requirements. The PG will review the DOB worksheet with the applicant. The applicant will sign and date the worksheet at that meeting.

Third-Party Verification of Assistance Received

All sources of funding received must be verified for amount of assistance received and purpose of the assistance. Third-party verification is defined as acquiring documentation from a third-party source (i.e., a source other than the applicant) that verifies the amount received from the funding source. For example, insurance third-party verification is generally a form that is sent to the insurance company that the applicant has listed as their insurance provider at the time of the disaster. The form should include the policy number, the date of the flood, the amount of assistance the applicant claimed to have received, and a section where the third-party verifier can confirm the amount or provide the correct amount. This step should be followed even when the applicant reports no assistance received from primary sources such as FEMA, SBA, and any named insurance firm on the application.

The PG must do its due diligence by attempting to third-party verify **all** sources of funds received by the applicant. If no third-party verification can be obtained by the PG, then complete a note to the file explaining why the third-party verification was not possible to receive. After attempting to get a third-party verification with no response, a BCC Affidavit of Funds Received may be signed by the applicant as a last resort.

SBA Hardship Determination

If the homeowner applied for and was offered an SBA loan but declined all or part of the loan, the amount of the loan declined may be considered a duplication of benefits per HUD's November 16, 2011 Federal Register notice (76 FR 71060). There may be an exception if the Homeowner has a hardship that would make it difficult or impossible to repay the full SBA loan. The Homeowner must document the reason they declined the loan on the AE's Homeowner SBA Hardship Documentation form. The AE, on a case by case basis will make a determination whether the household qualifies for a Hardship determination.

Demonstrable Hardship

Demonstrable hardship is defined using its two component words:

- Demonstrable-proved or shown, by objective evidence (not subjective feelings).
- Hardship-an economic impact which is burdensome or very difficult to bear, causing economic distress well beyond mere inconvenience.
- A demonstrable hardship is a substantial change in an owner's financial situation that will prohibit or severely affect their ability to provide a minimal standard of living or the basic necessities of life including food, housing, clothing and transportation without causing economic distress well beyond mere inconvenience as shown by objective evidence. A demonstrable hardship must be occurring after the 2013 flood event. The term is not necessarily a definable term of fixed and inflexible content or meaning.
- The demonstrable hardship must be of a severe, involuntary and unexpected nature. It must not be one that is generally shared by other property owners affected by the 2013 flood event or within the disaster area. Examples of a demonstrable hardships may include job loss, failure of a business, divorce, severe medical illness, injury, death of a family member or spouse, unexpected and extraordinary medical bills, disability, substantial income reduction, unusual and excessive amount of debt due to a natural disaster, etc. None of the listed examples above, individually or taken together, automatically establish a demonstrable hardship nor is the listing above exhaustive as there may be other factors relevant to the issue of demonstrable hardship in a particular case.
- The existence of a demonstrable hardship will be evaluated on a case-by- case basis after review of all of the circumstances. Whether there is a demonstrable hardship heavily depends upon the facts and circumstances.
- Persons claiming a Demonstrable Hardship shall be required to provide evidence of such claimed Demonstrable Hardship to the AE, for a decision. A written decision shall be made including the reasons for approval or denial of the hardship and returned to the person claiming the Demonstrable Hardship.

Appeals

Determination of Duplication of Benefits can be appealed. Requests for DOB appeal will be processed and reviewed by PG staff or designated official(s). Applicants who believe a DOB decision is incorrect and/or not in compliance with Program policies may appeal a negative decision in writing within 30 days of the notice of the decision. Each appeal will be reviewed against program policies and requirements, and applicable local, state, and federal law. Upon completion of the review the appeal and, if applicable, hear the applicant's presentation of their appeal, the hearing officer will make a decision and respond to the applicant within 30 days of receiving the complaint.

DOB Certification Requirements for Participating Governments and Lead Agencies

Per the State DOB requirements, each Participating Government (PG) or CDBG-DR Administering Entity (AE) must have a DOB Worksheet and Certification in each awardees file. The BCC has created DOB Worksheets with certifications for Housing Assistance Programs, Buyout, and Infrastructure projects. These worksheets are attached to this document. Each applicant file must contain a certified worksheet from the PG/AE that lists all sources of funding received by the applicant (or for a project if infrastructure), the purpose of the funds received, and whether or not the source was used as a DOB, provided as a credit, or was for other eligible purposes.

The purpose of this worksheet is to make it clear in one document exactly what and how funds were evaluated for DOB purposes and provide certification of their completeness.

One-Year Compliance Review

One year after completion of the activity receiving CDBG-DR funds or upon project close-out (if project closeout happens prior to the one year anniversary of the completion of the activity, the PG must have the beneficiary/recipient must certify whether additional funds were received for disaster-related expenses, the amount, and when funds were received and the purpose of the funds. If additional funds received are determined to be duplicative of the CDBG-DR award, then repayment of the DOB is required. Please see Recapture Policy for specific procedures.

State of Colorado CDBG-DR Duplication of Benefits Policies and Procedures

Please see attached State of Colorado specific requirements for DOB implementation. The BCC defers to all State DOB requirements and where the State requirements are in conflict with any requirements listed in this document, the States requirements will supersede the BCC requirements.

Attachments

- State of Colorado CDBG-DR Duplication of Benefits Policies and Procedures (10/5/16)
- BCC DOB Affidavit for Applicant
- BCC 3rd Party Verification Form and Letters
- BCC 3rd Party Affidavit of Funds Received
- SBA Hardship Form
- DOB Worksheets and Certifications (Housing Assistance, Buyout, and Infrastructure)
- BCC One-Year Certification
- BCC Recapture Policy

**Boulder County Collaborative
CDBG-DR Down Payment Assistance
Revision History**

Revision History:

Version	Date	Page	Description
2	08/03/15		
		4	<i>Updated that CDBG-DR DPA funds are to be the last financing into a purchase transaction and that an applicant is not guaranteed to receive the full \$50,000 available unless it is demonstrated that the full amount is needed to complete the purchase transaction.</i>
		5	<i>Updated the use of the IRS Form 1040 Method (24 CFR 570.039(1)(iii)), commonly known as the Adjusted Gross Income Method to document housing income for eligibility purposes.</i>
		5	<i>Updated to include the definition of 'Direct Impact.'</i>
		5	<i>Added the one-year time period in which the City will monitor for compliance with federal regulations pertaining to Duplication of Benefits.</i>
		8	<i>Added definition of Primary Residence.</i>
		8	<i>Updated that the city will conduct home inspections on all stick-built homes at its own expense.</i>
2.1	11/15/2015		
		7	<i>Updated loan documentation required for housing counseling appointment.</i>
		9	<i>Updated that the total debt on a property can exceed 100% of the value only if the first mortgage is a government-backed loan (such as FHA or VA) with a mortgage insurance premium.</i>
3.0	01/14/2016		
		3	<i>Updated information to reflect program funding from the Boulder County Collaborative</i>
		5	<i>Added information how determining how much assistance a household can receive.</i>
		7	<i>Added information on the prioritization of applicants.</i>
		8	<i>Added information about the exclusion of overtime wages in the applicant's pre-purchase budget counseling appointment.</i>
		8	<i>Added that maximum purchase price cannot exceed \$480,982.</i>
		9	<i>Added that the deed restriction placed on stick-built homes will also include the principal residency requirement.</i>
4.0	11/08/2016	6	<i>Updated loan amount to \$100,000 for single-family homes, townhomes and condominiums. Mobile homes (on rented or owned land) are eligible for a maximum of \$50,000.</i>
		7	<i>Updated that household's monthly housing payments are to be between 30 and 40% of their gross monthly income.</i>
		Appendix A	<i>Replaced Duplication of Benefits policies with the Boulder County Collaborative updated policy.</i>

