



Virginia Department of Housing and  
Community Development

**Down Payment Assistance Program**

Program Guidelines  
2010-2011

## DPA

The Down Payment Assistance (DPA) Program is a HOME-funded program administered through the Virginia Department of Housing and Community Development. This program is one of several HUD programs that are included under the HUD Consolidated Plan for the 2010-2011 Action Plan program year.

DPA provides down payment and closing cost assistance to income eligible first-time homebuyers to obtain homes that are decent, safe and affordable. The program goal is to provide homeownership opportunities to households that otherwise may not have the opportunity to own a home. By providing these opportunities DHCD helps to sustain affordable housing units and overall growth in personal wealth and equity for low-income Virginians.

The DPA program seeks to provide this assistance statewide through local sub-recipient that provide comprehensive homeownership services including for example housing counseling, debt repair services, and foreclosure prevention.

The program seeks to assist annually at least 200 income-eligible first-time homebuyer households in Virginia with bridging the gap to homeownership.

## Funding Levels

During 2010-2011 DHCD will allocate approximately \$2.5 million through the DPA program to assist between 200-300 income-eligible first-time homebuyers into homeownership during the program year.

<b>2010-2011 DPA Estimated Funding<sup>1</sup></b>	
2010-2011 HUD Allocation Designated to DPA	\$2,000,000
HOME Program Income	~\$500,000 <sup>2</sup>
<b>Total</b>	<b>~\$2,500,000</b>

DPA sub-recipients were selected through a competitive application process in spring of 2009. Proposals meeting threshold requirements were scored and ranked based on the following categories:

- Need (50 percent)
- Program approach (25 percent)
- Organizational capacity (25 percent)

Funding offers were made to those applicants with proposals of at least 60 points based scores, on requested amounts, and available funding.

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<sup>1</sup> Note 2010-2011 total allocation may be greater based on the possible reallocation of any unexpended 2009-2010 funds.

<sup>2</sup> This amount is an estimate based on prior year income. All program income (minus ten percent for administrative costs) generated during 2010-2011 will be expended through the DPA program.

Successful applicants will be awarded two-year commitments. The two year commitment is structured as two one-year funding agreement. 2010-2011 funding (year-two) is contingent upon performance and available funding and will be allocated proportional to year-one spending levels.

Applicants with outstanding audit findings, IRS findings, DHCD monitoring findings or other compliance issues are not eligible applicants and any sub-recipient selected for funding will not be eligible for subsequent allocations if any of these conditions occur. Please note that DHCD will work with all interested parties toward the resolution of unresolved matters, where appropriate.

Disbursement of funds to the sub-recipient is done on a per transaction basis. This includes the down payment and closing costs assistance and an administrative fee per individual DPA unit assisted. Please note that the allocation of any assistance and administrative fee is contingent upon the sub-recipient meeting program guidelines including timely submissions of the required documents.

### **Eligible Service Areas**

DHCD's goal is to provide funding support for HOME eligible DPA assistance across Virginia. Any locality within the state of Virginia is an eligible service area including both HOME entitlement and non-entitlement localities. Higher priority was given to proposals submitted that include non-entitlement localities. All sub-recipients must assure the following:

- Processes and procedures are in place to assure required coordination with other HOME funding (affordability period requirements)
- Coordination with other DPA programs
- Out reach to clients beyond the providers' immediate client base
- First-come-first served access to eligible DPA program participants

Sub-recipients that also engage in homebuyer development activities must not reserve DPA assistance specifically for their specific homebuyer units. Access to DPA must be made on a first –come-first served basis.

<b>HOME Entitlements and Consortiums</b>	
<b>Winchester Consortium</b> – including:	<b>Alexandria</b>
Winchester	<b>Chesapeake</b>
Fredrick County	<b>Danville</b>
Page County	<b>Hampton</b>
Clarke County	<b>Lynchburg</b>
Warren County	<b>Newport News</b>
Shenandoah County	<b>Norfolk</b>
<b>Charlottesville Consortium</b> - including	<b>Portsmouth</b>
Charlottesville	<b>Richmond</b>
Albemarle County	<b>Roanoke City</b>
Fluvanna County	<b>Virginia Beach</b>
Greene County	<b>Arlington County</b>
Louisa County	<b>Chesterfield County</b>
Nelson County	<b>Fairfax County</b> -including
<b>New River Consortium</b> – including	Fairfax City
Radford	Falls Church
Giles County	<b>Henrico County</b>
Montgomery County	<b>Prince William County</b> –including
Pulaski County	Manassas
Blacksburg	Manassas Park
Christiansburg	Bristol City (member of Tennessee consortium)
<b>Suffolk Consortium</b> –including	
Suffolk	
Isle of Wight	
Franklin City	
Southampton	

\*Virginia localities not listed above are non-entitlement areas.

### **Sub-Recipients Requirements**

Sub-recipients must be any non-profit or units of government targeting services to individuals living within Virginia. All sub-recipients must have and be current on 990 filings (not applicable to governmental entities).

Sub-recipients must be in compliance with applicable state and federal policies and procedures including compliance with federal and state non-discrimination laws.

Sub-recipients must coordinate DPA assistance with other HOME funding or other types of public assistance. A subsidy layering analysis reflecting all forms of public assistance including all HOME-assistance from all sources must be completed by the sub-recipient for each assisted unit.

Sub-recipients must have established internal control and fiscal accounting procedures and be able to track agency and program budgets by revenue sources and expenses.

Sub-recipients with outstanding audit findings, IRS findings, DHCD monitoring findings or other compliance issues are not eligible applicants and any sub-recipient selected for funding will not be eligible for subsequent allocations or reimbursements if any of these conditions occur. Please note that DHCD will work with all interested parties toward the resolution of unresolved matters, where appropriate.

Sub-recipients must assure that, effective July 1, 2010, all individual staff directly involved in the taking of application information from clients specific to any mortgage financing including the down payment and closing cost assistance which is secured as a second mortgage on the property are S.A.F.E. Mortgage Act licensed and meet all applicable state and federal requirements:

<http://mortgage.nationwidelicencingsystem.org/SAFE/Pages/default.aspx>

Applicants must meet all reporting and record keeping requirements.

### **Program Participant (Client) Eligibility**

Participation in the program is limited to credit-eligible homebuyers at or below 80 percent of the area median income (AMI), as defined by HUD at 24 CFR 5.609, adjusted for household size and geographic location of the assisted property. Borrowers with total household incomes in excess of 80 percent AMI are not eligible for this assistance. HOME program down payment assistance is not an entitlement, but a limited public resource to be used to further first-time homeownership for those who without this assistance would not be able to move forward with a home purchase. Use the following links to review income tables and the maximum area sales price:

<http://www.vhda.com/Homebuyers/VHDAHomeLoans/Pages/IncomeSalesPriceLoanLimits.aspx>

Program Participants:

- Must be “first-time homebuyers.” This includes:
  - Program participants who have never owned a home before; or
  - Program participants who have not held primary ownership in a principle residence within the most recent three year period;

- Eligible program participants must not have access to cash or liquid assets sufficient to meet the ten percent of sales price down payment requirement.
- Must complete a HUD-certified Homebuyer Education Course through a VHDA or Neighborworks® certified course;
- Must demonstrate that their income does not exceed 80 percent of the AMI;
- Must provide one percent of the sales price of the home from their personal funds towards the purchase of the home or a minimum contribution of \$500;
- Must sign a homebuyer agreement form with the sub-recipient
- Must occupy the HOME-assisted property as their primary residence
- Must execute a restricted deed of covenant and promissory note for the amount of the DPA assistance and any other HOME funds included in the unit for the required affordability period
- Must understand that there will be a lien of the property for the required affordability period
- May receive DPA assistance for up to ten percent sales price of the assisted property for down payment assistance
- May receive no more than \$2,500 as needed for closing costs not adequately paid for by the seller
- May receive up to 20 percent in total down payment and no more than \$2,500 toward closing costs assistance for housing units located in either a designed high costs or chronically economically depressed area:

***HIGH COST/CHRONICALLY ECONOMICALLY DEPRESSED Localities:***

<b>Albemarle</b>	<b>Grayson</b>	<b>Smyth</b>
<b>Alexandria</b>	<b>Herndon</b>	<b>Spotsylvania</b>
<b>Allegany</b>	<b>Highland</b>	<b>Stafford</b>
<b>Annandale</b>	<b>King George</b>	<b>Tazewell</b>
<b>Arlington</b>	<b>Lee</b>	<b>Warren</b>
<b>Bath</b>	<b>Loudon</b>	<b>Winchester</b>
<b>Bland</b>	<b>Madison</b>	<b>Wise</b>
<b>Buchanan</b>	<b>Manassas</b>	<b>Wythe</b>
<b>Carroll</b>	<b>McLean</b>	
<b>Charlottesville</b>	<b>Montgomery</b>	
<b>Clark</b>	<b>Nelson</b>	
<b>Craig</b>	<b>Orange</b>	

<b>Culpepper</b>	<b>Page</b>
<b>Dickenson</b>	<b>Prince William</b>
<b>Fairfax</b>	<b>Pulaski</b>
<b>Falls Church</b>	<b>Rockingham</b>
<b>Fauquier</b>	<b>Russell</b>
<b>Floyd</b>	<b>Salem</b>
<b>Frederick</b>	<b>Scott</b>
<b>Fredericksburg</b>	<b>Shenandoah</b>
<b>Giles</b>	

Program participants with cash assets of ten percent or more of the sales price are NOT eligible for down payment and closing costs assistance through this program.

Program participants must meet the usual and customary mortgage underwriting criteria that demonstrates creditworthiness sufficient to obtain a mortgage loan commitment.

Determination of Income Eligibility

The sub-recipient shall use the Section 8 definition of annual gross income to calculate annual income. The sub-recipient must examine original source documents or obtain third party verification evidencing annual income (e.g., wage statement, interest statement, and any unemployment compensation statement) for all household members aged 18 and over. Copies of all income determination documents must be kept in the program participant’s file with a clear explanation of the calculation process. All sub-recipients are encouraged to educate themselves and obtain training as needed regarding the correct calculation of annual income.

A program participant must be income qualified at:

- In the case of a contract to purchase an existing home, at the time of purchase (sales contract)
- In the case of a contract to purchase housing to be constructed, at the time the contract is signed
- In the case of a lease-purchase agreement (existing or new construction) at the time the lease-purchase agreement is signed

Income need not be reexamined at the time HOME assistance is provided unless more than six months have elapsed since initial determination.

**Eligible Properties**

Properties eligible to be assisted with DPA must meet mortgage lender requirements and must be one of the following types:

- Only units that will be owner-occupied
- Single-family unit

- Two to four-unit property where one unit will be the principle residence of the eligible program participant (please reference more detailed HOME affordability requirements specific to this property type)
- A condominium unit
- A manufactured home
  - At time of purchase the unit must be connected to permanent utility hook-ups
  - Must be located on land that is owned by the program participant or on land leased for a period at least equal to the applicable period of affordability

#### Maximum Property Value

The maximum property value (sales price for acquisition only) may not exceed 95 percent of the median purchase price for that type of eligible housing unit type in that specific area. This is based on the 203 b limits for the area:

[http://www.hud.gov/offices/cpd/affordablehousing/library/homefires/volumes/2009\\_95percentofmedianlimits.xls](http://www.hud.gov/offices/cpd/affordablehousing/library/homefires/volumes/2009_95percentofmedianlimits.xls)

#### Property Standards

All DPA assisted units must pass a Housing Quality Standards inspection. This must be conducted by the sub-recipient at the time of occupancy. This is required documentation that must be maintained in the program participants file.

Lead-based paint regulations apply to DPA units and where applicable evidence of a completed visual inspection should be included in the program participants file.

#### **Program Requirements**

All DPA assistance units, client, and loan products must meet program requirements:

- All down payment and closing cost assistance must be offered on income eligible on a first-come, first served basis
- The maximum property value (sales price for acquisition only) may not exceed 95 percent of the median purchase price for that type of eligible housing unit type in that specific area
- No funds will be returned to the purchaser at closing/settlement. If the purchaser is required to pay any cost up front that reduce the settlement costs (e.g., insurance premium), please contact DHCD.
- Income determination forms must be signed by the program participant and included in the program participant file.
- Homebuyer agreements must be signed by the program participant and must be included in the file.

- Sub-recipients must assure that their organizations homebuyer agreements are aligned with the Good Faith Estimate. All fees and requirements must be fully understood by the homebuyer.
- Loan packages submitted for funding consideration cannot exceed 95 percent of the loan to value (LTV) or a cumulative LTV of 108 percent including any other sources of subsidies.

### Eligible Mortgage Products

Eligible first mortgage products include the following:

- VHDA SPARC mortgages for borrowers up to 80 percent AMI when there is a SPARC Loan Commitment;
- Fixed Rate FHA 30-Year mortgages originated with a VHDA-approved lender;
- Rural Housing Services Guaranteed or Direct Loans through USDA Rural Development

### Affordability and Recapture Requirements

Anytime HOME funds are used in a housing unit it must be maintained as “affordable” for a specified period of time based on the total amount of HOME funds in any particular unit. This includes any other HOME funds from any other sources including local government HOME funds. Any unit assisted with the DPA program must have a required affordability period applied to the unit. The affordability period of time is calculated based on the total amount of HOME funded assistance. In some cases, other HOME funds may also be included in the unit. The affordability period means that the homebuyer must maintain the assisted housing unit as their primary residence for the length of the affordability period. A recapture provision will apply if the unit is sold or refinanced during the affordability period. In these cases the entire amount of DPA assistance will be due to DHCD at the time of sale or refinance. This is enforced through a restrictive deed covenants placed on the property at the time of purchase.

Sub-recipients must complete a subsidy layering form on each assisted housing unit.

Sub-recipients are responsible for assuring that homebuyers fully understand the affordability period requirement and the recapture provision.

Sub-recipients are responsible for monitoring compliance with the affordability period.

The recapture provision applies to all properties that receive down payment assistance through this program, even loans that are assumable. If a homebuyer assisted through this program allows for the property to be assumed by another party prior to the end of the affordability period then the total amount of assistance will be recaptured and returned to DHCD.

The DPA is structured as a deferred loan. No monthly repayment is required on the deferred loan issued by DHCD. This loan is forgiven at the end of the affordability period. In the case of sale or refinance prior to the end of the affordability period, the full amount of HOME funds must be repaid. Periods of affordability are determined by the **total amount of HOME funds** awarded from all sources, federal, state and local, based on the following table:

<b>Total Amount of HOME Assistance or Subsidy from all Sources</b>	<b>Years in the Period of Affordability</b>
<b>\$1,000 – \$14,999</b>	5 Years
<b>\$15,000 - \$40,000</b>	10 Years
<b>Amounts over \$40,000</b>	15 Years

### **Administrative Fee**

Administrative Funding - there will be a total allowable **Processing Fee** of **\$1,500** for each completed unit (home purchase) billable to the HOME program. In addition, the sub-recipient may receive an additional processing fee of **\$300.00 for all clients served at 60 percent** or below AMI. The breakdown is as follows:

- A sub-recipient will receive \$1,500.00 upon submission of, and receipt and approval by DHCD of, a completed project package for homeownership and disbursement of the HOME down payment assistance consisting of a completed HUD Completion Report, accurate closeout documentation, and a recorded Restrictive Deed of Covenant.
- DHCD will release an additional \$300.00 if an administrator submits proof that the client’s income was 60 percent or below AMI at the time of initial application for the program when a completed HUD Completion Report, accurate closeout documentation, and a recorded Restrictive Deed of Covenant is received.
- The total processing fee must show on the HUD IDIS Set-up form and the Completion report.
- Processing fees should be requested on the appropriate disbursement forms.
- To receive an additional fee of **\$300.00** for counseling that the sub-recipient provides themselves the sub-recipient will provide DHCD with copies of a counseling certificate and proof that the sub-recipient is the providing housing counseling agency and is not being funded by a HUD grant to administer homeownership counseling classes.
- A sub-recipient must submit a copy of a paid receipt and a copy of the Lead Inspection report to receive an additional fee up to **\$250.00 (or actual costs –whichever is less)**. Note Lead Inspection are only required as covered in the Lead-based Paint requirements.

- Administrative Processing Fees will not be disbursed until all project completion documentation has been received and approved by DHCD.
- Housing Quality Inspections are required and are **NOT** a separate fee.

## **Other Requirements**

### *Habitability Standards*

Sub-recipients are required to conduct Housing Quality Standards (HQS) inspections at the time of purchase. A completed HQS inspection form provides the needed documentation that a housing inspection has been completed and must be included in program participant files.

### *Lead-Based Paint Requirements*

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.), as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.) and implementing regulations at 24 CFR part 35, subparts A, B, M, and R shall apply to assisted housing. The lead-based paint requirements are more stringent than the habitability standards, and they must apply to all assisted housing. Specifically, the regulations apply to a unit in which a child under the age of six will be residing, unless it meets one of the following circumstances: it is a zero-bedroom or SRO-sized unit, or it is housing for the elderly and there are no children under the age of six, or a lead-based paint inspection has been conducted in accordance with HUD regulations and found not to have lead-based paint, or if the property has had all lead-based paint identified and removed in accordance with HUD regulations, or if it meets any of the other exemptions described in 24 CFR part 35.115(a).

An initial visual assessment is required. A completed HQS inspection form provides the needed documentation that visual lead inspection has been completed and must be included where appropriate in program participant files.

### *Nondiscrimination and Equal Opportunity Requirements*

Sub-recipients must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a). In addition, sub-grantees must make known that DPA is available on a nondiscriminatory basis and ensure that all citizens have equal access to information about the DPA and equal access to the financial assistance and services provided under this program. Among other things, this means that each sub-recipients must take reasonable steps to ensure meaningful access to programs to persons with limited English proficiency (LEP), pursuant to Title VI of the Civil Rights Act of 1964.

This may mean providing language assistance or ensuring that program information is available in the appropriate languages for the geographic area served by the jurisdiction

and that limited English proficient persons have meaningful access to DPA assistance. To assist sub- recipients, the Department published the “Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons” (72 Federal Register 2732; January 22, 2007).

In addition, all notices and communications shall be provided in a manner that is effective for persons with hearing, visual, and other communication related disabilities consistent with section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR 8.6. If the procedures that the sub-recipient intends to use to make known the availability of the DPA and services are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for such DPA and services, the sub- recipient must establish additional procedures that will ensure that such persons are made aware of the DPA and services.

#### *Affirmatively Furthering Fair Housing*

Sub-recipients will have a duty to affirmatively further fair housing opportunities for classes protected under the Fair Housing Act. Protected classes include race, color, national origin, religion, sex, disability, and familial status. Examples of affirmatively furthering fair housing include: (1) marketing the program to all eligible persons, including persons with disabilities and persons with limited English proficiency; (2) making buildings and communications that facilitate applications and service delivery accessible to persons with disabilities (see, for example, HUD’s rule on effective communications at 24 CFR 8.6); (3) providing fair housing counseling services or referrals to fair housing agencies; (4) informing participants of how to file a housing discrimination complaint, including providing the toll-free number for the Housing Discrimination Hotline: 1-800-669-9777; and (5) recruiting landlords and service providers in areas that expand housing choice to.

#### *Uniform Administrative Requirements*

Non-profit sub-recipients shall be subject to the requirements of 24 CFR part 84. Note that the closeout requirements apply to all entities receiving DPA funds.

Sub-recipients must submit annual financial audits to DHCD.

#### *Drug-Free Workplace Requirements*

The Drug-Free Workplace Act of 1988 (41 U.S.C. 701, et seq.) and HUD’s implementing regulations at 24 CFR part 21 apply to DPA.

#### *Monitoring*

DHCD is responsible for monitoring all DPA activities carried out by a sub-recipient, to ensure that the program requirements established by HUD are met. Monitoring may also be conducted by the local HUD Office of Community Planning and Development, HUD’s Office of Inspector General, HUD’s Office of Fair Housing and Equal Opportunity, or another federal agency to determine whether the sub- recipient complied with the requirements of this program.

### *Compliance with Fair Housing and Civil Rights Laws*

Sub-grantees must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a). If the sub-grantee: (a) Has been charged with an ongoing systemic violation of the Fair Housing Act; or (b) Is a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (c) Has received a letter of findings identifying ongoing systemic noncompliance under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act of 1974, and the charge, lawsuit, or letter of findings referenced in subparagraphs (a), (b), or (c) above has not been resolved to HUD's satisfaction before the application deadline, then the sub-grantee is ineligible.

### *Record Retention Policy*

Sub-recipients must retain program records for at least five years or for the length of the affordability period, whichever is longer.

### *DUNS Number*

All sub-grantees are required to register with Dun and Bradstreet to obtain a DUNS number, if they have not already done so, and complete or renew their registration in the Central Contractor Registration (CCR). For more information see 73 FR23483, April 30, 2008 or go to [www.dnb.com](http://www.dnb.com).

## **Process Steps and Requirements**

*All program participant files MUST contain a HOME DPA Document Check List.*

There are three basic steps in the process to provide HOME program funds to homebuyers:

1. Setting up or reserving the funds:
2. Disbursing the funds for their use in the final settlement or closing of their real estate transaction; and
3. Completing the activity in the HUD accounting system.

### *Set Up Report/Completion Report*

Funds must be reserved or committed within 30 days of the sales contract. To reserve or commit funds for the program participant the sub-recipient must submit the following completed forms and documents to DHCD:

- a. Project Set-Up/Completion Form
- b. Financial Information Sheet
- c. Proof of Income Eligibility
- d. Hard copy of Sales Contract
- e. Good Faith Estimate

- f. Copy of Homebuyer agreement
- g. Income Eligibility Worksheet

#### *Disbursement of the Funds*

The disbursement of the funds must be requested within 120 days of set up. To request that DHCD Disburse the Funds to either the sub-recipient or the settlement agent or attorney the following completed forms and documents must be submitted to DHCD:

- a. Hard copy of Commitment Letter from lender
- b. Disbursement Request Form
- c. Copy of the Final Good Faith Estimate submitted by the lender
- d. Revised Financial Information Sheet

***Administrators must be set up through the Virginia Department of Accounts for electronic transmission of funds.***

#### *Completion of the Activity*

Once the transaction has closed the activity needs to be closed or completed in HUD's program reporting system. The completion forms needed to complete the activity must be submitted to DHCD within 60 days from the receipt of funds. This is an important step that allows DHCD to close out an activity in the HUD reporting system. Subsequent set-ups and disbursements for a sub-recipient will be suspended pending the receipt of any outstanding activities (those past the 60 days). To complete or close out the activity submit the following completed forms and documents to DHCD:

- a. Copy of the updated Set up/Completion Form
- b. Processing Fee Disbursement Request (must be recorded)
- c. Restricted Deed of Covenant
- d. Promissory Note
- e. HUD -1 (signed copy)
- f. Completed HQS (Housing Quality Standards) Inspection Report
- g. Copy of the Counseling Certificate and proof of Administrator providing the counseling (if applicable)
- h. Paid receipt and copy of the Lead Inspection (if applicable)
- i. Copy of the Appraisal

***The sub-recipient must maintain a copy of their initial application on file for the homebuyer to participate in the program.***

