

# Hurricane Harvey

Disaster Recovery

Housing Guidelines

Last updated July 1, 2021

Texas General Land Office

Community Development and Revitalization



State of Texas

JULY 2021



## Record of Changes

This section describes changes made to this document.

<u>Number</u>	<u>Date</u>	<u>Description</u>	<u>Initials</u>
1	7/29/2019	Removed and replaced “CDR” with “GLO” throughout the document	GLO
2	8/1/2019	Removed “The Local Buyout and Acquisition Program will be administered by the local units of government and entities with the power of eminent domain authority (subrecipients)” from the section “Recovery projects using CDBG-DR funds must meet one of the following HUD-designated National Objectives to be an eligible housing activity:”	GLO
3	8/1/2019	Added detail to “Each impacted Council of Government (COG) will develop a local Methods of Distribution (MOD) for recovery funds for buyouts and acquisitions in their region to impacted Subrecipients.”	GLO
4	8/1/2019	Removed and replaced “Subrecipients (local units of government and entities with the power of eminent domain authority)” with “Subrecipients awarded funds by a participating Council of Government (COG)” in Table 2.	GLO
5	7/29/2019	Added the Reimbursement program start date of February 28, 2019 to the Definitions	GLO
6	7/29/2019	Clarified inspector credentials for providing Proof of Event Damage and the Damage Assessment	GLO
7	7/29/2019	Issuance size exceptions may only be granted by the state, instead of the subrecipient and state.	GLO
8	7/29/2019	Added an exception to historic homes to Table 3, clarified Relocation Assistance costs up to \$5000 and/or up to 90 days for temporary housing, and removed references to moving costs.	GLO
9	7/29/2019	Added “Note that the local composite bid cap for historic homes being assisted by HAP may be up to \$200,000, and GLO may also limit the amount of funds for local code requirements to up to \$100,000 based on family income” to the Local Composite Bid reference for Table 3.	GLO
10	7/29/2019	Added a complete revision to the allowable incentives in the Buyout Incentives reference to Table 3. Removed “or at the time of application for assistance” regarding a second home.	GLO
11	7/29/2019	Added clarification and removed and replaced reference to 15 business days with 10 business days to the Responsibilities in the Complaint and Appeal process: “(2) ensuring that a response to all complaints and appeals are within the appropriate time frame (a final response must be provided within 10 business days of receipt, although an extension may be granted if additional documents or review are required).”	GLO

12	7/29/2019	Added to the General Eligibility Income Determination methodology that other income eligibility determination and verification methodologies outside of the Adjusted Gross Income Methodology must be approved by the GLO.	GLO
13	7/29/2019	Removed and replaced language from (2) Proof of Ownership and associated footnote with: "For manufactured housing units (MHU), a Statement of Ownership from the Texas Department of Housing & Community Affairs, Manufactured Housing Division (TDHCA) must be provided. If the Statement of Ownership cannot be provided, GLO may accept alternate forms of ownership as further defined below."	GLO
14	7/29/2019	Removed previous points from Proof of Ownership subsection (b) and replaced with: i. Tax receipts in the name of the applicant reflecting payment of applicable property taxes on the property for the prior taxable year; ii. Home insurance in the name of the applicant reflecting that a current policy was in place at the time Hurricane Harvey made landfall; iii. Utility bills reflecting the address of the property and the name of the applicant and/or co-applicants; or iv. Other documentation deemed to be acceptable by the GLO	GLO
15	7/29/2019	Added "or a reduction in the floor plan size," to the reconciliation of DOB amount owned in the (5) Duplication of Benefits (DOB) Review section	GLO
16	7/29/2019	Added clarification to (6) Child Support to include household members over the age of 18 and requirements for the household member, rather than applicant or co/applicant, if not current on child support payments.	GLO
17	7/29/2019	Removed and replaced "Homebuyer Assistance Program" with "Homeowner Assistance Program" in D. Property Eligibility Requirements.	GLO
18	7/29/2019	Added **** to Rehabilitation 50% and Final Inspection responses in Table 4	GLO
19	7/29/2019	Added "Approved projects will require Affordability Note monitoring and Land Use Restriction Agreement monitoring, if applicable."	GLO
20	7/29/2019	Removed "Slum and Blight" from H. Housing Activity Types and Additional Requirements from (a) Overview.	GLO
21	7/29/2019	Added clarification to Progress Inspections, section ii: "50% Inspection (reconstruction, new construction, substantial rehabilitation)."	GLO
22	7/29/2019	Added TREC Inspections section: "All construction projects (reconstruction, new construction, substantial rehabilitation) must pass a TREC inspection after work is complete and the Final (100% inspection) has been passed."	GLO

23	7/29/2019	Adds clarification and minor edits throughout to (2) Reimbursement Program (a) Overview. Removes “including receipts, invoices, contracts, and statements showing source of funds for repairs.” Adds “[the] GLO will conduct the appropriate environmental review and Damage Repair Valuation on the home...”	GLO
24	7/29/2019	Clarification added to (2) Reimbursement Program (b) Program Requirements	GLO
25	7/29/2019	Updates made to the (b) Program Requirement bullet points include section ii: “Repairs must have been completed after the event and prior to February 28, 2019,” removed bullet points iii and iv, bullet point v./iii. removes “work was” and replaces it with “repairs were.”	GLO
26	7/29/2019	(c) Prioritization of Funds removes “time in the GLO database of record” from the last paragraph and adds “at least 14 days for a response...” Removes and replaces will with may “...the application may be withdrawn...”	GLO
27	7/29/2019	(d) Eligible Activities removed and replaced “submission of an application with “start date of the program.”	GLO
28	7/29/2019	Added section (c) Housing Incentives Types of eligible properties for housing/buyout incentives that may reside within the jurisdiction of the subrecipient include: 1) Single family property (detached and attached 1-4 units) 2) Condominium unit 3) Cooperative unit 4) Modular home/manufactured home 5) Vacant land	GLO
29	7/29/2019	Removed (c) Housing Incentives section iii and subparts: “Eligible properties for down payment assistance may reside within the jurisdiction of the subrecipient.”	GLO
30	7/29/2019	Removed and replaced “Subrecipients must document in their guidelines how each program and/or activity funded under the urgent need National Objective response to a disaster related impact” with “The grantee must reference in its action plan needs assessment the type, scale and location of the disaster related impacts” to (d) National Objectives section iii Urgent Need	GLO
31	7/29/2019	Removed and replaced “the” with “any” to read: “However, any requirement that only LMI persons may occupy the assisted housing unit until the CDBG-DR contract is closed by the GLO or the contract period expires, shall not be waived by the subrecipient.”	GLO
32	7/29/2019	Removed and replaced 5 with “8 or more units” in 5. Affordable Rental Program	GLO
33	7/29/2019	Removed and replaced “Selection” with “Eligibility,” and updated Section (5)(C) to Section (5)(D) in B. Property Eligibility, (3).	GLO

34	7/29/2019	Removed and replaced “D. Selection Criteria” with “D. Eligibility Criteria” and removed and replaced “selection” with “eligibility” in section (2)	GLO
35	8/5/2019	Updated the Single Family Housing section, Principal Residency, to address situations where the GLO identifies more than one property owned by the applicant where both properties have a homestead exemption with taxing authorities.	GLO
36	4/1/2020	Separated allowable relocation costs for new constructed home from maximum allowed for temporary housing for the Reconstruction, New Construction, and Rehabilitation programs. Maximums increased to \$6,000 and 120 days effective the day of posting.	GLO
37	4/1/2020	Down payment assistance maximum was changed to \$35,000 for Acquisition and Buyout.	GLO
38	4/1/2020	Clarified that historic homes include both individually designated homes and homes within historic districts.	GLO
39	4/1/2020	Flood plain changed to floodplain to standardize spelling.	GLO
40	4/1/2020	Vacant land is updated to include only property occupied at the time of the storm and the incentive is removed.	GLO
41	4/1/2020	Added allowance for inspectors to make reconstruction determination when an applicant is in a floodplain.	GLO
42	4/1/2020	Clarified rules for documentation requirement if an applicant has gone through bankruptcy requiring payment of property taxes.	GLO
43	4/1/2020	Duplications of Benefits review updated to require assessors to consider the quality of repairs when estimating applicant expenditure of repairs.	GLO
44	4/1/2020	Non-traditional housing costs updated to be a maximum of \$100,000.	GLO
45	4/1/2020	50% inspections removed as a requirement for rehabilitation projects.	GLO
47	4/1/2020	Updated eligibility requirements for the Buyout and Acquisition to describe Designated Buyout Areas, Existing Debt, and Clear Title.	GLO
48	4/1/2020	Amount of assistance under Buyout and Acquisition is updated to only include unmet need for the applicant to achieve homeownership.	GLO
49	4/1/2020	Property acquisition updated to outline eligible uses of acquired land.	GLO
50	7/1/2021	Increase Abatement Cap to \$25,000	GLO
51	7/1/2021	Increase Accessibility Cap to \$30,000	GLO
52	7/1/2021	Clarify Rehabilitation Caps	GLO

## Table of Contents

Record of Changes .....	2
Table 1. Applicability .....	9
Table 2. Hurricane Harvey CBDG-DR Housing Program .....	11
1. PROGRAM OBJECTIVES .....	12
2. DEFINITIONS .....	12
3. PROGRAM DESIGN .....	20
A. Program Design Requirements.....	20
(1) National Objectives .....	20
(2) Unmet Needs Analysis.....	21
(3) Environmental Review.....	21
(4) Proof of Event Damage.....	22
(5) Size of Unit.....	22
(6) Timeliness of Application Status .....	24
(7) Affirmatively Furthering Fair Housing Review.....	24
(8) Cost Effectiveness Verification .....	24
B. Housing Assistance Caps .....	25
Table 3. Housing Assistance Caps .....	25
C. Affirmative Marketing Outreach Plan.....	27
D. Reporting Requirements .....	28
(1) Section 3 .....	29
(2) Applicant Data.....	29
(3) Records Retention .....	29
E. Procurement Requirements .....	29
F. Site and Development Restrictions .....	31
(1) General Standards .....	31
(2) Lead-Based Paint .....	31
(3) Housing Quality Standards (HQS).....	31
(4) Standards for:.....	31
(a) Constructed or Substantial Improvements.....	31
(b) Green Building Standards.....	32
(c) Elevation.....	32
(5) Standards for Rehabilitation of non-substantial damaged residential .....	33

<b>(6) Resilient Home Construction Standards</b> .....	33
<b>(7) Accessibility</b> .....	33
<b>G. Displacement of Persons and/or Entities</b> .....	34
<b>H. Conflict of Interest</b> .....	35
<b>I. Complaint/Appeal Process</b> .....	35
<b>(1) General Policy</b> .....	35
<b>(2) Responsibilities</b> .....	35
<b>(3) Documentation</b> .....	36
<b>J. Audit Requirements</b> .....	36
<b>K. Changes, Waivers, and/or Conflicts</b> .....	36
<b>4. SINGLE FAMILY HOUSING PROGRAMS</b> .....	<b>37</b>
<b>A. Survivor Case Management</b> .....	37
<b>B. Application Intake and Counseling</b> .....	37
<b>C. Applicant Eligibility Requirements</b> .....	38
<b>(1) General Eligibility</b> .....	38
<b>(2) Proof of Ownership</b> .....	39
<b>(3) Principal Residency</b> .....	40
<b>(4) Property Taxes</b> .....	40
<b>(5) Duplication of Benefits (DOB) Review</b> .....	41
<b>(6) Child Support</b> .....	42
<b>(7) Damage Assessment</b> .....	42
<b>(8) Environmental Review</b> .....	42
<b>(9) Flood Insurance Verification/Requirements</b> .....	42
<b>D. Property Eligibility Requirements</b> .....	42
<b>E. Eligible Improvements</b> .....	43
<b>(1) Types of Improvements</b> .....	43
<b>(2) Supplemental Improvements</b> .....	43
<b>F. Inspection Requirements</b> .....	44
<b>Table 4. Inspection Requirements</b> .....	<b>44</b>
<b>G. Project Closeout/Affordability Requirements</b> .....	44
<b>H. Housing Activity Types and Additional Requirements</b> .....	45
<b>(1) HAP — Rehabilitation, Reconstruction or New Construction, Elevation</b> .....	45
<b>(2) Reimbursement Program</b> .....	53

<b>Table 5. Eligible Counties and Most Impacted Counties and Zip Codes.....</b>	<b>54</b>
<b>Table 6. Eligible Reimbursement Program Expenditures .....</b>	<b>55</b>
<b>I. Program Requirements (Not including Demolition, Reimbursement or New Construction Activities)</b>	<b>65</b>
<b>J. Files and Reports.....</b>	<b>67</b>
<b>5. AFFORDABLE RENTAL PROGRAM.....</b>	<b>67</b>
<b>A. Types and Amounts of Assistance .....</b>	<b>68</b>
<b>B. Property Eligibility.....</b>	<b>68</b>
<b>C. Eligible Applicant Requirements.....</b>	<b>69</b>
<b>D. Eligibility Criteria .....</b>	<b>69</b>
<b>E. Program Requirements .....</b>	<b>70</b>
<b>F. Underwriting .....</b>	<b>71</b>
<b>G. Construction .....</b>	<b>71</b>
<b>H. Labor Standards .....</b>	<b>73</b>
<b>I. Relocation.....</b>	<b>73</b>
<b>J. Project Completion and release of retainage procedures.....</b>	<b>74</b>
<b>K. Project Lease Up Procedures .....</b>	<b>75</b>
<b>L. Annual Monitoring Procedures .....</b>	<b>75</b>
<b>M. Files and Reports.....</b>	<b>75</b>

***The GLO Housing Guidelines provide guidance on how to design, implement, and close a CDBG-DR Housing Program, and should not be construed as exhaustive instructions.***

## ***Introduction***

### **The Texas General Land Office (GLO) and Long-Term Recovery**

The GLO's Community Development and Revitalization division (GLO) oversees the administration of Community Development Block Grant Disaster Recovery (CDBG-DR) funds allocated to Texas by the U.S. Department of Housing and Urban Development (HUD) following a disaster. These funds support communities working to build back stronger and more resilient.

CDBG-DR funds are a special appropriation from Congress associated with a Presidentially declared disaster. These GLO Housing Guidelines (the Guidelines) address the Hurricane Harvey and subsequent flooding declared disaster events associated with the following CDBG-DR funds:

**Table 1. Applicability**

<b>Federal Register (FR)</b>	<b>Date of Publication</b>	<b>Public Law(s)</b>	<b>Located at:</b>
82 FR 61320, Vol. 82, No. 247	12/27/2017	P.L. 115-31	<a href="https://www.gpo.gov/fdsys/pkg/FR-2017-12-27/pdf/2017-27960.pdf">https://www.gpo.gov/fdsys/pkg/FR-2017-12-27/pdf/2017-27960.pdf</a>
83 FR 5844, Vol. 83, No. 28	02/09/2018	P.L. 115-56	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-02-09/pdf/2018-02693.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-02-09/pdf/2018-02693.pdf</a>
83 FR 40314, Vol. 83, No. 157	08/14/2018	P.L. 115-123	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-08-14/pdf/2018-17365.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-08-14/pdf/2018-17365.pdf</a>

**Recovery projects using CDBG-DR funds must meet one of the following HUD-designated National Objectives to be an eligible housing activity:**

- Benefiting Low- to Moderate-Income Persons (LMI)
  - Low- and Moderate-Income Housing (LMH) provides that any assisted activity that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low- to moderate-income only to the extent such housing will, upon completion, be occupied by such persons;
  - Low to Moderate Buyout (LMB): Benefiting low- to moderate-income persons where the award amount is greater than their post-disaster fair market value of the property; and
  - Low to Moderate Housing Incentive (LMHI): Benefiting low- to moderate-income persons participating in the voluntary buyout or other voluntary acquisition of housing to move outside of the affected floodplain or to a lower-risk area; or when the housing incentive is for the purpose of providing or improving residential structures that, upon completion, will be occupied by an LMI household.
- Preventing or Eliminating Slum or Blight (SB) through buyout or acquisition with demolition
- Meeting an Urgent Need (UN) by providing housing assistance to applicants making in excess of 80 percent of the area median income (AMI)

The GLO Housing Guidelines provide a blueprint for designing, implementing, and closing a CDBG-DR Housing Program.

The purpose of these Guidelines is to aid in the long-term recovery efforts following Hurricane Harvey; specifically, to facilitate the replenishment of housing stock lost during the hurricane and subsequent flooding and to assist in moving eligible homeowners out of harm's way through fair market value buyouts or acquisitions. Questions regarding these Guidelines or requests for more information should be directed to GLO.

The Hurricane Harvey CDBG-DR Housing Program (the Program) will be administered by GLO (or "the state"), except for Harris County and the City of Houston (Houston) (subrecipients), which will develop their own local housing programs and will be responsible for the implementation of their programs in their jurisdictions. Additionally, the GLO will partner with impacted Council of Governments (COG) and local governments, as they have direct knowledge of the needs in their areas. Given the size of the impacted area and how Hurricane Harvey impacted each region differently, local control through a regional approach is vital to long-term recovery.

Each impacted Council of Government (COG) will develop a local Methods of Distribution (MOD) for recovery funds for buyouts and acquisitions in their region to impacted Subrecipients. The GLO will not implement buyout and acquisition activities.

The GLO and subrecipients may directly administer the Programs or use the support of outside parties (vendors) to serve homeowner assistance needs.

**Table 2. Hurricane Harvey CBDG-DR Housing Program**

Programs and Eligible Activities	National Objective	Program Administrator	Tenure “Start date” is date of HUD’s approval of Action Plan
<b>Single Family/Homeowner</b>			
<p><b>Homeowner Assistance Program (HAP):</b></p> <ul style="list-style-type: none"> <li>• Rehabilitation</li> <li>• Reconstruction</li> <li>• New construction</li> <li>• Repair/Replace MHUs</li> <li>• Hazard Mitigation</li> <li>• Elevation</li> <li>• Relocation assistance</li> <li>• Demolition only</li> </ul>	Low- and moderate-income and urgent need	GLO or Harris County and Houston	3 years from start date
<p><b>Homeowner Reimbursement Program:</b> Reimbursement for expenses incurred by homeowners for repair to a primary residence prior to application for these funds</p>	Low- and moderate-income and urgent need	GLO or Harris County and Houston	3 years from start date
<p><b>Local Buyout and Acquisition Program:</b></p> <ul style="list-style-type: none"> <li>• Buyouts</li> <li>• Acquisition</li> <li>• Relocation assistance with buyout or acquisition activities</li> <li>• Down payment assistance</li> <li>• Demolition with buyout or acquisition activities</li> <li>• Housing incentives</li> <li>• Activities designed to relocate families outside of floodplains</li> </ul>	Low- and moderate-income, elimination of slum/blight, urgent need, low/mod buyout (LMB), and low/mod housing incentive (LMHI)	Subrecipients awarded funds by a participating Council of Government (COG)	Subrecipient Contracts are 2 years from start date
<b>Multifamily Rental</b>			
<p><b>Affordable Rental Program:</b></p> <ul style="list-style-type: none"> <li>• Rehabilitation</li> <li>• Reconstruction</li> <li>• New construction</li> </ul>	Low- and moderate-income	GLO	3 years from start date

## 1. PROGRAM OBJECTIVES

The primary focus of the housing recovery program is to provide relief for survivors affected by an event while complying with all CDBG-DR requirements and addressing recognized impediments to fair housing choice as required under the Fair Housing Act. Assistance may be provided to survivors under a variety of housing option activities including acquisition, rehabilitation, reconstruction, new construction, demolition, elevation, hazard mitigation, down payment assistance, reimbursement, and storm hardening of homeowner and rental housing units, as allowable by GLO's approved Action Plan. All housing activities should consider the following objectives:

- Provide high quality, durable, resilient, mold resistant, energy efficient, decent, safe, and sanitary housing that meet Green Building Standards, and mitigates impact from future disasters. Resilient measures may include elevating the first floor of habitable area; breakaway ground floor walls; reinforced roofs; and storm shutters, etc. Rental units will also follow safe, decent, and sanitary requirements in the impacted areas identified in the HUD-approved Action Plan.
- Prioritize households in which members are under the age of 18, female heads of household, elderly and disabled households, and/or Veteran populations while affirmatively furthering fair housing.
- Emphasize housing choices and designs to reduce maintenance and insurance costs, as well as provide the provision of independent living options.

## 2. DEFINITIONS

**Acquisition:** Acquisition of Real Property at 100 percent post-disaster fair market value (FMV) of the land and structures that allows subrecipients to acquire real property for any public purpose, as set forth in 24 CFR 570.201(a). Acquisition-only is typically not considered a complete activity in the Program and may be combined with another eligible activity (i.e., relocation assistance and new construction of housing). Methods of acquisition include purchase, long-term lease (15+ years), donation or otherwise (CPD-17-09). The subrecipients have the flexibility to hold any property purchased through acquisition as undeveloped green space in perpetuity or to redevelop it in a resilient manner.

**Adjusted Gross Income (AGI):** AGI is an individual's total gross income minus specific deductions. The GLO Adjusted Gross Income Methodology may be found at: <http://recovery.texas.gov/>.

**Affirmative Fair Housing Marketing Plan (AFHMP):** A document used to help subrecipients offer equal housing opportunities regardless of race, color, national origin, religion, sex, familial status, or disability<sup>1</sup> (24 CFR Part 200, Subpart M). Implementing Affirmative Fair Housing Marketing Requirements Handbook (8025.1) can be obtained from HUD's website [https://www.hud.gov/program\\_offices/administration/hudclips/handbooks/fheo/80251](https://www.hud.gov/program_offices/administration/hudclips/handbooks/fheo/80251).

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<sup>1</sup> 24 CFR 200.625

**Affirmatively Furthering Fair Housing (AFFH):** AFFH is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. The HUD AFFH assessment tool and final rule can be found here: [https://www.huduser.gov/portal/affht\\_pt.html](https://www.huduser.gov/portal/affht_pt.html).

**Affordability Period:** The period of time during which a property must comply with CDBG-DR program rules and regulations, including primary residency, income, and rent restrictions as applicable.

**Applicant/Homeowner/Survivor:** (Used interchangeably) Individuals whose homes or housing units were destroyed, made uninhabitable, needed repairs, or who suffered disaster-related displacement from their primary residences and/or loss of property.

**Area Median Income (AMI):** Calculated annual limits based on HUD-estimated median family income with adjustments based on family size used for demonstrating LMI beneficiaries in the programs. May also be referred to Area Median Family Income (AMFI) in other program documents.

**Beneficiary:** The recipient deriving advantage from CDBG-DR funding.

**Builder/Contractor:** (Used interchangeably) A person who contracts to construct or repair houses or buildings and/or supervises building operations.

**Builder Assignments:** A qualified pool of builders developed by subrecipients or the GLO. They must also meet state and federal procurement requirements and possess controls that will ensure quality construction that meets the standards of the CDBG-DR Housing Program.

**Buyout:** Purchase of an eligible property at the fair market value of the land and structures with the intent to reduce risk from future flooding or to reduce risk from future hazard. Buyouts are properties within defined Disaster Reduction Risk Areas (DRRA), determined in consultation with county and local governments such as areas within the 100-year floodplain and/or in the highest risk areas as defined by FEMA flood map "V Zone." The property acquired will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational use, or floodplain and wetlands management practices. Buyout-only is typically not considered a complete activity in the Program and may be combined with another eligible activity (i.e., relocation assistance and new construction of housing).

**Case Management:** Working with individual survivors and their families to understand the Program's housing options, resulting in clear and transparent determination of eligibility. Case managers must consider all special circumstances of the survivor's needs to decrease their barriers to participate in the program where possible. Staff should meet at designated locations and supply information in a standard format.

**Damage Assessment:** An inspection of the housing unit to document damage from the event. The assessment by a certified or licensed inspector (HQS, TREC, or similar license) is required to specifically and clearly document storm-related property damage via photographic evidence and detailed narratives (see the GLO's Damage Assessment Guidelines, found at: <http://recovery.texas.gov/>). Damage assessments must include final cost of repair estimates according to local code, an assessment of the cost-

effectiveness of each recommended activity (rehabilitation, reconstruction, or new construction), mold remediation, and assistance needed to bring the home up to code at completion.

**Davis-Bacon Act of 1931 (40 USC Part 3141 et seq.) and Related Acts:** All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. This applies to the rehabilitation and reconstruction of residential property only if such property contains not less than 8 units.<sup>2</sup>

**Demolition:** The clearance and proper disposal of dilapidated buildings and improvements.

**Duplication of Benefits:** The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of a loss resulting from a major disaster as to which he/she has already received financial assistance under any other program or from insurance or any other source.

**Elevation Standards:** Standards that apply to new construction, repair of substantial damage, or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR 55.2(b)(1).

**Environmental Review:** All qualified projects must undergo an environmental review process. This process ensures that the activities comply with National Environmental Policy Act (NEPA) and other applicable state and federal laws.

**Event:** The Presidentially declared Hurricane Harvey, and subsequent flooding, disaster event.

**Family:** The term family means all persons living together in the same housing unit, as further defined under 24 CFR 570.3.

**Federal Emergency Management Agency (FEMA)-Designated High-Risk Area:** Areas designated by FEMA as vulnerable to significant wind and/or storm surge damage and areas located in 100-year flood zones. These areas will be identified during the environmental review process for each participating jurisdiction.

**Federal Register (FR):** A daily publication of the US federal government that issues proposed and final administrative regulations of federal agencies.

**Flood Disaster Protection Act of 1973 and Sec. 582(a) of the National Flood Insurance Reform Act of 1994:** Compliance with the legal requirements of Section 582(a) mandates that HUD flood disaster assistance that is made available in Special Flood Hazard Areas (SFHAs) may not be used to make a

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<sup>2</sup> <https://www.hudexchange.info/resources/documents/Housing-and-Community-Development-Act-1974.pdf>

payment (including any loan assistance payment) to a person for repair, replacement or restoration for flood damage to any personal, residential or commercial property if: (1) the person had previously received federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and (2) that person failed to obtain and maintain flood insurance as required under applicable federal law on such property.

**Flood Hazard Area:** Areas designated by FEMA as having risk of flooding.

**Flood Insurance:** The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). In order to be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

**Floodplain:** FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area.

- “100-year floodplain” — the geographical area defined by FEMA as having a one percent chance of being inundated by a flooding event in any given year.
- “500-year floodplain” — the geographical area defined by FEMA as having a 0.2 percent chance of being inundated by a flooding event in any given year.

**General Land Office (GLO):** The Texas General Land Office is the lead state agency for managing the state's Community Development Block Grant - Disaster Recovery grants through the U.S. Department of Housing and Urban Development.

**Grant Agreement:** A funding agreement detailing eligible program costs and project-specific award agreements between HUD and the GLO, including regulatory provisions, certifications, and requirements.

**Green Building Standards:** All rehabilitation (meets the definition of substantial improvement), reconstruction, or new construction must meet an industry-recognized standard that has achieved certification under at least one of the following programs: (1) ENERGY STAR (Certified Homes or Multifamily High-Rise), (2) EPA Indoor Air Plus (Energy Star a prerequisite), (3) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development), or (4) ICC–700 National Green Building Standard.

**Home/Housing Unit:** (used interchangeably) a house, apartment, group of rooms, or single room occupied or intended for occupancy as separate living quarters.

**Homeowner Assistance Activity:** The utilization of CDBG-DR funding to rehabilitate or reconstruct damaged homes for the applicant to remain in the original home at the original home site. The home to be assisted must have been owner-occupied at the time of the event.

**Household:** A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living

together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the LMI National Objective is based on the LMI of the household.

**Housing and Community Development Act of 1974, as amended by the Supplemental Appropriations Act of 1984:** Established the program of Community Development Block Grants to finance the acquisition and rehabilitation of real property and which defined the recipients and uses of such grants, with the primary goal of benefitting LMI persons.

**Housing and Urban Development Act of 1968, Section 3:** Requires program administrators ensure that training, employment, and other economic opportunities generated by HUD financial assistance shall be directed to the greatest extent feasible and consistent with existing federal, state, and local laws and regulations, to low- and very low-income persons. Recipients of Section 3-covered funding ensure compliance and the compliance of their contractors/subcontractors with the Section 3 requirements, as outlined in 24 CFR 135.32.<sup>3</sup>

**Housing Incentives:** Incentive payments are generally offered in addition to other programs (e.g., buyout) or funding (such as insurance) to encourage households to relocate in a suitable housing development or an area promoted by the community's comprehensive recovery plan. The housing incentive may be offered to improve a residential structure that upon completion will be occupied by a low- to moderate-income household. An incentive may be offered in addition to a buyout payment for households that volunteer to relocate outside of the floodplain or to a lower-risk area. A buyout incentive is not available for properties that served as second homes at the time of the disaster or following the disaster.

**Housing Quality Standards (HQS):** The HQS establish certain minimum standards for buildings constructed under HUD housing programs. This includes new single family homes and multifamily housing as outlined in 24 CFR 982.401.

**Low to Moderate Buyout (LMB) National Objectives:** LMB is used for a buyout award to acquire housing owned by a qualifying LMI household, where the award amount (including optional relocation assistance) is greater than the post-disaster (current) fair market value of that property.

**Low to Moderate Housing (LMH) National Objective:** Any activity that involves the buyout, acquisition, or rehabilitation of property to provide housing or improve permanent residential structures will upon completion benefit and must be occupied by low- and moderate-income households (42 U.S.C. 5305(c)(3)). Income eligibility will be determined using Area Median Income (AMI), adjusted for family size and verified in accordance with GLO's Adjusted Gross Income Methodology. The most current income limits, published annually by HUD, shall be used by the subrecipient or the state to verify the income eligibility of each household applying for assistance at the time assistance is provided.

**Low to Moderate Housing Incentive (LMHI) National Objectives:** LMHI benefits are used for a housing incentive award, tied to the voluntary buyout or other voluntary acquisition of housing owned by

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<sup>3</sup> <https://www.hudexchange.info>

a qualifying LMI household, for the purpose of moving outside of the affected floodplain or to a lower-risk area; or when the housing incentive is for the purpose of providing or improving residential structures that, upon completion, will be occupied by an LMI household.

**Low to Moderate Income National Objective:** Activities which benefit persons of income that does not exceed 80 percent of the area median income:

- Very low: Household's annual income is up to 30 percent of AMI, as determined by HUD, adjusted for family size;
- Low: Household's annual income is between 31 percent and 50 percent of AMI, as determined by HUD, adjusted for family size; and
- Moderate: Household's annual income is between 51 percent and 80 percent of AMI, as determined by HUD, adjusted for family size.

**Manufactured Housing Unit (MHU):** A structure, transportable in one or more sections which in the traveling mode is 8 body-feet or more in width, or 40 body-feet or more in length, or when erected on site, is at least 320 square feet, and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

**Mitigation:** Improvements made to reduce the possibility of property damage, personal and commercial hardship, as well as long lasting monetary burdens. For example, creating a flood mitigation program such as an acquisition of at-risk flood-prone property/housing, and elevation of housing in high-risk floodplains are two visible and effective mitigation projects that can be taken to make residents and communities safer in the face of natural disasters.

**Modular Housing:** A home built in sections in a factory to meet state, local, or regional building codes. Once assembled, the modular unit becomes permanently fixed to one site.

**Multifamily Rental:** Eight or more rental units in the property.

**Needs Assessment:** A needs assessment is a critical component in the allocation of funding across and within National Objectives for CDBG-DR funds. A given needs assessment will recommend the proportions of funding that should be set aside to benefit each LMI and non-LMI economic group. The needs assessment will determine the activities to be offered, the demographics to receive concentrated attention, the disabled, "special needs," vulnerable populations, and target areas to be served. The needs assessment will also include an assessment of the types of public services activities that may be needed to complement the program. The needs assessment should set goals within the income brackets similar to the housing damage sustained within the impacted areas. Deviations from goals must be approved by the GLO before the Program may move forward. The GLO will work with subrecipients and COGs to develop regional local needs assessments. Each needs assessment will be posted for a 30-day public comment period and approved by the GLO before implementation.

**New Construction:** A replacement home that substantially exceeds the original footprint on the existing lot (if permitted) or the construction of a new home in a new location.

**One for One Replacement:** Subpart B Requirements Under Section 104(d) of the Housing and Community Development Act of 1974, 24 CFR 42.375 provides for public and/or assisted lower-income dwelling units to be demolished or converted to a use be replaced with comparable lower-income dwelling units.

**Overall Benefit:** The state must certify that, in the aggregate, not less than 70 percent of the CDBG-DR funds received by the state during a period specified by the state will be used for activities that benefit LMI households.

**Program:** The GLO's plan, process, and procedures to assist communities and distribute CDBG-DR funds to rebuild disaster affected areas and provide a broad range of housing recovery activities as provided in the GLO's approved Action Plan and subsequent amendments.

**Program Design:** The selection and development of programs and activities based on a needs assessment. The Program Design must include the type of housing activities that will be offered by the subrecipient or the state; how the program will be marketed; how Fair Housing Objectives will be achieved, as described in the AFHMP; and how funding will be prioritized as determined through a needs assessment.

**Program Income:** Net income derived from the sale of program assets that exceeds \$35,000 in the aggregate, in a single fiscal year, received by the subrecipient and directly generated from the use of housing CDBG-DR funds.

**Reconstruction:** Demolition and rebuilding of a stick-built or modular housing unit on the same lot in substantially the same footprint and manner. This activity also includes replacing an existing substandard manufactured housing unit (MHU) with a new or standard MHU or stick-built/modular housing unit. The number of units on the lot may not increase, and the total square footage of the original, principal residence structure to be reconstructed may not be substantially exceeded; however, the number of rooms in a unit may be increased or decreased based on the applicant's current household size.

**Rehabilitation:** Repair or restoration of storm-damaged housing units in the impacted areas to applicable construction codes and standards.

**Reimbursement Program:** Program designed for eligible applicants who have used non-disaster relief funds for completed reconstruction, rehabilitation, elevation, and/or mitigation on single family homes prior to the start of the program on February 28, 2019. Reimbursement for costs after February 28, 2019 are ineligible.

**Rental Activity:** Acquisition, rehabilitation, or construction of affordable rental housing resulting in structures where at least 51 percent of units are occupied by LMI persons. Income and rent restrictions apply to the rental units to be built or assisted.

**Single Family Home:** A single-unit family residence detached or attached to other housing structures.

**Slum and Blight National Objective:** Activities which help to eliminate slum and blighted conditions. (Use of this National Objective is limited due to its inability to contribute towards the overall requirement for 70 percent LMI to benefit low- to moderate-income beneficiaries.) See 24 CFR 570.208(b).

Slum and Blight activities must meet the criteria of one of the three following categories:

- Prevent or eliminate slum and blight on an area basis;
- Prevent or eliminate slum and blight on a spot basis; or
- Be in an urban renewal area.

**Subrecipient:** Cities, counties, Indian tribes, local governmental agencies (including COGs), private non-profits (including faith-based organizations), or a for-profit entity authorized under 24 CFR 570.201(o). The definition of subrecipient does not include procured vendors, private grant administrators, or contractors providing supplies, equipment, construction, or services and may be further restricted by Program rules or other guidance including applications. See vendor definition for further clarification.

**Subrogation Agreement:** An agreement executed by the beneficiary agreeing to repay any duplicative assistance if the beneficiary later receives other disaster assistance for the same purpose as disaster recovery funds already received.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred (44 CFR 59.1).

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure which the cost equals or exceeds 50 percent of the fair market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”(44 CFR 59.1).

**Texas Integrated Grant Reporting (TIGR):** TIGR is the GLO system of record for all CDBG-DR grant management and reporting.

**Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (Title 49 CFR Part 24) (42 U.S.C. 4601 et seq.) (URA):** Applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted program or projects. URA’s objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects. For the purposes of these guidelines, URA mostly applies to residential displacements in involuntary (49 CFR Subpart B) acquisition or multifamily damaged/occupied activities that require the relocation of the tenants. A displaced person is eligible to receive a rental assistance payment that is calculated to cover a period of 42 months, as waived by the FR.

**Unsecured Forgivable Promissory Note:** If the applicant qualifies for disaster recovery assistance and has been awarded funding, there are conditions placed on the applicant receiving the assistance. The conditions are outlined in an Unsecured Forgivable Promissory Note (the Note) between the assisted beneficiary and the subrecipient or the state that requires applicants to comply with several terms during

GLO Harvey Housing Guidelines

July 1, 2021

Page 19 of 76

a set affordability period. Once the homeowner complies with all the terms of the Note and the affordability period ends, the terms are forgiven.

**Urgent Need National Objective:** An urgent need that exists because conditions pose serious and immediate threat to the health or welfare of the community; the existing conditions are recent or recently became urgent; and the subrecipient cannot finance the activities on its own because other funding sources are not available. Subrecipients or the state must document how each program and/or activity funded under this category responds to a disaster-related impact. See 24 CFR 570.208(c).

**Vendor:** Vendors and private grant administrators procured by the state or subrecipients to provide supplies, equipment, or services necessary to implement the Program and to serve homeowner assistance needs. Upon approval, the vendor may implement the Program or act on behalf of the GLO or the subrecipient.

### 3. PROGRAM DESIGN

To develop the Program Design for all activities offered through this funding, each subrecipient and the state must use qualified data (HUD/FEMA/SBA, insurance data, or other data as approved by the GLO in advance, to allocate the disaster funding). Section 3.A.2 of the guidelines explain an unmet needs assessment, which will be required by all participating subrecipients and the state prior to implementing the program. The GLO will assist Harris County and Houston in the development and approval of its needs assessment and consult COGs in evaluating data to determine unmet needs for regional housing opportunities.

- Qualified data will be used to document the impact of the relevant storm on the LMI subcategories which will aid in the development of a goal for targeting the use of housing funds in the appropriate levels and to the appropriate economic categories.
- The method of data evaluation utilized by the state and the subrecipient (i.e., class distribution categories by income, raw number of homes impacted versus the aggregated dollar amounts impacting communities, etc.) must be made available to the public for 30 days on a publicly accessible website. Notice of the posting of the method of review must be provided to the GLO not later than the day the method is posted on a website. If any public comment is made, the subrecipient must address the comment in a public response.

#### A. Program Design Requirements

##### (1) National Objectives

All housing activities must meet one of the three National Objectives required under the authorizing statute of the CDBG-DR Program:

- **LMI** — Benefitting Low- to Moderate- Income persons:
  - **LMH** — Benefitting Low- and Moderate-Income Housing (LMH) where any assisted activity that involves the acquisition or rehabilitation of property to provide housing

shall be considered to benefit persons of low- and moderate-income only to the extent such housing will, upon completion, be occupied by such persons;

- **LMB** — Benefitting Low- to Moderate- Income persons where the award amount is greater than their post-disaster fair market value; and
  - **LMHI** — Low- to Moderate- Housing Incentive assisted with a housing incentive tied to the voluntary buyout or other voluntary acquisition of housing owned by the qualifying LMI household for the purpose of moving outside of the affected floodplain or to a lower-risk area; or when the housing incentive is for the purpose of providing or improving residential structures that, upon completion will be occupied by an LMI household.
- **Slum and Blight** — Aid in the prevention or elimination of slums or blight; or
  - **Urgent Need** — Meet a need having a particular urgency.

## (2) Unmet Needs Analysis

An Unmet Needs Analysis of HUD/FEMA or other housing demographic disaster victim data may be considered when determining the proportions of funding awarded that must be set aside to benefit each LMI and non-LMI economic group. The use of FEMA claims data (when available) and other applicant demographic data allows for goals to be established to fairly allocate funds across jurisdictions and neighborhoods to serve survivors in proportion to need. The Needs Assessment will determine the activities to be offered, the demographics to receive concentrated attention, and any target areas to be served the disabled, "special needs," vulnerable populations, and target areas to be served.

The GLO will assist subrecipients (and consult with COGs) on the methodology and data analysis and provide applicable raw data needed to develop and assist in development of their regional Needs Assessments. Additional information and guidance on developing a Needs Assessment is available at: <http://recovery.texas.gov/>.

Applicants applying for disaster assistance must meet certain eligibility standards to qualify for assistance. Eligibility standards are further discussed in the activity-specific Guidelines.

The Needs Assessment will document goals within the income brackets in proportion to the damaged units in the impacted area. Deviations from goals must be approved by the GLO before subrecipients can move forward:

- 0% - 30% AMI
- 31% - 50% AMI
- 51% - 80% AMI

## (3) Environmental Review

All sites must undergo a complete environmental review prior to any commitment of funds. The environmental review shall document compliance with 24 CFR Part 58 and all related laws and

authorities. Properties with adverse environmental conditions will not be permitted to proceed under housing activities unless the adverse conditions are corrected. No work can start on a site until the environmental review is complete.

#### **(4) Proof of Event Damage**

For assistance activities, the unit must demonstrate that the damage or destruction to unit occurred by the event. Disaster damage can be documented as follows:

- FEMA, Small Business Administration (SBA) or Insurance Award Letters;
- i. If the above-referenced documentation is not available, an inspection report/Damage Assessment (complete with photos of the damage and a written assessment of the damage with each photo taken) conducted by a certified, licensed, or experienced inspector (HQS, TREC license, or similar experience) must be supplied by the subrecipients or the state that certifies the damage occurred as a result of the event (refer to the GLO's Damage Assessment Guidelines found at : <http://recovery.texas.gov/>); or
- ii. If FEMA, SBA, or Insurance Award Letters are not available and an inspection report is inconclusive as to the cause of the damage, subrecipients may provide alternative evidence, such as neighborhood-level media reports or documentation of damage by disaster response/relief organizations. GLO approval is required for this form of proof.

If an applicant was denied assistance by FEMA, assistance through the CDBG-DR Program may still be available. Applicants are not solely ineligible based on a denial by FEMA.

A Damage Assessment must be performed by a certified, licensed or experienced inspector (HQS, TREC license or similar experience) to specifically and clearly document event related damage via photographic evidence and detailed narratives if the survivor did not receive FEMA or SBA funds for the repair or replacement of a home. The Damage Assessment may also include a final cost of repair estimate. Damage to homes will be repaired according to local code and HUD's Housing Quality Standards.

#### **(5) Size of Unit**

HUD guidelines provide minimum size of unit based on anticipated household size and occupancy policies that allow for two persons per bedroom as reasonable. The GLO follows the HUD HOME Program in determining household size. Household composition determinations should be made by communities early in the eligibility process as this may affect the applicant's decision to proceed with recovery assistance.

#### **Exceptions to this standard are based on the following factors:**

- No more than two persons are required to occupy a bedroom.
- Persons of different generations (i.e., grandparents, parents, children), persons of the opposite sex (other than spouses/couples), and unrelated adults are not required to share a bedroom. Note: All persons over the age of 18 are considered adults.

- Couples living as spouses (whether or not legally married) must share the same bedroom for issuance size purposes.
- A live-in aide who is not a member of the family is not required to share a bedroom with another member of the household. Note: The need for a full-time live-in aide must be documented.
- Individual medical problems (e.g., chronic illness) sometimes require separate bedrooms for household members who would otherwise be required to share a bedroom. Documentation supporting the larger-sized unit and related subsidy must be provided and verified as valid.
- In most instances, a bedroom is not provided for a family member who will be absent most of the time. If individual circumstances warrant special consideration, a waiver request may be approved.
- To comply with the standard, subrecipients and the state must follow and document the reason for a requested exception as noted in the issuance size exception section below.

**When determining family issuance size, include all children expected to reside in the unit in the next year as members of the household. Examples include, but are not limited to, the following:**

- Pregnant women: Children expected to be born to pregnant women are included as members of the household.
- Adoption: Children who are in the process of being adopted are included as members of the household.
- Foster Children: Foster children residing in the unit along with families who are certified for foster care and are awaiting placement of children are included as members of the household. If children are anticipated to occupy the unit within a reasonable period of time, they must be considered when determining the issuance size.
- Joint/Shared Custody Arrangements: In most instances, children in joint/shared custody arrangements should occupy the unit at least 50 percent of the time. However, if individual circumstances merit special consideration, a waiver request may be approved as outlined in the section on Issuance Size Exceptions. The custody arrangement may be verified by the divorce decree/legal documents or by self-certification.
- Custody of Children in Process: Children whose custody is in the process of being obtained by an adult household member may be included as members of the household. Evidence that there is a reasonable likelihood that the child will be awarded to the adult (e.g., within 3 months) must be provided for such child to be included.
- Children Temporarily Absent from Household:
  - Children temporarily absent from the home due to placement in foster care may be included as members of the household. Evidence that there is a reasonable likelihood that the child will return to the household (e.g., within 3 months) must be provided for such child to be included.

- Children who are away at school but live with the family during school recesses are included as members of the household.
- Chronic Illness — An individual with an ongoing health problem who requires at least part-time assistance on a regular basis;
- Pending Child Custody cases — Includes, but is not limited to, children in foster care who may be returning home, foster children, pending adoptions, etc.; and
- Parental Custody Situations — Children physically occupy the unit less than 50 percent of the time as documented by a divorce decree and/or self-certification.

Issuance size exceptions may be granted by the state.

Waivers for other individual circumstances may be granted with pre-approval by the GLO. The family must request a waiver in writing and explain the need and justification.

#### **(6) Timeliness of Application Status**

Subrecipients and the state will ensure timely communication of application status to applicants who have applied for disaster recovery assistance. Timeliness means multiple methods of communication, such as websites, toll-free numbers, or other means that provide applicants for recovery assistance with timely information to determine the status of their application for recovery assistance at all phases. Procedures must indicate methods for communication (e.g., website telephone, case managers, letters, etc.). Subrecipients and the state must ensure the accessibility and privacy of individualized information for all applicants, frequency of applicant status updates, and personnel or unit responsible for applicant's information on the status of recovery applications.

#### **(7) Affirmatively Furthering Fair Housing Review**

All projects must undergo an AFFH review by the GLO prior to any commitment of funds. Such review will include assessment of a proposed project's area demography, socioeconomic characteristics, housing configuration and need, educational, transportation, health care opportunities, environmental hazards or concerns, and all other factors material to the determination. Applications should show that projects are likely to lessen area racial, ethnic, and low-income concentrations, and/or promote affordable housing in low-poverty, non-minority areas in response to natural hazard related impacts.

#### **(8) Cost Effectiveness Verification**

Subrecipients and the state must establish policies and procedures to assess the cost-effectiveness of each proposed residential rehabilitation or reconstruction project (particularly elevation of existing structures) compared to other mitigation measures to determine cost effectiveness of residential rehabilitation and reconstruction relative to other means of assisting the property owner.

## B. Housing Assistance Caps

Unit Costs must be necessary, reasonable, allowable, and allocable. Refer to 2 CFR Part 200 Subpart E. The following table (Table 3) charts monetary caps for assistance apply to applicants based on project type.

**Table 3. Housing Assistance Caps**

Project Type	Reimbursement	Acquisition/ Buyout**	Recon/New Construction	Rehabilitation
<b>Base Unit</b>		Fair Market Value (Pre- or Post- Disaster)	*Local Composite Bid	*Local Composite Bid <i>max</i> \$65,000 (except historic homes)
<b>Replacement With Energy Efficient Manufactured Housing Unit (MHU)</b>			*\$75,000	
<b>Elevation</b>			\$60,000	\$60,000
<b>Water Well</b>			\$30,000	\$30,000
<b>Septic System</b>			\$25,000	\$25,000
<b>Accessibility</b>			\$30,000	\$30,000
<b>Abatement</b>			\$25,000	\$25,000
<b>***Project Soft Costs</b>			*** Actual and max \$10,000	*** Actual and max \$7,000
<b>Relocation Assistance</b>		Relocation costs of \$35,000 for a lot or newly constructed home and up to \$10,000 for an existing home****	Up to \$6,000 and/or up to 120 days for temporary housing and relocation costs*****	Up to \$6,000 and/or up to 120 days for temporary housing and relocation costs*****
<b>Down Payment</b>		Up to \$35,000		
<b>Buyout Incentives</b>		Up to \$35,000****		
<b>Reimbursement</b>	\$50,000			

**\*Local Composite Bid:** All program units will require a local composite bid which will be performed by subrecipients and the state. Composite bid costs are set costs resulting from procured builders and include the builder's house plans to be used in the program. Builders will have their architect and engineering firm design or modify the plans as necessary for the program. This is included in the architecture costs of a unit. Note: if floor plans are re-used, there shall be a one-time fee for the original production of the blueprints. That fee cannot be charged for every house built from that floor plan going forward. Only a nominal fee for producing copies of the floor plan will be allowed. Builder plans will be provided to the GLO for review and approval. See 4.H.(1)(b) *Building Specifications for Reconstruction/New Construction* of the Guidelines for further information. Note that the local composite bid cap for historic homes, which includes homes designated as historic on an individual basis as well as those contributing to historic districts, being assisted by HAP may be up to \$200,000, and GLO may also establish the amount of funds for local code requirements to up to \$100,000.

**\*\*Acquisition: See section 4.H(3)(b) for additional information**

**\*\*Buyout: See section 4.H(3)(a) for additional information**

**\*\*\*Project Soft Costs:** Project soft costs are direct costs specifically related to the replacement of an MHU, rehabilitation, reconstruction, or new construction. These costs include site-specific utility disconnect or reconnect fees, permits, elevation certificate work, topographic survey costs, damage assessments/inspections, and code inspections. Additionally, one year of homeowner insurance(s) may be purchased for each unit. If a property was damaged by a flood but was outside of the 100-year floodplain, subrecipients may purchase flood insurance to reduce the economic risk from future floods. The GLO may grant an exception to increase the unit soft cost for unexpected or unforeseen costs during construction. Subrecipients and state will be required to use the GLO's Form 11.17, *Work Write-Up/Cost Estimate Form*.

Additionally, a change order request must be submitted with the necessary support documentation to warrant an exception. All change order requests must follow federal and state procurement requirements to obtain reasonable costs.

**\*\*\*\*Buyout Incentives:** The purpose of the incentive is to encourage maximum participation by property owners and remove as many properties as possible from high-risk areas. Incentive payments should assist the household with necessary funds to buy an existing home or construct a home on a newly purchased lot, as applicable. Incentives are allowable when pre-disaster fair market value is used to purchase the home (buyouts) and when post-storm fair market value is used to purchase the home (acquisitions). A buyout incentive is not available for properties that served as second homes. A second home is not the primary residence of the owner, a tenant, or any occupant at the time of the storm. Subrecipients and the state may provide relocation assistance outside of buyout activities, as necessary. Subrecipients and the state must document how the assistance will be determined and issued to applicants when determining final eligibility assistance costs.

**\*\*\*\*\*Temporary Relocation:** This provision will take effect immediately upon posting of this document and may also apply to applicants currently receiving assistance if necessary, to ensure there is no 30 day gap in assistance.

**Affordable Rental Project Cap:** The maximum award cap under the Affordable Rental Program is \$25 million per development. Affordable Rental Program participants must follow federal and state procurement requirements that mandate reasonable rehabilitation, reconstruction, or new construction costs. All CDBG-DR funded Affordable Rental Program activities will require a minimum 15 years for rehabilitation or reconstruction or 20 years for new construction Land Use Restriction Agreement (LURA).

### **C. Affirmative Marketing Outreach Plan**

The state and local jurisdictions administering the Program are committed to affirmatively furthering fair housing through established affirmative marketing policies. Affirmative marketing efforts for the disaster funding will include the following:

- An Affirmative Fair Housing Marketing Plan, based on HUD regulations, is to be followed by subrecipients and the state. The plan must include items on the GLO's checklist to affirmatively market units financed through the Program. The procedures cover dissemination of information, technical assistance to applicants, project management, reporting requirements, and project review.
- The goal is to ensure that outreach and communication efforts reach eligible survivors from all racial, ethnic, national origin, religious, familial status, the disabled, “special needs,” and gender groups. For each project or program, notification to these populations should include:
  - Fully informed of vacant units available for sale and/or rent;
  - Encouraged to apply for purchase, rehabilitation, and/or rent;
  - Given the opportunity to buy and/or rent the unit of their choice; and
  - Given the opportunity to rehabilitate their primary residence that sustained damages due to the event and/or its after-effects.
- Emphasis should be focused on successful outreach to LMI areas and those communities with minority concentrations that were affected by the disaster. Outreach efforts may include door-to-door canvassing and special outreach efforts to hard-to-reach populations (e.g., seniors, and persons with severe disabilities who either do not have information about the resources available or are unable to apply for resources).
- In addition to marketing through widely available media outlets, efforts may be taken to affirmatively market the CDBG-DR Program as follows:
  - Advertise with the local media outlets, including newspapers and broadcast media, that provide unique access for persons who are considered members of a protected class under the Fair Housing Act;
  - Include flyers in utility and tax bills advertising the Program;
  - Reach out to public or non-profit organizations and hold/attend community meetings; and
  - Other forms of outreach tailored to reaching the eligible population, including door-to-door outreach, and on the weekends, if necessary.

- Measures will be taken to make the Program accessible to persons who are considered members of a protected class under the Fair Housing Act by holding informational meetings in buildings that are compliant with the Americans with Disabilities Act (ADA), providing sign language assistance when requested, and providing special assistance for those who are visually impaired when requested.
- Applications and forms will be offered in English and other languages prevailing in the region in accordance with Title VI of the Civil Rights Act of 1964, including persons with disabilities (24 CFR 8.6), Limited English Proficiency (LEP), and other fair housing and civil rights requirements such as the effective communication requirements under the Americans with Disabilities Act. Every effort will be made to assist such applicants in the application process.
- Case managers will help navigate and inform survivors who may qualify for acquisition and buyout of their damaged unit to remove them from flood hazards, environmental hazards, and other unsafe conditions while meeting AFFH obligations.
- Documentation of all marketing measures used, including copies of all advertisements and announcements, will be retained and made available to the public upon request.
- Subrecipients and the state will be required to use the Fair Housing logo in Program advertising, post Fair Housing posters and related information and, in general, inform the public of its rights under Fair Housing regulations law.
- Multifamily Rental Programs must develop an Affirmative Marketing Plan for each development receiving CDBG-DR funding. Pursuant to federal regulations, the plan will outline strategies to inform the public about the housing opportunities, requirements/practices that the owner must adhere to in executing the Affirmative Marketing Plan, procedures that will be followed in soliciting applications, and a description of records that will be maintained and made available for review.
- Evaluation of outreach activities and applications received will be necessary to determine if outreach is successful and applications that are being received accurately reflect the socioeconomic and other forms of demographic diversity. Evaluation should be an ongoing process. The GLO will assist subrecipients by reviewing application intake reports before subrecipients begin qualifying applicants, and periodically thereafter.
- Subrecipients and the state are also required to coordinate with HUD-certified housing counseling organizations to ensure that information and services are made available to both renters and homeowners. Additional information for each grantee is available here: <https://apps.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?weblistaction=summary>

#### **D. Reporting Requirements**

Compliance will be maintained in accordance with the reporting requirements under the GLO's CDBG-DR Program. This includes providing all information and reports as required under the GLO's contract with subrecipients, demographic data and other information acquired from the applicants, and project documentation from awarded applicants.

### **(1) Section 3**

Compliance with Section 3 is required by 24 CFR Part 135 and the executed agreement between subrecipients and the GLO. Subrecipients should refer to the GLO's Section 3 Policy.

### **(2) Applicant Data**

The GLO will establish procedures for subrecipients to collect and report data relevant to HUD. The reporting requirements will include, but not be limited, to the following for each program activity requiring a direct application by an individual or non-institutional entity:

- Applicant's household income at the time of assistance;
- Household income as a percentage of AMI at the time of assistance, as defined by HUD;
- The race, ethnicity, and gender of the head of household;
- The household's familial status;
- The presence or non-presence of a household member with a disability; and
- The presence or non-presence of a household member that is a veteran.

### **(3) Records Retention**

All official records on programs and individual activities shall be maintained for a 3-year period beyond the closing of a grant between the GLO and HUD. Applicant records must be maintained electronically. Subrecipients should contact the GLO to obtain an approved electronic record management system utilizing the GLO's Activity File Checklist. All projects, program activity files, and applicant information received must be maintained within the GLO's system of record.

## **E. Procurement Requirements**

Subrecipients shall provide adequate documentation to show that the selection process was carried out in an open, fair, uniform, and thorough manner to ensure that federal (2 CFR 200.318–200.326) and state procurement requirements were met.

It's important to note that failure to maintain proper documentation may result in disallowed costs. These records must include, but are not limited to, the following information:

- Rational for the method of procurement;
- Evaluation and selection criteria;
- Contractor selection or rejection; and
- The basis for the cost or price.

During the procurement process, subrecipients should clearly identify any items included in the bid/purchase that are not included in the CDBG-DR agreement with GLO. Subrecipients and the state may utilize HUD's CDBG-DR and Procurement Guidance.<sup>4</sup>

Subrecipients must procure goods and services using the federal procurement and contract requirements outlined in 2 CFR 200.318 – 200.326. These procurement requirements must be followed for reimbursement from grant allocations of CDBG-DR funds provided by HUD. Subrecipients and the state are also required to follow state and local procurement law and policies, as well as the additional requirements stated in 2 CFR Part 200.

Composite pricing will be utilized for new construction and reconstruction. This pricing will be developed utilizing the RFP process and average costing and shall be verified as reasonable and customary by utilizing an industry standard independent pricing product. Pricing for rehabilitation shall be developed via an independent damage assessment and work write-up. This becomes the scope of work and will be priced in conjunction with a line-item price list that will be produced out of the original RFP with appropriate reasonable and customary verification.

Subrecipients should update their procurement policies and procedures to comply with the procurement and contract requirements of 2 CFR 200.318 – 200.326 for CDBG-DR funding.

Additionally, the GLO may review draft solicitations or responses prior to award for compliance. Please note that for residential housing repair, reconstruction, and case management of these projects, a builder assignment method to repair affected homes may be required. Subrecipients and the state should clearly identify during the procurement process any items included in the bid/purchase that are not included in the CDBG-DR contract.

Regardless of the type of procurement used, subrecipients and the state must execute a contract to document the period of performance, the work to be completed, the agreed price, and contractor or provider's required compliance with all applicable federal, state, and local requirements that subrecipients and the state must follow. If there is a conflict between federal, state, and local laws and regulations regarding procurement, the more stringent law or regulation will apply.

Additionally, subrecipients are required to achieve compliance with Section 3 (24 CFR Part 135). It is strongly suggested that HUD's best practices be utilized to help achieve compliance (HUD Model Section 3 Plan), including creating a Section 3 plan. Subrecipients are also required to "take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible." (HUD CFR 200.321).

Furthermore, HUD requires the GLO to maintain a comprehensive public website that provides information for individuals and entities awaiting assistance and the general public to see how all grant funds are used and managed/administered. To meet this requirement, subrecipients must make the following applicable items available for the state to post on the GLO's website at:

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<sup>4</sup> <https://www.hudexchange.info/resource/5614/buying-right-cdbg-dr-and-procurement-a-guide-to-recovery/>

<http://recovery.texas.gov/>: procurement policies and procedures; description of services or goods currently being procured by subrecipients; subrecipient and state administrative contracts and a summary of all procured contracts (as defined in 2 CFR 200.22), including those procured by subrecipients or the state (e.g., a summary list of procurements, the phase of the procurement, details of ongoing procurement processes, requirements for proposals, and any liquidation of damages associated with a contractor's failure or inability to implement the contract, etc.). Updated summaries must also be posted monthly on the website. HUD will post guidance related to this requirement on the HUD Exchange website.

## **F. Site and Development Restrictions**

Housing that is reconstructed, rehabilitated, or newly constructed with CDBG-DR funds must meet all applicable local codes, rehabilitation standards, ordinances, Green Building Standards, and zoning ordinances at the time of project completion.

### **(1) General Standards**

All housing units participating in the Program will be required to meet Housing Quality Standards detailed under 24 CFR 982.401, Fair Housing Accessibility Standards, and Section 504 of the Rehabilitation Act of 1973. Housing activities must also meet all local building codes or standards that may apply. All single family homes should also incorporate resiliency solutions which may include: elevating the first floor of the habitable area; breakaway ground floor walls; reinforced roofs; storm shutters; use of ENERGY STAR appliances and fixtures; and mold and mildew resistant products. Multifamily resiliency solutions include elevation, retention basins, fire-safe landscaping, firewalls, and landscaped floodwalls. All new construction projects must also meet Green Building Standards.

### **(2) Lead-Based Paint**

All projects must comply with the lead-based paint requirements of 24 CFR Part 35, Subparts A, B, J, K, and R. See additional information regarding lead-based paint abatement in Sections 4.E.(1) and 4.H.(1)(f) of these guidelines.

### **(3) Housing Quality Standards (HQS)**

All CDBG-DR assisted rehabilitation projects must meet HQS (24 CFR 982.401) at completion, at a minimum, as well as all applicable local codes and ordinances.

### **(4) Standards for:**

#### **(a) Constructed or Substantial Improvements**

International Residential Code 2012 or higher (IRC) (with windstorm provisions) and International Building Code (IBC) must be met where they apply. To avoid duplicative inspections when Federal Housing Administration (FHA) financing is involved in a CDBG-DR assisted property, an inspection must be performed by a qualified person. All rehabilitation,

reconstruction, and new construction should be designed to incorporate principles of sustainability, including water and energy efficiency, resilience, and mitigating the impact of future disasters. Whenever feasible, subrecipients and the state should follow best practices, such as Professional Certifications and Standard Work Specifications provided in the U.S. Department of Energy's Guidelines for Home Energy Professionals.

### **(b) Green Building Standards**

New housing construction, reconstruction or substantially rehabilitated housing must comply with ONE of the following Green Standards:

- i. ENERGY STAR (Certified Homes or Multifamily High-Rise);
- ii. EPA Indoor Air Plus (Energy Star a prerequisite);
- iii. LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); or
- iv. ICC-700 National Green Building Standard.

Subrecipients and the state must identify which Green Building Standard will be used in the program's policies and procedures for replacement and new construction of residential housing.

A certificate of compliance issued as part of the chosen standard's compliance process will be required to be submitted as proof of compliance. Homes and multifamily homes in high wind and hurricane areas must also be built in compliance with FORTIFIED Home© standards or any other equivalent comprehensive resilient or disaster resistant building program. These standards also apply to rehabilitation projects that fall within the HUD definition of substantial rehabilitation.

Additionally, the implementation of Green Building Standards will apply for construction projects completed, underway, or under contract prior to the date that assistance is approved for the project. Subrecipients are encouraged to apply the applicable standards to the extent feasible. For specific required equipment or materials for which an ENERGY STAR-labeled, WaterSense-labeled, or FEMP-designated product does not exist, the requirement to use such products does not apply.

### **(c) Elevation**

The GLO will apply the following elevation standards to new construction, repair of substantial damage, or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR 55.2(b)(1). All structures, as defined under 44 CFR 59.1, designed principally for residential use and located in the 100-year (or 1 percent annual chance) floodplain that receive assistance for new construction, repair of substantial damage, or substantial improvement, as defined under 24 CFR 55.2(b)(10), must be elevated with the lowest floor, including the basement, at least 2 feet above the annual floodplain elevation or as modified by local code. Mixed-use structures with no dwelling units and no residents below the annual floodplain must be elevated or

floodproofed in accordance with FEMA floodproofing standards under 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least 2 feet above the annual floodplain or as modified by local code.

Applicable state, local, and tribal codes and standards for floodplain management that exceed these requirements, including elevation, setbacks, and cumulative substantial damage requirements, will be followed.

If a homeowner resides within a floodplain, damage assessors can assess the home to determine if reconstruction is needed. If the project is located in a floodplain and the local floodplain and the house is not substantially damaged/improved, rehabilitation may be approved if the total hard costs to repair a home does not exceed \$20,000.

The GLO has established elevation costs caps at \$60,000 single family homes. The GLO may re-evaluate its elevation costs caps during the implementation of the homeowner assistance program based on average costs associated with elevating single family homes and on a case-by-case basis as needed.

#### **(5) Standards for Rehabilitation of non-substantial damaged residential**

Subrecipients and the state must follow the HUD CPD Green Building Retrofit Checklist available at <https://www.hudexchange.info/resource/3684/guidance-on-the-cpd-green-building-checklist/>. Subrecipients and the state must apply these guidelines to the extent applicable to the rehabilitation work undertaken, including the use of mold resistant products when replacing surfaces such as drywall. When older or obsolete products are replaced as part of the rehabilitation work, rehabilitation is required to use ENERGY STAR-labeled, WaterSense-labeled, or Federal Energy Management Program (FEMP) designated products and appliances.

#### **(6) Resilient Home Construction Standards**

Subrecipients are encouraged to incorporate a Resilient Home Construction Standards for substantially damaged residential buildings or new construction that incorporate a Resilient Home Construction Standard recognized such as those set by the FORTIFIED Home™ Gold Level for new construction or single family, detached homes; and FORTIFIED Home™ Bronze level for repair or reconstruction of the roof; or any other equivalent comprehensive resilient or disaster resistant building program. Resilient standards when incorporated will increase a home's resilience to natural hazards, including high wind, hail, and tropical storms.

#### **(7) Accessibility**

Single Family Housing Units must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the GLO's Visitability Standards. Covered multifamily dwellings, as defined at 24 CFR 100.201 as well as common use facilities in developments with covered dwellings, must meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601–3619), the design and construction requirements of the Fair Housing Act Design Manual

and the ADA 2010 requirements with the HUD exceptions (79 FR 29671, May 23, 2014). Additionally, developments involving new construction (excluding construction of nonresidential buildings) where some units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20 percent of each Unit type (e.g., one bedroom, two bedroom, three bedroom) must provide an accessible entry level and all common-use facilities in compliance with the design and construction requirements of the Fair Housing Act Design Manual and include a minimum of one bedroom and one bathroom or powder room at the entry level. A compliance certification will be required after the development is completed from an inspector, architect, or accessibility specialist.

## **G. Displacement of Persons and/or Entities**

Displaced people, regardless of income, can receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“URA” or “Uniform Relocation Act”). URA applies to both temporary (during construction) and permanent displacement (one year or greater).

Section 104(d) requires relocation assistance for lower-income individuals displaced as a result of the demolition or conversion of a lower-income dwelling and requires one-for-one replacement of lower-income units demolished or converted to other uses.

Subrecipients must provide the following benefits to households that they displace:

- Relocation advisory services;
- A minimum of a 90-day notice to vacate;
- Reimbursement for moving expenses; and
- Payments for added cost of renting or purchasing comparable replacement housing.

The relocation assistance requirements at Section 104(d)(2)(A) of the Housing and Community Development Act and 24 CFR 42.350 are waived to the extent that they differ from the requirements of the URA and implementing regulations at 49 CFR Part 24, as modified by the notice for activities related to disaster recovery. Without this waiver, disparities exist in relocation assistance associated with activities typically funded by HUD and FEMA (e.g., buyouts and relocation). Both FEMA and CDBG funds are subject to the requirements of the URA; however, CDBG funds are subject to Section 104(d), while FEMA funds are not. The URA provides that a displaced person is eligible to receive a rental assistance payment that covers a period of 42 months. By contrast, Section 104(d) allows a lower-income displaced person to choose between the URA rental assistance payment and a rental assistance payment calculated over a period of 60 months. This waiver of the Section 104(d) requirements assures uniform and equitable treatment by setting the URA and its implementing regulations as the sole standard for relocation assistance under the federal register notice.

The GLO will follow its Residential Anti-displacement and Relocation Assistance Plan (RARAP). Subrecipients and the state must minimize the direct and indirect displacement of persons from their homes by: (1) planning construction activities to allow tenants to remain in their units as long as possible, (2) by rehabilitating empty units or buildings first, (3) where feasible, give priority to rehabilitation of housing, as opposed to demolition, to avoid displacement, (4) adopt policies to

identify and mitigate displacement resulting from intensive public investment in neighborhoods, (5) adopt tax assessment policies, such as deferred tax payment plans, to reduce impact of increasing property tax assessments on lower income owner-occupants or tenants in revitalizing areas; and/or (6) target only those properties deemed essential to the need or success of the project.

## **H. Conflict of Interest**

The conflict of interest regulations contained in the contract between subrecipients and the GLO prohibit local elected officials, subrecipient employees, contractors, and consultants who exercise functions with respect to CDBG-DR activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, from receiving any benefit from the activity either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.

For purposes of this section, “family” is defined to include parents (including mother-in-law and father-in-law), grandparents, siblings (including sister-in-law and brother-in-law), and children of an official covered under the CDBG-DR conflict of interest regulations at 24 CFR Sec. 570.489(h).

The GLO can consider granting an exception to the conflict of interest provision should it be determined by the GLO that the subrecipient has adequately and publicly addressed all of the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the Housing and Community Development Act of 1974 and the effective and efficient administration of the program. The subrecipient should not enter into a conflict of interest until justification has been received and approved by the GLO in accordance with applicable procurement laws.

## **I. Complaint/Appeal Process**

### **(1) General Policy**

Subrecipients and the state are responsible for responding to complaints and appeals in a timely and professional manner. Subrecipients will keep a record of each complaint or appeal that it receives to include all communications and their resolutions.

When a complaint or appeal is received, a representative will respond to the complainant or appellant within three (3) business days where practicable. For expediency, subrecipients and the state shall utilize telephone communication as the primary method of contact; however, email and postmarked letters will be used as necessary.

### **(2) Responsibilities**

Both subrecipients and the state shall identify customer service specialists within their program that will be tasked with handling all homeowner inquiries.

Customer service specialists are responsible for (1) determining if complaints and appeals relate to the business or authority of the subrecipient or state, (2) ensuring that a response to all

complaints and appeals are within the appropriate time frame (a final response must be provided within 10 business days of receipt, although an extension may be granted if additional documents or review are required), and (3) ushering all complaints and appeals through to a resolution where possible.

Since subrecipients are most often the first line of communication for program beneficiaries, they shall have an internal procedure for handling incoming complaints, including a complaint escalation process to ensure that complaints are handled at the earliest stage in the process.

### **(3) Documentation**

Documentation for each complaint or appeal must be maintained. Each file must include the following:

- Contact information for the complainant;
- Initial complaint;
- Address and GLO assigned project number (if applicable);
- Any communications to and from complainant or appellant;
- Results of the investigation, together with any notes, letters, or other investigative documentation;
- The date the complaint or appeal was closed; and
- Any other action taken.

## **J. Audit Requirements**

Subrecipients receiving funds which exceed the thresholds set in 2 CFR 200.501, Audit Requirements, shall have a single or program specific audit conducted in accordance with the applicable federal requirements.

Vendors and contractors employed by the state and subrecipients will be required to comply with the executed contract.

## **K. Changes, Waivers, and/or Conflicts**

Subrecipients have the right to change, modify, waive, or revoke all or any part of these guidelines, with the prior written approval of the GLO.

Waivers to the requirements in these Guidelines can only be approved by the GLO and must be provided in writing. The GLO will provide the option for a waiver only after the waiver request has been posted on subrecipient's website for a public comment period of at least 7 days. The waiver request must demonstrate why the housing guidelines are not practicable for the subrecipient.

If these Guidelines conflict with local, state, or federal law, the more stringent requirement will prevail, provided that the requirement does not violate local, state, or federal law.

#### **4. SINGLE FAMILY HOUSING PROGRAMS**

Eligible activities under the Single Family Housing Programs include: rehabilitation, reconstruction, and or new construction; buyout; acquisition; reimbursement; repair or replacement of MHU; hazard mitigation; elevation; relocation assistance; down payment assistance; activities designed to relocate families outside of floodplain; demolition; and other activities associated with the recovery of impacted single family housing stock.

##### **A. Survivor Case Management**

Applicants are likely to need support throughout the process. Applicants may have suffered significant losses and emotional hardships. Undertaking the process to claim insurance is often burdensome and confusing. The simple mechanics of applying to the CDBG-DR Program may be complicated by the loss of documents or temporary residence outside the area. Subrecipients should work to cultivate partnerships with local and community liaisons such as banks, counseling agencies, legal services, title companies, etc.

Subrecipient and state case managers (which may be hired by vendors) will work to assist survivors from inception to close-out of their recovery needs associated with the Program for which they participate. It is recommended that there be a single point of contact for each survivor to ensure that survivors have the immediate contact information and needs to be successful in their long-term recovery efforts. As survivor applications are being accepted and reviewed for determinations of eligibility to participate in the Program, each survivor should be counseled and made aware of their application status. Consult with the GLO to determine the best feasible option.

##### **B. Application Intake and Counseling**

A mechanism must be incorporated into Program Design to prevent any pre-screening of applicants without a written application being taken. Anyone who makes an inquiry about the Program will be provided with a GLO application package to complete. The GLO requires a standardized application. All such inquiries will be reported in a format to be provided by the GLO. Applications will be submitted electronically through the TIGR system.

All documentation submitted by the applicant must include a signed statement verifying that the information provided is true, complete and accurate. Any false, fictitious, or fraudulent information, or the omission of any material, may subject the applicant to criminal, civil or administrative penalties. Program documents must capture the following statement:

“Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.”

Case managers and/or counselors or interpreters must be able to communicate with the applicant in their primary language and should be assigned to the clients as appropriate. Additionally, they must

ensure effective communications with persons with disabilities pursuant to 24 CFR 8.6 and other fair housing and civil rights requirements (such as the effective communication requirements under section 504 and the Americans with Disabilities Act). Counselors will be trained to be well-versed in all housing recovery activity requirements.

### **C. Applicant Eligibility Requirements**

The following are threshold requirements, which must be met for an applicant to be eligible for assistance. Eligibility does not guarantee assistance since a prioritization strategy within LMI economic subgroups will be required (consistent with Program Design requirements), and it is expected that there will be more eligible applicants than can be served with available funds. Local Buyout and Acquisition Program subrecipients will be required to develop additional eligibility requirements.

#### **(1) General Eligibility**

##### **(a) Income Determination**

The income limits to be utilized for the CDBG-DR Single Family Homeowner Program are area-specific (by county) income limits established yearly by HUD for the Section 8 Housing Program. Income eligibility will be determined and verified in accordance with the GLO's Adjusted Gross Income Methodology or in accordance with another method that is approved by GLO. The most current income limits, published annually by HUD, shall be used by subrecipients or the state to verify the income eligibility of each household applying for assistance at the time assistance is provided. Subrecipients and the state must always use the most recent income limits and will be monitored to ensure compliance with the income guidance as provided throughout these Guidelines.

##### **(b) National Objective**

- i. Beneficiaries of the Single Family Programs must meet the LMH National Objective of supporting housing activities for impacted persons of low- and moderate-income that, upon completion of the housing activity, will be occupied by such person.
- ii. Assistance to non-LMI applicants may be provided under urgent need (see d. below)
- iii. Slum and blight may be addressed under the Local Buyout and Acquisition Program

##### **(c) Unmet Meets**

Only applicants with an unmet need related to the CDBG-DR funded event will be eligible. Documentation evidencing impact from the event will be required as part of the unmet needs determination. The unmet needs analysis is discussed in Section 3.A.(2) of these Guidelines and will be required by all participating subrecipients and the state.

**(d) Applicant with AGI of up to 120 percent of AMI (For Down Payment Assistance)**

HUD approved a waiver to allow homeownership assistance to be provided to households earning up to 120 percent of the area median income for up to 100 percent of the amount required. While homeownership assistance may be provided to households with up to 120 percent of the area median income, only those funds used to serve households with up to 80 percent of the area median income may qualify as meeting the low- and moderate-income person benefit National Objective.

**(e) Not Eligible**

CDBG-DR assistance for rehabilitation/reconstruction of a damaged home is prohibited when (1) the combined household income is greater than 120 percent AMI or national median, and (2) the property was in a floodplain at the time of the disaster, and (3) the property owner did not maintain flood insurance on the damaged property, even when the property owner was not required to obtain and maintain such insurance.

**(2) Proof of Ownership**

The applicant must be an individual who owns the property to be repaired, rebuilt, or replaced due to damage from the event. Proof of ownership is not a requirement for involuntary demolition activities. Ownership can be documented as follows:

- Provide a copy of a valid deed of trust or warranty deed that is recorded in the county records which cites the applicant’s name. Liens on Housing Units: subrecipients and the state will coordinate with lienholders to ensure the rehabilitation or reconstruction assessment is approved by the lender.
- For manufactured housing units (MHU), a Statement of Ownership from the Texas Department of Housing & Community Affairs, Manufactured Housing Division (TDHCA) must be provided. If the Statement of Ownership cannot be provided, GLO may accept alternate forms of ownership as further defined below.
- If an applicant owns a mobile home and there is a lien on the property, subrecipients and the state will work to ensure that the lien is transferred properly (if one is in place with the mortgage company). The MHU needs to be “perfected” and made a real property showing that is fixed to the lot. The wheels and axel need to be removed, and a statement of location needs to be in place from Texas Department of Housing & Community Affairs, Manufactured Housing Division (TDHCA). Once this is done, the lender can transfer the lien from the mobile home to the new property.

For the purposes of federally funded disaster recovery programs, alternative methods to document ownership may be proven in the following manner:

**(a) Applicants may prove ownership by providing documentation and completing a notarized affidavit that certifies one of the following circumstances applies:**

- i. No other party has the right to claim ownership;
- ii. Everyone who has the right to claim ownership has agreed to participate in the program; or

- iii. A party who has the right to claim ownership could not be located (after all reasonable attempts have been made).

**(b) Subject to approval by the GLO, instead of a copy of the deed, alternative documentation proving ownership may be provided including (in order of preference):**

- i. Tax receipts in the name of the applicant reflecting payment of applicable property taxes on the property for the prior taxable year;
- ii. Home insurance in the name of the applicant reflecting that a current policy was in place at the time Hurricane Harvey made landfall;
- iii. Utility bills reflecting the address of the property and the name of the applicant and/or co-applicants; or
- iv. Other documentation deemed to be acceptable by the GLO.

The documentation must show that the applicant was the person responsible for paying for these items at the time of the disaster. The required affidavit, form, and instructions may be found on the GLO's website: <http://recovery.texas.gov/>.

**(c) The above-referenced alternatives are not optional, must be incorporated into the Program Design, and allowed to prove ownership for all CDBG-DR Programs in the state of Texas.**

### **(3) Principal Residency**

The unit to be rehabilitated, reconstructed, or replaced must have been the applicant's principal residence during the time of the event. Principal residency for applicants can be demonstrated through property tax homestead exemptions. If a homestead exemption was not in place at the time of the disaster, an Affidavit of Principal Residency may be utilized as an alternative method of verification of principal residency. The affidavit must be supported by documentation such as asset verification (income tax returns, credit check, etc.) or utility bills specific to the property address and name of the applicant, which were active as of the date of the event. Vacation homes and rental properties are not eligible for assistance under the Single Family Homeowner Program. The *Affidavit of Principal Residency Form* may be found on the GLO's website: <http://recovery.texas.gov/>.

Under state of Texas Property Tax Code, a homeowner may only claim one homestead exemption on one property. GLO may request additional documentation or information if the GLO identifies that the applicant has more than one property with a homestead exemption. More information can be found at: <https://statutes.capitol.texas.gov/Docs/TX/htm/TX.11.htm>.

### **(4) Property Taxes**

Applicant must furnish evidence that property taxes are either current, have an approved payment plan, or qualify for an exemption under current laws. Applicant must prove that property taxes have been paid or that one of the following alternatives have been met:

- The property owner qualified for and received a tax deferral as allowed under Section 33.06 of the Texas Property Tax Code;
- The property owner qualified for and received a tax exemption pursuant to Section 11.182 of the Texas Property Tax Code; or
- The applicant entered into a payment plan with the applicable taxing authority and is current on payments.

Support documentation verifying the tax deferral or tax exemption must be provided by the applicant. Any applicant that enters into a payment plan must supply a signed copy of the payment plan from the applicable taxing entity along with documentation that they are current on their payment plan. Additionally, if the household has gone through bankruptcy and the payment of property taxes was a requirement, all documentation associated with the bankruptcy and documentation of the property tax payments must also be supplied.

### **(5) Duplication of Benefits (DOB) Review**

Each application will be reviewed to determine if previous funding awarded to the applicant was appropriately used on the home and if any funds were received for the same purpose. The applicant must have an unmet need to move forward in the program. Subrecipients and the state must determine the applicant's unmet needs first and then calculate the applicant's DOB. Applicants must provide insurance, FEMA, SBA, and any other type of funding documentation for funds that were received. Additionally, subrecipients and the state must verify that the submitted data is accurate and current at the time of the award, to the best of their abilities (e.g., validate against FEMA data). Applicants will also be asked to provide receipts and proof of repairs. An inspection will be performed to verify that the repair was made and the quality of the repair (Standard, Average, and High-Grade) to determine total applicant expenditure. Subrecipients and the state will also determine if insurance was required under the terms of the applicant's mortgage as part of the application review. Regardless of unmet needs and prior funds received, applicant awards cannot exceed program limits.

The total DOB (difference between assistance already received minus expenditures) will equal the remaining gap. The *GLO's DOB Calculation Form* will be used to determine the total DOB amount. If the total previously awarded assistance is greater than or equal to the total expenditures, then a positive dollar amount will indicate a DOB. To reconcile the DOB amount owed, the applicant can pay the DOB amount, or the applicant may be offered a reduction in the scope on the repair, a reduction in the floor plan size, or replacement of their home's nonessential components (e.g., laminate for tile floors, etc.). Subrecipients must use the approved DOB forms when determining an applicant's final DOB. The *DOB Calculation Form* may be found on the GLO's website: <http://recovery.texas.gov/>.

Subrecipients must develop policies and procedures to prevent any duplication of benefits when determining an applicant's unmet need. The policies and procedures must include recapture instructions (e.g., applicant is currently appealing or suing their insurance company; therefore, recapture of future funds will be completed by the subrecipient) and monitoring procedures to include priorities and frequency to comply with an executed Subrogation Agreement.

## **(6) Child Support<sup>5</sup>**

All adult household members must be current on payments for child support. If the household member is not current on child support, that individual will be required to enter into a payment plan that will be obtained from the Office of Attorney General (OAG). A copy of the payment plan signed by all applicable parties along with documentation demonstrating that they are current on their payment plan must be supplied.

## **(7) Damage Assessment**

Each applicant's home must be assessed to verify that it was damaged from the event. A damage assessment report along with pictures will be required for each applicant. Please refer to the GLO's Damage Assessment Guidelines located at: <http://recovery.texas.gov/>.

## **(8) Environmental Review**

An environmental review must be performed on the property prior to federal funds being committed by subrecipients and the state (24 CFR Parts 50, 58, 574, 582, 583, and 970). No commitment or disbursement of funds will occur prior to the completion of this review. The environmental review shall document compliance with 24 CFR Part 58 and all related laws, authorities, and executive orders. The CDBG-DR Program will not reconstruct or rehabilitate homes that have been determined to be in a floodway.

## **(9) Flood Insurance Verification/Requirements**

Flood Disaster Protection Act of 1973 as amended and Sec. 582(a) of the National Flood Insurance Reform Act of 1994 - compliance with the legal requirements of Section 582(a) mandates that HUD flood disaster assistance that is made available in an Special Flood Hazard Areas (SFHAs) may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for flood damage to any personal, residential or commercial property if: (1) the person had previously received federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and (2) that person failed to obtain and maintain flood insurance as required under applicable federal law on such property.

## **D. Property Eligibility Requirements**

The following threshold requirements are applicable to the assisted unit and must be met for the applicant to receive assistance. The Homeowner Assistance Program is not limited to these specific requirements.

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<sup>5</sup> Family Code, Title 5, Section 231.006

- Unit Characteristics — Only single family owner-occupied units within the subrecipient’s or the state’s jurisdiction will be eligible for Single Family Homeowner Programs.
- Manufactured Housing Units (MHUs or mobile homes) are eligible for rehabilitation at the discretion of the subrecipient or the state; however, the MHU to be rehabilitated must be no more than 5 years old at the time of assistance, and no more than \$10,000 in hard and soft construction costs can be used to rehabilitate an MHU. The MHU must pass an HQS inspection upon completion. MHU rehabilitation costs that exceed \$10,000 will require reconstruction. Reconstruction of MHUs will consist of replacing the MHU with another MHU or a stick-built home that will meet the current needs of the family or individual.

## **E. Eligible Improvements**

### **(1) Types of Improvements**

- Improvements needed to meet HUD Section 8 existing Housing Quality Standards and Cost-Effective Energy Measures are eligible improvements.
- Improvements must be physically attached to the house and be permanent in nature (e.g., sheds or garages located separately from the house are ineligible). Eligibility of attached structures such as carports or utility rooms is based upon available funds and agreement by the GLO in cases where safety or the structural integrity of the house is involved.
- Improvements will include, as necessary, lead-based paint abatement, asbestos abatement, accessibility for families with disabilities or special needs, energy efficiency, or ventilation items such as ceiling fans, window screens, screen doors, and window blinds.
- Ranges, refrigerators, and other necessary appliances are eligible items; however, they will only be considered eligible when they are not present or the repair would not be cost effective. They will be approved on a case-by-case basis.
- Documentation to support non-traditional housing costs, because they are required by local codes or homeowner associations (e.g., garages, fencing, masonry, etc.), must be submitted to the GLO for approval. Non-traditional housing costs in excess of \$100,000 will not be approved for reimbursement.
- Required permits, if any, will be obtained by the contractor or builder at his/her expense and will be included as part of the bid costs.
- Assistance will not be used for luxury items, including but not limited to, garage door openers, security systems, swimming pools, fences, and television satellite dishes.
- Garages, fences, and brick or masonry are not generally eligible unless required by jurisdictional code set forth by the city, county, and/or a homeowners association.

### **(2) Supplemental Improvements**

- All debris, abandoned vehicles, and buildings that pose a safety and/or health threat, as determined by the local jurisdiction or person qualified to make such a determination, must be removed from the property prior to the start of construction. The applicant will remove derelict personal property.

- All electrical components must be inspected, including service meter, wiring, and fixtures, even if no electrical work is being specified. Unsafe components must be replaced. All exposed wiring, switches, and light bulbs in living areas must be encased.
- All homes must be equipped with a smoke detector installed in conformance with the one- and two-family dwelling code.
- Rehabilitated homes inhabited by a member with a disability or elderly persons must be analyzed as to the special physical needs of such persons. Improvements, such as widened doorways, ramps, level entry and doorways, and grab bars in bath areas, must be installed, if appropriate.

## F. Inspection Requirements

Each project will require an inspection(s) during the lifecycle of the project. The required inspections are dependent on the activity type (e.g., reconstruction, rehabilitation, etc.), which are outlined below. Further details regarding the inspections are included under the specific activity types in Section H, Housing Project Activity Types, of these Guidelines. The program will only pay for one inspection per activity per phase outlined below. Any additional inspection costs will be the responsibility of the designated contractor rehabbing, reconstructing, constructing, or demolishing the home.

**Table 4. Inspection Requirements**

<b>Single Family Housing Inspection Requirements</b>					
<b>Application Type</b>	<b>50%</b>	<b>Final Inspection</b>	<b>Demolition Confirmation</b>	<b>TREC</b>	<b>Monitoring Inspections</b>
Reconstruction	Yes	Yes	Yes	Yes **	%*
Rehabilitation		Yes		Yes **	%*
Down Payment Assistance				Yes ***	
Buyout and Acquisition			Yes		
Demolition			Yes		
*Monitoring inspections are performed by GLO or subrecipient representatives. **TREC inspections are performed by GLO or subrecipient representatives. ***Not performed on mobile homes.					

## G. Project Closeout/Affordability Requirements

Approved projects will require Affordability Note monitoring and Land Use Restriction Agreement monitoring, if applicable.

Subrecipients must consider setting a budget to accommodate the necessary work to perform the monitoring requirements for the affordability period and LURAs. To ensure compliance with the requirements of the executed Note with the homeowner, subrecipients and the state will perform at a minimum an annual check to confirm all Note commitments are in place through its term. Insurance notices of default should be documented and evaluated as they are received by the subrecipient. Subrecipients should use the GLO Monitoring Process, but alternates can be proposed for GLO approval.

## **H. Housing Activity Types and Additional Requirements**

### **(1) HAP — Rehabilitation, Reconstruction or New Construction, Elevation**

#### **(a) Overview**

Benefit for LMI applicants is the principal National Objective approved for the Single Family Homeowner Program. The use of Urgent Need is eligible and, if requested by the subrecipient or applicant, will be evaluated during application review; however, under the LMI National Objective, only those funds used for households with up to 80 percent of the area median income may qualify as meeting the low- and moderate-income person benefit National Objective. It is important to note that to carry out this objective, the statute requires that not less than 70 percent of the aggregate of CDBG program funds be used to support activities benefitting low- and moderate-income persons.

The state is prohibited from providing assistance to homeowners who reside in a floodplain, earn more than 120 percent AMI, and who did not maintain flood insurance at the time of the event, even if it was not a requirement.

Eligible activities are as follows: rehabilitation, reconstruction, new construction, and associated elevation and demolition charges. The primary focus of HAP is to provide relief for those people impacted, with consideration given to affirmatively further fair housing, as called for within the Fair Housing Act, in accordance with the approved AFHMP.

The subrecipient's and the state's Program Implementation begins with determining the survivor's unmet needs for the rehabilitation, reconstruction, or new construction of the survivor's home. The subrecipient's approved Needs Assessment and Outreach Plan described in these Guidelines will advise subrecipients on how they are to offer housing activities to meet the types of housing needs experienced by the affected population and their demographics in order to maximize housing recovery efforts.

Rehabilitation or reconstruction assistance is available to applicants that meet all criteria, for costs not yet incurred, subject to funding availability. Rehabilitation will be provided to homes that have up to \$65,000 in estimated damage from the event and repairs necessary to bring the home up to standards. All other homes will be reconstructed. Based on the extent of damage, survivors may be eligible for rehabilitation or reconstruction of their homes. Buyout or acquisition of property should be considered as an alternative to rehabilitation and reconstruction in assessing cost effectiveness.

Relocation assistance may be offered at the discretion of subrecipients or the state. The cap will be set at \$6,000 for temporary relocation services for up to 120 days.

After the final inspection, and Form 11.03, *Final Housing Inspection* has been signed by all required parties, the builder will submit Form 11.04, *Building Contractor's Request for Payment* which will also require signatures by the builder, homeowner, inspector, and the program representative. A Certificate of Occupancy (if applicable) must be retained in the file.

Programs may fund new construction activities under the LMI National Objective and as defined in 42 U.S.C. 5305(a) and 24 CFR 570.207(b)(3), as HUD has waived this requirement if the new activity clearly addresses a disaster-related impact and is in a disaster-affected area. This impact can be demonstrated by the disaster's overall effect on the quality, quantity, and affordability of the housing stock, and the resulting inability of that stock to meet post-disaster needs and population demands.

### **(b) Building Specifications Requirements for Reconstruction/ New Construction**

For new and reconstructed homes, construction specifications (for 2, 3, and 4-bedroom homes with total square footage ranges) will be developed by subrecipients and the state. Each home must be constructed in accordance with local codes and should include resilience and mitigation requirements. Subrecipients and the state may engage an architect to allow for local architectural variations; however, basic square footage (within ranges - see Size of Units below), room requirements, building materials, and general specifications must remain standardized for any home newly constructed or reconstructed with CDBG-DR funding. Elevation options will be developed by the subrecipient and the state. The standardized specifications will then be put out for bid locally. House plans become property of the subrecipient or the state to use for possible future federal funding. Plan costs should only occur once and may be used throughout the implementation of the housing recovery program.

### **(c) Visitability Checklist**

Visitability Checklists are required for single family homes for the first floor only, even if multiple floors exist:

- i. At least one 36-inch entrance door (preferably the main entrance) is on an accessible route served by a ramp or no-step entrance.
- ii. Each interior door is at least a standard 32-inch door, unless the door provides access only to a closet of less than 15 square feet.
- iii. Each hallway has a width of at least 36 inches and is level with ramped or beveled changes at each door threshold.
- iv. Each bathroom wall is reinforced for potential installation of grab bars.
- v. Each electrical panel, light switch, or thermostat is not higher than 48 inches above the floor.

- vi. Each electrical plug or other receptacle is at least 15 inches above the floor.
- vii. If the applicable building codes do not prescribe another location for the breaker boxes, each breaker box is located not higher than 48 inches above the floor inside the building.

**(d) Size of Units**

Guidance for the preferred amount of people per bedroom is discussed in the Program Design section of these Guidelines. The GLO-determined total square footage ranges are as follows:

- i. 2 bedroom/1-2 bath home: 1,000–1,330 SF
- ii. 3 bedroom/1-2 bath home: 1,331–1,425 SF
- iii. 4 bedroom/2 bath home: 1,426–1,500 SF

**(e) Rehabilitation Caps**

Rehabilitation of existing homes damaged by the event is capped at \$65,000. Expenses will include costs to repair damage in addition to costs necessary to bring the home up to CDBG-DR standards. The state may recommend reconstruction and not rehabilitation if the estimated cost of repairs (ECR) is within 20% of the cap to account for unforeseen issues or if elevation is required to meet HUD standards. Additional expenses, such as elevation, are allowed as limited by the Housing Assistance Caps as described in Section 3.B. of the Program Design section of these Guidelines. Estimated rehabilitation costs exceeding this cap will be recommended for reconstruction. An estimated cost of repair (ECR) using Xactimate or similar will determine if the unit is to be rehabilitated or reconstructed. The subrecipient should refer to the definition of “substantial improvement” when determining damage and final unmet need calculations.

The subrecipient and the state must identify homes that are subject to historic preservation reviews under Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. Section 306108). HUD allows the allocation of administration funds to retain a qualified historic preservation professional.

**(f) Construction**

- i. Housing that is constructed or rehabilitated with CDBG-DR funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. All local permitting and city/county inspections must be completed. International Residential Code 2012 or higher (IRC) (with windstorm provisions) and International Building Code (IBC) must also be met where they apply. All rehabilitation projects must comply with Housing Quality Standards (HQS) and all applicable local codes and ordinances. Additional codes and standard requirements are detailed in the Program Design section of these Guidelines.

- ii. If the unit to be assisted was built prior to 1978 and the type of assistance offered will be rehabilitation, the assisted unit will be tested for the presence of lead-based paint and asbestos-containing materials. If present, the removal and abatement of lead-based paint and asbestos-containing materials will be considered in the costs of rehabilitation under the Abatement Cap as described in the Program Design section of these Guidelines. Lead-based paint and asbestos-containing material inspections provide two benefits: (1) the costs of abatement are considerable and must be factored into the cost estimates for rehabilitation, and (2) the health risks to residents, particularly children in the case of lead-based paint, may be severe, so any presence of lead-based paint in an assisted unit, even one that is to be reconstructed, must be reported so that the residents may seek appropriate medical attention.
- iii. A pre-construction conference between the assisted homeowner, contractor, and the subrecipient or the state, where applicable, will be conducted to insure all parties (assisted homeowner, contractor, and the subrecipient or state) are in agreement about the work to be completed. The pre-construction conference will consist of two parts:
  - Part 1: Basic contract and procedural issues to include begin- and end-dates of the contract, terms of the contract, payment schedules and procedures, inspection procedures and requirements, responsibilities of the contractor and the assisted homeowner, change order procedures, payment requests and procedures (escrow account), lead-based paint requirements, role of the subrecipient or state, complaint and conflict resolution procedures, and other programmatic procedures.
  - Part 2: A walk-through of the house for rehabilitation assistance. All parties should understand how the work will proceed. Instructions will be given regarding clean up by the homeowner prior to the work and the contractor after the work.

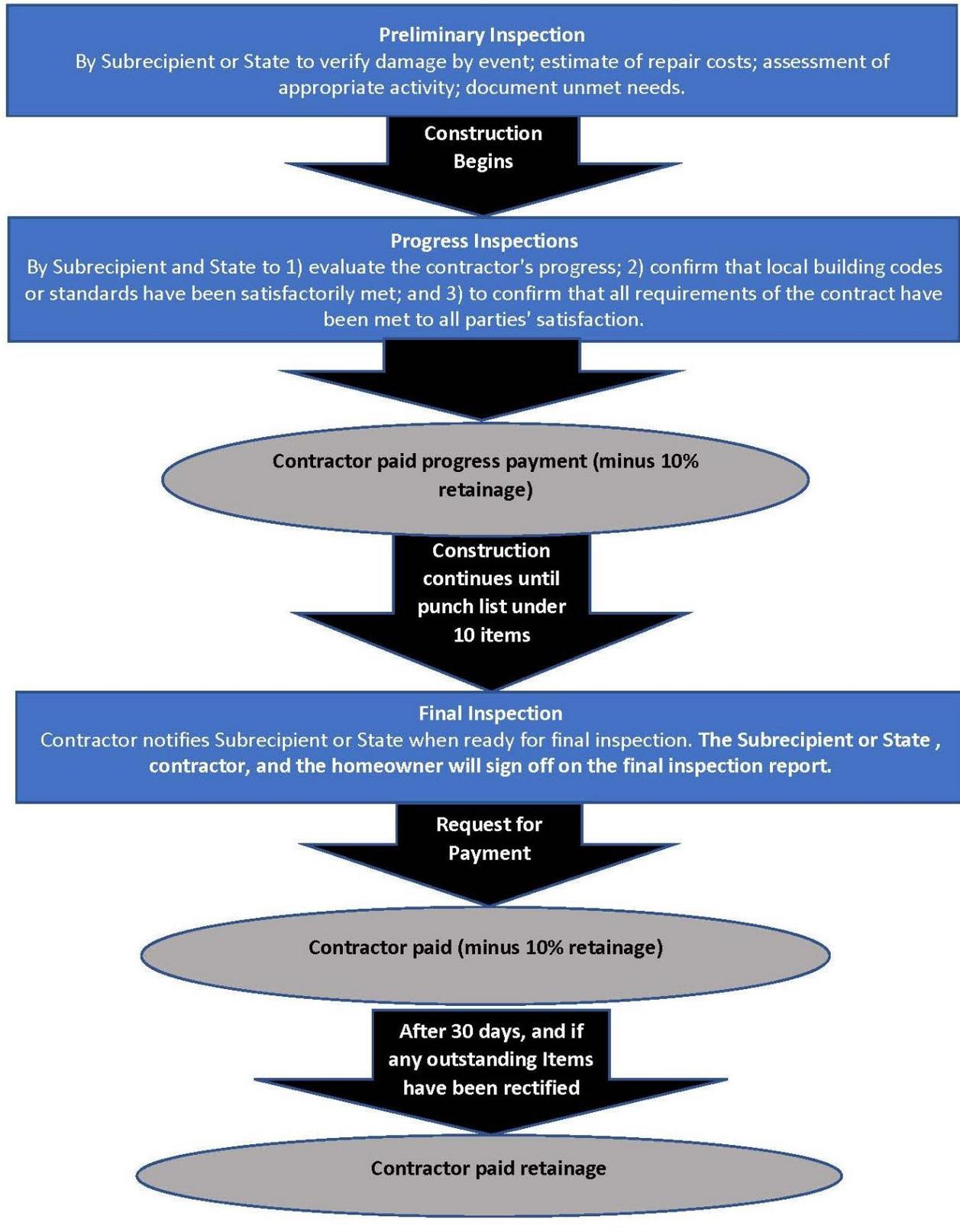
#### **(g) Construction Agreement**

The construction agreement for stick-built homes will be between the rehabilitation/reconstruction contractor and the assisted homeowner.

#### **(h) Property Inspection and Final Payment**

For additional information, refer to section 4.F. *Inspections*, of these Guidelines and refer to the flowchart on the next page.

## Inspection and Payment Flowchart



## **Preliminary Inspections**

A preliminary inspection will be conducted by the subrecipient or the state to determine the condition of the unit for each application and to verify damage by the event if FEMA, the Small Business Administration (SBA), or insurance award letters are not available to demonstrate tieback to the applicable event. The initial inspection will be conducted by the subrecipient's or the state's inspector or another qualified inspector, and a list of the deficiencies will be prepared. The inspection will also provide an estimate of repair costs to determine whether rehabilitation or reconstruction will be offered and must be in sufficient detail to be utilized in the creation of work write-ups and to establish the cost effectiveness of the recommended type of assistance. This process documents the unmet needs for the applicant with respect to rehabilitation or reconstruction of their damaged home.

## **Progress Inspections**

- i. Progress inspections (50 percent) performed by the subrecipient or the state serve three primary purposes: (1) to evaluate the contractor's progress; (2) to confirm that local building codes or standards have been satisfactorily met; and (3) to confirm that all requirements of the contract have been met to the satisfaction of all parties.
- ii. 50% Inspection (reconstruction, new construction)
  - The building shall be in a “dried in” state, which means that all windows, doors, roof, and siding shall be in place, thus preventing rain penetration into the interior of the house.
  - The rough-in plumbing shall be complete.
  - The electrical rough in shall be completed, including (but not limited to) the placement of receptacle boxes, switch boxes and the placement of the circuit breaker box.
  - The HVAC system mechanical shall be in place, including the units themselves, the ductwork and all drain lines.
  - The inspection shall take place prior to insulation being installed.
  - The GLO 50% Checklist must be used to complete the inspection.
- iii. Inspections to approve progress payments will be made at a time requested by the contractor. These inspections will be made promptly upon request so as not to delay the processing of the contractor's payments. The subrecipient or the state will retain 10 percent of all payments. If possible, the same person will conduct both progress and final inspections.

## **Final Inspections**

- i. As in all construction projects, a punch list will be developed toward the end of the job. A punch list is a listing of items written as specifications, which constitute the work necessary to complete the contract. The contractor and the subrecipient or the

state can develop the punch list as a result of the final inspection, or the contractor and the assisted homeowner can create the list prior to the final inspection. The punch list will represent work documented on the work write-up that was not completed. The list will not add work that had not already been identified. Once the punch list has been prepared, no other work items are expected of the contractor. If the punch list contains more than ten (10) items, the contractor is not ready for a final inspection.

- ii. When work is nearing completion, including any punch list items, the contractor will notify the subrecipient and the GLO of a specific date when the job will be ready for a final inspection. The purpose of the final inspection is to guarantee that all work called for in the contract has been completed according to specification. If the 50 percent inspection was conducted thoroughly, the final inspection should only need to catch those items which have been done since the last inspection. The final inspection will be as thorough and deliberate as the initial inspection. Finished carpentry, painting, backfilling, electrical fixtures, all single family homeowner activities, and clean-up should be closely checked for completion. The subrecipient or the state and the homeowner will sign off on the final inspection report.
- iii. 100% (Final) Inspection
  - All construction shall be complete.
  - Site shall be free of debris or construction materials.
  - Interior shall be cleaned.
  - The punch list shall be created, although minor punch list repairs may be outstanding.
  - The inspection shall be completed before key hand off to the homeowner.
  - The GLO 100% Checklist must be used to complete the inspection.
- iv. Every attempt will be made to satisfy the homeowner's concerns at final inspection. If the homeowner objects and refuses to sign off on the final inspection, the GLO or vendor will move forward with closing and place a note in the file for audit purposes.
- v. The subrecipient or the state will make sure that the assisted homeowner has received all warranties and instruction booklets for installed equipment.
- vi. After documentation has been submitted to the subrecipient or the state evidencing that the home has passed the final inspection, all punch list items have been satisfactorily completed, and all warranties have been issued, the project can be brought to final resolution. For purposes of accountability, Homeowner Assistance Program administrators must have written documentation that the assisted homeowner and the subrecipient or the state have accepted the work (the final inspection requires signatures from the homeowner, contractor, and either the subrecipient or the state).

## **TREC Inspections**

- i. All construction projects (reconstruction, new construction, substantial rehabilitation) must pass a TREC inspection after work is complete and the Final (100% inspection) has been passed.

## **Warranties and Retainage**

- i. When the results of the final inspection indicate that the work is completed in accordance with the contract, the subrecipient will submit the contractor's request for payment and, upon receipt of the funds, disburse the funds to the contractor. The subrecipient shall retain 10 percent of the funds for 30 days. During this time any outstanding punch list items must be corrected, and documentation of the corrections must be submitted to the GLO or its representative. Following satisfactory correction of all outstanding items, the retainage will be paid to the contractor upon availability of grant funds following the final 30-day period.
- ii. Should the contractor fail to satisfactorily correct any and all outstanding items, (1) the subrecipient or the state will not disburse the retainage, (2) the assisted homeowner may take any necessary legal recourse, and (3) the contractor may be removed from performing any more rehabilitation/reconstruction work on the home. The GLO will have all necessary work completed at the GLO's discretion.
- iii. In addition, should the contractor be doing other work under this Single Family Homeowner Program and fail to correct any warranty problems, no other payments will be made to him/her until such problems are corrected. This will affect a builder's assignment method and these actions should be recorded.
- iv. All work performed by the contractor will be guaranteed for a period of 1 year. Such warranty will be stipulated in the construction contract between the contractor and the homeowner. For a period of 1 year, the assisted homeowner may require the contractor to correct defects or problems arising from his/her work under this contract. Should the contractor fail to do so, the assisted homeowner may take any necessary legal recourse as prescribed in the rehabilitation or new construction contract. A reasonable amount of time will be given to correct the problem; however, in no case will such time exceed 2 weeks to respond. Warranty notices must be issued in advance of expiration (e.g., 6 months and 1 month prior to expiration date of the warranty).
- v. In addition to the 1-year warranty referenced above, the contractor shall provide a third-party extended warranty that shall cover, at a minimum, the structural integrity and the foundation for a period of 10 years. Subrecipients or the state must inform the applicants at closing what the home warranty terms are and when they expire. HUD recommends that subrecipients or the state include a warranty notice on a periodic basis, e.g., 6 months from expiration.

## **(2) Reimbursement Program**

### **(a) Overview**

Applicants who have completed reconstruction, rehabilitation, elevation, and/or mitigation on a single family home prior to the start date of this program will be eligible for a grant of up to \$50,000. The applicant, as part of their application, must provide adequate documentation of eligible reimbursable expenses conducted on the home. Once the application is received, the GLO will conduct the appropriate environmental review and Damage Repair Valuation on the home to ensure that activities up to \$50,000 were eligible expenses within the program. The GLO will not reimburse applicants for work initiated after the start of the program. Applicant homes that reside in a floodway are not eligible for this program. The GLO will make all determinations for eligibility prior to distributing any funds.

### **(b) Program Requirements**

The program will prioritize applicants with event-damaged homes who reside in the HUD most impacted areas (with 80 percent of funding going to those counties and zip codes) and are LMI households. All applicants under 120 percent of AMI will be eligible to apply for this program; however, applicants within a floodplain or above 120 percent of AMI will only be eligible for reimbursement if they had a National Flood Insurance Program policy at the time of the disaster.

The project must comply with all applicable federal and state requirements.

The applicant is required to submit the following information:

- i. Documentation that damages were caused by the event (e.g., photos, FEMA damage assessment report, insurance report, etc.); and
- ii. Repairs must have been completed after the event and prior to February 28, 2019; and
- iii. Documentation that repairs were performed (photos, contractor work completion documentation, self-certification, and certificate of occupancy, if applicable). Please note that work completed may be verified by the subrecipient or state inspector.

### **(c) Prioritization of Funds**

Program administrators will prioritize application reviews to serve the most impacted counties and zip codes (as eligible in the Action Plan and in Table 5, below) with 80 percent of the funds. Once this threshold is met, the application review process will assess those applicants outside of the HUD-identified most impacted counties and zip codes.

Additionally, the GLO will prioritize the LMI applicants. Within each category, any application received within the first 30 days that meets the LMI criteria will be considered

before any non-LMI applications. If the program is not oversubscribed at that time, the GLO may begin processing non-LMI applications.

All applications will be processed based on the application submission. If an application is incomplete or inconclusive, the GLO will contact the applicant, allowing at least 14 days for a response. In the instance that a complete response is not received within the allotted 14 days, the application may be withdrawn and the initial submission date will no longer be effective.

**Table 5. Eligible Counties and Most Impacted Counties and Zip Codes**

<b>Regional Classification</b>	<b>% of Total Funding</b>
<p><b>Most Impacted Counties and Zip Codes</b></p> <p>Aransas, Brazoria, Chambers, Fayette, Fort Bend, Galveston, Hardin, Harris, Jasper, Jefferson, Liberty, Montgomery, Newton, Nueces, Orange, Refugio, San Jacinto, San Patricio, Victoria, Wharton Counties; 75979, 77320, 77335, 77351, 77414, 77423, 77482, 77493, 77979, and 78934</p> <p><i>Harris County and all zip code areas that fall within Harris County and Houston will have their programs administered by Harris County or Houston</i></p>	80%
<p><b>Other Presidentially Declared Disaster Counties</b></p> <p>Austin, Bastrop, Bee, Burleson, Caldwell, Calhoun, Colorado, Comal, DeWitt, Goliad, Gonzales, Grimes, Guadalupe, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, Lee, Madison, Matagorda, Milam, Polk, Sabine, San Augustine, Tyler, Walker, Waller, Washington</p>	20%

**(d) Eligible Activities**

For the purposes of this program, all costs associated with reconstruction, rehabilitation, elevation, and/or mitigation must be adequately documented, and the GLO will not reimburse applicants for work completed after the start date of the program.

All eligible work must be considered necessary and reasonable by the GLO. If applicable, adherence to HQS may be required at the discretion of the GLO. Only work performed within the existing footprint of the damaged structure, sidewalk, driveway, or other developed areas will be eligible for reimbursement. Proof of event damage can be documented as follows:

- i. FEMA, SBA, or insurance award letters;
- ii. Photographs;
- iii. If the above-referenced documentation is not available, an inspection report/damage assessment (complete with photos of the damage and a written assessment of the damage each photo depicts) will be conducted by a licensed TREC or HQS inspector, (or similar license) to certify the damage occurred because of the event. (Refer to the GLO’s Damage Assessment Guidelines.); or

- iv. If FEMA, SBA, or insurance award letters are not available and an inspection report is inconclusive as to the cause of the damage, alternative evidence, such as neighborhood-level media reports or documentation of damage by disaster response/relief organizations, may be presented on a case-by-case basis only. GLO approval is required for this method of proof of event damage.

If an applicant was denied assistance by FEMA, assistance through the CDBG-DR Program may still be available. Applicants are not solely ineligible based on a denial by FEMA. All applications will be reviewed on a case-by-case basis.

The following table (Table 6) lists, but is not limited to, examples of eligible and ineligible expenditures:

**Table 6. Eligible Reimbursement Program Expenditures**

Eligible Expenditures Include:	Examples of Costs That Are Not Eligible:
Essential appliances (e.g., refrigerator, stove/oven, dishwasher)	Food, clothing, household goods
Permits and inspection fees	Fences or sheds
Removal of construction debris	Day labor paid by cash with no receipt
Utilities (plumbing, electrical and gas systems)	Tools
Structural repairs	Flatbed trailers
Heating, venting, and air conditioning systems	Mortgage payments
Septic or sewer system repair	Insurance premiums
Well or water system repair	Temporary housing (only offsets FEMA funds)
Entrance and exit doors	

**(e) Program requirements**

All applicants receiving assistance through the reimbursement program must sign an *Unsecured Forgivable Promissory Note* (the Note) (GLO Form 13.09). The Note will expire 1 year after the execution of the agreement. The homeowner will be required to maintain ownership of the property during the Note’s duration. If the property is sold, the balance left on the Note will be returned to the GLO. The project must comply with all applicable federal and state requirements.

**(3) Local Buyout and Acquisition Program**

HUD has authorized the use of Buyout and Acquisition programs to (1) reduce the risk to homeowners from the effects of subsequent disasters, (2) assist in the recovery of low- and moderate-income households, and (3) protect taxpayer resources that might otherwise be needed after a disaster in the same area (80 FR 72102). The Hurricane Harvey Action Plan has allocated funds for residential buyouts and acquisition to remove homes from harm’s way.

Buyout programs support hazard mitigation, floodplain management goals, and resiliency by removing homeowners from the floodplain to minimize the possibility of future flooding to the

home. After homes are purchased, the structures are demolished or relocated. The Local Buyout and Acquisition Program serves multiple objectives and provides a resiliency option versus rebuilding within a floodplain. Buyouts help prevent repetitive loss and extreme risk to human health and safety.

Buyout and Acquisition services are limited to actual costs for services used to complete a buyout of a home in a floodplain or floodway and the intent is to relocate the homeowner and their family to a low-risk area outside of the floodplain/floodway. Housing Incentives are generally offered in addition to other programs or funding (such as insurance), to encourage households to relocate in a suitable housing development or an area promoted by the community's comprehensive recovery plan and should include higher opportunity areas. Incentive payments are ineligible for households that move to disaster-impacted floodplains.

Subrecipients may use the Low to Moderate Housing Incentive (LMHI) to resettle households who were affected. Housing incentives are usually offered to encourage households to relocate to a more suitable environment, including an area promoted by the community's comprehensive recovery plan and may be in addition to acquisition or buyout awards. Subrecipients must ensure that the intent of the housing incentive is satisfied at award.

All buyout activities are a type of acquisition of real property (as permitted by section 105(a)(1) of the HCD Act). However, only acquisitions that meet the definition of a "buyout" are subject to the post-acquisition land use restrictions discussed further below. To determine whether the acquisition is a buyout activity, it must be ascertained whether the intent of the purchase is to reduce risk from future flooding or to reduce the risk from the hazard that lead to the property's Disaster Risk Reduction Area designation.

To conduct a buyout in a Disaster Risk Reduction Area, the subrecipient must first establish criteria in its policies and procedures to designate the area subject to the buyout. To designate an area, subrecipients must demonstrate that: (1) the hazard must have been caused or exacerbated by the Presidentially declared disaster area; (2) the hazard must be a predictable environmental threat to the safety and well-being of inhabitants as evidenced by the best available data and science; and (3) the Disaster Risk Reduction Area must be clearly delineated so that HUD and the public may easily determine which properties are located within the designated area. Subrecipients may only redevelop an acquired property if the property is not acquired through a buyout program. In carrying out acquisition activities, subrecipients must ensure they are in compliance with their long-term redevelopment plans.

In buyout programs, subrecipients have the discretion to determine the appropriate valuation method, including paying either pre-disaster or post-disaster fair market value (FMV). However, subrecipients must uniformly apply whichever valuation method they choose.

In most cases, a subrecipient that provides pre-disaster FMV to buyout applicants provides compensation at an amount greater than the post-disaster FMV. When the purchase price exceeds the current FMV, any CDBG-DR funds in excess of FMV are considered assistance to the seller, thus making the seller (homeowner) a beneficiary of CDBG-DR assistance. If the seller receives assistance as part of the purchase price, this may have implications for duplication of benefits

calculations or for demonstrating National Objective criteria. However, a program that provides post-disaster FMV to buyout applicants merely provides the actual value of the property; thus, the seller is not considered a beneficiary of CDBG-DR assistance.

HUD is waiving Section 104(d), the one-for-one replacement requirement, for lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation.

#### **(a) Buyouts**

Property acquired through a buyout program will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or floodplain and wetlands management practices other purposes allowed by HUD and accepted by the GLO. No new structure will be erected on property acquired, accepted, or from which a structure was removed under the buyout program other than: (1) a public facility that is open at all sides and functionally related to a designated open space (e.g., a park, campground, or outdoor recreation area); (2) a rest room; or (3) a flood control structure, provided that structure does not reduce valley storage, increase erosive velocities, or increase flood heights on the opposite bank, upstream or downstream, and that the local floodplain manager approves, in writing, before the commencement of the construction of the structure. After receipt of the assistance, with respect to any property acquired, accepted, or from which a structure was removed under the buyout program, no subsequent application for additional disaster assistance for any purpose or to repair damage or make improvements of any sort will be made by the subrecipient to any federal entity in perpetuity.

Subrecipients are encouraged to use buyouts strategically as a means of acquiring contiguous residences for uses compatible with open space, recreational, natural floodplain functions, other ecosystem restoration, or wetlands management practices.

#### **(b) Acquisitions**

Subrecipients can only redevelop an acquired property if it is not acquired through the buyout program and the purchase price is consistent with applicable uniform cost principals; in such cases, the property's post-disaster value must be used.

Subrecipients may opt to provide relocation assistance or housing incentives to the owner of a property that will be redeveloped if the property is purchased by the subrecipient through voluntary acquisition, and the owner's need for additional assistance is documented. In carrying out acquisition activities, subrecipients must ensure they are in compliance with their long-term redevelopment plans.

When undertaking acquisition activities, to demonstrate that the buyout meets the LMH National Objective, subrecipients must meet the Housing and Community Development Act requirements and applicable regulatory criteria. Section 105 (c)(3) of the HCD Act (42 U.S.C. 5305(c)(3)) provides that any assisted activity under this chapter that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit low- to moderate-

income persons only to the extent such housing will upon completion be occupied by such persons.

**(c) Housing Incentives**

Types of eligible properties for housing/buyout incentives that may reside within the jurisdiction of the subrecipient include:

- 1) Single family property (detached and attached 1-4 units)
- 2) Condominium unit
- 3) Cooperative unit
- 4) Modular home/manufactured home
- 5) Vacant land in which a residence was in place at the time of the storm

**i. Relocation assistance**

Relocation assistance may be offered at the discretion of the subrecipient or the state; however, the assistance may not exceed \$35,000 for purchase of a lot or newly constructed home, or \$10,000 for an existing home.

**ii. Down Payment Assistance**

This activity is available only under the Voluntary Buyout and Acquisition Programs. The subrecipient will choose the option that best benefits their community.

The following items must be met to provide additional funding:

- Purchased a lot or are using a pre-owned lot located outside of a floodplain or to a lower-risk area within the subrecipient’s jurisdiction for construction of a new home (a construction date must be provided), or the applicant purchased a newly constructed or existing home located outside of floodplain or a lower-risk area in the subrecipient’s jurisdiction.
- Purchased homes must be considered decent, safe, and sanitary.
- The funding must be used within an established timeframe (e.g., sixty (60) days).
- Down Payment Assistance:
  - a) HUD approved a waiver to allow homeownership assistance to be provided to households earning up to 120 percent of the area median income and down payment assistance for up to 100 percent of the amount required. While homeownership assistance may be provided to households with up to 120 percent of the area median income,

only those funds used to serve households with up to 80 percent of the area median income may qualify as meeting the low- and moderate-income person benefit National Objective.

- b) The replacement home is usually more expensive than the buyout home because new homes are built to recently adopted building codes and zoning requirements as opposed to older homes.
- c) The amount of assistance is based on the determined need of the applicant; however, the amount will not exceed \$35,000.

#### **(d) Types of Buyout and Acquisition Programs**

##### **i. Voluntary**

Applicants located in a floodway, floodplain, or areas designed as Disaster Risk Reduction Areas (DRRA) by the subrecipient may be assisted if:

- The applicant is offered/accepts an incentive to relocate outside of the floodplain or to a low-risk area, e.g., moving costs, down payment assistance, (incentive costs must be for a specific purpose and must be properly defined for award).
- The applicant was required to maintain flood insurance at the time of the event and still has unmet recovery needs.

Transactions with no threat or use of eminent domain and meet requirements set forth in 49 CFR 24.101(b)(1) as follows:

- No specific site or property needs to be acquired.
- The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.
- The subrecipient will not acquire the property if negotiations fail to result in an amicable agreement and the owner is so informed in writing.
- The subrecipient will inform the owner in writing of what it believes to be the market value of the property.

##### **ii. Involuntary**

Subrecipients must have eminent domain authority. This would include transactions that do not meet the applicable requirements of 49 CFR 24.101(b)(1). The Uniform Relocation Act of 1970 (URA), as amended, must be followed and complied with. Subrecipients will need to develop a Residential Anti-displacement and Relocation file, as well as policies and procedures to ensure compliance with URA requirements.

Eminent Domain must be used for a public use -- defined in Texas as ownership, use and enjoyment of the property by the State, a political subdivision of the state, or the public at large, or an entity granted the power of eminent domain under law, or the elimination of urban blight.

Property bought or acquired through the use of eminent domain may not be used if a private benefit is conferred to a particular private party. Furthermore, eminent domain may not be used if the primary purpose is for economic development or enhancement of tax revenues.

**(e) Program Requirements**

- i. All proposed buyout or acquisition programs will undergo Affirmatively Furthering Fair Housing (AFFH) review by the GLO before approval. Such review will include assessments of (1) a proposed project's area demography, (2) socioeconomic characteristics, (3) housing configuration and needs, (4) educational, transportation, and health care opportunities, (5) environmental hazards or concerns, and (6) all other factors material to the AFFH determination.
- ii. Provide an estimate of Fair Market Value. An appraisal (pre-storm) and a current appraisal (post-storm) are used to establish the agency's estimate of market value in accordance with the Uniform Relocation Act (49 CFR 24.103 and 24.104).
- iii. A Duplication of Benefits (DOB) and a National Flood Insurance (NFIP) review must be completed and documented for each applicant.
- iv. A statement of the amount offered as compensation, description and location of the real property, and a list of buildings, structures, or other improvements must be provided to the applicant. The final settlement (buyout offer) must be properly documented and assistance calculations must show how the subrecipient determined the final offer.
- v. The applicant will have the right to determine the value of the property by hiring an appraiser to conduct their own assessment. If accepted, the subrecipient will update the offer and submit it to the owner.
- vi. The owner must remove all personal property from the residence prior to the day of closing.
- vii. Closing documents: The applicant must sign the agreement for sale document and a limited Subrogation Agreement document. If a buyout incentive is part of the final buyout offer, e.g., the family will agree to relocate outside the floodplain or to a lower-risk area, the incentive award is provided once confirmation is received (closing statement of new home) by the subrecipient.
- viii. The subrecipient will ensure the property title is deed restricted and remains public open space in perpetuity, as necessary (buyout program) as described above.
- ix. The project must comply with all applicable federal and state requirements.

**(f) Eligibility Requirements**

i. Buyout and Acquisition: in addition to the Eligibility Requirements outlined in 4.C (1), the following are requirements for eligibility of buyout and acquisition applicants:

a. Designated Buyout Area(s)

Subrecipients must designate and delineate specific areas that are eligible for participation in Buyout programs, with the goal of acquiring contiguous residences. Applicant’s property must be located within the Subrecipient’s designated buyout area(s). Eligible areas include: Special Flood Hazard Area(s) and other floodplain or floodways, as defined by the Subrecipient in the program guidelines; and Disaster Risk Reduction Areas, as defined by the Subrecipient in the program guidelines.

b. Existing Debt

Existing liens must be satisfied with the proceeds of the buyout or acquisition as a part of the closing requirement. There may be circumstances where the proceeds are not enough to satisfy the existing lien. When a lien issue is known the Subrecipient (or their representative) should document the challenge and contact GLO program support to identify possible solutions prior to scheduling a closing. If a lien cannot be satisfied, or if the owner is left with limited resources to purchase a new home after exhausting all program benefits, the homeowner may decline to participate in the program and/or the Subrecipient may seek assistance from GLO program staff to address the situation.

c. Clear Title

Subrecipients must verify that applicants have clear ownership in a proposed buyout/acquisition property, and that they can legally enter in negotiation for the sale of the property. Ownership must be determined by an insured Title Commitment Report. Subrecipients are required to procure attorneys or title companies in accordance with 2 CFR 200 unless the Subrecipient plans to use their own qualified legal staff (employees). Subrecipients should refer LMI owners without clear title to Legal Aid, or the owners may secure the services of private legal counsel.

ii. Property Types

- Single family residence
- Vacant lots in which a residence was in place at the time of the storm

**(g) Amount of Assistance**

Subrecipients should only include the amount needed by the applicant to achieve homeownership. The amount of assistance would be based on the FMV, plus any program incentives offered (if applicable).

## **(h) Disposal of Storm Damaged Property**

Once the applicant has purchased a lot or home as result of an acquisition/buyout, the applicant's storm damaged property will be demolished. The subrecipient should complete the demolition of the home within 45 days of vacancy. The cost of the demolition can be a charge to the program.

In buyout programs, the land will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, floodplain or wetlands management practices. There are options for disposing of the property including:

- i. The subrecipient can lease the property to adjacent property owners or other parties in return for a maintenance agreement;
- ii. The subrecipient can convert the land to green space; or
- iii. The subrecipient can opt to sell the acquired property at a fair market value; however, the proceeds will be classified as Program Income and must be returned to the state. Additionally, if the subrecipient acquired the property as part of a buyout, the subrecipient will be required to place a deed restriction or covenant dedicating the property to be maintained for compatible uses in perpetuity as discussed above.

Subrecipients must send the funds to:

Attention:  
Texas General Land Office  
Agency Cashier  
PO Box 12873  
Austin, TX 78711-2873

In the accompanying check, subrecipients will need to include the grant number, contract number, activity number(s), identify it as Program Income, and the reason for return.

Properties purchased under an Acquisition for Redevelopment program are eligible for redevelopment in the future in a resilient manner to protect future occupants of the property. The acquired property must continue to meet one of the CDBG program's national objectives for at least five (5) years. (HUD CPD-17-09 notice) The post-purchase disposition of most acquired properties is subject to certain limitations and requirements, including CDBG-DR eligible activities and national objectives. Subrecipients have flexibility within these parameters to redevelop the properties in a way that best serves the goals of the community and in a manner that is in line with the community's long-term community recovery plan.

Examples of national objectives and eligible activities that will meet final disposition of property requirements include:

- i. Low or Moderate Income Housing 105(a) 4. Development of affordable rental housing with a minimum of five years of affordability. Development is subject to

all new construction elevation, green building standards, broadband, and other applicable compliance standards. Flood insurance must be maintained on the property in perpetuity if located in the SFHA.

- ii. Low or Moderate Income Area 105(a) 2, 105(a) 4, 105(a) 17. Development of a public infrastructure facility that serves an LMI residential area, development of a grocery store that serves an LMI residential area. Development is subject to all new construction elevation, green building standards, and other applicable compliance standards. Flood insurance must be maintained on the property in perpetuity if located in the SFHA.
- iii. Urgent Need 105(a) 2, 105(a) 4, 105(a) 17. Development of a project that is eligible but does not meet one of the LMI requirements of directly or indirectly benefitting at least 51% LMI persons.

#### **(i) Additional Allowable Expenditures**

The following expenditures are allowable under the Buyout/Acquisition Program:

- i. The closing costs associated with processing the transaction;
- ii. Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property and similar expenses incidental to convey the real property to the subrecipient. Costs associated with perfecting the property are not allowed;
- iii. Penalty costs and other charges for prepayment of any pre-existing recorded mortgage; and
- iv. The pro rata portion of any prepaid real property taxes which are allocable to the period after the subrecipient obtains the title to the property or effective possession of it, whichever is earlier.
  - Funding provided toward the purchased property must not be used to duplicate benefits already paid by another federal agency such as FEMA and SBA. The *DOB Calculation Form* will need to include payments for eligible relocation assistance.

#### **(4) Demolition**

##### **(a) Overview**

Demolition activities are eligible and were developed to serve as the basis for assisting program-eligible homeowners, with the elimination of slum and blight. Demolition activities may be eligible for the LMI National Objective. The Demolition Program includes total removal of all standing structural components and any debris. The purpose is to address slum and blight on a spot basis and assist in the removal of vacant, deteriorated, or abandoned homes. The subrecipient and the state will address voluntary and involuntary participation for any home not in use and not in compliance with applicable codes, or that constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions. The

property owner may maintain ownership of the property, and the use of the property post-demolition will be determined based upon the needs analysis.

**(b) Voluntary Eligibility**

Applicants shall provide complete and accurate information regarding the eligibility criteria, including information necessary to document a Duplication of Benefits (DOB) review and a National Flood Insurance (NFIP) review.

**(c) Involuntary Eligibility**

The structure(s) shall be required to meet eligibility requirements by verifying FEMA data for Duplication of Benefits (DOB) and conducting a National Flood Insurance (NFIP) review. The following are threshold requirements that must be met for structure(s) eligible for assistance under the involuntary slum and blight program:

- i. Condemning the structure under state or local law; and
- ii. Placing a lien on the property

Failure to disclose accurate and complete information that may affect eligibility requirements may be referred to the GLO for further action. Applicants shall be required to make full restitution to the GLO if applicants submit inaccurate or incomplete information to meet eligibility requirements. Requests for further assistance will be denied unless restitution is made in full.

**(d) National Objectives**

**i. Low- to Moderate-Income (LMI) National Objective**

Demolition of the home of an LMI applicant that is unfit for human habitation or not in compliance with applicable codes, or that constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, for the benefit of persons of income that does not exceed 80 percent of the area median income.

**ii. Slum and Blight**

The home identified for demolition must meet the definition of a slum, blighted, or deteriorated structure under state or local law. This can be done by condemning the structure or identifying the structure as being in violation of Chapter 343 Texas Health and Safety Code. GLO's Form 14.04, *Slum & Blight for Area Basis National Objective*, must be completed and submitted to the GLO.

**iii. Urgent Need**

The use of urgent need is limited. HUD has waived the certification requirements for documentation in using the urgent need National Objective. The grantee must reference in its action plan needs assessment the type, scale and location of the disaster related impacts.

**(e) Amount of Assistance**

The cost for demolition will be based upon an unmet needs assessment to include necessary environmental mitigation costs not to exceed the composite price determined by the subrecipient or the state. If the total costs for demolition and the environmental mitigation costs exceed the composite price, the applicant will be required to provide the gap funding. The cost for demolition may include additional expenses related to municipal requirements and/or health or safety related conditions specific to building site or location.

**(f) Eligible Structures**

Any residential dwelling, building, structure, or property that is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes, located in or near a residential area, is eligible for this program. Subrecipients will work with the GLO to define target areas for demolition.

**(g) Program Requirements**

- i. Demolition shall be defined as the demolition, removal, and disposal of an existing structure or structures including the foundation(s).
- ii. Demolition oversight services include up to 2 inspections per demolition project. Demolition agreements will be 3 party contracts between the subrecipient, the contractor, and the applicant/owner (except in cases where the property is demolished on an involuntary basis).
- iii. The demolition process includes the initial inspection, contractor selection, an inspection during the demolition, and a final inspection following demolition.
- iv. Structure shall be defined as buildings and/or partial buildings.
- v. The project must comply with all applicable federal and state requirements.

**I. Program Requirements (Not including Demolition, Reimbursement or New Construction Activities)**

**Unsecured Forgivable Promissory Note**

- (1) Participants in the Single Family Homeowner Assistance Programs shall be required to sign an *Unsecured Forgivable Promissory Note* (GLO Form 13.09) located on the GLO's <http://recovery.texas.gov/> website.
- (2) The subrecipient or the state will be required to execute the Unsecured Forgivable Promissory Note (the Note) with assisted homeowners for all rehabilitation or reconstruction homeowner activities under the CDBG-DR Program. The Note may be required to be recorded in the county courthouse records during the affordability monitoring period conducted by the subrecipient or the state. The homeowner must comply with the terms of the Note as follows:

- (a) Rehabilitation or reconstruction assisted homeowners are required to maintain ownership of the assisted property for a minimum affordability period of at least 3 years from the date of the executed Promissory Note.
  - (b) Cash out refinancing, home equity loans, or any loans utilizing the assisted residence as collateral are not allowed for the 3-year period. A violation of this policy will activate the repayment terms of the Note.
  - (c) Assisted homeowners are required to maintain principal residency in the assisted property for the required 3 years. A violation of this policy will activate the repayment terms of the Note.
  - (d) Taxes are to be paid and in good standing for the properties assisted. Homeowners may be on a payment plan, but it needs to be submitted to the subrecipient.
  - (e) Insurance must be maintained at the assisted property. Hazard, flood (if applicable), and windstorm (if applicable) will be monitored for the 3-year period.
  - (f) Transfer notice of requirement to obtain and maintain flood insurance for property. Failure to do so shall deem the homeowner liable to reimburse the state for the relief assistance applied to the property. Evidence of this requirement must be maintained in disclosure documents by the homeowner.
- (3) The subrecipient is required to monitor assisted households for compliance with the terms of the Note. Homeowners who default on the terms of the Note will repay the prorated amount and any funds remaining on the note. The calculated default amount may be reported to credit bureaus and the Texas Office of the Attorney General.
- (4) If the assisted homeowner continues to occupy the home until the term of the note expires, the loan is forgiven and conditions are clear on the disposition of the property. If the property is sold, transferred, or vacated by the assisted homeowner for any single period that exceeds thirty (30) days during the 3 year forgivable loan period, the repayment terms of the Note will be enforced, except in those cases addressed below.
- (a) Migrant farm workers who are recipients of a home under this program may, when proven to be performing work for not more than 6 months, leave a home vacant during the time of their employment; however, the recipient may not rent out the home, and they must intend to return to the home. If the assisted homeowner for any reason ceases to reside in the assisted unit during the subrecipient's CDBG-DR contract period, only LMI persons may re-occupy the unit until the contract is administratively closed by the GLO or the CDBG-DR contract period expires, whichever is earlier.
  - (b) Accelerated forgiveness in certain cases: In the event of (1) the death, (2) relocation to a managed-care facility, or (3) relocation resulting from documented mental or physical incapacitation of the sole remaining assisted homeowner identified in the original application, the subrecipient may forgive any remaining loan balance. However, any requirement that only LMI persons may occupy the assisted housing unit until the CDBG-DR contract is closed by the GLO or the contract period expires, shall not be waived by the subrecipient. Subrecipients may submit a request to the GLO for assistance with unique

accelerated forgiveness cases that may require review as a result of trust or will heirship matters.

(5) Subrecipients that will be offering new construction assistance must ensure that the requirements above are enforced through recorded deed restrictions, covenants, or other similar mechanisms, for a period not less than 5 years. Subrecipients must establish resale or recapture requirements for housing and outline those requirements in amendments to the Action Plan. The resale and recapture provisions must clearly describe the terms of the resale and recapture provisions, the specific circumstances under which these provisions will be used, and how the provisions will be enforced.

(6) The project must comply with all applicable federal and state requirements.

## **J. Files and Reports**

The subrecipient will maintain accurate Single Family Homeowner Program files and records for general administration activities, for each applicant, and for each assisted homeowner as required by the GLO in the GLO's system of record. Such files will be open for inspection as to qualifications, bids, and awards. Record keeping procedures must be developed for monitoring/audit by the GLO.

## **5. AFFORDABLE RENTAL PROGRAM**

The Affordable Rental Program has been designed to provide funds for rehabilitation, reconstruction, and new construction of affordable multifamily housing projects in areas impacted by Hurricane Harvey. Funding is available through the Community Development Block Grant Disaster Recovery (CDBG-DR) Program, administered by the GLO. Harris County and Houston will develop their own programs to address the unmet needs for renters within those jurisdictions.

The GLO's Request for Applications (RFA) will establish the application process and acceptance period, threshold criteria (including applicable building codes), and the award process.

The state may use CDBG-DR funds to rehabilitate units not damaged by the disaster if the activity clearly addresses a disaster-related impact and is located in a disaster-affected area. The impact can be demonstrated by the disaster's overall effect on the quality, quantity, and affordability of housing stock and resulting inability of that stock to meet post-disaster needs and population demands.

At a minimum, 51 percent of the units must be restricted for the entire affordability period for LMI individuals earning 80 percent or less of the AMI at affordable rents. The rents must comply with the HUD HOME Investment Partnership (HOME) Rents and other existing LURA restrictions if applicable. HOME rent limits are defined by HUD and must equal the lesser of fair market rents or 30 percent of the adjusted income for people earning 65 percent of the AMI. **A minimum of 15 years for the rehabilitation or reconstruction of multi-family rental projects with 8 or more units, and a minimum affordability period of 20 years for the new construction of multi-family rental units (with 8 or more units)** LURA will be required to ensure that rental housing remains affordable for the required period of time.

All proposed developments will undergo Affirmatively Furthering Fair Housing (AFFH) review by the GLO before approval. Such review will include assessments of (1) a proposed project's area demography, (2) socioeconomic characteristics, (3) housing configuration and needs, (4) educational, transportation, and health care opportunities, (5) environmental hazards or concerns, and (6) all other factors material to the AFFH determination. Applications should show that projects are likely to lessen area racial, ethnic, and low-income concentrations, and/or promote affordable housing in low-poverty, nonminority areas in response to natural hazard-related impacts.

#### **A. Types and Amounts of Assistance**

- The maximum award cap under the Affordable Rental Program is \$25 million per development. Exact awards will depend upon the amount of storm damage and the cost reasonableness of funds to bring the property up to GLO Construction Standards. Eligible costs include hard costs for construction and soft costs associated with repair or construction of rental units, plus other costs permissible under 24 CFR 570.
- The CDBG-DR funds may not be used to pay for damages covered by any FEMA reimbursement, SBA assistance, insurance claim, or any insurance policy including delayed or future payments anticipated. A DOB review must be completed for each project to determine unmet needs prior to award.
- CDBG-DR Affordable Rental Program funds will be in the form of a 0 percent interest performance-based loan or grant which will be forgiven when all contractual obligations have been met, including satisfactory completion of construction and compliance with the required affordability period. The terms of the loan/grant may be modified by agreement, if necessary, given other requirements from other financial programs (e.g., tax credit programs, etc.).
- As determined by the FR, a 15-year or 20-year LURA will be placed on developments and any applicable lenders must agree to subordinate to the LURA. The applicant will guarantee completion of construction until a certificate of occupancy has been issued and retainage has been released. If a rental project that requires rehabilitation or reconstruction is subject to existing affordability requirements associated with other funding sources, the 15-year affordability period required under this notice may run concurrently (or overlap) with the affordability requirements associated with such other funding.
- Project construction must be completed within eighteen (18) months of the effective date of the contract, unless otherwise extended, at GLO discretion.

#### **B. Property Eligibility**

- (1) Development must meet CDBG-DR eligibility requirements
- (2) All properties eligible for new construction, rehabilitation, and reconstruction must be located within an eligible county (except for Harris County or Houston), and the property either sustained damage from the event or is replacing units that were destroyed by the event.
- (3) The GLO will develop an RFA and an application process to fund the rehabilitation of existing multifamily housing developments or the replacement of damaged units through reconstruction or new construction. Projects submitted for awards are evaluated according to the priorities

established in the RFA and the application process developed by the GLO. The RFA or application process must comply with the Eligibility Criteria requirements identified in “Eligibility Criteria,” Section (5)(D), of this document.

- (4) Proposed new construction located in the 100-year floodplain, as identified on the most current Federal Emergency Management Agency (FEMA) Flood Maps, must comply with 24 CFR Part 55
- (5) At a minimum, 51 percent of the total number of units in the development must benefit low- to moderate-income persons earning 80 percent or less of Area Median Income as defined by HUD and detailed in the Housing and Community Development Act of 1974 (HCDA) Title I, 105(a)
- (6) Rent-restricted units occupied by low- to moderate-income households must be occupied as affordable rents. The units occupied by low- to moderate-income households must comply with the HUD HOME rent limits published by HUD under the HOME program. Rent restrictions for the units occupied by LMI households apply through the entire affordability period. Compliance with rent limits is calculated in the same manner as the HOME program.
- (7) The affordable rents must not exceed the High HOME Investment Partnership (HOME) Rents or any other levels established in the LURA unless the resident receives a federal housing voucher
- (8) Multifamily rental development is eight or more rental units under common ownership
- (9) All units to be occupied by LMI households must have similar finishes and access to the same amenities as any market rate (non-LMI) units

### **C. Eligible Applicant Requirements**

- For-profit, public housing authorities, units of local governments, and not-for-profit developers/borrowers acting individually or as participants in a limited partnership [LP] or limited liability corporation [LLC] are eligible to apply. Not-for-profit entities must provide evidence of IRS tax-exempt status. Developers are required to list properties on the local Public Housing Authority (PHA) landlord list and provide notification to Disaster Housing Assistance Program (DHAP) providers. Harris County and Houston will develop their own programs to address the unmet needs for their public housing authorities.
- The applicant, development owner, principal, or developer/borrower must be in good standing with any outstanding loans and loan commitments. There may be no defaults or negative collection actions on current or previous loans.
- The applicant, developer owner, principal or development/borrower or general contractor may not be “debarred” as cited on federal and state debarment lists in accordance with 24 CFR 570.609, as well as other applicable laws
- The applicant, developer owner, principal or development/borrower must provide a complete listing with addresses of multifamily properties currently owned or managed

### **D. Eligibility Criteria**

- (1) The GLO will develop an RFA and an application process. The RFA and application process will help identify the properties that provide benefit to the community. The GLO will develop criteria to award funds to the projects meeting the housing goals and objectives of the program, fair housing criteria, and the needs of the community. All awards must be made to applicants that demonstrate capacity to complete the development planned in the application. The RFA or application must meet the following criteria:
  - (a) Funds should be directed to properties that meet the needs of the community as determined by the Needs Assessment; and
  - (b) Use of the funds must affirmatively further fair housing and increase housing choice
  
- (2) The eligibility criteria to be utilized are as follows. Rehabilitation and reconstruction developments must meet one of the following criteria and those developments involving new construction must meet two of the requirements:
 

Eligibility Criteria:

  - (a) The property is in a census tract that the poverty level is less than 20 percent;
  - (b) The unit mix must target extremely low-income (30 percent AMI) residents;
  - (c) The property must exceed the requirement of 51 percent LMI;
  - (d) The property serves persons with disabilities beyond minimum requirements; and
  - (e) The property leverages public and private financing.
  
- (3) A LURA will be placed on each multifamily development receiving disaster funds to repair, construct, or reconstruct rental units. The LURA sets forth income and rent restrictions applicable to units of affordable rental housing. This document will be filed with the local county clerk's office in the land records. The LURA must be approved by GLO, and the requirements imposed by the LURA will remain with the property for the full term of the affordability period.
  
- (4) In addition to the requirements listed above, all multifamily projects must accept Section 8 Housing Choice Rental Vouchers during the affordability period.
  
- (5) Based on the Needs Assessment, criteria will be developed to identify projects providing the greatest benefit to the community and provide incentives for:
  - (a) Increasing the number of affordable units by exceeding the requirement to lease 51 percent of the units to low/moderate income households.
  - (b) Providing units to households with the highest need for affordable housing by agreeing to create set-asides targeting very low-, low-, and moderate-income tenants.
  - (c) Providing broader access to persons with disabilities.

## **E. Program Requirements**

- (1) Projects awarded CDBG-DR funds must satisfy the nine eligibility requirements identified in Section 5.B., *Property Eligibility* of these Guidelines.

- (2) The project will also be reviewed in terms of financial feasibility with the objective to repair existing damage caused by the event and bring the property up to a standard that will extend the useful life of the development. Financials, proformas, and loan information, as well as the sources and uses of funds, must be submitted identifying the proposed financing sources and expenses of the project.
- (3) Upon allocation for funding, the property will go through environmental and AFFH review.
- (4) For rehabilitation or construction activities, the applicant must submit an acceptable Property Condition Assessment (PCA) conducted by a qualified third-party inspector. In addition to repair costs identified in the PCA, other costs will be considered if they extend the useful life of the project. The project costs must be reasonable and typical in the current marketplace for projects of similar scope. Plans and specifications must be submitted for replacement units.
- (5) The project must comply with all applicable federal and state requirements.
- (6) The project must address identified impediments to fair housing choice.
- (7) The project must serve the local population impacted by the event.
- (8) Cost Verification Controls must be in place to assure that construction costs are reasonable and consistent with market costs at the time and place of construction. The description of the project must address cost controls for housing projects involving eight or more units (whether new construction, rehabilitation, or reconstruction).

## **F. Underwriting**

- (1) The proposed multifamily projects will go through underwriting which will review the ownership structure, property operations, the sources and uses of funds, and the financial statements of the owner and guarantor (if applicable).
- (2) The underlying debt and operating expenses of the property will be reviewed to determine if the project is feasible during the affordability period and demonstrates income adequate to cover operating expenses and applicable debt service.
- (3) Sources and uses of funds will be reviewed to determine the adequacy of the funding to complete the project in conjunction with the PCA. The scope of work for the repair of any damage caused by the event will also be assessed for adequacy of funding.
- (4) Following underwriting, a contract will be executed between the applicant and the state. This contract will specify the terms under which the funding is provided to the project, the number of units to be renovated/developed, the affordability period, and other conditions of the agreement.

## **G. Construction**

- (1) Housing that is constructed or rehabilitated with CDBG-DR funds must meet all applicable local, codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. When CDBG-DR funds are used for a rehabilitation development, the entire unit must be brought up to the applicable property standards and meet Housing Quality Standards. The GLO will conduct a final inspection of the development. Common areas and units are

subject to a Uniform Physical Conditions Standards inspection. Any deficiencies identified in that inspection must be corrected before final retainage is released.

- (2) Housing developments must meet all accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). Multifamily housing developments must meet all accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). Covered multifamily dwellings, as defined at 24 CFR 100.201, as well as common use facilities in developments containing multifamily dwellings, must meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C.3601–4619), and the ADA 2010 Standards with HUD exceptions.
- (3) New Housing Construction must include compliance with ONE of the following Green Standards:
  - (a) ENERGY STAR (Certified Homes or Multifamily High-Rise);
  - (b) Enterprise Green Communities;
  - (c) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); or
  - (d) ICC–700 National Green Building Standard.
- (4) A Certificate of Compliance issued as part of the chosen standard’s compliance process will be required to be submitted as proof of compliance. Homes and multifamily homes in high wind and hurricane areas must also be built in compliance with FORTIFIED Home© standards. These standards also apply to rehabilitation projects that fall within the HUD definition of substantial rehabilitation. The developer/borrower must comply with Labor Standards, Section 3 Plan, Minority/Business Enterprise (MBE), Small Business Enterprise (SBE) requirements, Affirmative Marketing, and Contractor Clearance.
- (5) The project costs must be “reasonable and customary” as determined by an acceptable, independent third-party report, or considered reasonable as documented by a bidding process.
- (6) All contracts will be payment and performance bonded. Bonding companies utilized must be listed in the Department of the Treasury’s Certified Listing of Companies ([https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570\\_a-z.htm](https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm)) All projects are subject to the Davis-Bacon Wage Act (40 USC 276a–276-a5, 24 CFR Part 70), The Contract Work Hours and Safety Standards Act (40 USC 327 et seq.), The Copeland “Anti-Kickback” Act (18 USC Sec 874), Section 3 (24 CFR Part 135) requirements, reporting, and goals, and be should budgeted accordingly.
- (7) Prior to commencement of construction, the developer/borrower must have a Notice to Proceed. All developments including scattered-site projects owned by a sole owner with eight or more units must comply with the Davis-Bacon Wage Act (40 USC 276a–276-a5, 24 CFR Part 70).
- (8) The American Institute of Architects (AIA) Forms 702 and 703 will be required prior to funding each draw request.

- (9) Each contract with the developer/borrower will include 10 percent of the funds to be held as retainage until satisfactory completion of the project.
- (10) Any new construction or substantial rehabilitation, as defined by 24 CFR 5.100, of a building with more than four rental units must include installation of broadband infrastructure, as this term is also defined in 24 CFR 5.100, except where the grantee documents that: (a) the location of the new construction or substantial rehabilitation makes installation of broadband infrastructure infeasible; (b) the cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or (c) the structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible. For the purposes of this program broadband service can either be hardwired or wireless, but it must be provided at 25 Mbps down and 3 Mbps up.

## **H. Labor Standards**

- (1) All multifamily developments, including scattered sites, containing eight or more units under common ownership must comply with applicable labor standards including, but not limited to, Davis-Bacon labor wage rates. Under the federal Davis-Bacon Wage Act, prevailing wages must be paid on all construction and related work projects.
- (2) The following information will be provided on all projects to the GLO Labor Standards Officer:
  - (a) Notes of bid and preconstruction conferences as well as attendance rosters with attendee signatures;
  - (b) Notice to Proceed;
  - (c) All Department of Labor (DOL) General Wage Determination reports showing prevailing wages applicable to each project throughout the construction phase;
  - (d) Final Wage Compliance Report; and
  - (e) Davis-Bacon communications, including:
    - Department of Labor communications;
    - Letters to contractor(s) requesting payments of restitution owed to workers and liquidated damages, including copies of letters confirming contractor(s) compliance and/or resolution of labor-related issues. Department of Labor (DOL) Semi-Annual Report with all required reporting data associated with the CDBG-DR event award; and
    - Additional documentation as required by GLO.

## **I. Relocation**

- (1) The applicant is responsible for the relocation activities related to the project, as applicable. The applicant shall comply with program regulations of the Uniform Relocation Assistance and Real Property Policies Act of 1970 (“URA”), as amended (49 CFR 24), and 104(d) of the Housing and Community Development Act of 1974, as amended (24 CFR 42).

- (2) If applicable, the applicant shall submit all documentation relating to URA, including but not limited to, (1) a Relocation Plan with Assurance Letter, (2) Notice to Real Property, (3) Tenant Status Reports, and (4) all Notices with Tenant Acknowledgments as required by the LURA.
- (3) As determined by the FR, Section 414 of the Stafford Act, the law that defines most federal disaster response and recovery programs, requires disaster-displaced tenants from rental properties be provided Uniform Relocation Assistance (URA) if federal funds are being used to rebuild, acquire, or demolish a housing unit. This Federal Register limits the Section 414 provision to 1 year from the date of the disaster for tenants, and indicates there is no requirement for the sub-grantee to comply with Section 414 after the 1-year anniversary. HUD waived the provision to lighten the administrative burden that is required to continue to locate displaced tenant's years after the disaster. Regular Uniform URA requirements still apply for tenants present in the unit at the time a CDBG-DR assisted activity is implemented. The displaced person is eligible to receive a rental assistance payment that is calculated to cover a period of 42 months. (49 CFR 24.402(b))
- (4) As determined by the FR, HUD has waived the tenant-based rental assistance requirements (Sections 204 and 205 of URA) to the extent necessary to permit a grantee to meet all or a portion of a grantee's replacement housing financial assistance obligation to a displaced tenant by offering rental housing through a tenant-based rental assistance (TBRA) housing program subsidy (e.g., Section 8 rental voucher or certificate), provided that the tenant is provided referrals to comparable replacement dwellings in accordance with 49 CFR 24.204(a) where the owner is willing to participate in the TBRA program, and the period of authorized assistance is at least 42 months. Subrecipients must establish and offer the person a "moving expense and dislocation allowance" under a schedule of allowances that is reasonable for the jurisdiction and that takes into account the number of rooms in the displacement dwelling, whether the person owns and must move the furniture, and at a minimum, the kinds of expenses described in 49 CFR 24.301.
- (5) The GLO will follow its Residential Anti-displacement and Relocation Assistance Plan (RARAP). The GLO will take the following steps and require subrecipients and developers to minimize the direct and indirect displacement of persons from their homes: (1) plan construction activities to allow tenants to remain in their units as long as possible by rehabilitating empty units or buildings first; (2) where feasible, give priority to rehabilitation of housing, as opposed to demolition, to avoid displacement; (3) adopt policies to identify and mitigate displacement resulting from intensive public investment in neighborhoods; (4) adopt tax assessment policies, such as deferred tax payment plans, to reduce impact of increasing property tax assessments on lower-income owner-occupants or tenants in revitalizing areas; or (5) target only those properties deemed essential to the need or success of the project.

## **J. Project Completion and release of retainage procedures**

When a project is completed, the information listed below must be submitted to allow for retainage (the last 10 percent of project costs) to be reimbursed. The items include:

- (1) A Final Draw for Retainage (identical in form to the others and includes the final inspection report from the third-party inspector indicating that the project is complete);

- (2) A Final Wage Compliance Report;
- (3) A Certificate of Occupancy for the project (for new construction);
- (4) A letter from the Architect certifying that the project meets the requirements of the Americans with Disabilities Act;
- (5) A Certificate of Substantial Completion and AIA form that is signed by the owner, general contractor, and architect (for rehabilitation and reconstruction developments);
- (6) A Lien Release from the general contractor to show that all subcontractors have been paid; and
- (7) Any documentation.

### **K. Project Lease Up Procedures**

Multifamily developments assisted with CDBG-DR funds are required to have a Project Tenant Selection Policy (TSP), Affirmative Marketing Plan, and a schedule of leases and rents to ensure compliance with CDBG-DR requirements. The TSP must be:

- (1) Written and displayed at the project leasing in a common area;
- (2) Consistent with the purpose of providing housing for families making 80 percent or less of **AMI**;
- (3) Reasonably related to program eligibility and tenant's ability to perform under the lease;
- (4) Chronological, so that tenants taken from a written waiting list are assisted in order; and
- (5) Designed to give prompt written notice of the grounds for rejection to any lessee rejected based on income.

### **L. Annual Monitoring Procedures**

Completed projects require annual monitoring. Monitoring will be conducted by the GLO throughout the affordability period. The results and reviews of monitoring activities ensure the provision of safe, decent, affordable rental housing that is in compliance with all applicable regulations. The monitoring review also ensures that the project has achieved the National Objective of leasing at least 51 percent of the units to LMI residents. Income targets and rents must comply with Affordable Rental Program LURA requirements and other compliance requirements.

### **M. Files and Reports**

The state will maintain accurate Affordable Rental Program files and records for general administration activities for each development and tenant for the duration of the Program and during the affordability period. Such files will be open for inspection by funding-source representatives.

### **N. Changes, Waivers, and/or Conflicts**

The state's vendors and subrecipients may not change, modify, waive, or revoke all or any part of these Guidelines without the written approval of the GLO.

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*Any references contained in these Housing Guidelines may be updated or changed without notice, to reflect the most up to date information available.*

***The GLO Housing Guidelines provide guidance on how to design, implement, and close a CDBG-DR Housing Program, and should not be construed as exhaustive instructions.***

For questions regarding these guidelines, contact:  
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