

2018 South Texas Floods and 2019 Disasters

Disaster Recovery

State of Texas Housing Guidelines

Last updated December 1, 2021

Texas General Land Office

Community Development and Revitalization



State of Texas
NOVEMBER 2021



Record of Changes

This section describes changes made to this document.

Number	Date	Description
1	5/2021	Non-substantive changes related to correction of grammatical and technical errors, and to add clarity
2	5/2021	Changes were made to the Affordable Rental Program to align with the RFA released May 1, 2021
3	5/2021	GLO clarified the conditions required to be met to exceed the single family rehabilitation cap in response to public comment
4	5/2021	GLO clarified provisions for temporary relocation assistance in response to public comment
5	11/2021	GLO clarified Single Family Housing Programs - Property Eligibility Requirements; added waiver from HUD to allow expenses to be reimbursed if incurred by June 19, 2021; other non-substantive changes related to correction of grammatical and technical errors, and to add clarity

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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 Community Development and Revitalization Division within 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 2018/2019 Housing Guidelines (the Guidelines) address the 2018 and 2019 Flooding and Tropical Storm Disasters associated with the following CDBG-DR funds:

Table 1. Applicability

Federal Register (FR)	Date of Publication	Public Law(s)	Located at:
85 FR 4681	01/27/2020	Pub. L. 115-254 Pub. L. 116-20	https://www.govinfo.gov/content/pkg/FR-2020-01-27/pdf/2020-01204.pdf

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

- Benefiting Low- and Moderate-Income Persons (LMI)
 - Low and Moderate Income Housing (LMH) provides that any assisted activity that involves the 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
- 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 2018/2019 Flooding and Tropical Storm Disasters; specifically, to facilitate the replenishment of housing stock lost during the storms and subsequent flooding. Questions regarding these Guidelines or requests for more information should be directed to GLO at cdr@recovery.texas.gov.

The 2018/2019 housing programs will be directly administered by GLO (or “the state”). Additionally, the GLO will partner with impacted Councils of Government (COG) and local partners, as they have direct knowledge of the needs in their areas.

The GLO may use the support of outside parties (Vendors) to serve homeowner assistance needs.

Table 2. 2018/2019 Housing Programs

Programs and Eligible Activities	National Objective	Program Administrator	Tenure "Start date" is date of HUD's approval of Action Plan
Single Family/Homeowner			
Homeowner Assistance Program (HAP): <ul style="list-style-type: none"> • Rehabilitation • Reconstruction • New construction • Repair/Replace MHUs • Hazard Mitigation • Elevation • Relocation assistance • Demolition only 	Low and Moderate Income, and Urgent Need	GLO	4 years from start date
Homeowner Reimbursement Program (HRP): <ul style="list-style-type: none"> • Reimbursement for expenses incurred by homeowners for repair to a primary residence prior to application for these funds • Reimbursement for SBA disaster home loans dispersed to homeowners for repairs to a primary residence prior to application for these funds 	Low and Moderate Income, and Urgent Need	GLO	4 years from start date
Multifamily Rental			
Affordable Rental Program: <ul style="list-style-type: none"> • Rehabilitation • Reconstruction • New construction 	Low and Moderate Income	GLO	4 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 rehabilitation, reconstruction, new construction, demolition, elevation, hazard mitigation, 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 meets 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.
- Affirmatively further fair housing through policies and procedures that the GLO will have in place and will identify disaster unmet needs through targeted marketing as outlined in regional needs assessments.
- Emphasize housing choices and designs to reduce maintenance and insurance costs, as well as provide the provision of independent living options.

2. DEFINITIONS

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)(24 CFR 200.625): A document used to help Developers offer equal housing opportunities regardless of race, color, national origin, religion, sex, familial status, or disability (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.

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.

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 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.

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.

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

Developer: Also referred to as “Provider,” means a private individual or a profit-making or nonprofit organization receiving award under a Request for Applications under the Affordable Rental Housing Program for the purposes of completing new construction, reconstruction, or rehabilitation of multifamily residential properties for which at least 51% of the units shall be dedicated to serving low- and moderate-income residents.

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 flooding mitigation, 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 2018/2019 Flooding and Tropical Storm disaster events.

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 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 Area (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.

Habitability Standards: A set of construction standards developed by the GLO that are based on Housing Quality Standards detailed under 24 CFR 982.401.

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 Program: The utilization of CDBG-DR funding to assist with the rehabilitation or reconstruction of home damaged during a disaster event. The home to be assisted must have been owner-occupied at the time of the event.

Homeowner 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 between the date of the disaster event and the date of application to GLO, not to exceed June 19, 2021. Reimbursement for costs after June 19, 2021 are ineligible. Applicants may qualify to receive reimbursement of SBA loans.

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 survivor, 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](#).

Housing Incentives: Incentive payments 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. The housing incentive may be offered to improve a residential structure that upon completion will be occupied by low- and moderate- income households.

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 and 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 Developer or the state to verify the income eligibility of each household applying for assistance at the time assistance is provided.

Low and 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, vulnerable populations, and other 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 COGs and other local partners to develop regional local needs assessments. Each needs assessment will be posted for a 15-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 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 Developer and the state and directly generated from the use of CDBG 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.

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- and 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). Subrecipient does not include procured Vendors, private grant administrators, developers, or contractors providing supplies, equipment, construction, or services and may be further restricted by Program rules or other guidance including applications. Subrecipients are not administering any housing activities subject to these Guidelines.

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.

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 state that requires applicants to comply with several terms during 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 state cannot finance the activities on its own because other funding sources are not

available. 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 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.

3. PROGRAM DESIGN

To develop the Program Design for all activities offered through this funding, the state used qualified data (HUD/FEMA/SBA, insurance data, or other data in advance) to allocate the disaster funding. Section 3.A.2 of these Guidelines explain an unmet needs assessment, which was required prior to implementing these programs. The GLO consulted with 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 (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 15 days on a publicly accessible website. If any public comment is made, the State must address the comment in a public response.

A. Program Design Requirements

(1) National Objectives

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

- **LMI** — Benefitting Low- and 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
- **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 survivor 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 GLO will consult with COGs and other local partners 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 portion of these 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:

- 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, the applicant must demonstrate that the damage or destruction to the home occurred as a result of the disaster 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 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, Beneficiaries 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 GLO's Habitability 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 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, 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 GLO. 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

GLO 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.). 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.

The Homeowner Assistance Program and the Homeowner Reimbursement Program will concentrate on those populations identified in the local affirmative fair housing marketing plans that will establish outreach, marketing and admissions programs for underrepresented or underserved populations.

Under the Affordable Rental Program, all proposed projects will affirmatively further fair housing while also greatly prioritizing LMI rental units alongside having minimal affordability periods for both rehabilitation/reconstruction and new construction. 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

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 to applicants based on single family project type.

Table 3. Housing Assistance Caps

Project Type	Reimbursement	Recon/New Construction	Rehabilitation
Base Unit		*Local Composite Bid	*Local Composite Bid <i>max</i> \$65,000 (exceptions below)
Elevation		\$60,000	\$60,000
Water Well		\$30,000	\$30,000
Septic System		\$25,000	\$25,000
Accessibility		\$30,000	\$30,000
Abatement		\$25,000	\$25,000
**Project Soft Costs		** Actual and max \$10,000	** Actual and max \$7,000
Relocation Assistance		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
Reimbursement	\$50,000		

***Local Composite Bid:** All program units will require a local composite bid which will be performed by 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. 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. Additionally, the rehabilitation cap may be up to \$150,000 for applicants whose damaged homes meet all of the following conditions:

- Home does not require elevation to comply with local or federal elevation requirements;
- Home exceeds 1500 square feet of living space;
- Estimated cost of repairs is less than 50% of CAD’s structure value (not property);
- Home was built after 1982;
- Household income is less than 120% AMFI; and
- If in a floodplain, applicant can prove that they can obtain NFIP or private insurance as a condition of assistance.

The estimated cost of repairs does not include soft costs or other caps established above.

****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, the state 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. GLO's Form 11.17, Work Write-Up/Cost Estimate Form, includes the approved costs.

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.

Affordable Rental Project Cap: The maximum award cap under the Affordable Rental Program is \$5,000,000 (five million dollars) 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 Fair Housing Marketing Plan

GLO is 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 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, 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 and as applicable.
- 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.
- Documentation of all marketing measures used, including copies of all advertisements and announcements, will be retained and made available to the public upon request.
- Developers 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.
- Affordable 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 state will coordinate with HUD-certified housing counseling organizations to ensure that information and services are made available to both renters and homeowners. Information on HUD Approved Housing Counseling Agencies 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 Developers and Vendors, 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 Developers or Vendors, and the GLO. Developers and Vendors should refer to the [GLO's Section 3 Policy](#).

(2) Applicant Data

The GLO will establish procedures 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; and
- The presence or non-presence of a household member with a disability.

(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. All projects, program activity files, and applicant information received must be maintained within the GLO's system of record.

E. Procurement Requirements

Developers and the state 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, Developers and the state may utilize HUD’s CDBG-DR and Procurement Guidance.⁴

Developers must procure goods and services using the federal procurement and contract requirements as applicable under 2 CFR 200.318 – 200.326. These procurement requirements must be followed for reimbursement from grant allocations of CDBG-DR funds provided by HUD. Developers 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.

Developers 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 will be used. Developers 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, Developers 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 Developers 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, Developers and the state 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. Developers 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.” (2 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. 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, including those found in these Housing Guidelines at the time of project completion.

(1) General Standards

All housing units participating in the Program will be required to meet Habitability Standards at a minimum which are based on Housing Quality Standards detailed under 24 CFR 982.401, Fair Housing Accessibility Standards, and Section 504 of the Rehabilitation Act of 1973, as applicable. Housing activities must also meet all local building codes or standards that may apply. All single family homes receiving rehabilitation, reconstruction, or new construction assistance with CDBG-DR funds 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) Habitability Standards

All CDBG-DR assisted reimbursement projects must meet GLO's Habitability Standards which are based on HQS (24 CFR 982.401) at completion, at a minimum, as well as all applicable local codes and ordinances.

(4) Construction Standards

(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, Developers 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.

Developers 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. Single family and multifamily homes in high wind and storms 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. Developers 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, 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 house is not substantially damaged/improved, rehabilitation may be approved if either the total hard costs to repair a home does not exceed \$20,000 or the home is elevated in accordance with FEMA floodproofing standards under 44 CFR 60.3(c)(3)(ii) or successor standard, at least 2 feet above the annual floodplain or as modified by local code.

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

Developers 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/>.

Developers 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

GLO has incorporated Resilient Home Construction Standards for substantially damaged residential buildings or new construction 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 that are reconstructed 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.

Developers and the state 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., 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). Developers 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 Developers, Vendors, and the GLO prohibit local elected officials, Developer 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 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 Developer or Vendor as applicable 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 Developer 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

Concerned citizens have the ability to [file a complaint or appeal](#) a decision to the GLO. Developers and the state are responsible for responding to complaints and appeals in a timely and professional manner. Developers 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, Developers 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 Developers and the state shall identify customer service specialists within their program that will be tasked with handling all inquiries.

Customer service specialists are responsible for (1) determining if complaints and appeals relate to the business or authority of the Developer 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 Developers and Vendors 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

Developers 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 if applicable.

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

K. Changes, Waivers, and/or Conflicts

The state has the right to change, modify, waive, or revoke all or any part of these guidelines.

Waivers to the requirements in these Guidelines must be documented and must demonstrate why the housing guidelines are not practicable for the policy being waived.

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 Homeowner Assistance Program and Homeowner Reimbursement Program, also referred to as HARP include: rehabilitation, reconstruction, and or new construction; reimbursement; repair or replacement of MHUs; hazard mitigation; elevation; relocation assistance; demolition; and other activities associated with the recovery of impacted single family housing stock. All single family housing programs under these Guidelines will be administered by the state and contracted Vendors.

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. Vendors should work to cultivate partnerships with local and community liaisons such as banks, counseling agencies, legal services, title companies, etc.

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, including links to apply online. 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. Vendors may assist applicants with application entry into TIGR.

All documentation submitted by the applicant must include a signed (electronic or written) 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. All applicants will be asked to provide a valid ID, such as a driver's license, state/government-issued ID, or passport.

(1) General Eligibility

(a) Income Determination

The income limits to be utilized for HARP are area-specific (by county) income limits established yearly by HUD. 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 or applicable income limits, published annually by HUD, shall be used by the state to verify the income eligibility of each household applying for assistance at the time assistance is provided. 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 HARP 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

(c) Unmet Needs

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.

(d) 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 at the time of the disaster, (2) the property was in a floodplain at the time of the disaster, and (3) the property owner did not have flood insurance on the damaged property even when the property owner was not required to obtain and maintain such insurance.
- CDBG-DR assistance for rehabilitation/reconstruction of a damaged home is also prohibited when an applicant (1) received prior federal disaster assistance, (2) was in a floodplain, and (3) did not maintain flood insurance on the damaged property as required as a condition of assistance.
- Applicant homes that reside in a floodway are not eligible for this program.
- Applicants that own a housing unit within a building or structure that contains more than four (4) units, such as a duplex, quadraplex, or condominium complex, is not

eligible for assistance.

- Applicants that own a unit within a building or structure where the entire building or structure, such as a duplex, quadraplex, or condominium complex, does not meet local code requirements is not eligible for assistance.
- Applicants that own a unit where a portion of the unit is commercial or rental space are ineligible for assistance.
- Applicants seeking rehabilitation or reconstruction assistance on a property that contains rental units where the federal assistance will result in temporary or permanent displacement of tenants are ineligible for assistance.

(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. 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.
- 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. Applicant may also be required to provide evidence that they own the land where the MHU resides.

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 is in place on the property that is part of the application;

- 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 listed above is related to ownership. The state may also request the same documentation for a specific timeframe to support other eligibility criteria, including principle residency as of the date of the applicable disaster event. The required affidavit, form, and instructions may be found on the GLO's website: <http://recovery.texas.gov/>.

(c) Liens on Housing Units: GLO will coordinate with lienholders to ensure the rehabilitation or reconstruction assessment is approved by the lender. If an applicant owns an MHU and there is a lien on the property, 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 the Texas Department of Housing & Community Affairs, Manufactured Housing Division (TDHCA). Once this is done, the lender can transfer the lien from the MHU to the new property.

(3) Principal Residency

The unit that is 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 for the month of and the month preceding the disaster event provided it is 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 HARP. 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 owns more than one property. 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; 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 in accordance with [HUD DOB Guidance](#). The applicant must have an unmet need to move forward in the program. 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, 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. 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.). GLO will use the *DOB Calculation Form* when determining an applicant's final DOB. The form may be found on the GLO's website: <http://recovery.texas.gov/>.

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

(6) Child Support

All adult household members must be current on payments for child support⁵. If the household member is not current on child support, that individual will be required to enter into a payment plan that can 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 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 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.

- Only single-family owner-occupied units within the disaster affected area will be eligible.
- Manufactured Housing Units (MHUs or mobile homes) are eligible for rehabilitation at the discretion of 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 a Habitability Standards inspection upon completion. MHU rehabilitation costs that exceed \$10,000 will require reconstruction. Reconstruction of MHUs will consist of replacing the MHU with a stick-built home that will meet the current needs of the family or individual.

The assessment will verify that the applicant's dwelling is an eligible structure type. The Program will not provide reimbursement to:

- Homes that contain commercial units or commercial space (other than a home office or similar use);
- Mobile structures such as recreational vehicles or moveable "tiny homes";
- Panel trucks, utility trailers, semi-trailers, busses, cargo containers or other vehicles that have been converted for residential use; or
- Structures in the 100-year floodplain that are not eligible for flood insurance such as mobile homes that are not permanently affixed to a foundation or homes that are located completely over water.
- Condominium or Cooperative units containing more than four (4) dwelling units.

If the property upon which a condominium or cooperative unit is located contains more than four (4) dwelling units, the individual condominium unit is not eligible for assistance as it is not covered by the environmental categorical exclusion that applies to properties containing four (4) or fewer units. The Program may also make exceptions in certain cases, such as when an owner-occupied property also contains a rental unit. Such cases must be reviewed and approved by the GLO individually.

E. Eligible Improvements

(1) Types of Improvements

- Improvements needed to meet GLO's Habitability Standards which are based on HUD Section 8 existing Housing Quality Standards, as well as 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, energy efficiency, and 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 base composite price.

- 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 construction projects. The required inspections are dependent on the activity type (e.g., reimbursement, 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

HARP Inspection Requirements					
Application Type	50%	Final Inspection	Demolition Confirmation	TREC/HS	Monitoring Inspections
Reconstruction	Yes	Yes	Yes	Yes **	%*
Rehabilitation	No	Yes	No	Yes **	%*
Reimbursement	No	No	No	Yes**	%*
*Monitoring inspections are performed by GLO or Vendor representatives.					
**TREC or Habitability Standards inspections are performed by GLO or Vendor representatives.					

G. Project Closeout/Affordability Requirements

Approved projects will require an Unsecured Forgivable Promissory Note. To ensure compliance with the requirements of the executed Note, the state will perform an annual check to confirm all Note commitments are in place through its term.

H. Housing Activity Types and Additional Requirements

(1) HAP — Rehabilitation, Reconstruction or New Construction,

(a) Overview

Benefit for LMI applicants is the principal National Objective approved for HARP. The use of Urgent Need is eligible and will be evaluated during application review. 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 persons 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, earned more than 120 percent AMI on the date of the event, 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, and associated elevation and demolition charges. New construction activities may be considered on a case-by-case basis as necessary to move households out of areas not deemed suitable for residential habitation by the local jurisdiction. 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 state's Program Implementation begins with determining the survivor's unmet needs for the rehabilitation or reconstruction of the survivor's home. The approved Needs Assessment and Outreach Plan posted at www.recovery.texas.gov will advise on how the state is offering 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 necessary to bring the home up to GLO's construction standards, which may include costs associated with repairs beyond those damaged in the disaster event. Based on the extent of unmet need, survivors may be eligible for rehabilitation or reconstruction of their homes.

Temporary relocation assistance may be made available to homeowners if the inability to relocate during construction is a barrier to participation in the program. Due to limited fund availability, relocation assistance requests from homeowners will be approved only where the homeowner has no other sources of funds or economical methods of relocation available, such as staying with a friend or relative. Relocation assistance will be limited to households with incomes below 80% AMFI. Relocation assistance is offered at the discretion of the state, subject to available funding. The cap will be set at \$6,000 for temporary relocation services

for up to 120 days, after which point these expenses will become the obligation of the builder performing the work.

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, and may also be offered as a result of changes in zoning and ordinances.

(b) Building Specifications Requirements for Reconstruction/New Construction

For new and reconstructed homes, construction specifications (for 2, 3, 4, 5, and 6-bedroom homes with total square footage ranges) will be developed by the state. Each home must be constructed in accordance with local codes and should include resilience and mitigation requirements. 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 state. House plans become property of the state to use for possible future federal funding.

(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
- iv. GLO may also approve additional bedrooms to accommodate the needs of large families

(e) Rehabilitation Caps

Rehabilitation of existing homes damaged by the event is capped at \$65,000, with exceptions noted under Table 3, Housing Assistance Caps, of these Guidelines. 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 Table 3 of the Program Design section of these Guidelines. Estimated rehabilitation costs exceeding this cap may be recommended for reconstruction. An ECR using Xactimate or similar will determine if the unit is to be rehabilitated or reconstructed. Refer to the definition of “substantial improvement” when determining damage and final unmet need calculations.

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 state, where applicable, will be conducted to ensure all parties (assisted homeowner, contractor, and the 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 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 will be between the builder and the assisted homeowner.

(h) Property Inspections and Final Payment

Preliminary Inspections

A preliminary inspection will be conducted by 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 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 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 state will retain 10 percent of all payments.

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 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 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 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 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 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 state have accepted the work (the final inspection requires signatures from the homeowner, contractor, and the state).

REC 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 Vendor will submit the contractor's request for payment and, upon receipt of the funds, disburse the funds to the contractor. The state 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 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 doing work under HAP fails 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. The state must inform the applicants at closing what the home warranty terms are and when they expire. HUD recommends that the state include a warranty notice on a periodic basis, e.g., 6 months from expiration.

(i) Temporary Relocation

Temporary relocation assistance may be made available to homeowners if the inability to relocate during construction is a barrier to participation in the program. Due to limited fund availability, relocation assistance requests will be approved only where the homeowner has no other sources of funds or economical methods of relocation available, such as staying with a friend or relative.

Relocation assistance will be limited to households with incomes below 80% AMFI. In no case shall relocation assistance be provided:

- To homeowners with a combined household adjusted gross income that is greater than 80% AMFI;
- In excess of \$6,000 or 3 months of documented expenses; or
- For costs other than rent/housing costs, utilities and/or storage fees during construction

Relocation assistance will be provided on a reimbursement basis and only for actual costs. Payments will be processed only after verified receipts and/or proof of payment for services have been submitted. Fees must be reasonable for the region and charged by an unrelated/uninterested third-party (e.g. payments may not be made to relatives as "rent" unless the rental unit is a verifiable rental unit and a loss of other income would occur by allowing the applicant to temporarily use the unit).

(2) Homeowner Reimbursement Program

(a) Overview

Applicants who have completed some or all of their reconstruction, rehabilitation, elevation, and/or mitigation needs 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, which may include repairs funded with SBA loan proceeds. Once the application is received, the GLO will conduct the appropriate environmental review and Inspection Report of Previous Repairs (IRPR) 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 application to the program or June 19, 2021, whichever occurs first. 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.

An application must be submitted along with required documents for consideration. Reimbursement assistance will be approved on a first-come, first-served basis; however households that do not meet the Low and Moderate (LMI) National Objective will be processed after the first six months from application opening, but may receive construction assistance prior to then, based on their application date.

Providing assistance to an applicant who has not completed their home to the point that the house can be deemed habitable and meet Habitability Standards could result in that award being ineligible. If the award does not ultimately result in the completion of an eligible activity and achieving a national objective, then it is not eligible.

Since “reimbursement” in and of itself is not an eligible activity, the ability to meet and document those two requirements is tied to the home being rehabilitated so it can be occupied by the qualified applicant. If the home cannot be occupied, then the homeowner will not be able to meet the one-year post-award occupancy requirement included in the program policies, making the project ineligible.

The HUD national objective and HRP’s one-year occupancy period can only be achieved when the residential structure is occupied by the household. The housing category of LMI benefit national objective qualifies activities that are undertaken for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by LMI households.

Assisted homeowners are required to maintain principal residency in the assisted property for one year. Cash-out refinancing, home equity loans or any loans utilizing the assisted residence as collateral are not allowed for one year. A violation of this policy will activate the recapture terms of the Note.

(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 will prioritize LMI households for the first six months of the Program. Applicants above 120 percent of AMI will

not be eligible for assistance if they are in a floodplain and did not have flood insurance at the time of the disaster (<https://www.fema.gov/flood-maps>).

Eligibility Criteria, SBA Loan Reimbursement:

i. All SBA loans must have been used toward a loss suffered as a result of the 2018/2019 Flooding and Tropical Storm disasters.

ii. Applicants must continue to make payments on their current SBA loan even if they have applied for CDBG-DR assistance.

iii. Applicants must comply with any requirements in the loan documents that the applicant use amounts received for reimbursement to repay the loan's outstanding principal and interest.

iv. Applicants with incomes exceeding 120 percent of AMI must meet one of the following hardship exceptions:

a. ***Hardship due to housing cost burden.*** Households who spend more than 30 percent of their monthly gross income on housing costs are expected to experience hardship in recovery due to having limited financial resources;

b. ***Hardship due to SBA loan repayment.*** Households who spend more than 15 percent of their monthly discretionary income on SBA loan repayment are expected to experience hardship in recovery due to having limited financial resources;

c. ***Hardship due to healthcare expenses.*** Households who spend more than 20 percent of their income on healthcare expenses as a result of a disability or illness have long-term financial commitments to consider when contemplating incurring additional debt. Additional debt would be a burden and limit available resources needed to pay for these costs;

d. ***Hardship due to cost of caring for dependents.*** Homeowners who spend more than 20 percent of their income on dependent or other care related expenses as a result of being responsible for providing care to parents, children, grandchildren, and other dependents; or

e. ***Hardship due to age or disability.*** Households that include a household member who is over the age of 65 or who is disabled (and surviving spouses) who have received a property tax payment waiver or exemption from the state of Texas because the state has already determined that the payment of property taxes constitutes a hardship.

Exceptions can only be granted by HUD, and not by the state.

Ineligible Activities, SBA Loan Reimbursement:

i. Reimbursing costs that are not otherwise eligible for CDBG-DR assistance such compensation for personal property or late fees.

ii. Portion of interest attributable to activities that are ineligible for reimbursement.

iii. Reimbursement is not permitted if payment of the cost with CDBG-DR funds will cause a duplication of benefits because an exception does not apply or violate the requirement that CDBG-DR funds shall not be used for activities reimbursable by or for which funds are made available by FEMA or the Army Corps of Engineers.

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 **June 19, 2021**; 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 state inspector.

(c) HRP Duplication of Benefits

Reimbursement is not permitted when payment of the cost with CDBG–DR funds triggers a DOB because an exception does not apply or violate the requirement that CDBG–DR funds shall not be used for activities reimbursable by, or for which funds are made available by, any duplicative assistance received for the identified activity. (i.e. NFIP, FEMA or other disaster recovery resource.)

The state must document that all federal assistance (including CDBG–DR and subsidized loan assistance) is used toward a loss suffered as a result of the major disaster or emergency. If the subsidized loan is used to carry out a CDBG–DR eligible activity that addresses a loss suffered as a result of a major disaster or emergency, HUD considers reimbursement of eligible costs paid with that loan to be used toward a loss suffered as a result of the major disaster or emergency. Under the terms of the DRRA amendments to the Stafford Act, if a federal loan is used for a purpose other than disaster losses, the subsidized loan still duplicates other sources provided for the same purpose.

(d) Prioritization of Funds

Program administrators will prioritize application reviews to serve the most impacted counties (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.

Additionally, the GLO will prioritize the LMI applicants for the first six months from program launch. 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

Regional Classification	% of Total Funding
<p>HUD Most Impacted and Distressed Counties (HUD MID)</p> <p>2018 DR-4377 Hidalgo</p> <p>2019 DR-4454: Cameron, Hidalgo,</p> <p>2019 DR-4466: Chambers, Harris, Jefferson, Liberty, Montgomery, Orange,</p>	80%
<p>State Most Impacted and Distressed Counties (State MID)</p> <p>2018 DR-4377 Jim Wells, Cameron</p> <p>2019 DR-4454 Willacy</p> <p>2019 DR-4466: San Jacinto</p>	20%

(e) 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 Habitability Standards will 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	

(f) 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.

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 2018/2019 Flooding and Tropical Storm Disasters. Funding is available through the Community Development Block Grant Disaster Recovery (CDBG-DR) Program, administered by the GLO.

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 an [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 \$5 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, 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 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 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 Federal Register Notice, 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 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- and 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- and moderate-income households must be occupied as affordable rents. The units occupied by low- and 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 government, 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.
- 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 a Request for Applications (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 eligibility 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) Applications shall be consistently evaluated and scored in accordance with the criteria below. Points correlating with the proposed construction type shall be awarded as a base score for each Application. Additional points may be awarded for Projects that meet or exceed these criteria. Total points awarded will determine prioritization of funding. If, after all scoring has been completed, one or more Applications yield the same point total, priority shall be given to the most cost-effective Project. Cost effectiveness shall be determined by calculating the lowest cost per unit (total number of units divided by the total amount of CDBG-DR funds requested). If, after all scoring and the tie breaker is not resolved and one or more Applicants yield the same lowest cost per unit, preference will be given to the Application with the highest total number of LMI units
 - (a) Construction Type – The Project provides Rehabilitation, Reconstruction, or New Construction services. If the Project is for a Scattered Site Development that utilizes two differing construction types, the Applicant will be awarded the lower point value between the two construction types. (Up to 15 points)
 - Construction Type Points
 - Rehabilitation 15
 - Reconstruction 10
 - New Construction 5
 - (b) Exceeding the LMI Requirement – The Project provides at 80% or more of the total proposed units for rental to low- and moderate-income families earning 80% or less of the AMFI for the applicable Affordability Period (5 points);
 - (c) Extremely Low-Income Targeting – The Project provides at least 20% of the total proposed units for rental to families or individuals with income at 30% or less of the area median income (5 points) unit mix must target extremely low-income (30 percent AMI) residents;
 - (d) Serving Persons with Disabilities – The Project increases the number of accessible units beyond the minimum required under Section 504 of the Rehabilitation Act of 1973, the Fair Housing Accessibility Guidelines, or other mandated minimums by 10% for handicap units

- and 4% for hearing impaired units (5 points);
- (e) High Opportunity Zones – Project is located entirely in a census tract(s) that has a poverty rate of less than 20% (5 points); and
 - (f) Leveraging of Public and Private Financing – The Project shall utilize, in addition to CDBG-DR funds, other local, state, federal, or private contributions that account for 25% or more of the Total Housing Development Costs as reflected in the CDBG Rental Housing Development Budget and Disbursement Plan in MUA, Part B (5 points).
- (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 storms 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) 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.

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 directed under the Federal Register, 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. Developers 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 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.

6. MONITORING, REPORTING, AND ADHERENCE TO GUIDELINES

A. Annual Monitoring Procedures

Completed projects require annual monitoring. Monitoring will be conducted by the GLO throughout the applicable affordability period. The results and reviews of monitoring activities ensure the provision of safe, decent, affordable housing that is in compliance with all applicable regulations. The monitoring review also ensures that the project has achieved the National Objective required in each program. Additionally, income targets and rents must comply with Affordable Rental Program LURA requirements and other compliance requirements.

B. Files and Reports

The state will maintain accurate Program files and records for general administration activities for each program in accordance with HUD recordkeeping requirements. Files may be reviewed at any time by funding-source representatives.

C. Changes, Waivers, and/or Conflicts

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

7. APPENDIX

A. Appendix A: Public Comment – State of Texas Guidelines

The Texas General Land Office (“GLO”) posted the draft State Housing Guidelines for 2018 South Texas Floods & 2019 Disasters (the “Guidelines”) for Public Comment at <http://recovery.texas.gov/public-notices/index.html> on April 12, 2021, commencing a 15-day public comment period. The Guidelines apply to housing activities affected by these events across eleven counties in Texas including Cameron, Hidalgo, Jim Wells, and Willacy counties in South Texas and the Lower Rio Grande Valley related to flooding in 2018 and 2019 as well as Chambers, Harris, Jefferson, Liberty, Montgomery, Orange, and San Jacinto counties affected by Tropical Storm Imelda in 2019. The official public comment period ended at 5:00 p.m. on April 29, 2021. The GLO distributed a statewide press release announcing the availability of the Housing Guidelines. GLO received comments from the following individuals and organizations:

Commentor Name		Individual, County, City or Organization
Last	First	
Briones	Francisco	Resources Mobility Associates, Inc.
Laurel	Ana	Texas RioGrande Legal Aid
Orduña	Julia	Texas Low Income Housing Information Service
Cass	Ann	Proyecto Azteca and RGV Housing Working Group

Although the official end of the public comment period was April 29, 2021, the GLO considered all comments received on the Guidelines through the effective date of, June 1, 2021. Revisions were made based on public comment received as well as technical and grammatical corrections that were non-substantive.

The following is a summary of the comments received as well as the response.

Comment Received: The guidelines should be updated to identify and include housing authorities as eligible applicants and recipients of GLO funds. Additionally, they should include timelines and application procedures, including scoring and announcements of awards.

Staff Response: The Guidelines identify for-profit, public housing authorities, units of local governments, and not-for-profit developers/borrowers as eligible applicants for the Affordable Rental Program on page 57 of the draft Guidelines. The Guidelines also indicate that a Request for Applications (“RFA”) will be released and will include timelines and procedures for scoring and the announcement of awards. The RFA was released May 1, 2021 and posted at <https://recovery.texas.gov/local-government/programs/2018-2019-disasters/index.html>.

The Homeowner Assistance Program and Homeowner Reimbursement Program will be directly administered by the state in accordance with the 2018 South Texas Floods and 2019 Disasters Action Plans.

Comment Received: The rapid rollout of the State of Texas Homeowner Assistance and Reimbursement Program (HARP) is unacceptable as there was little to no advanced notice to organizations in the lower Rio Grande Valley (RGV) and that we are still in the midst of a global pandemic.

Staff Response: The GLO understands the concern regarding the timelines and public engagement. The submission to HUD and approval of the 2018 South Texas Floods and 2019 Disasters Action Plans was delayed due to COVID-19 in addition to following all timelines required under the law. The eligibility criteria for HARP was set forth in the Action Plan approved by HUD. The Guidelines expand on the eligibility criteria in the Action Plan. Applications will not be approved until guidelines are finalized. The GLO is committed to ensuring all CDBG-DR funds are implemented in a manner that is consistent with HUD rules.

Regarding the global pandemic, the health and wellbeing of everyone is of the utmost importance to the GLO as we navigate the COVID-19 situation. The GLO understands that creative solutions are needed to make sure we stay on track with helping our fellow Texans with their recovery efforts in as safe a manner as possible. As such, we are and will continue to market HARP in a safe and effective manner.

Comment Received: The federal regulations applicable to the 2018 and 19 Community Development Block Grant-Disaster Recovery (“CDBG-DR”) programs, which the State Housing Guidelines cite, authorize a 30-day commenting period.

Staff Response: The language in the Federal Register Notice is clear that the 30-day comment period applies only to Action Plans and substantial amendments. Furthermore, there are no references in 24

CFR Part 570 to the treatment of housing guidelines in any regard, including public comment.

Comment Received: It is unclear whether the GLO has conducted a regional needs assessment or affirmative marketing and outreach plan, both of which guide its prioritization of HARP funds.

Staff Response: The Needs Assessment is developed using available data to target specific demographic groups and geographic locations for enhanced marketing and outreach in addition to general marketing and outreach across the eligible counties. The Needs Assessment does not establish prioritization of funds. Prioritization was established in the Action Plan. The GLO will make available for public comment the Needs Assessment, in accordance with applicable law, on or about June 1, 2021 and will also post the final Affirmative Marketing Outreach Plan (“AMOP”) on its website.

Comment Received: GLO did not give sufficient advance notice of the HARP application release date. This is concerning since the program is a first-come, first served Program.

Staff Response: The Action Plans approved by HUD on October 16, 2020 established prioritization of HARP activities. Unfortunately, the funds were not available to the state of Texas via the Grant Agreement until much later than anticipated. The GLO has been working to make sure these funds are made available as quickly as possible and in a manner that is consistent with HUD rules.

Comment Received: Many survivors in the lower Rio Grande Valley have limited English proficiency (LEP), yet the application portal, the State Housing Guidelines, and the application website are all in English.

Staff Response: The GLO will ensure that program information is available in the appropriate languages for the geographic areas to be served and will take appropriate steps to ensure effective communications with persons with disabilities and limited English proficiency (LEP) pursuant to 24 CFR §8.6 and all other fair housing and civil rights requirements. Translated web content and vital documents are available on the GLO’s website, including a [Spanish version of the HARP application](https://recovery.texas.gov/individuals/programs/2018-2019-harp/index.html), at <https://recovery.texas.gov/individuals/programs/2018-2019-harp/index.html>. Written contact, in the form of email, letters, etc., and related responses are routed to either internal resources or external translation service provider(s) for translation, as needed. Phone calls from persons of limited English proficiency may be transferred to internal staff or vendor(s) with the required language fluency. The GLO contracts with vendors for telephone, document, and web content translation services and provision of in-person translations outside of the GLO staff’s capabilities on an as-needed basis.

Comment Received: The Texas General Land Office’s (“GLO”) administration and the administration of disaster recovery programs by GLO’s subrecipients of the multi-billion dollar federally-funded CDBG-DR programs have been characterized by unnecessarily lengthy delays, inefficiencies, inadequate public accountability and a lack of fairness and racial equity in providing assistance to disaster survivors. Government agencies and their contractors have been slow to get housing assistance to Texans who need help to recover from damages to homes and neighborhoods resulting from natural disasters. The timeline proposed in these housing guidelines for the delivery of housing assistance is far too slow and the information reporting on program performance provided is inadequate.

Staff Response: The GLO submitted the Action Plan to HUD in a timely manner, but HUD’s release of funds allowing administration of the programs was delayed for reasons beyond the control of the GLO. The GLO began the necessary steps to release the funds as soon as practical in a manner that is consistent with HUD rules. The GLO will directly administer housing activities related to the 2018 South Texas floods and 2019 disaster events. GLO has a proven track record of providing expeditious assistance under this model in a manner that is consistent with HUD rules and regulations. The GLO will continue to report on metrics captured on its website in order to provide an accurate depiction of program performance.

Comment Received: Applicants must wait for long periods of time to be approved and for assistance to be complete. The Housing Guidelines should be amended to provide that applicants are assigned a permanent caseworker, and the caseworker should be fluent in the primary language of the applicant, have access to all necessary information and records, and provide contact information to the applicant.

Staff Response: The Housing Guidelines affirm that the GLO will ensure timely communication of application status and acknowledges that applicants are likely to need support throughout the process. All applications will be maintained electronically which will allow applicants to have access to and monitor the status of their application at each step of the process. The GLO will ensure that program information is available in the appropriate languages and will take the steps necessary to ensure effective communications.

Comment Received: Relying on the local Council of Government (“COG”) to evaluate unmet housing need will not produce an accurate assessment. The GLO should evaluate unmet housing needs that remain today, with a particular focus on unmet housing needs of renters.

Staff Response: An Unmet Needs assessment was completed during development of the Action Plan as required under the law. The GLO will make available for public comment the Needs Assessment, in accordance with applicable law, on or about June 1, 2021 for a 15-day public comment process.

Comment Received: The process proposed in the Housing Guidelines for the Needs Assessment denies adequate public participation in the distribution of funds.

Staff Response: The Guidelines indicate that the HARP Needs Assessment and Outreach Plan will be posted at www.recovery.texas.gov and will advise how the state is offering housing activities to meet the types of housing needs experienced by the affected population and their demographics in order to maximize housing recovery efforts. The GLO will make available for public comment the Needs Assessment, in accordance with applicable law, on or about June 1, 2021 for a 15-day public comment process.

Comment Received: The methodology for determining unmet need at beneficiary income group targeting used by GLO in Housing Guidelines is flawed.

Staff Response: An Unmet Needs assessment was completed during development of the Action Plan. The GLO will make available for public comment the Needs Assessment, in accordance with applicable law, on or about June 1, 2021 for a 15-day public comment process. The GLO has worked to ensure that the methodologies utilized or to be utilized in the formation of these documents are the

best practicable given available data.

Comment Received: The rent levels established under the GLO’s Action Plan do not equitably serve renters of extremely low- and very low-income, who are the survivors in the income categories impacted by natural disasters still having unmet housing need.

Staff Response: GLO’s rent restrictions comply with HUD requirements for the affordability of rents established for assisted housing units. These rents align with HOME rent limits. The GLO released a Request for Applications (“RFA”) for the Affordable Rental Program on May 1, 2021 that incentivizes applicants to exceed the federally required low-to-moderate income thresholds.

Comment Received: The bedroom size determination issue set out on page 18 of the Housing Guidelines should be modified. The guidelines provide that the number of bedrooms allowed in a reconstructed home will be “based on anticipated household size and occupancy policies.” This rule allows for the reduction of bedrooms previously in existence. This reduction in the number of bedrooms of a house according to the number of occupants diminishes the value of the home and inversely affects families that hold this property for generations. Additional considerations should be made to accommodate the social and economic circumstances of the applicant.

Staff Response: The Guidelines were drafted in conformance with long-stand HUD rules and regulations. HUD requires all activities to satisfy an unmet need of the application, costs to be reasonable and necessary, and bedroom distribution to be in line with current guidance. The GLO follows the HUD guidelines that provide a minimum size of unit based on anticipated household size and occupancy policies that allow for two persons per bedroom as reasonable. The GLO considers the needs of the family when offering program assistance to the extent allowed under federal regulations. This needs consideration accounts for variables that include familial size and familial age and gender diversity. The Housing Guidelines as written follow HUD’s Fair Housing Act Policy Statement, as well as HUD CDBG-DR requirements.

Comment Received: The Housing Guidelines provide on page 20, 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. Those policies and procedures should be detailed in the Housing Guidelines and the public afforded an opportunity to provide comment and receive a reasoned response from the GLO.

Staff Response: GLO has developed Standard Operating Procedures that serve as an operational guide to ensure the program complies with HUD and 2 CFR Part 200. These policies and procedures are not, under federal law, a part of any public participation process. All policies and procedures do, however, remain subject to audit review by HUD.

Comment Received: The Housing Guidelines provide that the rehabilitation cap may be up to \$150,000 for applicants whose damaged homes meet certain conditions. The guidelines do not make clear whether each of these conditions triggers an increase in the rehabilitation cap or if all the conditions must be met to lift the rehabilitation cap. This should be clarified.

Staff Response: All the conditions must be met cumulatively for the increase in the cap to apply to the type of assistance provided. The GLO agrees that this should be clarified and shall update the Guidelines accordingly.

Comment Received: The rental affordability period is too short and results in undue enrichment of the developer/recipients while depriving the disaster survivors of long-term access to the rental units. GLO's proposed rental affordability period disadvantages low- and moderate-income individuals.

Staff Response: GLO's affordability period complies with HUD requirements for the affordability of rehabilitated and reconstructed rental housing units. These terms are accurately reflected as 15-years for rehabilitated or reconstructed projects and 20-years for new construction projects.

Comment Received: The rental affordability guidelines do not discuss financial subsidy layering and how that should be evaluated in the award of CDBG-DR rental housing funds.

Staff Response: GLO detailed the requirements of financial subsidy layering within the RFA, released on May 1, 2021.

Comment Received: The Affirmative Marketing Plan evaluation process in the Housing Guidelines is inadequate to ensure compliance with HUD statutes and regulations and to guarantee fair access of classes of persons protected by the Fair Housing Act to the rental housing made available. The Housing Guidelines should include links to HUD instructions and guidance on preparing Affirmative Marketing Plans and clearly state the GLO will be responsible for the evaluation. The standards for evaluation should be detailed in the Housing Guidelines, and include determining the completeness of the plan and a regular assessment of the effectiveness of the plan to be carried out through an assessment of the actual results of the plan through a comparison of the pre-plan and current demographic comparison of applicants and residents. The Housing Guidelines should state that the affirmative marketing plans will be made available on the GLO website for public review and comment.

Staff Response: The Affirmative Fair Housing Marketing Plan section of the GLO's Housing Guidelines states that "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." In marketing its disaster recovery programs, the GLO remains committed to reaching eligible applicants from all groups, including persons protected by the Fair Housing Act.

Comment Received: The Housing Guidelines (page 24) fail to set forth a plan to properly report or monitor and ensure accountability in the expenditure of funds used to fund rental housing. The Housing Guidelines fails to: a. specify the form, process and timelines for reporting requirements; b. provide for the collection and analysis of the protected class status under civil rights and Fair Housing laws of applicants, those denied and those receiving assistance; and c. provide for the collection of data to assess equity in the terms and amount of assistance provided based on the protected class of applicants and recipients.

Staff Response: The GLO is committed staff ensuring funds are monitored in a manner that ensures

accountability in accordance with HUD requirements. The GLO has posted documentation that details these elements on the GLO website found at www.recovery.texas.gov.

Comment Received: The Housing Guidelines should include a Section 3 Plan or a link to the plan and describe the process allowing for citizen comment on that plan.

Staff Response: The GLO has added a link to HUD guidance as well as GLO's Section 3 guidance available on GLO's website. These guidance documents can be found at <https://www.hud.gov/section3> and <https://recovery.texas.gov/local-government/resources/section-3/index.html>, respectively.

Comment Received: GLO while acknowledging on page 26 of the Housing Guidelines its duty to report program performance data publicly, has failed to adequately do so. The plan should commit the GLO to provide more complete reporting of data.

Staff Response: The GLO is committed to reporting program performance in accordance with HUD requirements. The GLO posts performance reports on the GLO website found at www.recovery.texas.gov.

Comment Received: The Housing Guidelines on page 29 should state that all housing programs will comply with Texas statutory visitability standards for access by persons with disabilities set out in Texas Government Code Sec. 2306.514.

Staff Response: The GLO notes that while 10 TAC §2306 is specific to the Texas Department of Housing & Community Affairs, the Guidelines indicate that single family housing units will comply with the visitability standards found in 10 TAC §2306.514. Additionally, housing developments must meet all accessibility requirements found at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794).

Comment Received: Provisions in the Housing Guidelines Section G, "Displacement of Persons and/or Entities" found on pages 29-30 should provide for the moving expenses of low-income households to be paid by the program instead of the beneficiary having to pay for moving expenses and/or temporary housing and be reimbursed. Low-income disaster survivors may not be able to bear the up front cost of moving expenses and temporary housing.

Staff Response: GLO will ensure that displaced people, regardless of income, will receive the benefits they are eligible to receive under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Comment Received: Texas Housers objects to the reduction in relocation assistance GLO proposes to adopt in the Housing Guidelines set out on pages 29-30 in which the relocation assistance requirements at section 104(d)(2)(A) of the Housing and Community Development Act (HCDA) 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. The supply of affordable and available rental housing for extremely low- and very low-income renters is severely constrained in Texas. The Housing Guidelines should retain the statutory provision permitting a lower income displaced person to

choose a longer-term rental assistance payment.

Staff Response: The GLO is following the language posted in the notice 83 FR 5858 (February 9, 2018). This waiver assures uniform and equitable treatment of all program participants by setting the URA and its implementing regulations as the sole standard for relocation assistance.

Comment Received: The housing provisions in the Housing Guidelines are inadequate and must be strengthened. Individuals being assisted in home reconstruction programs should be offered the opportunity to relocate and should receive Fair Housing counseling and assistance like that provided by the GLO under the May 2010 Fair Housing conciliation agreement between Texas Housers and the State of Texas in the Hurricane Ike CDBG-DR program.

Staff Response: Housing activities for 2018 South Texas Floods and 2019 disaster events were determined during the Action Plan phase of program administration. Current housing activities have undergone the full public participation process and been approved by HUD.

Comment Received: The Housing Guidelines in “A. Survivor Case Management” on page 33 should be modified to instruct vendors to, if requested, act as the agent of the applicant to secure tax documents, deed documents and other public records necessary for a complete application for the program. This affirmative effort to support the applicant will speed up the completion of the application where we have seen the most lag in GLO programs. The proposed provision in the Housing Guidelines that vendors, “work to cultivate partnerships with local and community liaisons such as banks, counseling agencies, legal services, title companies, etc.” is insufficient to accomplish these purposes. Applicants with the most need tend to be the ones with the most barriers in completing the application and will ultimately be left out of the program without proper assistance.

Staff Response: The GLO, through its vendors, removes barriers to housing choice by assisting applicants throughout the application process and providing additional resources as necessary to assist the applicant with their application.

Comment Received: The Housing Guidelines in section “(5) Property Taxes” should be modified. The provision requiring property taxes be current or a payment plan be in place fails to take into account the severe economic problems that low-income households have encountered as a result of the COVID-19 pandemic. Unprecedented numbers of both homeowners and renters are severely behind in rent and mortgage payments and a large number of homeowners are behind in their property taxes. State and locally administered programs to provide assistance to these households have been plagued with delays in getting the assistance to the people who need it. This has further exacerbated the financial problems of low-income people in Texas. The GLO should modify the language in the Housing Guidelines which reads, “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.” The Hidalgo County Tax Collector has a very restrictive policy regarding establishment of delinquent tax payment plans that keeps many homeowners from getting on a payment plan. The Harris County Tax Collector limits households to one single payment a month. The GLO should permit applicants who are currently unable to pay their

taxes because of the economic impact of the pandemic, including job loss related to COVID-19, to be eligible for CDBG-DR assistance provided the applicant can demonstrate they have sought public assistance to pay their taxes.

Staff Response: GLO considers extenuating circumstances as part of the application evaluation and appeals process. All of the factors cited in this comment would be adequately considered when evaluating an application and any correlating appeals.

Comment Received: GLO should re-evaluate the method it utilizes to determine duplication of benefits set out on page 37 of the Housing Guidelines. A clear, easily understandable process for making this determination is badly needed. Neither the Housing Guidelines nor the GLO website offers survivors this clear explanation. In our frequent interactions with survivors, we find this to be one of the most misunderstood and wrongly determined aspects of the program. We have frequently seen inspectors inaccurately determine whether emergency repairs made by FEMA should constitute the previous provision of assistance for purposes of calculating duplication of benefits. We have observed instances in which repairs were improperly done or that failed, being categorized incorrectly as a previous benefit and their value deducted from the basis for new repairs. At the very least, the Housing Guidelines should propose for an independent appeals process when an improper determination of duplication of benefits is alleged by a homeowner. With regard to the provision in the Housing Guidelines, “The GLO has developed policies and procedures to prevent duplication of benefits when determining an applicant’s unmet need,” we have observed on numerous occasions examples where the GLO has undertaken extensive efforts to address appeals by vendors, other governmental jurisdictions and multi-family developers who have appealed GLO interpretations and findings. The GLO should devote a similar level of attention to appeals from individual hurricane survivor program applicants.

Staff Response: GLO adheres to [HUD DOB Guidance](#) when determining duplicative assistance. The GLO has posted resources on its website to guide applicants in determining how other assistance they have received may impact their final assistance determination. This guidance can be found at <https://recovery.texas.gov/local-government/resources/housing/index.html>. Applicants have a right to appeal all GLO determinations and a link to the appeals process has been added to the Guidelines.

Comment Received: Revisions to the Housing Guidelines on page 39 regarding manufactured housing units should make clear that manufactured housing units that are not titled as real estate are eligible for assistance.

Staff Response: The Housing Guidelines make it clear that the applicant must have a Statement of Ownership from the Texas Department of Housing & Community Affairs (“TDHCA”), Manufactured Housing Division and will be required to provide evidence that they own the land where the MHU resides.

Comment Received: Rent-to-own and contract-for-deed agreements are still common in the Texas-Mexico border region and in some other parts of the state. The Housing Guidelines should make explicit that such purchase arrangements will not cause a property to be ineligible for housing rehabilitation or reconstruction and should further financial support to enhance the security of such titles to the land that GLO will make available to program applicants.

Staff Response: The GLO notes that while 10 TAC § 2306 is specific to the Texas Department of Housing & Community Affairs, it has adopted in its Guidelines the provisions of §2306.188 which establish homeownership in a disaster area. The GLO, through its vendors, encourages applicants to file contract-for-deeds in county property records to secure their ownership interest. The GLO shall also assist and make referrals to legal aid organizations as appropriate to accomplish these necessary tasks.

Comment Received: “E. Eligible Improvements” of the Housing Guidelines are unfairly discriminatory toward the lowest income homeowners and have a disparate racial and national origin impact. Comment Received: “E. Eligible Improvements” of the Regional Housing Guidelines are unfairly discriminatory toward the lowest income homeowners and have a disparate racial and national origin impact. Through these provisions the GLO agrees to fund certain amenities (garages, carports, fencing, masonry construction when a political jurisdiction or homeowners association requires it but otherwise will not provide these improvements. Lower-income households, who are disproportionately African-American and Hispanic in these natural disasters, far less frequently reside in political jurisdictions or within homeowner association boundaries that impose these type of requirements associated with higher value residential areas. Not mentioned in the Regional Housing Guidelines, but almost certainly a situation which occurs, is a minimum square footage requirement imposed by local zoning, building code or homeowners association rules. GLO is financially accommodating the reconstruction of a house with a larger square footage than required under the GLO bedroom size restrictions and the square footage restrictions set out on page 33 is discriminatory. This provision, as adopted by GLO has a disparate impact on people based on race and national origin. The GLO should establish a policy allowing for the funding of the reconstruction of all of these amenities where they were present prior to the disaster and not tie the benefit to residency in a political jurisdiction or homeowners association boundaries that imposes such a requirement.

Staff Response: The Guidelines were drafted in conformance with long-stand HUD rules and regulations. HUD requires all activities to satisfy an unmet need of the application, costs to be reasonable and necessary, and bedroom distribution to be in line with current guidance. The GLO follows the HUD guidelines that provide a minimum size of unit based on anticipated household size and occupancy policies that allow for two persons per bedroom as reasonable. The GLO considers the needs of the family when offering program assistance to the extent allowed under federal regulations. This needs consideration accounts for variables that include familial size and familial age and gender diversity. The Housing Guidelines as written follow HUD’s Fair Housing Act Policy Statement, as well as HUD CDBG-DR requirements.

Comment Received: Relocation assistance provisions in these Housing Guidelines have changed from previous versions. The proposed Housing Guidelines state, “Relocation assistance may be offered at the discretion of the state. The cap will be set at \$6,000 for temporary relocation services for up to 120 days, after which point these expenses will become the obligation of the builder performing the work.” The guidelines should state the basis for the GLO decision whether or not to grant relocation assistance. The guidelines should further clarify that relocation that is determined to be the financial responsibility of the builder should be provided to the applicant by the GLO which would be responsible in turn for recovering any costs from the builder. It is an unreasonable burden to a disaster survivor to saddle them with the

responsibility for seeking payments from the GLO's contracted builder.

Staff Response: GLO incorporated additional language into the Guidelines that clarifies when relocation assistance will be approved, and the terms of this optional assistance. The builder contracts include requirements surrounding their financial responsibility. Homeowners that are approved for relocation assistance are not responsible for paying for any expenses covered under GLO's optional relocation guidelines.

Comment Received: The “progress inspection” provisions found on page 47 of the Housing Guidelines specifies that progress inspections (50 percent) performed by 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. The Housing Guidelines should clarify that “all parties” includes the homeowner.

Staff Response: The term “all parties” includes one and all involved in the project or activity without limitation or exclusion. Homeowners are required to sign Builder Requests for Payment indicating the contractor has successfully completed work and that they authorize payment for services rendered.

Comment Received: “(d) Prioritization of Funds” found on page 53 of the Housing Guidelines should be amended to provide that 100 percent of funds should be used to assist low- and moderate-income households. At this very late hour in the recovery, most all non-low and moderate-income persons have recovered from the disaster. At this time the overwhelming majority of the persons with an unmet housing need and who have not been able to recover are low-income people. The GLO should recognize this fact in the amendment and modify this provision to require that 100% of the remaining funds are used to benefit low- and moderate-income households. GLO should include a provision in these Housing Guidelines providing that if, after a suitable period of time, it is determined that all of the LMI need has been satisfied by the program, the GLO will then seek to amend the Housing Guidelines to expand program eligibility to serve higher income individuals.

Staff Response: Prioritization of funds was established in the Action Plan process and cannot be further limited by the Guidelines. The Action Plan has been through all required public comment and review processes and was ultimately approved by HUD.

Comment Received: The Affirmatively Furthering Fair Housing (AFFH) review by the GLO set out on page 56 of the Housing Guidelines needs more specificity regarding the instructions to applicants for evaluating compliance with the obligation to Affirmatively Further Fair Housing. HUD has substantial guidance on its website which HUD provides to local jurisdictions to use in making these assessments that should be referenced in the Housing Guidelines. The evaluation factors used by the GLO in its AFFH analysis should be stated. The documentation furnished by applicants indicating compliance with AFFH obligations as well as the GLO's analysis and determination that a project complies or fails to comply with this obligation should be part of the public record, available for public comment, and made available on the GLO website.

Staff Response: The GLO will conduct an Affirmatively Furthering Fair Housing (“AFFH”) Review of each development in accordance with HUD regulations. A link to GLO's AFFH page has been

added to the Guidelines. The public may submit a request to access the reviews through <https://s3.glo.texas.gov/glo/the-glo/public-information/requests/index.html>.

Comment Received: Page 58 of the Housing Guidelines provides that, “The applicant, developer owner, principal or development/borrower must provide a complete listing with addresses of multifamily properties currently owned or managed. The Housing Guidelines makes no provision for how this information will be considered in evaluating the application for assistance however. The Housing Guidelines should make clear how this information will be used to evaluate the application. Further, the Housing Guidelines should provide that the applicant, developer owner, principal or development/borrower, in addition to disclosing ownership and management interests should also disclose any adverse monitoring findings from city, state and local government as well as code violations, Fair Housing findings issued by HUD and any failing HUD REAC scores. The guidelines should further state how Information will be considered and scored by the department in evaluating the quality of management, upkeep and compliance performance of the applicant for funding.

Staff Response: The GLO posted the RFA on May 1, 2021 which includes additional information on application review and selection requirements. The commentor should refer to the RFA for additional information on required information.

Comment Received: The eligibility criteria for multifamily housing set out on page 58 of the Housing Guidelines is insufficient. The threshold criteria in the Housing Guidelines provide that if a development exceeds the absolute minimum that is required under federal law, even by an insubstantial degree, then the applicant meets GLO’s standard for funding. The criteria proposed in the Housing Guidelines is essentially meaningless in terms of targeting the benefit of these federal funds to LMI persons with unmet housing needs.

Staff Response: The RFA that includes application thresholds and targeting was posted on May 1, 2021. The Housing Guidelines have been updated to include the criteria established in the RFA.

Comment Received: Waivers of Section 414 of the Stafford Act relocation benefit protections on page 61 of the Housing Guidelines should not be made. LMI households in federally-funded programs who are displaced from their homes face dire economic consequences. The affordable housing supply is inadequate to house them in disaster-impacted areas. They face the real possibility of homelessness with a one year cutoff of relocation assistance. As noted in Comment #6 above, about three-quarters of households earning 30 percent or less of the area median family income already are severely rent burdened — paying more than one-half of their income for rent. The waiver of Section 414 is made available to the GLO by the federal government as an option to apply in specific circumstances. The on the ground situation in the disaster area is clearly not the appropriate circumstance for this waiver. At the least, the GLO should stair-step the application of a waiver by granting full term benefits to households at 30 percent AMFI and below, a slightly shortened time for households with incomes of 31 to 50 percent LMI and stepping benefits down to one year for non-LMI household.

Staff Response: Section 414 of the Stafford Act (including its implementing regulation at 49 CFR §24.403(d)(1)), is waived to the extent that it would apply to real property acquisition, rehabilitation or demolition of real property for a CDBG– DR funded project commencing more than one year after the

Presidentially declared disaster undertaken by the grantees, or subrecipients, provided that the project was not planned, approved, or otherwise underway prior to the disaster. HUD has determined that good cause exists for a waiver and that such waiver is not inconsistent with the overall purposes of title I of the HCD Act.

This waiver does not apply with respect to persons that meet the occupancy requirements to receive a replacement housing payment under the Uniform Relocation Act (“URA”) nor does it apply to persons displaced or relocated temporarily by other HUD-funded programs or projects. Such persons’ eligibility for relocation assistance and payments under the URA is not impacted by this waiver.

Comment Received: Fair Housing provisions in the Housing Guidelines are inadequate to comply with federal law and the State’s Title VIII Fair Housing certification. The Housing Guidelines should provide that the GLO will proactively review activities by the GLO and its subrecipients related to both the location of housing and the provision of equitable infrastructure and provide for both public hearings and a complaint process that actually investigates Fair Housing compliance. Texas Housers has made many specific complaints of Fair Housing violations in testimony and in comments yet GLO has never once investigated any of these complaints despite committing to do so in the various Action Plans.

Staff Response: All programs and proposed projects undergo an Affirmatively Furthering Fair Housing (“AFFH”) review by the GLO. 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. The GLO remains committed to ensuring all Fair Housing complaints are investigated by the proper agency and within the bounds of established law.

Comment Received: Implementation of the tenant-based rental assistance (TBRA) housing program subsidy set out on page 62 of the Housing Guidelines should include the use of Fair Housing search assistance contractors to assist TBRA beneficiaries to identify suitable housing options outside of economically and racially concentrated areas of poverty where Section 8 HCV housing is mostly concentrated. The State of Texas is one of only two states in the United States that actually prohibits local ordinances from barring discrimination by landlords against housing choice voucher holders. This is a major impediment to Fair Housing that is unacknowledged and unaddressed by the State of Texas and ignored in the Housing Guidelines. The result is in extreme concentration of the available HCV housing stock in areas of concentrated poverty, flood hazard, environmental risk and racial segregation. In order to begin to address this substantial impediment to fair housing choice, the GLO must affirmatively assist TBRA recipients to identify housing options in high opportunity areas of their choice.

Staff Response: All owners are required to meet the requirements of the Uniform Relocation Act which includes compliance with 24 CFR §24.204 and 24 CFR §24.301. The GLO will monitor each owner that receives an allocation of funding to ensure compliance with all rules and regulations.

Comment Received: The Housing Guidelines fail to set out a plan to properly monitor and ensure accountability in the expenditure of these funds. Reporting requirements are inadequate to monitor basic program performance or civil rights compliance. Attached to this letter are

monitoring protocols that should be adopted in the Housing Guidelines to permit assessment and monitoring. Additionally, Texas Housers supports the recommendations of the Harvey Forgotten Survivors Caucus that GLO establish and support a citizens' monitoring advisory committee to the GLO that includes Hurricane survivors to assist the agency in monitoring, oversight and understanding program operations and issues from the perspective of low- and moderate-income beneficiaries.

Staff Response: The GLO is committed to the effective and efficient use of CDBG-DR. The GLO remains open to considering analytical feedback from community groups like the one referenced in the comment to improve the administration of disaster recovery programs.

Comment Received: As pointed out earlier, rents set at the High HOME standard are completely unaffordable to most renter households with an unmet housing need in the disaster-impacted area. Data provided by HUD to state and local governments to plan their use of CDBG highlights where need is greatest in the Houston area: 56 percent of extremely low- (0-30 percent AMI) and 19 percent of very low-(30-50 percent AMI) income families pay more than half of their income for rent, while only 3 percent of families from 50-80 percent AMI, 0 percent of families from 80-100 percent, and 0 percent of families above 100 percent of AMI pay more than half of their income for rent. Figures for Hidalgo County are similar: 59 percent of extremely low- (0-30 percent AMI) and 24 percent of very low-(30-50 percent AMI) income families pay more than half of their income for rent, while only 3% of families from 50-80 percent AMI, 1 percent of families from 80-100 percent and 0 percent of families above 100 percent of AMI pay more than half of their income for rent. Thus, the up-to-\$25 million per development subsidy in CDBG-DR funds is essentially buying nothing, in terms of affordability, for households with an unmet housing need. This is simply an unconscionable waste of federal resources. Based on our analysis of unmet housing needs of renter households, outlined in the citations Incorporated above in these comments, the majority of the unmet rental housing need is for rental housing with rents affordable at 0 percent to 30 percent of median family income. There is a secondary and lesser level of need existing for rental housing affordable to households earning between 31 percent and 50 percent of area median family income (see the earlier cited "GAP" analysis published by the National Low Income Housing Coalition and HUD planning data). The eligibility criteria and rent levels for rental housing units funded under this program should be accordingly adjusted down. Additionally, the 15- and 20-year affordability periods proposed in guidelines are unnecessarily short and should be extended to 30 year use restrictions for rehabilitation properties and 45 year use restrictions for new construction properties. Affordability terms such as these are commonly being negotiated in other Texas cities and represent an appropriate level of public benefit for the amount of subsidies being provided by this program.

Staff Response: The GLO's rent levels and affordability period are in line with HUD requirements (and federal requirements) for affordability of rehabilitation, reconstruction, and new construction rental housing units. The RFA that includes these application thresholds and targeting was posted on May 1, 2021.

B. Appendix B: Public Comment – State of Texas Regional Guidelines (HAP and HARP)

The Texas General Land Office (“GLO”) posted the draft Regional Housing Guidelines for 2018 South Texas Floods & 2019 Disasters for Public Comment at <http://recovery.texas.gov/public-notices/index.html> on April 14, 2021, commencing a 15-day public comment period. The Regional Guidelines apply to single family housing activities in the two main regions affected by these events

- **Region 1** – South Texas and the Lower Rio Grande Valley (\$66,196,000): Cameron, Jim Wells, Hidalgo, Willacy
- **Region 2** – Tropical Storm Imelda (\$71,604,000): Chambers, Harris, Liberty, Jefferson, Montgomery, Orange, San Jacinto

The official public comment period ended at 5:00 p.m. on May 1, 2021. The GLO distributed a statewide press release announcing the availability of the Housing Guidelines.

GLO received comments from the following individuals and organizations related to the Regional Guidelines:

Commentor Name		Individual, County, City or Organization
Last	First	
Laurel	Ana	Texas Rio Grande Legal Aid
Orduña	Julia	Texas Low Income Housing Information Service
Cass	Ann	Proyecto Azteca and RGV Housing Working Group

Although the official end of the public comment period was April 29, 2021, the GLO considered all comments received on the Guidelines through the effective date of, June 1, 2021. Revisions were made based on public comment received as well as technical and grammatical corrections that were non-substantive.

The following is a summary of the comments received as well as the response.

Comment Received: The rapid rollout of the State of Texas Homeowner Assistance and Reimbursement Program (HARP) is unacceptable as there was little to no advanced notice to organizations in the lower Rio Grande Valley (RGV) and that we are still in the midst of a global pandemic.

Staff Response: The GLO understands the concern regarding the timelines and public engagement. The submission to HUD and approval of the 2018 South Texas Floods and 2019 Disasters Action Plans was delayed due to COVID-19 in addition to following all timelines required under the law. The eligibility criteria for HARP was set forth in the Action Plan approved by HUD. The Guidelines expand on the eligibility criteria in the Action Plan. Applications will not be approved until guidelines are finalized. The GLO is committed to ensuring all CDBG-DR funds are implemented in a manner that is consistent with HUD rules.

Regarding the global pandemic, the health and wellbeing of everyone is of the utmost importance to the GLO as we navigate the COVID-19 situation. The GLO understands that creative solutions are

needed to make sure we stay on track with helping our fellow Texans with their recovery efforts in as safe a manner as possible. As such, we are and will continue to market HARP in a safe and effective manner.

Comment Received: The federal regulations applicable to the 2018 and 2019 Community Development Block Grant-Disaster Recovery (CDBG-DR) programs authorize an extended 30-day commenting period.

Staff Response: The language in the Federal Register Notice is clear that the 30-day comment period applies only to Action Plans and substantial amendments. Furthermore, there are no references in 24 CFR Part 570 to the treatment of housing guidelines in any regard, including public comment. The GLO's public comment period for the Housing Guidelines is sufficient under the law.

Comment Received: HARP considers applications on a first-come, first-served basis but has failed to conduct any meaningful outreach to community organizations in the lower Rio Grande Valley.

Staff Response: The GLO understands the concerns regarding the timelines and public engagement. The submission to HUD and approval of the 2018 South Texas Floods and 2019 Disasters Action Plans was delayed due to COVID-19. This means that Texans impacted by these events were already delayed long overdue assistance. The eligibility criteria for HARP was set forth in the Action Plan approved by HUD. The Housing Guidelines have expanded on the eligibility criteria in the Action Plan. Applications will not be approved until guidelines are finalized. The GLO is committed to ensuring all CDBG-DR funds are implemented in a manner that is consistent with HUD rules.

Comment Received: It is unclear how the Regional Housing Guidelines interact with the existing network of Housing Guidelines and related documents, particularly related to eligible activities, construction standards, and version control. The Regional Housing Guidelines state their purpose is to “compliment and add HARP specific guidance, as further guided by the GLO’s State Housing Guidelines.” This does not clarify which guidelines would govern where the two diverge. For example, the State Housing Guidelines state that Manufactured Housing Units (MHUs) are “eligible for rehabilitation at the discretion of the state.” However, in the Regional Housing Guidelines, MHUs are “eligible for reimbursement OR rehabilitation (emphasis added) at the discretion of the state.” Another example is in the sections regarding construction standards. The State Housing Guidelines state rehabilitation projects “must comply with Housing Quality Standards,” a term defined in its glossary, yet the Regional Housing Guidelines state those same projects must comply with “Habitability Standards,” a term not defined in the glossary of either set of Guidelines. In this circumstance, local governments, advocates, and potentially eligible individuals could be held to different standards. Where the State and Regional Housing Guidelines conflict, the guidelines do not indicate which is provision controls.

Staff Response: The Regional Housing Guidelines contain additional, operational detail on administration of HARP, while the State of Texas Housing Guidelines cover all housing activities under the 2018 and 2019 appropriations. The Regional Guidelines detail eligibility of HAP or HRP activities for residents of manufactured housing units. GLO has included a definition of ‘Habitability Standards’ in the State Housing Guidelines as well as the Regional Housing Guidelines. It should be noted that the Regional Housing Guidelines included the following disclaimer on the last page: ‘In the

event of conflict between these Regional Guidelines and the State of Texas Guidelines, the State of Texas Guidelines will prevail.’

Comment Received: The HARP application opened before clarifying the HUD Most Impacted and Distressed (“MID”) counties for the 2019 CDBG-DR appropriation. According to the 2019 State Action Plan, “HUD has identified Cameron County and the 78570 ZIP Code of Hidalgo County as the HUD MID areas for the 2019 Lower Rio Grande Valley Floods...;” however, “[p]er an allowance in the Federal Register notice, the GLO has expanded to all of Hidalgo County- not just the 78570 ZIP Code- as a HUD MID county.” According to the State Housing Guidelines, both Cameron and Hidalgo Counties are 2019 HUD MIDs. According to the Regional Housing Guidelines, only Cameron County and Hidalgo zip code 78570 are eligible HUD MID counties for the 2019 Lower Rio Grande Valley Floods. This inconsistent information makes it impossible for local communities to prepare for and promote the program effectively.

Staff Response: The GLO has clarified HUD MID and State MID counties under the 2019 Disasters appropriations in the State and Regional Housing Guidelines to include all of Hidalgo County as allowed under the Action Plans. This clarification had no impact on applications received to date.

Comment Received: Relocation expenses are only available on a reimbursement basis and only where applicants have no one else to stay with, despite there being an ongoing pandemic. Both the State and Regional Housing Guidelines state that temporary relocation assistance is only available to homeowner repair applicants (HAP) on a reimbursement basis and “only where the homeowner has no other sources of funds or economical methods of relocation available, such as staying with a friend or relative.”

Staff Response: The GLO is offering temporary relocation assistance as a means to remove a barrier to program entry. When approved, a GLO vendor works with the applicant to identify a suitable rental unit. The vendor will pay the temporary relocation assistance to the provider directly; there is no out-of-pocket expense to the applicant. As it relates to the pandemic, GLO accepts pictures, taken by phone, of required documents with applicant signatures to limit contact, and accepts an applicant’s statement that they do not have any alternative temporary housing available. It should be noted that GLO received a waiver to apply the State Median Income limits when determining eligibility, thereby expanding the LMI population that can be served by temporary relocation assistance under HARP.

Comment Received: The application portal, the State Housing Guidelines, and the application website are all in English, despite many survivors in the lower Rio Grande Valley having limited English proficiency (LEP).

Staff Comment: The GLO will ensure that program information is available in the appropriate languages for the geographic areas to be served and will take appropriate steps to ensure effective communications with persons with disabilities and limited English proficiency (LEP) pursuant to 24 CFR §8.6 and all other fair housing and civil rights requirements.

Translated web content and vital documents are available on the GLO’s website, including a [Spanish version of the HARP application](https://recovery.texas.gov/individuals/programs/2018-2019-harp/index.html), at <https://recovery.texas.gov/individuals/programs/2018-2019-harp/index.html>. Written contact, in the form of email, letters, etc., and related responses are routed to either internal resources or external translation service provider(s) for translation, as needed. Phone

calls from persons of limited English proficiency may be transferred to internal staff or vendor(s) with the required language fluency. The GLO contracts with vendors for telephone, document, and web content translation services and provision of in-person translations outside of the GLO staff's capabilities on an as-needed basis.

Comment Received: The Texas General Land Office's (GLO) administration and the administration of disaster recovery programs by GLO's subrecipients of the multi-billion dollar federally-funded CDBG-DR programs have been characterized by unnecessarily lengthy delays, inefficiencies, inadequate public accountability and a lack of fairness and racial equity in providing assistance to disaster survivors. Government agencies and their contractors have been slow to get housing assistance to Texans who need help to recover from damages to homes and neighborhoods resulting from natural disasters. The timeline proposed in these housing guidelines for the delivery of housing assistance is far too slow and the information reporting on program performance provided is inadequate.

Staff Response: The GLO submitted the Action Plan to HUD in a timely manner, but HUD's release of funds allowing administration of the programs was delayed for reasons beyond the control of the GLO. The GLO began the necessary steps to release the funds as soon as practical in a manner that is consistent with HUD rules. The GLO will directly administer housing activities related to the 2018 South Texas floods and 2019 disaster events. GLO has a proven track record of providing expeditious assistance under this model in a manner that is consistent with HUD rules and regulations. The GLO will continue to report on metrics captured on its website in order to provide an accurate depiction of program performance.

Comment Received: Applicants must wait for long periods of time to be approved and for assistance to be complete. The Housing Guidelines should be amended to provide that applicants are assigned a permanent caseworker, and the caseworker should be fluent in the primary language of the applicant, have access to all necessary information and records, and provide contact information to the applicant.

Staff Response: The Housing Guidelines affirm that the GLO will ensure timely communication of application status and acknowledges that applicants are likely to need support throughout the process. All applications will be maintained electronically which will allow applicants to have access to and monitor the status of their application at each step of the process. The GLO will ensure that program information is available in the appropriate languages and will take the steps necessary to ensure effective communications.

Comment Received: The GLO does not appropriately disclose the intended use of the Total Allocation Budget. The GLO should provide a budget breakdown for State Project Delivery, Administration costs, and other program expenditures that will change the funding allocated for direct program.

Staff Response: The Action Plan sets forth the total allocation budget for HARP. The Guidelines cannot further limit or modify the budgets set forth in the Action Plan.

Comment Received: The methodology for determining unmet need at beneficiary income group targeting used by GLO in Regional Housing Guidelines is flawed for the reasons set forth in

detail in our past comments to GLO and in analysis and reports of GLO's methodology reported on ([Texas Housers](#)) website.

Staff Response: The GLO will post a regional Needs Assessment on www.recovery.texas.gov for a 15-day public comment process on or about June 1, 2021. The GLO has worked to ensure that the methodologies utilized or to be utilized in the formation of these documents are the best practicable given available data.

Comment Received: The bedroom size determination issue set out in the Regional Housing Guidelines should be modified. The guidelines provide that the number of bedrooms allowed in a reconstructed home will be “based on anticipated household size and occupancy policies.” This rule allows for the reduction of bedrooms previously in existence. This reduction in the number of bedrooms of a house according to the number of occupants diminishes the value of the home and inversely affects families that hold this property for generations. Additional considerations should be made to accommodate the social and economic circumstances of the applicant.

Staff Response: The Guidelines were drafted in conformance with long-stand HUD rules and regulations. HUD requires all activities to satisfy an unmet need of the application, costs to be reasonable and necessary, and bedroom distribution to be in line with current guidance. The GLO follows the HUD guidelines that provide a minimum size of unit based on anticipated household size and occupancy policies that allow for two persons per bedroom as reasonable. The GLO considers the needs of the family when offering program assistance to the extent allowed under federal regulations. This needs consideration accounts for variables that include familial size and familial age and gender diversity. The Housing Guidelines as written follow HUD's Fair Housing Act Policy Statement, as well as HUD CDBG-DR requirements.

Comment Received: The Regional Housing Guidelines outline the process by which Applicant Coordinators will work with applicant files to create a timely flow of document collection. Texas Housers hopes that the GLO will hold their staff or Vendor accountable to these benchmarks for document submission. Much of the delays of previous program run by the GLO or misinformation shared with applicants by Applicant Coordinators has to do with the timeliness of updating the file in the TIGR system. When work is completed and not updated, other administrators of the pipeline cannot continue their work and applicants are misinformed as to where they are in the process. We also suggest that originals be held for the length of the program or that Applicant Coordinators always have scanning equipment at hand, that they scan documents at the moment of receiving them and return the documents to the applicant immediately. Texas Housers also hopes that the GLO understands and recognizes the barriers and limitations possessed by applicants of the programs set forth in the Regional Housing Guidelines. Also considering that technology with automatically block unknown email senders or phone numbers, Texas Housers suggests Applicant Coordinators make more than 3 attempts to make contact with the applicant and such attempts must vary in method as well as timeframe.

Staff Response: GLO holds vendors accountable for timely completion of benchmarks and assesses penalties in accordance with their contracts with the GLO. Applicants have the ability to review their application status at any time. The GLO and its vendors are required to keep records in accordance with federal record retention requirements. The GLO accepts pictures, taken by phone, of documents with applicant signatures when the documents are submitted from the email account listed on their

application to assist with application completion. Vendors are required to make at least three contact attempts at necessary contact times and methods of attempted contact vary.

Comment Received: The Regional Housing Guidelines B. Housing Assistance Cap do not include the actual caps of assistance. Texas Housers asks that the GLO provide as much detailed information in these Guidelines to inform the program administrators and public alike

Staff Response: The State Housing Guidelines include the specific caps for all HARP activities and also apply to the Regional Housing Guidelines.

Comment Received: The Regional Housing Guidelines (page 20) fail to set forth a plan to properly report or monitor and ensure accountability in the expenditure of funds used to fund rental housing.

Staff Response: The Regional Housing Guidelines only apply to HARP. The Affordable Rental Program falls under the State Housing Guidelines and all questions regarding reporting and monitoring of funding expenditures should be addressed within that document.

Comment Received: The Housing Guidelines should include a Section 3 Plan or a link to the plan and describe the process allowing for citizen comment on that plan.

Staff Response: The GLO has added a link to HUD guidance as well as GLO's Section 3 guidance available on GLO's website. These guidance documents can be found at <https://www.hud.gov/section3> and <https://recovery.texas.gov/local-government/resources/section-3/index.html>, respectively.

Comment Received: GLO while acknowledging in the Regional Housing Guidelines, its duty to report program performance data publicly, has failed to adequately do so. The plan should commit the GLO to provide more complete reporting of data.

Staff Response: The GLO is committed to reporting program performance in accordance with HUD requirements. The GLO posts performance reports on the GLO website found at www.recovery.texas.gov.

Comment Received: The Housing Guidelines on page 29 should state that all housing programs will comply with Texas statutory visitability standards for access by persons with disabilities set out in Texas Government Code Sec. 2306.514.

Staff Response: The GLO notes that while 10 TAC §2306 is specific to the Texas Department of Housing & Community Affairs, the Guidelines indicate that single family housing units will comply with the visitability standards found in 10 TAC §2306.514. Additionally, housing developments must meet all accessibility requirements found at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794).

Comment Received: Provisions in the Regional Housing Guidelines Section G, "Displacement of Persons and/or Entities" fails to reflect the information set forth in the Housing Guidelines by stating that "HARP is a voluntary program and therefore beneficiaries do not meet the

definition of displaced persons” and should provide for the moving expenses and temporary housing of low-income households to be paid by the program instead of the beneficiary having to pay for moving expenses and/or temporary housing and be reimbursed. Low-income disaster survivors may not be able to bear the upfront cost of moving expenses and temporary housing.

Staff Response: Temporary relocation assistance may be made available to homeowners if the inability to relocate during construction is a barrier to participation in the program. Due to limited fund availability, relocation assistance requests will be approved only where the homeowner has no other sources of funds or economical methods of relocation available, such as staying with a friend or relative. The State Housing Guidelines cover the terms of this optional assistance.

Comment Received: Texas Housers is concerned with the additional specifications included in the Regional Housing Guidelines under “H. Conflict of Interest”.

Staff Response: The GLO has removed the reference to ‘Developer’ in this section, as these guidelines do not govern the Affordable Rental Program.

Comment Received: Fair Housing provisions in the Regional Housing Guidelines are inadequate and must be strengthened. Individuals being assisted in home reconstruction programs should be offered the opportunity to relocate and should receive Fair Housing counseling and assistance like that provided by the GLO under the May 2010 Fair Housing conciliation agreement between Texas Housers and the State of Texas in the Hurricane Ike CDBG-DR program. Texas Housers specifically refers here to the Homeowner Opportunity Program (HOP) through which individuals considering relocation or rebuilding on an existing site were offered Fair Housing counseling and the services of a real estate professional to assist them to identify homes in less flood prone and higher opportunity neighborhoods that might better meet their needs. The GLO provided this program through the Hurricane Dolly CDBG-DR program. Through that program the GLO has stated that 20 percent of homeowners elected to relocate to lower flood hazard, higher opportunity areas. Inexplicably, the GLO has refused, despite Texas Housers’ repeated requests, to implement this program for the survivors it assists through subsequent federally-funded disaster recovery programs, including Hurricane Harvey. These Housing Guidelines present an opportunity for GLO to Affirmatively Further Fair Housing by re-instituting this important program.

Staff Response: Housing activities for the 2018 South Texas Floods and 2019 Disasters were determined during the Action Plan phase. The Action Plan did not include the Homeowner Opportunity Program (“HOP”). A new program cannot be added through the Housing Guidelines. The Housing Guidelines do, however, allow for new construction activities as necessary to move households out of areas not deemed suitable for residential habitation by the local jurisdiction.

Comment Received: The Regional Housing Guidelines in “A. Survivor Case Management” should be modified to instruct vendors to, if requested, act as the agent of the applicant to secure tax documents, deed documents and other public records necessary for a complete application for the program. This affirmative effort to support the applicant will speed up the completion of the application where we have seen the most lag in GLO programs. The proposed provision in the Regional Housing Guidelines that vendors, “work to cultivate partnerships with local and community liaisons such as banks, counseling agencies, legal services, title companies, etc.” is

insufficient to accomplish these purposes. Applicants with the most need tend to be the ones with the most barriers in completing the application and will ultimately be left out of the program without proper assistance. This information was much more extensive in the Regional Housing Guidelines for Tropical Storm Imelda. Texas Housers hopes that the same diligence and specificity will be used in the South Texas and Valley programs.

Staff Response: The GLO, through its vendors, removes barriers to housing choice by assisting applicants throughout the application process and providing additional resources as necessary to assist the applicant with their application. The GLO will ensure that a consistent level of customer service is provided to all HARP applicants.

Comment Received: We appreciate the GLO’s commitment to “Applicant Coordinators 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.” Texas Housers would like to remind the GLO of the importance of language access and the reduction of program barriers, specifically in the southern Texas border region where there is a much higher percentage of non-English speakers.

Staff Response: The GLO will ensure that program information is available in the appropriate languages for the geographic areas to be served and will take appropriate steps to ensure effective communications. Translated web content and vital documents are available on the GLO’s website, including a [Spanish version of the HARP application](#). Written contact, in the form of email, letters, etc., and related responses are routed to either internal resources or external translation service provider(s) for translation, as needed. Phone calls from persons of limited English proficiency may be transferred to internal staff or vendor(s) with the required language fluency. The GLO contracts with vendors for telephone, document, and web content translation services and provision of in-person translations outside of the GLO staff’s capabilities on an as-needed basis.

Comment Received: The Regional Housing Guidelines in section “(5) Property Taxes” should be modified. The provision requiring property taxes be current or a payment plan be in place fails to take into account the severe economic problems that low-income households have encountered as a result of the COVID-19 pandemic. Unprecedented numbers of both homeowners and renters are severely behind in rent and mortgage payments and a large number of homeowners are behind in their property taxes. State and locally administered programs to provide assistance to these households have been plagued with delays in getting the assistance to the people who need it. This has further exacerbated the financial problems of low-income people in Texas. The GLO should modify the language in the Regional Housing Guidelines which reads, “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.” The Hidalgo County Tax Collector has a very restrictive policy regarding establishment of delinquent tax payment plans that keeps many homeowners from getting on a payment plan. The Harris County Tax Collector limits households to one single payment a month. The GLO should permit applicants who are currently unable to pay their taxes because of the economic impact of the pandemic, including job loss related to COVID-19, to be eligible for CDBG-DR assistance provided the applicant can demonstrate they have sought public assistance to pay their taxes.

Staff Response: GLO considers extenuating circumstances as part of the application evaluation and appeals process. All of the factors cited in this comment would be adequately considered when evaluating an application and any correlating appeals.

Comment Received: In addition to the comment above, the Regional Housing Guidelines mentions that “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 owns more than one property.” Texas Housers believes that it is not the GLO’s administrative duty to be checking on the properties owned by applicants. This does not affect the unmet need or the validity of their primary residence. Creating extra administrative work not only utilizes necessary funding for administrative fees that could be utilized for direct program services, but it is outside of the scope of work of this program. Excessive documentation and program barriers are one of the main reasons that the GLO has had inadequate program performance and significant lags in the execution of past recovery programs.

Staff Response: The Federal Register Notice and the Action Plan make it clear that properties that served as second homes at the time of the disaster, or following the disaster, are not eligible for assistance. The GLO, therefore, must confirm that the assisted home was the primary residence of the applicant at the time of the disaster event. Any request for documentation necessary to confirm primary residency is necessary and required under applicable federal law.

Comment Received: GLO should re-evaluate the method it utilizes to determine duplication of benefits in the Regional Housing Guidelines. A clear, easily understandable process for making this determination is badly needed. Neither the Regional Housing Guidelines nor the GLO website offers survivors this clear explanation. In our frequent interactions with survivors, we find this to be one of the most misunderstood and wrongly determined aspects of the program. We have frequently seen inspectors inaccurately determine whether emergency repairs made by FEMA should constitute the previous provision of assistance for purposes of calculating duplication of benefits. We have observed instances in which repairs were improperly done or that failed, being categorized incorrectly as a previous benefit and their value deducted from the basis for new repairs. At the very least, the Regional Housing Guidelines should propose for an independent appeals process when an improper determination of duplication of benefits is alleged by a homeowner. With regard to the provision in the Regional Housing Guidelines, “The GLO has developed policies and procedures to prevent duplication of benefits when determining an applicant’s unmet need,” we have observed on numerous occasions examples where the GLO has undertaken extensive efforts to address appeals by vendors, other governmental jurisdictions and multi-family developers who have appealed GLO interpretations and findings. The GLO should devote a similar level of attention to appeals from individual hurricane survivor program applicants.

Staff Response: GLO adheres to [HUD DOB Guidance](#) when determining duplicative assistance. The GLO has posted resources on its website to guide applicants in determining how other assistance they have received may impact their final assistance determination. This guidance can be found at <https://recovery.texas.gov/local-government/resources/housing/index.html>. Applicants have a right to appeal all GLO determinations and a link to the appeals process has been added to the Guidelines.

Comment Received: Revisions to the Regional Housing Guidelines regarding manufactured housing units should make clear that manufactured housing units that are not titled as real estate are eligible for assistance.

Staff Response: The Housing Guidelines make it clear that the applicant must have a Statement of Ownership from the Texas Department of Housing & Community Affairs (“TDHCA”), Manufactured Housing Division and will be required to provide evidence that they own the land where the MHU resides.

Comment Received: Rent-to-own and contract-for-deed agreements are still common in the Texas-Mexico border region and in some other parts of the state. The Regional Housing Guidelines should make explicit that such purchase arrangements will not cause a property to be ineligible for housing rehabilitation or reconstruction and should further financial support to enhance the security of such titles to the land that GLO will make available to program applicants.

Staff Response: The GLO notes that while 10 TAC § 2306 is specific to the Texas Department of Housing & Community Affairs, it has adopted in its Guidelines the provisions of §2306.188 which establish homeownership in a disaster area. The GLO, through its vendors, encourages applicants to file contract-for-deeds in county property records to secure their ownership interest. The GLO shall also assist and make referrals to legal aid organizations as appropriate to accomplish these necessary tasks.

Comment Received: “E. Eligible Improvements” of the Regional Housing Guidelines are unfairly discriminatory toward the lowest income homeowners and have a disparate racial and national origin impact. Through these provisions the GLO agrees to fund certain amenities (garages, carports, fencing, masonry construction when a political jurisdiction or homeowners association requires it but otherwise will not provide these improvements. Lower-income households, who are disproportionately African-American and Hispanic in these natural disasters, far less frequently reside in political jurisdictions or within homeowner association boundaries that impose these type of requirements associated with higher value residential areas. Not mentioned in the Regional Housing Guidelines, but almost certainly a situation which occurs, is a minimum square footage requirement imposed by local zoning, building code or homeowners association rules. GLO is financially accommodating the reconstruction of a house with a larger square footage than required under the GLO bedroom size restrictions discussed above in Comment #4 and the square footage restrictions set out on page 33 is discriminatory. This provision, as adopted by GLO has a disparate impact on people based on race and national origin. The GLO should establish a policy allowing for the funding of the reconstruction of all of these amenities where they were present prior to the disaster and not tie the benefit to residency in a political jurisdiction or homeowners association boundaries that imposes such a requirement.

Staff Response: The Guidelines were drafted in conformance with long-stand HUD rules and regulations. HUD requires all activities to satisfy an unmet need of the application, costs to be reasonable and necessary, and bedroom distribution to be in line with current guidance. The GLO follows the HUD guidelines that provide a minimum size of unit based on anticipated household size and occupancy policies that allow for two persons per bedroom as reasonable. The GLO considers the

needs of the family when offering program assistance to the extent allowed under federal regulations. This needs consideration accounts for variables that include familial size and familial age and gender diversity. The Housing Guidelines as written follow HUD's Fair Housing Act Policy Statement, as well as HUD CDBG-DR requirements.

Comment Received: The proposed GLO Housing Guidelines state in (1.) Program Objectives state that: "All housing activities should ... provide high quality, durable, resilient, mold resistant, energy efficient, decent, safe and sanitary housing that meet Green Building Standards." However, the Regional Housing Guidelines state that: "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." These Regional Housing Guidelines contradict the program objectives set by the State and the requirements as outlined by HUD. It is imperative that the GLO modify the language to reflect that these items will be considered eligible where an industry-recognized standard appliance is not present in order to 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.

Staff Response: The GLO does not agree that these sections are in conflict. Additionally, the State Housing Guidelines govern single family activities subject to the Regional Housing Guidelines and the Regional Housing Guidelines state that in the event of conflict, the State of Texas Housing Guidelines will prevail.

Comment Received: Relocation assistance provisions in these Regional Housing Guidelines have changed from previous versions. The proposed Housing Guidelines state, "Relocation assistance may be offered at the discretion of the state. The cap will be set at \$6,000 for temporary relocation services for up to 120 days, after which point these expenses will become the obligation of the builder performing the work." The guidelines should state the basis for the GLO decision whether or not to grant relocation assistance. The guidelines should further clarify that relocation that is determined to be the financial responsibility of the builder should be provided to the applicant by the GLO which would be responsible in turn for recovering any costs from the builder. It is an unreasonable burden to a disaster survivor to saddle them with the responsibility for seeking payments from the GLO's contracted builder.

Staff Response: The GLO has incorporated additional language into the State Housing Guidelines to clarify terms of assistance.

Comment Received: The Regional Housing Guidelines state under (2) Homeowner Reimbursement Program that "The GLO will not reimburse applicants for work initiated after the start of the program" which was specified in the Housing Guidelines as April 24, 2021. Texas Housers believes that it is not only creating a barrier to address the unmet need, but it is launching a program while the Action Plan and its Housing Guidelines are in public comment. Due to the first-come, first-serve nature of this program, the GLO should not set such limited scope. Texas Housers suggests that the GLO allow applicants to submit for reimbursement any work that has been completed before the date of applicant's completed submission.

Staff Response: The Federal Register Notice limits reimbursement assistance to one (1) year following the disaster event. The GLO has submitted a waiver request to HUD to allow for additional time following the event and has not received an approval. The GLO will not approve any applicants for assistance until the State of Texas and Regional Guidelines are finalized and published. Additionally, the GLO cannot approve any expenditures greater than one year following the disaster event unless final HUD approval is issued.

Comment Received: “(d) Prioritization of Funds” found on page 35 of the Regional Housing Guidelines should be amended to provide that 100 percent of funds should be used to assist low- and moderate-income households. At this very late hour in the recovery, most all non-low and moderate-income persons have recovered from the disaster. At this time the overwhelming majority of the persons with an unmet housing need and who have not been able to recover are low-income people. The GLO should recognize this fact in the amendment and modify this provision to require that 100% of the remaining funds are used to benefit low- and moderate-income households. GLO should include a provision in these Housing Guidelines providing that if, after a suitable period of time, it is determined that all of the LMI need has been satisfied by the program, the GLO will then seek to amend the Regional Housing Guidelines to expand program eligibility to serve higher income individuals.

Staff Response: Prioritization of funds was established in the Action Plan process and cannot be further limited by the Guidelines. The Action Plan has been through all required public comment and review processes and was ultimately approved by HUD.

Comment Received: The Regional Housing Guidelines fail to set out a plan to properly monitor and ensure accountability in the expenditure of these funds. Reporting requirements are inadequate to monitor basic program performance or civil rights compliance. Attached to this letter are monitoring protocols that should be adopted in the Regional Housing Guidelines to permit assessment and monitoring. Additionally, Texas Housers supports the recommendations of the Harvey Forgotten Survivors Caucus that GLO establish and support a citizens’ monitoring advisory committee to the GLO that includes Hurricane survivors to assist the agency in monitoring, oversight and understanding program operations and issues from the perspective of low- and moderate-income beneficiaries.

Staff Response: The GLO is committed to the effective and efficient use of CDBG-DR. The GLO remains open to considering analytical feedback from community groups like the one referenced in the comment to improve the administration of disaster recovery programs.

Comment Received: The Regional Housing Guidelines are unclear about the length of time which applicants would be required to maintain an Unsecured Forgivable Promissory Note for the reconstruction or rehabilitation programs of these Regional Housing Guidelines. Page 31 of these Regional Housing Guidelines states the requirement of the Note, while page 36 specifies that an applicant receiving assistance from the reimbursement program is required to sign a Note that “will expire one year after the execution of the agreement.” The public should be allowed to comment on all the plans set forth by the GLO. Ambiguity in these details hinders full citizen participation. Texas Housers requests the GLO provide specific length of time which affect applicants including but not limited to the length of an Unsecured Forgivable Promissory Note for each of the programs outlined in these Regional Housing Guidelines.

Staff Response: The GLO has incorporated additional language into the Regional Housing Guidelines to clarify terms of the Unsecured Forgivable Promissory Notes.

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

The GLO State of Texas Housing Guidelines and Regional Housing Guidelines provide guidance on how to design, implement, and close a CDBG-DR Housing Program, and should not be construed as exhaustive instructions. In the event of conflict between these Regional Guidelines and the State of Texas Guidelines, the State of Texas Guidelines will prevail.

For questions regarding these guidelines, contact: Jennifer Molinari, Director of Housing at: Jennifer.Molinari.glo@recovery.texas.gov.