

The GLO-CDR Implementation Manual provides guidance for CDBG-DR Subrecipients and should not be construed as exhaustive instructions.

CHAPTER 8 – ACQUISITION & RELOCATION

TABLE OF CONTENTS

CHAPTER 8 - ACQUISITION & RELOCATION	2
8.1 Introduction and Purpose	2
8.2 Environmental and Acquisition.....	3
8.3 Terms and Definitions.....	4
8.4 Methods of Acquisition	6
8.5 Determining Voluntary or Involuntary	6
8.6 Voluntary Acquisition Process	8
8.7 Involuntary Acquisition Process.....	9
8.8 Relocation	12
8.9 Acquisition and Other Program Requirements.....	15
8.10 Best Practices	19
8.11 Resources.....	24

CHAPTER 8 - ACQUISITION & RELOCATION

8.1 Introduction and Purpose

CDBG-DR funded projects are subject to both the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601 et seq. (“URA”), and the federal regulations found in 49 C.F.R. Part 24 (See also Section 104(d) of the Housing and Community Development Act of 1974 and implementing rules at 24 CFR Part 42 regarding relocation assistance policies for HUD funded programs). The URA provides for uniform and equitable treatment of persons displaced from their homes, businesses or farms as a result of acquisition, rehabilitation, or demolition of real property for any phase of a Federal or federally funded project. The URA also establishes equitable land acquisition policies.

Acquisition is typically associated with another eligible activity where the end use of the acquired property meets a CDBG National Objective. Subrecipients may also create housing Buyout or Acquisition programs, which consist of two components: (1) the Buyout component (“Buyouts”), which includes the voluntary purchase of eligible properties within the floodway, floodplain or designated Disaster Risk Reduction Area (DRRA), that once acquired is converted in perpetuity to green space, wetland or flood plain management or (2) the Acquisition component (“Acquisitions”), includes the voluntary acquisition of eligible properties that sustained substantial damage that the end use of the acquired property satisfies a HUD national objective. A Buyout Program’s focus is to remove development from harm’s way. The Acquisition program allows for properties acquired using post fair market value to be redevelopment in a resilient manner. A Buyout program allows the use of two HUD national objectives, Low- and Moderate-Income Buyout (LMB) and Low- and Moderate-Income Housing Incentive (LMHI).

Subrecipients choosing to administer a Buyout or Acquisition program shall create Housing Guidelines using the GLO-CDR’s Buyout and Acquisition Guidelines Checklist posted on the GLO-CDR website and submit them for GLO-CDR approval. All guidelines must be available locally for a thirty-day comment period.

Relocation requirements of the URA are discussed in the relocation guidelines available on the HUD website (link in [Resources](#), below).

Additionally, HUD’s Allocations, Common Application, Waivers, and Alternative Requirements for 2017 Disaster Community Development Block Grant Disaster Recovery Grantees, 83 FR 5844 (February 9, 2018) for Harvey Grants can be found at the end of this chapter.

The purpose of the URA is:

- To ensure owners of real property acquired for federal and federally assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in federal and federally-assisted land acquisition programs;

- To ensure persons displaced as a direct result of federal or federally assisted projects are treated fairly, consistently and equitably and do not suffer disproportionate injuries as a result of projects that benefit the public; and
- To ensure acquiring/condemning authorities implement these regulations in an efficient and cost-effective manner

URA is triggered when real property acquisition related a CDBG-DR project is contemplated, or persons are to be displaced as a direct result of acquisition, demolition and rehabilitation at any phase of a federally funded project.

General Requirements

HUD Handbook 1378 provides thorough guidance on real property acquisition under URA. If there are questions whether any of the following apply to a specific situation, please consult your GLO-CDR Grant Manager.

Acquisition rules apply whenever an acquiring entity:

- undertakes the purchase of property directly;
- provides a nonprofit or for-profit entity with funds to purchase the property;
- hires an agent or consultant to act on its behalf in acquisition;
- undertakes acquisition on or after a CDBG-DR application submission date unless the acquiring entity demonstrates that the acquisition was unrelated to the proposed activity;
- undertakes an acquisition before the application submission date and the acquisition were intended to support a subsequent CDBG-DR activity

Each property owner must be properly informed of their rights, as required by law, and the acquiring entity must document compliance with the laws and regulations. Each property owner is entitled to the payment of just compensation for their land, even if they are a direct beneficiary of the project.

Before requiring the property owner to surrender possession of the real property, the acquiring entity must pay the agreed purchase price to the owner.

If the acquisition is only a portion of a property but would leave the owner with an uneconomic remnant of the property, the acquiring entity must offer to acquire the uneconomic remnant along with the portion of the property needed for the project. 49 CFR §24.102(k)

8.2 Environmental and Acquisition

Executing a contract to purchase property for a CDBG-DR project before the environmental review is completed is considered a commitment of funds and a choice limiting action (24 CFR §58.22(a)) and must be avoided until after the environmental review process is completed and GLO-CDR has issued a release of funds. Any executed instrument, such as an easement document, which conveys an interest in property, whether purchased, leased, or donated, is also considered an activity limiting the choice of reasonable alternatives. There is one action that may be taken before the environmental release of funds that might conclude

the acquisition once the environmental review process is completed: an option contract. This type of contract is a useful tool for Subrecipients to obtain site control while allowing time to complete the environmental review.

HUD's regulations at 24 CFR §58.22(d) allow for an option contract agreement for any project prior to the completion of the environmental review when the following requirements are met:

- Option agreement is subject to a determination by the recipient on the desirability of the property for the project as a result of the completion of the environmental review in accordance with 24 CFR Part 58; and
- Cost of the option is a nominal portion of the purchase price

8.3 Terms and Definitions

Acquiring Entity / Acquiring Agency

The term “acquiring entity” and “acquiring agency” are used interchangeably and refer to the entity (in most cases, the Subrecipient) performing the acquisition or under whose authority the acquisition is performed. Ultimately, the Subrecipient is responsible for ensuring compliance with all URA requirements. This does not prevent another entity such as a water supply corporation from acquiring real property for the grant-funded project. All URA rules are applicable to projects with any amount of CDBG participation regardless of the type of entity completing the acquisition activity or the source of funds being used in the transaction.

Eminent Domain

Eminent domain refers to the power of the government to take private property and convert it to public use. The Fifth Amendment to the US Constitution provides that units of government may only exercise this power. Just compensation for any private property converted to public use will be paid to the property owner.

Important Note: The State of Texas' eminent domain authority is delegated by statute to state agencies, political subdivisions (cities, counties and special districts) and some private entities. Governmental entities have eminent domain authority over properties that are located both inside and outside their taxing jurisdiction. All municipalities in Texas (home rule, general law and special law) are provided the authority of eminent domain under Section 251.001 of the Local Government Code; authority for counties to exercise eminent domain is found in Section 261.001 of the Local Government Code. Section 49.222 of the Texas Water Code confers water districts and water supply corporations with eminent domain authority to acquire land, easements, or other property necessary for water, sanitary sewer, storm drainage, or control purposes. However, Section 2206.001 of the Government Code limits the eminent domain authority of governmental and private entities for acquisition that confers a private benefit on a private party or for economic development purposes, unless economic development is a secondary purpose resulting from a municipal community development or municipal urban renewal activities to eliminate slum or blight as provided by applicable provisions of the Local Government Code.

Condemnation

Condemnation refers to the legal process used for taking property under the authority of eminent domain. The use of the term should not be confused with its use in declaring a property to be uninhabitable or unsafe.

Real Property

All public improvements or activities related to an eligible CDBG-DR project must be constructed on public property, owned by the Subrecipient, or recorded as a right-of way or easement. Real property in the context of acquisition refers to permanent interest in real property as well as certain less-than-full-fee interests in real property. Acquisition rules apply to CDBG-DR projects whenever:

- Fee simple title to the property is acquired;
- Permanent and temporary easements necessary for the project are acquired;
- Properties subject to a life estate or a life use are acquired; and
- Property that is leased for a term of 15 years or more is acquired. Note that a lease term for less than 15 years does not satisfy HUD's standard for real property acquisition and would, therefore, not meet the CDBG-DR program 'interest in property' requirement

Improvements constructed on property that is not publicly owned or recorded as a right-of-way or easements are not eligible CDBG-DR projects. Federal acquisition procedures do not apply to temporary easements needed solely to perform work intended exclusively for the benefit of the property owner.

In general, permits and licenses, such as railroad permits, do not constitute real property acquisitions and, therefore, are not subject to the URA requirements. In distinguishing whether a permit/license is actually an easement, the Subrecipient should carefully consider such factors as the cost of the permit or license; its term; whether the license/permit is revocable at will; and/or whether there is a transfer of interest in the property. If there is a question of whether the permit or license should be considered an easement, Subrecipients should seek legal counsel.

Buyout or Acquisition of real property are limited to actual costs for services used to complete a buyout of a home in a floodplain or floodway and the intent is to relocate the homeowner and their family to a low-risk area outside of the floodplain/floodway. Property acquired through a buyout program will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or floodplain and wetlands management practices other purposes allowed by HUD and accepted by the GLO. No new structure will be erected on property acquired, accepted, or from which a structure was removed under the buyout program other than: (1) a public facility that is open at all sides and functionally related to a designated open space (e.g., a park, campground, or outdoor recreation area); (2) a rest room; or (3) a flood control structure, provided that structure does not reduce valley storage, increase erosive velocities, or increase flood heights on the opposite bank, upstream or downstream, and that the local floodplain manager approves, in writing, before the commencement of the construction of the structure. After receipt of the assistance, with respect to any property acquired, accepted, or from which a structure was removed under the buyout program, no subsequent application for additional disaster assistance for any purpose

or to repair damage or make improvements of any sort will be made by the Subrecipient to any federal entity in perpetuity.

Subrecipients without eminent domain authority fall under the requirements at 49 CFR 21.101 (b)(2).

8.4 Methods of Acquisition

A Subrecipient may acquire real property after determining whether the acquisition is voluntary or involuntary (see below description of determining whether an acquisition is voluntary or involuntary) through one of the following methods:

- **Donation:** A transaction may be considered a donation only if the owner agrees to give, rather than sell, property to the acquiring entity. Donations may be made in either voluntary or involuntary acquisitions;
- **Just Compensation Purchase:** The acquisition price is determined through a valuation process by a licensed appraiser. A real estate appraiser provides an objective and unbiased estimate or appraisal of the value of a property. The Subrecipient notifies the owner in writing of the property's fair market value;
- **Negotiated Purchase:** Negotiated purchase is the acquisition of property at a price different from the value that was determined through just compensation. In cases of purchase through negotiation, the reasons for the purchase must be explained in a document called an administrative settlement. For a buyout or acquisition housing program, this may include incentives to resettle beneficiaries. Subrecipients must ensure that the intent of the housing incentive is satisfied at award;
- **Condemnation/Eminent Domain:** A Subrecipient should use condemnation only as a last resort and must request and obtain approval from GLO-CDR before commencing condemnation procedures. The acquiring Subrecipient with eminent domain authority must determine which approach applies to the project before starting any acquisition activity. Once the Subrecipient starts down the "voluntary" acquisition path- the use of eminent domain is not available. If an agency conducts its acquisition using the "involuntary" approach it is NOT committed to using eminent domain but may retain that option as last resort. Subrecipients must comply with Chapter 2206 of the Texas Government Code and all other applicable law. Any Subrecipient considering condemnation must be aware of spending requirements associated with CDBG-DR funds. If a project requires condemnation the GLO-CDR must be notified immediately. See applicable Federal Register and your GLO-CDR Grant Manager for additional information.

8.5 Determining Voluntary or Involuntary

Acquisition will be either voluntary or involuntary. The terms relate to whether the acquiring entity possesses the authority of eminent domain (condemnation), and if the transaction occurs as a result of the use or the intent to use that authority. URA provides different protections to property owners depending on whether the acquisition is voluntary or involuntary. (See 49 CFR 24, Subpart B Real Property Acquisition).

For a housing Buyout or Acquisition program Subrecipients with eminent domain authority who are considering either a Voluntary or Involuntary program, the Subrecipient should work to consider a voluntary program over an involuntary program to minimize the costs and maximize the benefits of buyouts.

Subrecipients should design and implement buyouts or acquisitions program using the following best practice principles:

- Using real property damage data, e.g. Flood Plain Administrator reports, FEMA Individual Assistance property loss, Flood Indentation Maps, Geographic Information System (GIS) software, etc. allows the Subrecipient the opportunity to consider how it will best acquire a sufficient number of contiguous properties to create a public amenity;
- With support data as discussed above, the Subrecipient should identify and prioritize buyout areas in advance and create list of willing sellers and incorporate plans for a buyout into its hazard mitigation plans;
- Look for opportunities to connect to existing open space to satisfy the end use which is to create a wetland, green space, park, etc.;
- Create program incentives and strategies for homeowners to participate in a buyout and relocate within the community;
- Work with local government entities to identify relocation areas outside the floodway, flood plain, DRRA in advance; and
- Partner with state or local parks systems to manage lands acquired as part of the buyout.

At no time is it permissible for a Subrecipient to undertake the acquisition under threat or use its eminent domain authority if initial negotiations for a voluntary acquisition fail. If the Subrecipient cannot ensure the applicable requirements of 49 CF R 24.101(b)(1)(i)-(iv) are satisfied, then such acquisitions must be pursued as an involuntary acquisition under the full requirements of 49 C.F.R. Part 24 Subpart B.

VOLUNTARY

Acquiring Entities with Eminent Domain Authority - Voluntary Acquisition

Voluntary acquisitions are negotiated between the property owner and the Subrecipient without the threat of eminent domain or condemnation. For Subrecipients with the authority of eminent domain, acquisitions must meet the following conditions to be considered voluntary (See 49 CFR 24.101(b)(1)(i)-(iv)):

- No specific site is needed and any one of several properties could be acquired for project purposes;
- The property is not part of an intended, planned or designated project area where other properties will be acquired within specific time limits;
- The acquiring entity must inform the owner in writing that the property will not be acquired through condemnation if negotiations do not reach an amicable agreement;
- The acquiring entity must inform the owner in writing of the property's fair market value using an appraiser (Housing Buyout or Acquisition Programs); and

- Economic Development projects benefiting from a private entity acquisition may only be conducted using voluntary procedures

Acquiring Entities without Eminent Domain Authority - Public Land Acquisition

Public Land Acquisition - Subrecipients do not have eminent domain authority to obtain publicly-owned land. Therefore, acquisitions of property owned by federal, state, local governments, or political subdivisions (such as school districts or river authorities) are considered voluntary acquisitions. The Subrecipient must still provide notification to the governmental entity regarding interest in the property, the lack of eminent domain to acquire the property, and the estimated fair market value of the property to be acquired before negotiating the sale, lease, or donation of the public land.

INVOLUNTARY

If an acquisition by an entity with eminent domain authority does not comply with the voluntary acquisition requirements described above (see 49 CFR 24.101(b)(1)(i) – (iv)), the acquisition is considered involuntary. Involuntary acquisition procedures must be followed for any acquisition of real property for programs and projects where there is Federal financial assistance in any part of project costs.

8.6 Voluntary Acquisition Process

Step 1 – Determine Property to be Acquired

Prior to beginning an acquisition process, the Subrecipient must have a clear understanding of the grant-funded project and the property to be acquired. For a housing Buyout or Acquisition program, see 8.5 Determining Voluntary or Involuntary.

Step 2 – Submit Form A600 Initial Acquisition Report to GLO-CDR Grant Manager.

Consult with the GLO-CDR Grant Manager for review of URA requirements and determination of acquisition levels.

Step 3 – Determine Fair Market Value of the Property

The Subrecipient may use a fair market estimate such as a tax valuation to determine value. For a housing Buyout or Acquisition program, an appraisal is required.

Step 4 – Notify Owner of Property Rights

Voluntary acquisitions can occur only when the Subrecipient lacks the authority to condemn (eminent domain) or when it revokes its intent to use eminent domain by giving specific written notice to the property owner.

The Subrecipient must notify the owner in writing, prior to making a purchase offer, of the following (49 CFR § 24.101(b)(1)(i)-(iv)):

- the property’s fair market value; and
- the Subrecipient or acquiring entity will not acquire the property if an amicable settlement cannot be reached

Optional - In addition, the owner can also be invited to donate the property. The acquiring entity may include a form for the owner to complete allowing him/her to accept or decline the request to donate the land. For Housing Buyouts or Acquisitions, the Subrecipient may consider incentives as part of the negotiations. Incentives must be outlined in the Subrecipients approved Buyouts or Acquisitions Guidelines.

Step 5 – Complete Environmental Review

In accordance with U.S. Department of Housing and Urban Development (HUD) regulations at 24 CFR §58.22, a Subrecipient may not execute an agreement for the sale, lease, or donation of real property before an environmental review has been completed and release of funds authorized by GLO-CDR. If a significant environmental impact will occur, look at alternative sites.

Step 6 - Determine Price or Donation

The owner may choose to donate the property or accept the fair market value of the property and has notified in Steps 3 and 4. If the donation and the fair market value are rejected by the owner, then the Subrecipient may then negotiate with the property owner to reach an agreement. A best practice is to create a calculation that is applied to all properties to ensure that all are treated uniformly by the Subrecipient. Since these transactions are voluntary, accomplished by a willing buyer and a willing seller, negotiations may result in agreement for the original estimate, an amount exceeding it, or for a lesser amount. Although not required by the regulations for voluntary acquisition, it would be entirely appropriate for the Subrecipient to apply the administrative settlement concept and procedures in 49 CFR 24.102(i) to document the rationale for determining the negotiated price.

Step 7 – Execute Agreement

The Subrecipient and the property owner must execute a sale or donation agreement and the deed must be recorded as required by State regulations.

Step 8 – Documentation Information

The Subrecipient must prepare and submit to GLO-CDR all acquisition documentation for each parcel. See to the GLO-CDR Grant Manager for additional information.

8.7 Involuntary Acquisition Process

Step 1 – Determine property to be acquired

Prior to beginning an acquisition process, the Subrecipient must have a clear understanding of the grant-funded project and the property that must be acquired.

Step 2 – Submit Form A600 Initial Acquisition Report to GLO-CDR Grant Manager for review and approval.

Subrecipients must consult with the GLO-CDR Grant Manager before pursuing any involuntary acquisition.

Step 3 – Notify Owner of Property Rights

As soon as feasible, the Subrecipient must notify the owner in writing of its interest in acquiring the property and the basic protections provided to the owner under URA and HUD regulations.

The Subrecipient must provide the owner with the following, prior to making a purchase offer:

- Notice to Owner for Involuntary Acquisition;
- “When a Public Agency Acquires Your Property” - This HUD booklet describes important features of the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, as amended; and
- “The Texas Landowner’s Bill of Rights” – This required informational booklet explains the rights and protections available to landowners. (See § 402.031, Texas Govt. Code and Property Code §21.0112)

These documents are available in the [Resources](#) section at the end of this chapter.

Optional - the owner can also be invited to donate the property. The acquiring entity may include the following documents:

- Form for the owner to complete accepting or declining the request to donate the land;
- Form on which the owner may waive the right to an appraisal of the land

Step 4 – Determine Appraised Value of the Property

An appraisal of fair market value is required for property acquired under involuntary procedures unless the following (see 49 CFR 24.102(c)(2)):

- If the property valuation is simple and the anticipated value of the proposed acquisition is \$10,000 or less, no formal appraisal is required. The Subrecipient must prepare a waiver valuation and have a reasonable basis for the waiver valuation;
- If the owner is donating the property and releases the acquiring/condemning authority from its obligation to appraise the property, no formal appraisal is required, 49 CFR § 24.102(c)(2);
- If the value of the property exceeds \$10,000, but is less than \$25,000, GLO-CDR will consider written requests for waiver of appraisal. See your GLO-CDR Grant Manager for additional information

The process of estimating value when an appraisal is determined to be unnecessary is considered a “waiver valuation.” Appraisal standards are addressed in 49 CFR 24.103.

The property owner, or the owner’s designated representative, must be invited to accompany the appraiser and be given the opportunity to present facts and information which may affect the valuation. See 49 CFR §24.102(c)(1). The

Subrecipient should consult with their legal counsel for guidance with respect to the requirements and procedures of the URA in determining just compensation.

Qualifications of Appraiser and Review Appraiser

The appraisal procedures require a qualified appraiser and a qualified review appraiser be procured (See 49 CFR 24.103 -.104) in compliance with GLO-CDR professional services procurement procedures and applicable state procurement law. A contract (fee) appraiser hired to perform an appraisal or a review appraisal must be a state licensed or certified real estate appraiser.

- Appraiser – The appraiser must provide an independently and impartially prepared opinion of the value of the defined property as of a specific date, supported by the presentation and analysis of relevant fair market information;
- Review Appraiser – Per 49 CFR 24.104, the review appraiser must examine the analysis of fair market information in appraisals to assure that they meet the definition of appraisal found in 49 CFR 24.2(a)(3), appraisal requirements found in 49 CFR 24.103, and all other applicable requirements. The review appraiser may be a member of the staff but must have adequate experience, education, training, and certification/licensing. If the review appraiser is unable to recommend or approve an appraisal as an adequate basis for the establishment of just compensation, the review appraiser may, as part of the review, present fair market information to support a recommended value.

Step 5 - Notification—Establishment and Offer of Just Compensation

Before the initiation of negotiations, the Subrecipient must establish an amount believed to be just compensation to offer the property owner. The Subrecipient must provide the just compensation value of the property to the owner in writing prior to making a purchase offer. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property. The just compensation determination statement and notification to the owner must be signed by Subrecipient’s local designated official and must include:

- (1) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.
- (2) A description and location identification of the property and the interest in the property to be acquired.
- (3) An identification of any buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are included as part of the offer of just compensation.

(See 49 CFR 24.102)

Step 6 – Complete Environmental Review

In accordance with U.S. Department of Housing and Urban Development (HUD) regulations at 24 CFR §58.22, a Subrecipient may not execute an agreement for the sale, lease, or donation of real property before an environmental review has been completed and release of funds authorized by GLO-CDR.

Step 7 – Determine Price

The owner may choose to donate the property or may accept the just compensation amount, in which case the parties may proceed with the execution of appropriate donation or sales documents in Step 8.

The owner may also decline the offer of just compensation and negotiate a different price. The owner must be given reasonable opportunity to present material and information believed to be relevant to the value of the property, and to suggest modifications in the proposed terms and conditions of the purchase.

The purchase price may differ or exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement have failed and the Subrecipient local official approves such settlement as reasonable, prudent, and in the public interest. Once a final price is determined to be acceptable by both parties, an Administrative Settlement with written justification shall be prepared, which states pertinent information, including trial risk and other factors that support such a settlement (see 49 C.F.R. § 24.102(i)).

If negotiations are unsuccessful and the use of eminent domain has been approved by GLO-CDR, the Subrecipient may determine this is the next course of action. Please refer to your local attorney and local officials for specific guidance.

Step 8 – Execute Agreement

The Subrecipient and the property owner must execute a sales or donation agreement. The deed or easement must be recorded as required by State regulations.

Step 9 – Report Acquisition Parcel Information

The Subrecipient must prepare and submit to GLO-CDR information regarding each parcel. See your GLO-CDR Grant Manager for additional information.

8.8 Relocation

It is the GLO-CDR's goal to minimize the displacement of persons and/or entities involved in or affected by disaster-recovery related activities. In order to do so, the GLO-CDR will follow its Residential Anti-displacement and Relocation Assistance Plan (RARAP). Subrecipients should consider procuring a Uniform Relocation and Real Property Acquisition specialist to help navigate the relocation of displaced persons.

The GLO-CDR will take the following steps and require Subrecipients and developers to minimize the direct and indirect displacement of persons from their homes: Plan construction activities to allow tenants to remain in their units as long as possible, by rehabilitating empty units or buildings first; where feasible, give priority to rehabilitation of housing, as opposed to demolition, to avoid displacement; adopt policies to identify and mitigate displacement resulting from intensive public investment in neighborhoods; 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 target only those properties deemed essential to the need or success of the project. However, if displacement is unavoidable, relocation assistance may be available to those displaced.

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.

Relocation assistance may be made available on a case by case basis and only as approved by the GLO-CDR. Relocation may be needed for displaced persons. URA assistance is generally required if a person is displaced, is a tenant in good standing, and meets set eligibility criteria such as citizenship, residency at the time of the declared disaster, and more.

Relocation Steps

Step 1 – Send General Information Notice and HUD Brochure

At the time of the acquisition Notice of Intent discussed earlier in this chapter, tenants should be mailed a General Information Notice (GIN) and the HUD “When a Public Agency Acquires Your Property” brochure. This brochure describes important features of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

Tenants should also be provided with a copy of the “The Texas Landowner’s Bill of Rights.” This required informational booklet explains the rights and protections available to landowners. (See § 402.031, Texas Govt. Code and Property Code §21.0112). These documents are available in the [Resources](#) section at the end of this chapter.

Step 2 – Schedule Intake and Confirm Eligibility

An intake meeting or event should be scheduled with all affected tenants. Provided at this meeting is a notification of relocation eligibility. This is an opportunity for the tenant to learn about the process, ask questions and to submit necessary income verification information. The Subrecipient should determine current occupancy and conduct tenant interviews.

Step 3 – Certify Income and Determine National Objective

In addition to completing eligibility-related documentation, the tenant household must complete an income certification so that national objective can be determined (LMI vs. Urgent Need).

Step 4 – Initiate Negotiations

Once eligibility and national objective are determined, the tenant file remains “on hold” pending the initiation of negotiations (ION). In a buyout/acquisition program, this is generally used as the Contract of Sale date (when the buyer and seller have entered into an agreement for the property to be purchased).

Step 5 – Identify Comparable Dwellings

At this time, comparable replacement dwellings that are available for rent are selected by a real estate professional. Comparable dwellings should meet Decent Safe and Sanitary (DSS) and Housing Quality Standards (HQS) so that displaced persons are relocated to safe and sanitary housing. Comparable replacement dwellings cannot be located in a Special Flood Hazard Area (SFHA). The comparable dwellings are presented on HUD Form 40061 and a “most comparable dwelling” is chosen based on objective criteria. Benefits are calculated based on the rent of the “most comparable dwelling.”

Step 6 – Send Notice of Eligibility and 90-day Notice

Upon Subrecipient approval of the HUD Form 40061, the tenant is mailed a Notice of Eligibility (NOE) and a 90-Day Notice. The Notice of Eligibility informs the tenant that they are eligible for relocation benefits, provides the maximum amount of assistance the tenant is eligible for, and indicates that the tenant has 90 days to relocate.

Step 7 – Relocate Tenant

The tenant has 90 days to relocate to a new dwelling. The tenant can choose any dwelling they want; they are not required to select the most comparable dwelling or any of the comparable dwellings noted on the HUD Form 40061.

Step 8 – Inspect New Tenant Unit

When the tenant moves to a new unit, the unit is inspected to ensure it meets DSS/HQS standards. The Subrecipient must also verify that the unit is not located in a SFHA. The unit must not be in a SFHA and it must meet DSS/HQS standards for the tenant to receive benefits.

Step 9 – Determine Tenant Eligibility for and Amount of Assistance

If the tenant is found to be eligible for benefits, HUD Forms 40054 and 40058 are completed. These forms calculate the amount of assistance the tenant will receive. HUD Form 40054 pays the tenant’s moving expenses. HUD Form 40058 pays relocation expenses equivalent to 42 months of the tenant’s rent increase *or* 42

months of any monthly rent amount over 30% of the tenant's monthly income. The tenant signs the HUD Forms 40054 and 40058 along with an authorized party from the Subrecipient.

Step 10 – Disburse Assistance Payment

Once an amount is determined, the moving expense payment to the tenant is disbursed. The rental assistance payment is made in no less than 3 parts over a 42-month period.

The source for HUD forms described above is found in the [Resources](#) section at the end of this chapter.

8.9 Acquisition and Other Program Requirements

Procurement: Necessary surveyors, appraisers, title companies, URA vendors and other professionals whose services are required for acquisition and URA compliance must be procured under GLO-CDR rules for procurement of professional services.

Environmental Review: Environmental reviews must be completed prior to completion of acquisition activities.

Closing Costs (Buyouts or Acquisition of Real Property): All costs of closing, recordation, including legal fees and costs associated with performing appraisals, surveys, and title reviews may be paid by the Program using CDBG-DR funds.

Release of Funds:

- No CDBG-DR construction funds will be released until property acquisition is complete (for infrastructure related projects). Environmental reviews must be completed prior to completion of all acquisition activities.
- All acquisition activities must be fully documented, completed, executed and recorded, prior to the execution of any related construction contracts.
- If acquisition is required additional documentation may be required before construction funds may be released. See your GLO-CDR Grant Manager for additional information.

Subrecipient Agreement Modifications and Amendments: Addition or deletion of acquisition activities to the Subrecipient Agreement must be approved by GLO-CDR.

Recordkeeping: The Subrecipient is responsible for demonstrating compliance with URA requirements, regardless of who actually performs the duties. All records and notices and their date of delivery must be maintained locally and in the GLO-CDR system of record or GLO and HUD monitoring purposes. For specific documents, contact the Grant Manager.

- Documents, as applicable, must be submitted to GLO-CDR and retained in the local file;

- All mailed communications should be “USPS Certified, Return Receipt Requested” or similar, or hand delivered with a notation on a copy by a witness to the delivery. The Subrecipient records must contain the complete record and demonstrate compliance;

Private to private acquisition of Real Property:

- URA - If an acquisition is a private to private acquisition of real property, the URA does not apply. The private development is considered separate; therefore, acquisition by a private entity from another private entity entirely for private use is not considered to be subject to URA. However, if CDBG-DR funds are invested in public infrastructure to support that private enterprise, any acquisition with respect to that public infrastructure is subject to URA;
- Environmental - If the private to private transfer of property would not have occurred if not for the federal project, then the real property must pass environmental clearance before the acquisition (a choice limiting action) occurs.

Buyout or Acquisition Housing Programs:

CDBG-DR funds can be used to acquire residential properties, in a target area with the intent to demolish the structures and create park amenities, open space, or flood storage/overflow areas. Buyout programs are especially effective in communities that have endured multiple disasters in the same neighborhood in the recent past or sustained severe damage where there is high risk of additional disasters. Buyouts allow communities to strategically retreat from their highest-risk areas, protecting life and property while reducing the need for local, State, and Federal resources in the future.

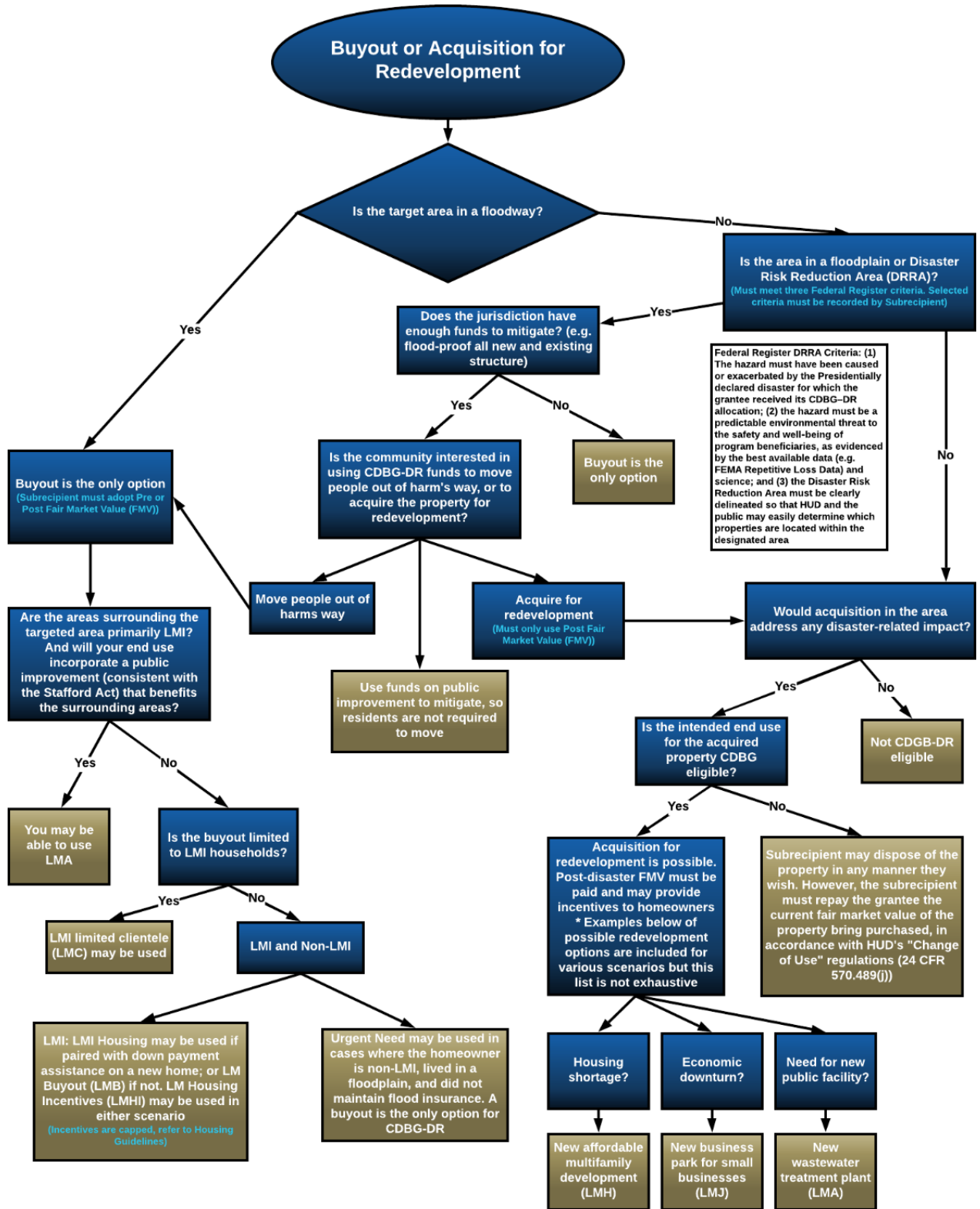
The GLO-CDR considers funding buyout activities as a viable option to reduce risk from future flooding of properties location in a floodplain, floodway or within a Disaster Risk Reduction Area (DRRA) by converting the property to open space, recreational, or floodplain and wetlands uses. A DRRA is an area which is located outside of floodways or floodplains that is established by the Subrecipient to reducing risks from the hazard that led to its designation in accordance with the buyout requirements of the approved action plan and Federal Register Notices. For buyout, the property acquired will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreation, or floodplain and wetlands management practices. This is in contrast to the previously discussed types of acquisition, where the property may be used for certain redevelopment activities as long as they tie to ensuring resiliency and to mitigating the impact of future disasters.

A property can be designated as a DRRA if it meets the following criteria:

- The hazard must have been caused or exacerbated by the presidentially declared disaster under which the Subrecipient received its CDBG-DR allocation;
- The hazard must be a predictable environmental threat to the safety and well-being of Program beneficiaries, as evidenced by the best available data and science;
- The Disaster Risk Reduction Area must be clearly delineated so that HUD and the public may easily determine which properties are located within the Disaster Risk Reduction Area; and

- In carrying out acquisition activities, the Subrecipient must ensure they are in compliance with their long-term redevelopment plans

The following decision tree walks through the questions Subrecipients will need to answer when considering whether buyout or acquisition activities are appropriate for potential redevelopment. For more information about buyout activities, please contact your GLO-CDR Grant Manager.



An appraisal is required for buyout activities but Subrecipients may set as a policy whether to use a pre-disaster appraisal or a post disaster appraised value. For acquisition of real property, the Subrecipient must only use the post disaster fair market value. More information regarding buyout programs is available on the GLO-CDR website (see [Resources](#)).

8.10 Best Practices

Design a program that best suits the community's long-term resiliency needs.

Using real property damage data, e.g. Flood Plain Administrator reports, FEMA Individual Assistance property loss, Flood Indentation Maps, Geographic Information System (GIS) software, etc. allows the Subrecipient the opportunity to consider how it will best acquire a sufficient number of contiguous properties to create a public amenity.

With available data, the Subrecipient should identify and prioritize buyout areas in advance and create list of willing sellers and incorporate plans for a buyout into its hazard mitigation plans.

Look for opportunities to connect to existing open space to satisfy the end use which is to create a wetland, green space, park, etc.

Create program incentives and strategies for homeowners to participate in a buyout and relocate within the community.

Work with local government entities to identify relocation areas outside the floodway, flood plain, DRRRA in advance.

Partner with state or local parks systems to manage lands acquired as part of the buyout.

Whether acquisition is voluntary or involuntary the Subrecipient must determine at the beginning of the decision-making process if involuntary is the best course of action, so the proper procedures and notifications are performed. Failure to follow the proper procedure for the type of acquisition may result in disallowed costs or other penalties.

Begin title research early in the acquisition process to correct title issues that may cause delays.

When a project includes multiple activities and only some of the activities require acquisition, the Subrecipient must consult with GLO-CDR to determine which activities may occur prior to completing acquisition.

HUD's Allocations, Common Application, Waivers, and Alternative Requirements for 2017 Disaster Community Development Block Grant Disaster Recovery Grantees, 83 FR 5844 (February 9, 2018) for Harvey Grants are provided below.

83 FR 5844 Reference Guide for Buyouts and Acquisitions

Updated March 13,2019

The summary below is based on HUD’s *Allocations, Common Application, Waivers, and Alternative Requirements for 2017 Disaster Community Development Block Grant Disaster Recovery Grantees, 83 FR 5844 (February 9, 2018)*. It includes only those requirements specifically applicable to buyouts and acquisitions for redevelopment. All requirements contained within HUD regulations (24 CFR), 2 CFR 200, Federal Register Notices, and HUD CPD notices related to this allocation also apply. We strongly recommend that subrecipients understand all of these requirements and not just those listed below, when undertaking activities with CDBG-DR funding.

Full document here: <https://www.govinfo.gov/content/pkg/FR-2018-02-09/pdf/2018-02693.pdf>

Requirement Topic	Requirement Summary	Page
<p>One-for-Once Replacement Housing, Relocation and Real Property Acquisition</p>	<p>CDBG-DR activities and projects are subject to URA and section 104(d) of the HCD Act. HUD is waiving:</p>	<p>5858-5859</p>
	<p>104(d) and exempts disaster-damaged units that meet the grantee’s definition of “not suitable for rehabilitation” that must be defined in the grantee’s action plan;</p>	
	<p>Relocation assistance requirements at section 104(d)(2)(a) of HCD Act and 24 CFR 42.350 are waived to the extent they differ with 49 CFR part 24 for activities related to disaster recovery providing that a displaced person is eligible to receive a rental assistance payment that is calculated to cover a period of 42 months;</p>	
	<p>Amr’s length voluntary purchase: requirements at 49 CFR 24.101 (b)(2)(l) and (ii) are waived for persons using funds that does not have the power of eminent domain in connection with the purchase and occupancy of a principal residence by that person. Tenants living in the property may be eligible for relocation assistance;</p>	
	<p>Optional relocation policies: Regulations at 24 CFR 570.606(d) is waived and grantees, or their subrecipients, receiving CDBG-DR funds may establish optional relocation policies;</p>	
<p>Down-payment Assistance</p>	<p>Waive 42 U.S.C. 5305(a)(24)(A) and (D) to allow: (1) homeownership assistance to households earning up to 120% of AMI but only households up to 80% qualify as meeting LMI persons benefit national objective; (2) down payment assistance up to 100%</p>	<p>5861</p>

Acquisition of real property: flood and other buyouts	The term “buyouts” refers to acquisition of properties located in a floodway or floodplain intended to reduce risk from future flooding or the acquisition of properties in Disaster Risk Reduction Areas (defined in next section). Grantees are encouraged to use buyouts strategically, acquiring contiguous parcels of land for uses compatible with open space, recreational, natural floodplain functions, other ecosystem restoration, or wetlands management practices and should avoid circumstances in which parcels that could not be acquired to remain alongside parcels acquired through the buyout program. Real property acquisitions with CDBG-DR funding are subject to URA.	5863
	1. Clarification of “Buyout” and “Real Property Acquisition Activities” In a buyout program, grantees have the discretions to determine the appropriate valuation method, including paying either pre-disaster or post-disaster FMV. When the purchase price exceeds the current FMV, any CDBG-DR funds in excess of the FMV are considered assistance to the seller, making the seller a CDBG-DR beneficiary. This may have implications for a DOB calculation. Seller is not considered a beneficiary if they receive a post-disaster FMV. Only “buyouts” are subject to the land use restrictions. The key factor in determining an acquisition is a “buyout” is if the intent is to reduce risk of property damage in a floodplain or a Disaster Risk Reduction area for which a grantee has criteria in its policies and procedures that include the following requirements:	5863
	1a. Hazard must have been caused or exacerbated by the Presidentially declared disaster;	
	1b. Hazard must be a predictable environment threat to safety and well-being of program beneficiaries; and	
	1c. Area must be clearly delineated so that it is easy to determine properties located within the area. Grantee may only redevelop a property not acquired through a “buyout” program.	
	2. Buyout Requirements:	5863-5864
	2a. Any property acquired, accepted, or from which a structure will be removed and will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or floodplain and wetlands management practices.	
2b. No new structure will be erected on property other than: (a) a public facility open on all sides and functionally related to a designated open space; (b) a rest room; or (c) a flood control structure.		

	2c. After receipt of the assistance, no subsequent application for additional disaster assistance for any purpose will be made to any Federal entity in perpetuity	
	2d. Grantees have the discretion to determine a valuation method but must uniformly apply whichever valuation method it chooses.	
	2e. All buyout activities must be classified using the “buyout” activity type in the DRGR system.	
	2f. State grantee implementing a buyout program or activity must consult with affected local governments.	
	2g. To demonstrate that a buyout meets the LMH national objective, grantees must meet all requirements of the HCD Act and applicable regulatory criteria. 42 U.S.C. 5305(c)(3) provides that any assisted acquisition of property to provide housing shall be considered to benefit persons of low- and moderate-income will, upon completion, be occupied by such persons. State CDBG regulations at 24 CFR 1003.208(c) apply the LMH national objective to an eligible activity providing or improving permanent residential structures that will be occupied by LMI households. A buyout program does not result in an LMI household occupying a residential structure and doesn’t meet the LMH national objective. Buyout programs that assist LMI persons can be structured in one of the following ways: (a) combines the acquisition with another direct benefit-LMI housing activity, such as down payment assistance-that results in occupancy; (b) meets the national objective low- and moderate- income area (LMA) benefit criteria provided that the grantee can document that the properties acquired will benefit all residents in a defined service area where at least 51 percent of the residents are LMI persons; or (c) The program meet the criteria for the LMI limited clientele national objective, including the prohibition on the use of the limited clientele national objective when an activity’s benefits are available to all residents of the area, if it restricts buyout program benefit to the LMI sellers by providing pre-disaster valuation uniformly to participants. (d) The program meets the criteria for the Low/Mod Buyout (LMB) or LMHI national objectives for buyouts and the use of housing incentives as authorized in the Department’s August 7, 2017 Federal Register notice at 82 FR 36285 and described in paragraph B.38 of section VI in this notice.	
	3. Redevelopment of Acquired Properties:	5864
	3a. Grantees may redevelop an acquired property not acquired through a buyout program and the purchase price is based on the property’s post-disaster value. Grantees	

	<p>may provide relocation assistance or housing incentives to the owner if the property is purchased through voluntary acquisition, and the owner’s need for additional assistance is documented.</p>	
	<p>3b. In carrying out acquisition activities, grantees must comply with their long-term redevelopment plans.</p>	
<p>Additional LMI national objective criteria for buyouts and housing incentives</p>	<p>HUD is establishing an alternative requirement to clarify the criteria under which buyout activities and housing incentives can meet an LMI national objective. CDBG regulations for LMI national objective are activities meeting 4 established criteria in 24 CFR 570.208(a)(1)-(4) and 570.483(b)(1)-(4) and buyout activity in 80 FR 72102. HUD is providing grantees with an additional method to demonstrate how LMI households benefit when buyouts and housing incentives are used in long term recovery. HUD is establishing an alternative requirement to include the two new LMI national objective criteria for buyouts (LMB) and housing incentives (LMHI) that benefit LMI households that use CDBG-DR funding provided pursuant to this notice. To meet the new LMB and LMHI national objectives, grantees must demonstrate the following:</p> <p>1. CDBG-DR funds have been provided for an eligible activity that benefits LMI households supporting their move from high risk areas. The following activities shall qualify, and must also meet the eligibility criteria of the notices governing the use of the CDBG-DR funds:</p> <p>1a. Low/Mod Buyout (LMB) When CDBG-DR funds are used for a buyout to acquire housing owned by a qualifying LMI household, where the award amount (including optional relocation assistance) is greater than the post-disaster (current) fair market value of that property.</p> <p>1b. Low/Mod Housing Incentive (LMHI). When CDBG-DR funds are used for a housing incentive award, tied to the voluntary buyout or other voluntary acquisition of housing owned by LMI household, for which the housing incentive is for the purpose of moving outside of the affected floodplain or to a lower-risk area; or when the housing incentive is for the purpose of providing or improving residential structures that, upon completion, will be occupied by an LMI household.</p> <p>2. Activities that meet the above criteria will be considered to benefit low- and moderate- income persons and count towards the calculation of a CDBG-DR grantee’s overall LMI benefit.</p>	<p>5864</p>

See the GLO-CDR website and [Resources](#) below for additional Sample documents.

8.11 Resources

The GLO has created a comprehensive website which contains necessary forms, checklists, detailed guidance documents, and additional resources to supplement this Implementation Manual. Please see <http://recovery.texas.gov/> for more information.

Please direct all questions regarding your specific program or project to your assigned GLO-CDR Grant Manager.

The resources below will be updated as new forms and documents are developed and come online.

Note: Internet Explorer may work best for some forms found on the website.

Topic/Form	Location
Definitions	Appendix A
Acronyms	Appendix B
Texas Integrated Grant Reporting (TIGR) System	https://cdrportalprd.dynamics365portals.us/
State of Texas Publication: “The Texas Landowners Bill of Rights”	https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/general-oag/LandownersBillOfRights.pdf
HUD Exchange: CDBG-DR Resources and Information	https://www.hudexchange.info/programs/cdbg-dr/
HUD publication: “When a Public Agency Acquires Your Property”	https://www.hud.gov/sites/documents/1041cpd.doc
HUD URA-the-HUD Way Real Property Acquisition Process	https://www.hudexchange.info/resources/documents/URA-the-HUD-Way-Real-Property-Acquisition-Process.pdf
Uniform Relocation Assistance Act General Information	http://recovery.texas.gov/local-government/resources/ura/index.html
Real Estate Acquisition and Relocation on the HUD website	https://www.hudexchange.info/programs/relocation/
HUD Handbook 1378 HUD Forms	https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/13780
HUD CDBG-DR Toolkit – Buyout and Relocation	https://www.hudexchange.info/programs/cdbg-dr/toolkits/program-implementation/
Initial Real Property Acquisition Report Real Property Acquisition (per parcel) Notice to Owner Involuntary Acquisition Notice to Owner for Donations of Easements and Rights of Way Owner Release for Donated Property	http://recovery.texas.gov/local-government/resources/infrastructure/index.html

Notice of Agreement to Donate Voluntary Acquisition Informational Notice - Agencies with Eminent Domain Authority Voluntary Acquisition Informational Notice - Agencies without Eminent Domain Authority Owner Release Form for Donated Property Notice of Agreement to Donate Just Compensation Determination Statement Written Purchase Offer	
Hurricane Harvey Disaster Recovery Housing Guidelines Local Buyout and Acquisition Presentation GLO Voluntary Buyout Versus Acquisition GLO Voluntary Buyout Versus Acquisition FAQ GLO Buyout or Acquisition Guidelines Checklist GLO Accompanying Activities Applicant File Checklist GLO Local Buyout and Acquisition Subrecipient Application GLO Buyout and Acquisition Program Resource Page	http://recovery.texas.gov/local-government/programs/local-buyout-acquisition/index.html

Program Links	Location
2015 Flood Event	http://recovery.texas.gov/local-government/programs/index.html
2016 Flood Event	
Hurricane Harvey	
Hurricane Harvey Homeowner Assistance Program	http://recovery.texas.gov/local-government/programs/homeowner-assistance/index.html
Hurricane Harvey Local Buyout & Acquisition Program	http://recovery.texas.gov/local-government/programs/local-buyout-acquisition/index.html
Hurricane Harvey Homeowner Reimbursement Program	http://recovery.texas.gov/local-government/programs/homeowner-reimbursement-limited-repair/index.html
Hurricane Harvey Affordable Rental Program	http://recovery.texas.gov/local-government/programs/affordable-rental-housing-program/index.html
Hurricane Harvey Economic Revitalization Program	http://recovery.texas.gov/local-government/programs/economic-revitalization-program/index.html
Hurricane Harvey Local Infrastructure Program	http://recovery.texas.gov/local-government/programs/local-infrastructure/index.html
Hurricane Harvey Local, Regional and State Planning	http://recovery.texas.gov/local-government/programs/local-regional-state-planning/index.html

Hurricane Harvey Harris County Direct Allocation	http://recovery.texas.gov/local-government/programs/harris-county/index.html
Hurricane Harvey Houston Direct Allocation	http://recovery.texas.gov/local-government/programs/houston/index.html
Hurricane Harvey PREPS Program State Match	http://recovery.texas.gov/local-government/programs/fema-housing-sheltering/index.html