



2016
Storm and Flood
Disaster Recovery
Buyout Program
July 1, 2019

Montgomery County Office of Homeland
Security and Emergency Management

HOUSING GUIDELINES



2016 Storms and Flood Disaster Recovery Buyout Program Housing Guidelines

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The MCOHSEM Housing Guidelines provide guidance on how to implement and close a CDBG-DR Buyout and Acquisition Program, and should not be construed as all-inclusive instructions.

Introduction

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

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

CDBG-DR funds are a special appropriation from Congress associated with a presidentially declared disaster. These GLO Housing Guidelines (the Guidelines) address the 2016 storms and subsequent flooding declared disaster events associated with the following CDBG-DR funds:

Table 1. Applicability

Event	Federal Register (FR)	Date of Publication	Public Law(s)	FR Located at:
2016	81 FR 83254, Vol. 81, No. 224	11/21/2016	P.L. 114-223	https://www.gpo.gov/fdsys/pkg/FR-2016-11-21/pdf/2016-27969.pdf
	82 FR 5591, Vol. 82, No. 11	01/18/2017	P.L. 114-245	https://www.gpo.gov/fdsys/pkg/FR-2017-01-18/pdf/2017-01007.pdf
	82 FR 36812, Vol. 82, No. 150	08/07/2017	P.L. 115-31	https://www.gpo.gov/fdsys/pkg/FR-2017-08-07/pdf/2017-16411.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- to Moderate-Income Persons (LMI)
 - Low- and Moderate-Income Housing (LMH) provides that any assisted activity that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low- to moderate-income only to the extent such housing will, upon completion, be occupied by such persons;
 - Low to Moderate Buyout (LMB): Benefiting low- to moderate-income persons where the award amount is greater than their post-disaster fair market value of the property; and
 - Low to Moderate Housing Incentive (LMHI): Benefiting low- to moderate-income persons participating in the voluntary buyout or other voluntary acquisition of housing to move outside of the affected floodplain or to a lower-risk area; or when the housing incentive

is for the purpose of providing or improving residential structures that, upon completion, will be occupied by an LMI household.

- Preventing or Eliminating Slum or Blight (SB) through buyout or acquisition with demolition
- Meeting an Urgent Need (UN) by providing housing assistance to applicants making in excess of 80 percent of the area median income (AMI)

The MCOHSEM Housing Guidelines provide a blueprint for implementing and closing out a CDBG-DR Buyout Program.

The purpose of these guidelines is to aid in the long-term recovery efforts following the 2016 storms and floods; specifically, to assist in moving eligible homeowners who have suffered repetitive flooding out of harm's way through fair market value buyouts. Questions regarding these guidelines or requests for more information should be directed to MCOHSEM.

MCOHSEM will use the support of Hagerty Consulting, Inc. to administer the local 2016 Storm and Flood Buyout Program to serve homeowner assistance needs.

Table 2. 2016 Storm and Flood CDBG-DR Housing Program

Programs and Eligible Activities	National Objective	Program Administrator	Tenure <i>"Start date" is date of HUD's approval of Action Plan</i>
Local Buyout Program: <ul style="list-style-type: none"> • Buyouts • Relocation assistance with buyout activities • Down payment assistance • Demolition with buyout or acquisition activities • Housing incentives • Activities designed to relocate families outside of floodplains 	Low- and moderate-income, elimination of slum/blight, urgent need, low/mod buyout (LMB), and low/mod housing incentive (LMHI)	Montgomery County Office of Homeland Security and Emergency Management	30 days plus 3 years from start date

Table 3. Eligible Counties and Most Impacted Counties

Impacted Areas	
2016	<p>Most Impacted Counties (5)</p> <p>Brazoria, Fort Bend, Harris, Montgomery, Newton</p>
	<p>Impacted Competition Counties (66)</p> <p>Anderson, Angelina, Austin, Bandera, Bastrop, Bosque, Brazos, Brown, Burleson, Caldwell, Callahan, Cass, Cherokee, Coleman, Colorado, Comanche, Coryell, Eastland, Erath, Falls, Fayette, Fisher, Gregg, Grimes, Hall, Hardin, Harrison, Henderson, Hidalgo, Hood, Houston, Jasper, Jones, Kleberg, Lamar, Lee, Leon, Liberty, Limestone, Madison, Marion, Milam, Navarro, Orange, Palo Pinto, Parker, Polk, Red River, Sabine, San Augustine, San Jacinto, Shelby, Smith, Somervell, Stephens, Throckmorton, Travis, Trinity, Tyler, Upshur, Van Zandt, Walker, Waller, Washington, Wharton, Wood</p>

Montgomery County Background

Montgomery County has persevered through eight federally declared flood disasters since 1953; most notably the floods of 1994, and the back to back flooding in April and May of 2016.

Consistent and destructive flooding is one of Montgomery County's greatest challenges. Many NFIP insured properties have flooded multiple times. Repetitive Loss Properties (RL) are those that have received at least two insurance payments of \$1,000 or more from the NFIP within the last 10 years. Montgomery County has a total of 1,356 RL properties, and 376 severe repetitive loss properties totaling in \$177,892,291.82 in insurance payouts in the past decade.

Over 4000 homes were impacted during the April and May storms and floods which left many residents with limited housing options. Many who flooded twice within 45 days were left with a bleak future as to what home may look like without the option to relocate to a safer area that is less prone to flooding.

It is the intent of Montgomery County to utilize this funding opportunity to help our citizens who cannot otherwise afford to move out of harm's way, the opportunity to relocate to an area that is safer for them and their families. With approximately 44,000 property parcels that lay within the floodway and floodplains of Montgomery County along with the significant population growth that has been seen in the last 10 years, buying out homes which have been repetitively damaged in flood events over the years, including the 2016 storms and floods, will allow land to return to a green state and regain its ability to absorb and slow flood waters, thereby helping to mitigate flood damage to remaining structures in the future.

In doing this, we lessen our burden on our nation to continuously provide disaster relief; and lessen the dangers our first responders must endure when they are called upon to rescue those in harm's way.

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 will be provided to survivors under the buyout housing activity (with associated incentives) as allowable by approved Action Plans. All housing activities should consider the following objectives:

- Provide high quality, durable, resilient, mold resistant, energy efficient, decent, safe, and sanitary housing that mitigates impact from future disasters.
- Prioritize households in which members are under the age of 18, female heads of household, elderly and disabled households, and/or Veteran populations while affirmatively furthering fair housing.
- Emphasize housing choices and designs to reduce maintenance and insurance costs, as well as provide the provision of independent living options.

Definitions

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

Adjusted Gross Income (AGI): AGI is an individual's total gross income minus specific deductions. The CDR-GLO Adjusted Gross Income Methodology may be found at www.texasrebuilds.org.

Affirmative Fair Housing Marketing Plan (AFHMP): A document used to help subrecipients offer equal housing opportunities regardless of race, color, national origin, religion, sex, familial status, or disability¹ (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 Family Income (AMFI): Calculated annual limits based on HUD-estimated median family income with adjustments based on family size used for demonstrating LMI beneficiaries in the programs.

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.

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

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

¹ 24 CFR 200.625

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, HUD's Housing Quality Standards, and mold remediation, 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.²

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

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

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 2015 & 2016 Texas storm and flooding, and subsequent flooding, disaster events.

Family: The term family means all person 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.

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

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 Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). In order to be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

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

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

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

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

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

Household: A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the LMI National Objective is based on the LMI of the household.

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

Housing and Urban Development Act of 1968, Section 3: Requires program administrators ensure that training, employment, and other economic opportunities generated by HUD financial assistance shall be directed to the greatest extent feasible and consistent with existing federal, state, and local laws and regulations, to low- and very low-income persons. Recipients of Section 3-covered funding ensure compliance and the compliance of their contractors/subcontractors with the Section 3 requirements, as outlined in 24 CFR 135.32.³

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

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

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

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

Low to Moderate Housing Incentive (LMHI) National Objectives: LMHI benefits are used for a housing incentive award, tied to the voluntary buyout or other voluntary acquisition of housing owned by a qualifying LMI household, for the purpose of moving outside of the affected floodplain or to a lower- risk area; or when the housing incentive is for the purpose of providing or improving residential structures that, upon completion, will be occupied by an LMI household.

³ <https://www.hudexchange.info>

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

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

Montgomery County Office of Homeland Security and Emergency Management (MCOHSEM):

The Montgomery County Office of Homeland Security and Emergency Management is the lead local agency for managing the county's Community Development Block Grant - Disaster Recovery grants through the U.S. Department of Housing and Urban Development.

Needs Assessment: A needs assessment is a critical component in the allocation of funding across and within National Objectives for CDBG-DR funds. A given needs assessment will recommend the proportions of funding that should be set aside to benefit each LMI and non-LMI economic group. The needs assessment will determine the activities to be offered, the demographics to receive concentrated attention, the disabled, "special needs," vulnerable populations, and target areas to be served. The needs assessment will also include an assessment of the types of public services activities that may be needed to complement the program, such as housing counseling, legal counseling, job training, mental health, and general health services. The needs assessment should set goals within the income brackets similar to the housing damage sustained within the impacted areas. Deviations from goals must be approved by the GLO before the Program may move forward. The GLO will work with subrecipients and COGs to develop regional local needs assessments. Each needs assessment will be posted for a 14-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 persons of LMI.

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

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

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

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

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

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

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

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

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

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

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

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

Unsecured Forgivable Promissory Note: If the applicant qualifies for disaster recovery assistance and has been awarded funding, there are conditions placed on the applicant receiving the assistance. The conditions are outlined in an Unsecured Forgivable Promissory Note (the Note) between the assisted beneficiary and the subrecipient or the state that requires applicants to comply with several terms during a set affordability period. Once the homeowner complies with all the terms of the Note and the affordability period ends, the terms are forgiven.

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

Vendor: The subrecipient- or the state-procured vendors, or private grant administrators, providing supplies or services to administer the Program and to serve homeowner assistance needs. Upon approval, the vendor may implement the Program or act on behalf of the GLO or the subrecipient.

Program Design

To develop the Program Design for the buyout activity offered through this funding, Montgomery County must use qualified data (HUD/FEMA/SBA, insurance data, or other data as approved by the GLO in advance, to allocate the disaster funding). The unmet needs assessment, which will be required by Montgomery County, will be addressed within the guidelines. The GLO will assist Montgomery County in the development and approval of its needs assessment.

- Qualified data will be used to document the impact of the relevant storm on the LMI subcategories which will aid in the development of a goal for targeting the use of housing funds in the appropriate levels and to the appropriate economic categories.
- The method of data evaluation utilized by the state and Montgomery County (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 14 days on a publicly accessible website. Notice of the posting of the method of review must be provided to the GLO not later than the day the method is posted on a website. If any public comment is made, Montgomery County must address the comment in a public response.

Program Design Requirements

(1) National Objective

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

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

(2) Unmet Needs Analysis

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

The GLO will assist Montgomery County on the methodology and data analysis and provide applicable raw data needed to develop and assist in development of their regional Needs Assessments.

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

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

- ☐ 0% - 30% AMFI
- ☐ 31% - 50% AMFI
- ☐ 51% - 80% AMFI

(3) Environmental Review

All sites must undergo a complete environmental review prior to any commitment of funds. The environmental review shall document compliance with 24 CFR Part 58 and all related laws and authorities. Properties with adverse environmental conditions will not be permitted to proceed under housing activities unless the adverse conditions are corrected. No work can start on a site until the environmental review is complete.

(4) Proof of Event Damage

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

- FEMA, Small Business Administration (SBA) or Insurance Award Letters;
 - 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 or licensed inspector (HQS, TREC, or similar license) or with similar experience must be supplied by the county or the state that certifies the damage occurred as a result of the event (refer to the GLO's Damage Assessment Guidelines found at www.texasrebuilds.org); or
 - If FEMA, SBA, or Insurance Award Letters are not available and an inspection report is inconclusive as to the cause of the damage, Montgomery County 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 or licensed inspector (HQS, TREC or similar license) or with 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.

(5) Timeliness of Application Status

Montgomery County will ensure timely communication of application status to applicants who have applied for disaster recovery assistance in a variety of ways. Montgomery County will provide homeowner's their application statuses by the primary means indicated by the applicant, such as by mail, email, phone call, or face to face meeting. Montgomery County will 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.

Applicants who have questions, concerns, or are inquiring about a status update may reach out by mail, phone, and/or email to:

MCOHSEM Recovery Manager
9472 Airport Rd. Conroe TX. 77303
936.523.3915
Morgan.lumbley@mctx.org

(6)Affirmatively Furthering Fair Housing Review

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

Program Implementation

Buyout Program Overview

Montgomery County has opted into implementing a full Countywide Voluntary Buyout Program within the jurisdiction.

HUD has authorized the use of Buyout to (1) reduce the risk to homeowners from the effects of subsequent disasters, (2) assist in the recovery of low- and moderate-income households, and (3) protect taxpayer resources that might otherwise be needed after a disaster in the same area (80 FR 72102).

Buyout programs support hazard mitigation, floodplain management goals, and resiliency by removing homeowners from the floodplain to minimize the possibility of future flooding to the home. After homes are purchased, the structures are demolished or relocated. The local buyout program serves multiple objectives and provides a resiliency option versus rebuilding within a floodplain. Buyouts help prevent repetitive loss and extreme risk to human health and safety.

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

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

All buyout activities are a type of acquisition of real property (as permitted by section 105(a) (1) of the HCD Act). The intent of the acquired property is to reduce risk from future flooding and return the area to green space.

Montgomery County has determined that pre-disaster fair market value (FMV) is the appropriate valuation method for implementation of the buyout program, which will be uniformly applied for all applicants.

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

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

Buyouts

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

Montgomery County will use buyouts strategically as a means of acquiring contiguous parcels of land for uses compatible with open space, recreational, natural floodplain functions, other ecosystem restoration, or wetlands management practices.

Voluntary Program

Montgomery County has elected to participate in the Voluntary Buyout Program.

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

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

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

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

Voluntary Program Requirements

- All proposed buyout will undergo Affirmatively Furthering Fair Housing (AFFH) review by the GLO before approval. Such review will include assessments of (1) a proposed project's area demography, (2) socioeconomic characteristics, (3) housing configuration and needs, (4) educational, transportation, and health care opportunities, (5) environmental hazards or concerns, and (6) all other factors material to the AFFH determination.
- Provide an estimate of Fair Market Value. An appraisal (pre-storm) and a current appraisal (post-storm) are used to establish the agency's estimate of market value in accordance with the Uniform Relocation Act (49 CFR 24.103 and 24.104).
- A Duplication of Benefits (DOB) and a National Flood Insurance (NFIP) review must be completed and documented for each applicant.
- A statement of the amount offered as compensation, description and location of the real property, and a list of buildings, structures, or other improvements must be provided to the applicant. The final settlement (buyout offer) must be properly documented and assistance calculations must show how the subrecipient determined the final offer.

- The applicant will have the right to determine the value of the property by hiring an appraiser to conduct their own assessment. If accepted, the county will update the offer and submit it to the owner.
- The owner must remove all personal property from the residence prior to the day of closing.
- Closing documents: The applicant must sign the agreement for sale document and a limited Subrogation Agreement document. If a buyout incentive is part of the final buyout offer, e.g., the family will agree to relocate outside the floodplain or to a lower-risk area, the incentive award is provided once confirmation is received (closing statement of new home) by the subrecipient.
- The county will ensure the property title is deed restricted and remains public open space in perpetuity, as necessary (buyout program) as described above.
- The project must comply with all applicable federal and state requirements.

Housing Assistance Caps and Incentives

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

Project Type	Buyout**
Base Unit	Fair Market Value Pre-Disaster Up to \$175,000 max value
Relocation Assistance	Up to \$5,000 for temporary moving and relocation costs \$35,000 for a lot or newly constructed home****
	Up to \$10,000 for an existing home****
Down Payment	Up to 100% of the Required Amount
Buyout Incentives	Up to \$35,000****

Montgomery County has set a cap of \$175,000 on buyouts. Incentives of up to \$5,000 for temporary moving and relocation costs, \$35,000 for a lot or newly constructed home, \$10,000 for an existing home, and up to 100% of a required down payment amount may be available to homeowners who meet conditional requirements. Total costs for projects, including buyout, soft costs, disposition of the purchased property, and incentives will not exceed \$224,000 per address (current HOME limit). Buyouts will be based on pre-storm appraised value of the unit. Appraisals will be conducted by independent, contracted appraiser. Per the Stafford Act, disqualified prior assistance will be deducted from the final buyout offer.

******Buyout Incentives:** The purpose of the incentive is to encourage maximum participation by property owners, and remove as many properties as possible from high-risk areas. Incentive payments should assist the household with necessary funds to (a) secure a new rental property (if they are required to move as part of this program, (b) buy an existing home or (c) construct a home on a newly purchased lot, as applicable. A buyout incentive is not available for properties that served as second homes. A second home is not the primary residence of the owner, a tenant, or any occupant at the time of the storm or at the time of application for assistance. Montgomery County may provide relocation assistance outside of buyout activities, as necessary. Montgomery County must document how the assistance will be determined and issued to applicants when determining final eligibility assistance costs. The vacant land limit is set at \$35,000. Although this is the cap, it is not the floor; the actual lot cost should not exceed the standard single lot size in the community.

Relocation Assistance

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

Temporary relocation assistance may be offered at the discretion of the county; however, the assistance may not exceed \$5,000 or 3 months of expenses per household. It is anticipated that the assistance will be provided when the closing occurs for the new or existing home purchase; furthermore, temporary relocation assistance may not be necessary unless otherwise allowable by the applicable Federal Register and approved by the GLO.

Down Payment Assistance

This activity is available only under the Voluntary Buyout Programs.

The following items must be met to provide additional funding:

- Purchased a lot or are using a pre-owned lot located outside of a floodplain or to a lower-risk area within Montgomery County for construction of a new home (a construction date must be provided), or the applicant purchased a newly constructed or existing home located outside of floodplain or a lower-risk area in Montgomery County.
- Purchased homes must be considered decent, safe, and sanitary.

- The funding must be used within sixty (60) days of closing on the buyout property.
- Down Payment Assistance
 - HUD has waived homeownership assistance for households with up to 120 percent of the area median income. While homeownership assistance may be provided to households with up to 120 percent of the area median income, only those funds used to serve households with up to 80 percent of the area median income may qualify as meeting the low- and moderate-income person benefit National Objective.
 - The replacement home is usually more expensive than the buyout home because new homes are built to recently adopted building codes and zoning requirements as opposed to older homes.
 - Applicants may qualify for up to 100% down payment assistance if found to be a determined need of the applicant.
 - Eligible properties for down payment assistance may reside within the jurisdiction of the Montgomery County:
 - Single family property (detached and attached 1-4 units)
 - Condominium unit
 - Cooperative unit
 - Modular home/manufactured home
 - Vacant land

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. The unmet needs analysis is addressed within the guidelines and will be required by the county.

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

HUD has waived homeownership assistance for households with up to 120% of the area median income (AMI). While homeownership assistance may be provided to households with up to 120 percent of the AMI, only those funds used to serve households with up to 80 percent of the AMI may qualify as meeting the low-and moderate-income person benefit National Objective.

Amount of Assistance

Montgomery County may offer up to 100% of assistance provided, and should only include the amount needed by the applicant to achieve homeownership. The amount of assistance would be based on the FMV, plus any program incentives offered; not to exceed a total of \$233,000.

Strategy

Montgomery County will conduct buyouts of homes which have flooded repeatedly. At least 70% of the funds will be used to conduct buyouts of homes owned by low/mod income residents. Up to 30% of the funds MAY be used to conduct buyouts of homes owned by residents above the 80% of Area Median Income but less than 120% AMI. Due to the extreme numbers of flooded homes and buyout requests, the county will prioritize as follows:

- 1) Low income houses in the floodway
- 2) Low income houses in the floodplain
- 3) Residents above 80% LMI in the floodway
- 4) Residents above 80% AMI in the flood plain

The funds will be prioritized for flood victims without insurance, who were owner-occupants at the time of the flooding. While no specific neighborhood is targeted to the exclusion of residents who lived elsewhere, scoring will take into account those who live in specific "priority Neighborhoods."

A list of damage reports from FEMA Verified Loss Analysis were sorted and culled of any ineligible properties. The list was then sorted by size and income, with Extreme Low Income residents at the top of the list, the pre-identified 357 LMI homeowners will be priority. Of the 357 pre-identified, 90 of those are within the floodway, 197 are within the floodplain while the remaining 73 lie outside the floodplain.

Outreach

Efforts

Montgomery County will provide for reasonable advance notice of homeowners opportunity to apply for the CDBG-DR home buyout program. This may be accomplished through one or more of the following methods:

- a. Publication of notice in a local newspaper;
- b. Notices prominently posted in public buildings and distributed to local Public Housing Authorities and other interested community groups;
- c. Posting of notice on Montgomery County Office of Homeland Security and Emergency Management website or Montgomery County Texas homepage;
- d. Public Hearing;
- e. Community Meetings;
- f. Social Media platforms such as Facebook, Twitter, Instagram, and the ReadyMCTX app;
- g. Individual notice to eligible homeowners as applicable using one or more of the following methods:
 - Certified mail
 - Electronic mail or fax
 - First-class (regular) mail
 - Personal delivery

Access and Functional Needs

Measures will be taken to make the program accessible to persons who are considered members of a protected class under the Fair Housing Act by holding informational meetings in buildings that are compliant with the Americans with Disabilities Act (ADA), providing sign language assistance when requested, and providing special assistance for those who are visually impaired when requested.

Applications and forms will be offered in English and other languages prevailing in the region in accordance with Title VI of the Civil Rights Act of 1964, including persons with disabilities (24 CFR 8.6), Limited English Proficiency (LEP), and other fair housing and civil rights requirements such as the effective communication requirements under the Americans with Disabilities Act. Every effort will be made to assist such applicants in the application process.

Affirmative Marketing Plan

Local jurisdictions administering the program are committed to affirmatively furthering fair housing through established affirmative marketing policies. Affirmative marketing efforts for the disaster funding will include the following:

- An Affirmative Fair Housing Marketing Plan, based on HUD regulations, is to be followed by Montgomery County. The plan must include items on the GLO's checklist to affirmatively market units financed through the Program. The procedures cover dissemination of information, technical assistance to applicants, project management, reporting requirements, and project review.
- The goal is to ensure that outreach and communication efforts reach eligible survivors from all racial, ethnic, national origin, religious, familial status, the disabled, "special needs," and gender groups. For each project or program, notification to these populations should include:
 - Given the opportunity to sell 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 will 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.
- Case managers will help navigate and inform survivors who may qualify for buyout of their damaged unit to remove them from flood hazards, environmental hazards, segregated areas, and other unsafe conditions while meeting AFFH obligations.
- Documentation of all marketing measures used, including copies of all advertisements and announcements, will be retained and made available to the public upon request.
- Montgomery County 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.
- Evaluation of outreach activities and applications received will be necessary to determine if outreach is successful and applications that are being received accurately reflect the socioeconomic and other forms of demographic diversity. Evaluation should be an ongoing process. The GLO will assist Montgomery County by reviewing application intake reports before Montgomery County begins qualifying applicants, and periodically thereafter.
- Montgomery County and the state are also required to coordinate with HUD-certified housing counseling organizations to ensure that information and services are made available to both renters and homeowners. Additional information for each grantee is available here: <https://apps.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?weblistaction=summary>

Priority

Buyouts will be set with first priority being for non-insured 1) owner-occupied low income homes located in floodways, 2) owner-occupied low income homes located in the floodplain, 3) residents above the 80% AMI located within the floodways, 4) residents above the 80% AMI located within the floodplain.

All applications will be considered; however scoring takes into account those who live in specific "Priority Neighborhoods" by rewarding points to those addresses. Identified Priority Neighborhoods are: River Oaks, River Plantation, Mosswood, Timber Lakes (west of Timber Lakes Drive), Timber Ridge, Patton Village, Woodloch, Whispering Oaks, and Magnolia Bend.

LMI Determination

The income limits to be utilized for the CDBG-DR Single Family Homeowner Program are area-specific (by county) income limits established yearly by HUD for the Section 8 Housing Program. The most current income limits, published annually by HUD, shall be used by Montgomery County to verify the income eligibility of each household applying for assistance at the time assistance is provided. Montgomery County must always use the most recent income limits and will be monitored to ensure compliance with the income guidance as provided throughout these Guidelines.

National Objective:

- Beneficiaries of the program must meet the LMB or LMHI National Objective of supporting buyout or housing incentive activities for impacted persons of low- and moderate-income that, upon completion of the housing activity, will be occupied by such person
- Assistance to non-LMI applicants may be provided under urgent need
- Slum and blight may be addressed under the Local Buyout Program.

A household is considered LMI if they make less than 80% of the area median income. Income eligibility will be determined using Area Median Income (AMI), adjusted for family size and verified following the GLO's Adjusted Gross Income Methodology. The methodology uses the previous year's filed tax return or tax return transcript for all household members to verify the household's annual income.

A family of four, based on FY 2019 Income Limits determined by HUD, is considered; Low (80%) Income with total household income of less than \$61,050, Very Low (50%) Income with a total household income of less than \$38,150, and Extremely Low (60%) Income with a total household income of less than \$25,750.

Eligibility Reviews

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. For the purpose of this program, Montgomery County is only engaging in buyouts. No other activity has been engaged.

Applicant Intake and Case Management

Montgomery County residents, who are interested in participating in the available 2016 Storm and Flood CDBG-DR County Wide Buyout, are able to apply. Anyone who makes an inquiry about the program will be provided with a GLO application to complete. The GLO requires a standardized application. All such inquiries will be reported in a format to be provided by the GLO. Applications will be submitted electronically through the GLO's system of record.

To be sure priorities for the program are being met, along with allotting a fair assessment of homeowners; each application will be issued a Priority Scoring Sheet and scored accordingly. Scoring will be based on income level, location of home in regards to floodway or floodplain, home has suffered repetitive loss, home was purchased BEFORE August 18, 2014, homeowner had NO insurance, and home is located in a "priority neighborhood". All applications will be scored and ranked. For ranking purposes, if there is a tie, the household having the lowest Per Capita Income will have the higher priority.

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

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

Applicants are likely to need support throughout the buyout process. Applicants may have suffered significant losses and emotional hardships. The simple mechanics of applying to the CDBG-DR Program may be complicated by the loss of documents or temporary residence outside the area.

Hagerty Consulting, Inc. will provide case management support and will work to assist survivors from inception to close-out of their recovery needs associated with the buyout program. A single point of contact will be given for each homeowner to ensure that homeowners have the immediate contact information and needs to be successful in their long-term recovery efforts. Homeowners are also able to reach out to MCOHSEM at any time and speak with Recovery Manager for any questions or concerns relating to the buyout program. As homeowner applications are being accepted and reviewed for determinations of eligibility to participate in the program, each homeowner should be counseled and made aware of their application status. Consult with the GLO to determine the best feasible option.

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.

Eligible Property Types

Eligible property types include owner-occupied single family residences, to include Manufactured Housing Units (MHU's or mobile homes), as well as vacant lots. Utilizing the appropriate strategy to include vacant lots, may prove essential to meeting the objectives of the buyout program by preventing further residential development in the designated area.

Other structures will be evaluated on a case by case basis.

The home 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 in place at the time of the disaster, an Affidavit of Principal Residency may be utilized as an alternative method of verification of principal residency. The affidavit must be supported by documentation such as asset verification (income tax returns, credit check, etc.) or utility bills specific to the property address and name of the applicant, which were active as of the date of the event. Vacation homes and rental properties are not eligible for assistance under the Single Family Homeowner Program. *The Affidavit of Principal Residency* Form may be found on the

GLO's website: www.texasrebuilds.org

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. For the buyout program, a warranty in the applicants name is required. Ownership can be documented as follows:

- Provide a copy of a valid deed of trust or warranty deed that is recorded in the county records which cites the applicant's name. Liens on Housing Units: All liens must be addressed and cleared prior to the sale of the home. The county will advise the applicant of any issues in a reasonable amount of time to resolve prior to final sale.
- For MHUs, a Statement of Ownership and Location (SOL) must be provided. The MHU needs to be "perfected" and made a real property showing that is fixed to the lot. The wheels and axel need to be removed, and a statement of location needs to be in place from Texas Department of Housing & Community Affairs, Manufactured Housing Division (TDHCA).⁴ All leans must be addressed and cleared prior to the sale of the MHU. The county will work with the title company and the homeowner to resolve any outstanding issues prior to final sale.

Event Damage

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

- FEMA, Small Business Administration (SBA) or Insurance Award Letters;
 - 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 or licensed inspector (HQS, TREC, or similar license) must be supplied by the county that certifies the damage occurred as a result of the event (refer to the GLO's Damage Assessment Guidelines found at www.texasrebuilds.org); or
 - If FEMA, SBA, or Insurance Award Letters are not available and an inspection report is inconclusive as to the cause of the damage, Montgomery County 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.

⁴ <https://www.tdhca.state.tx.us/mh>

A Damage Assessment must be performed by a certified or licensed inspector (HQS, TREC or similar license) 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.

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; or
- The applicant entered into a payment plan with the applicable taxing authority.

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.

Child Support⁵

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

Environmental Review

An environmental review must be performed on the property prior to federal funds being committed by subrecipients and the state (24 CFR Parts 50, 58, 574, 582, 583, and 970). No commitment or disbursement of funds will occur prior to the completion of this review. The environmental review shall document compliance with 24 CFR Part 58 and all related laws, authorities, and executive orders.

⁵ Family Codes, Title 5, Section 231.006

National Flood Insurance Program (NFIP) Verification

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

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/>.

Duplication of Benefits (DOB) Review

Each application will be reviewed to determine if previous funding awarded to the applicant was appropriately used on the home and if any funds were received for the same purpose. The applicant must have an unmet need to move forward in the program. Montgomery County and the state must determine the applicant's unmet needs first and then calculate the applicant's DOB. Applicants must provide insurance, FEMA, SBA, and any other type of funding documentation for funds that were received. Additionally, the county 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). The county 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 or replacement of their home's nonessential components (e.g., laminate for tile floors, etc.). The county must use the approved DOB forms when determining an applicant's final DOB. The *DOB Calculation Form* may be found on the GLO's website: www.texasrebuilds.org.

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

Reporting Requirements

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

Section 3

Compliance with Section 3 is required by 24 CFR Part 135 and the executed contract between Montgomery County and the GLO. Montgomery County will refer to the GLO's Section 3 Policy.

Applicant Data

The GLO will establish procedures for Montgomery County 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 area median family income at the time of assistance, as defined by HUD;
- The race, ethnicity, and gender of the head of household;
- The household's familial status;
- The presence or non-presence of a household member with a disability; and
- The presence or non-presence of a household member that is a veteran.

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

Procurement Requirements

Montgomery County 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, Montgomery County should clearly identify any items included in the bid/purchase that are not included in the CDBG-DR agreement with GLO. Montgomery County may utilize HUD's CDBG-DR and Procurement Guidance.⁶

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

Procurement policies and procedures should be updated to correspond with the procurement and contract requirements of 2 CFR 200.318-200.326 for CDBG-DR funding.

Additional, the GLO may review draft solicitations or responses prior to award for compliance. Montgomery County 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, Montgomery County must execute a contract to document the period of performance, the work to be completed, the agree price, and contractor or provider's required compliance with all applicable federal, state, and local requirements that must be followed. If there is a conflict between federal, state, and local laws and regulations regarding procurement, the more stringent law or regulation will apply.

Additionally, Montgomery County is 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. Montgomery County is also required to "take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible." (HUD CFR 200.321.)

⁶ <http://www.hudexchange.info/resource/5614/buying-right-cdbg-dr-and-procurement-a-guide-to-recovery/>

Inspection Requirements

The Buyout and Demolition phases will require an inspection for each activity. The program will only pay for one inspections per activity per phase. Any additional inspection costs will be the responsibility of the designated contractor performing work on the home as outlined below.

Application Type	Demolition Confirmation	TREC	Monitoring Inspections
Down Payment Assistance		Yes ***	
Buyout	Yes		
Demolition	Yes		

Site and Development Restrictions

All properties will be returned to green and maintained in perpetuity by the County.

Conflict of Interest

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

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

The GLO can consider granting an exception to the conflict of interest provision should it be determined by the GLO that Montgomery County 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 county should not enter into a conflict of interest until justification has been received and approved by the GLO in accordance with applicable procurement laws.

Complaint/Appeal Process

General Policy

Montgomery County is responsible for responding to complaints and appeals in a timely and professional manner. The county 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, the county shall utilize telephone communication as the primary method of contact; however, email and postmarked letters will be used as necessary.

Responsibilities

The county will shall identify customer service specialists within their program that will be tasked with handling all homeowner inquiries.

Customer service specialists are responsible for (1) determining if complaints and appeals relate to the business or authority of the county, (2) ensuring that a response to all complaints and appeals are within the appropriate time frame (a final response must be provided within 15 working days of the receipt of the final complaint need for additional time), and (3) ushering all complaints and appeals through to a resolution.

Since Jurisdictions 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.

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.

Audit Requirements

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

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

Changes, Waivers, and/or Conflicts

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

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

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.

Residential Anti-displacement and Relocation Assistance Plan (RARAP)

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.

The county must provide the following benefits to households that they displace:

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

The relocation assistance requirements at Section 104(d)(2)(A) of the Housing and Community Development Act and 24 CFR 42.350 are waived to the extent that they differ from the requirements of the URA and implementing regulations at 49 CFR Part 24, as modified by the notice for activities related to disaster recovery. Without this waiver, disparities exist in relocation assistance associated with activities typically funded by HUD and FEMA (e.g., buyouts and relocation). Both FEMA and CDBG funds are subject to the requirements of the URA; however, CDBG funds are subject to Section 104(d), while FEMA funds are not.

The URA provides that a displaced person is eligible to receive a rental assistance payment that covers a period of 42 months. By contrast, Section 104(d) allows a lower-income displaced person to choose between the URA rental assistance payment and a rental assistance payment calculated over a period of 60 months. This waiver of the Section 104(d) requirements assures uniform and equitable treatment by setting the URA and its implementing regulations as the sole standard for relocation assistance under the federal register notice.

Montgomery County will follow its Residential Anti-displacement and Relocation Assistance Plan (RARAP). The County 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.

Fair Market Value (FMV) Determination

Fair Market Determination will be based on pre-storm appraised value of the unit for the homeowner who occupied the residence at the time of the disaster. Any person(s) who purchased the home after the date of the disaster (May 2016) will only be eligible for post-disaster valuation. Appraisals will be conducted by and independent, contracted appraiser. Per the Stafford Act, disqualified prior assistance will be deducted from the final buyout offer.

Incentives

Housing incentives are offered to encourage households to relocate to a more suitable environment, including an area promoted by the community's comprehensive recovery plan and may be in addition to buyout awards.

Incentive payments should assist the household with necessary funds to buy an existing home or construct a home on a newly purchased lot, as applicable. A buyout incentive is not available for properties that served as second homes. A second home is not the primary residence of the owner, a tenant, or any occupant at the time of the storm or at the time of application for assistance.

Montgomery County may provide relocation assistance outside of buyout activities, as necessary. The County must document how the assistance will be determined and issued to applicants when determining final eligibility assistance costs. Incentive costs must be for a specific purpose and will properly defined in the award.

The vacant land limit is set at \$35,000. Although this is the cap, it is not the floor; the actual lot cost shall not exceed the standard single lot size in the community.

Closing Process

Disposal of Storm-Damaged Property

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

The land will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, floodplain, or wetlands management practices. There are option for disposing property including:

- The county can lease the property to adjacent property owners or other parties in return for a maintenance agreement;
- The county can convert the land to green space; or
- The county can opt to sell the acquired property at a FMV; however, the proceeds will be classified as program income and must be returned to the state. Additionally, since the county acquired the property as part of a buyout, the county will be required to place a deed restriction or covenant dedicating the property to be maintained for compatible uses in perpetuity as discussed above.

The county must send the funds to:

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

Additional Allowable Expenditures

The following expenditures are allowable under the Buyout Program:

- The closing costs associated with processing the transaction;
- Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property and similar expenses incidental to convey the real property to the county. Costs associated with perfecting the property are not allowed;
- Penalty costs and other charges for prepayment of any pre-existing recorded mortgage; and
- The pro rata portion of any prepaid real property taxes which are allocable to the period after the county obtains the title to the property or effective possession of it, whichever is earlier.

Funding provided toward the purchased must not be used to duplicate benefits already paid by another federal agency such as FEMA and SBA. The DOB Calculation Form will need to include payments for eligible relocation assistance.

Unsecured Forgivable Promissory Note

Participants in the Buyout Program who receive housing incentives shall be required to sign an Unsecured Forgivable Promissory Note (GLO Form 13.09) located on the GLO's <http://recovery.texas.gov/> website. If a homeowner only receives funds for the purchase of their storm damaged home, they do not need to sign a Promissory note.

The county will be required to execute the Unsecured Forgivable Promissory Note (the Note) with assisted homeowners. The Note may be required to be recorded in the county courthouse records during the affordability monitoring period conducted by the county or the state. The homeowner must comply with the terms of the Note as follows:

1. Assisted homeowners are required to maintain ownership of the assisted property for at least 3 years. Cash-out refinancing, home equity loans, or any loans utilizing the assisted residence as collateral are not allowed for 3 years. A violation of this policy will activate the repayment terms of the Note.
2. Assisted homeowners are required to maintain principal residency in the assisted property for 3 years. A violation of this policy will activate the repayment terms of the Note.
3. Taxes are to be paid and in good standing for the properties assisted. Homeowners may be on a payment plan, but it needs to be submitted to the county.
4. Insurance must be maintained at the assisted property. Hazard, flood (if applicable), and windstorm (if applicable) will be monitored for a 3-year period.
5. Transfer notice of requirement to obtain and maintain flood insurance for property. Failure to do so shall deem the homeowner liable to reimburse the state for the relief assistance applied to the property. Evidence of this requirement must be maintained in disclosure documents by the homeowner.

The county is required to monitor assisted households for compliance with the terms of the Note. Homeowners who default on the terms of the Note will repay the prorated amount and any funds remaining on the Note. The calculated default amount may be reported to credit bureaus and the Texas Office of the Attorney General.

If the assisted homeowner continues to occupy the home until the term of the Note expires, the loan is forgiven and conditions are clear on the disposition of the property. If the property is sold, transferred, or vacated by the assisted homeowner for any single period that exceeds thirty (30)

days during the 3- year forgivable loan period, the repayment terms of the Note will be enforced, except in those cases addressed below.

1. Migrant farm workers who are recipients of a home under this program may, when proven to be performing work for not more than 6 months, leave a home vacant during the time of their employment; however, the recipient may not rent out the home, and they must intend to return to the home. If the assisted homeowner for any reason ceases to reside in the assisted unit during the county's CDBG-DR contract period, only LMI persons may re-occupy the unit until the contract is administratively closed by the GLO or the CDBG-DR contract period expires, whichever is earlier.
2. Accelerated forgiveness in certain cases: In the event of (1) the death of the assisted homeowner, (2) relocation of the assisted homeowner to a managed-care facility, or (3) relocation resulting from documented mental or physical incapacitation of the sole remaining assisted homeowner identified in the original application, the county may forgive any remaining loan balance. However, the requirement that only LMI persons may occupy the assisted housing unit until the CDBG-DR contract is closed by the GLO or the contract period expires, shall not be waived by the county. The county may submit a request to the GLO for assistance with unique accelerated forgiveness cases that may require review as a result of trust or will heirship matters.

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

Program Closeout

Project Closeout

Approved projects will require Affordability Note Monitoring. Only homeowners that have received a housing incentive will be required to sign an Affordability Notice.

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

The Montgomery County Housing guidelines provide guidance on how to design, implement, and close the 2016 Storms and Floods CDBG-DR Housing Program, and should not be construed as comprehensive instructions.

For questions regarding these guidelines, contact:

Recovery Manager, MCOHSEM

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