

# Harris County Housing Guidelines

Harris County Community Services Department-Disaster  
Recovery Housing Program Hurricane Ike Round 2, Phase 2

DRAFT

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# Table of Contents

Introduction	Page 2
General Program Guidelines	Page 2
Housing Program Specific Activities	Page 17
Rental Housing Activities	Page 18
Non-Rental Housing Activities	Page 31
Homeowner Opportunity Program (HOP)	Page 31
Non-Rental Single-family Buyout Activities	Page 40
Homebuyer Assistance Program	Page 42
Appendix	Page 43

# **Harris County Housing Guidelines Disaster Recovery Housing Program Hurricane Ike Round 2, Phase 2**

## **Introduction**

On September 13, 2008, Hurricane Ike made landfall along the upper Texas gulf coast. Hurricane Ike was the third most destructive hurricane to ever make landfall in the United States and the third costliest U.S. hurricane of all time, behind Hurricane Andrew in 1992 and Hurricane Katrina of 2005. Harris County took a direct hit with the eye of Hurricane Ike passing over Galveston Bay. It is estimated that Hurricane Ike in total caused as much as \$3.58 billion in residential housing damage in Harris County excluding the City of Houston. About 43.3 percent of total residential units in Harris County experienced damage ranging from affected to destroyed.

On November 26, 2008, the U.S. Department of Housing and Urban Development (HUD) announced \$1.3 billion in Community Development Block Grant (CDBG) disaster recovery funding to the State of Texas for Hurricanes Ike and Dolly, of which Harris County was awarded \$56,277, 229 for housing recovery activities (Round 1). On June 10, 2009, HUD announced a second allocation of \$1.7 billion in CDBG funds to the State of Texas for further hurricane recovery activities of which Harris County was awarded \$48,503,791 for Round 2.2 housing recovery activities.

The Texas General Land Office (GLO) is administering the CDBG Disaster Recovery Program funded by HUD under Public Law 110-329. The GLO is responsible for the administration and monitoring of disaster funding allocated to subrecipients carrying out housing activities, and on July 2, 2012 contracted with Harris County, through the Harris County Community Services Department (CSD), for \$48,503,791 in CDBG to administer these funds to carry out eligible housing activities at the local level, within Harris County.

The GLO developed Housing Guidelines to serve as the basis for Hurricane Ike Round 2 housing program. These Round 2 Housing Guidelines do not replace or supersede the Guidelines developed under Round 1 funding, unless expressly stated. Harris County has developed these Housing Guidelines for Round 2, Phase 2 housing activities.

## **General Program Guidelines**

### **Program Objectives**

Harris County is still in the recovery process for both its communities and residents due to the impacts suffered by Hurricane Ike. The primary focus of this Program is to provide relief for those people impacted by Hurricane Ike while addressing recognized impediments to affirmatively furthering fair housing as required under the Fair Housing

Act. Assistance will be provided under a variety of housing activities including acquisition, rehabilitation, new construction, demolition, hazard mitigation, and storm hardening of rental housing units and acquisition (buyout), homebuyer assistance, and demolition of non-rental housing units.

- The primary objective of the Program is to provide decent, safe, and sanitary housing in the hurricane-impacted areas through the provision of activities designed to mitigate storm damage that occurred as a result of Hurricane Ike, as well as any future hurricanes.
- A second objective is to ensure that the housing needs of very low, low and moderate-income households are assisted with housing in no less than the proportion to the relative percentages of the overall populations which suffered housing damage within the communities being served and eliminate slum and blight conditions.
- A third objective is to prioritize the provision of decent, safe and sanitary housing for lowest income person (30 percent or below LMI) such as homeless and disabled populations with an emphasis on housing choice and design to reduce maintenance and insurance costs as well as provide for the provision of independent living and or supportive housing options.

### **Definitions**

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

***Reconstruction*** – Demolition and re-building of a stick-built or modular housing unit on the same lot in substantially the same footprint and manner. Activity also includes replacing an existing substandard manufactured housing unit (MHU) with a stick-built/modular housing unit. The number of units on the lot may not increase and the total square footage of the original, principal residence structure to be reconstructed may not be substantially exceeded; however, the number of rooms in a unit may be increased or decreased.

***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.

***Demolition*** – Clearance and proper disposal of dilapidated buildings and improvements.

***Homeowner Opportunity Program*** – A Disaster Recovery Housing Program through which income-qualified applicants who lives in FEMA-designated “High Risk” areas or areas of high minority and/or poverty concentration (as approved by GLO) may elect to relocate to a safer and higher opportunity area. This program will involve relocation counseling and the provision of licensed real estate professionals to explain the options and choices available.

**Homeowner Assistance Activity** – The utilization of CDBG DR funding to rehabilitate or reconstruct hurricane-damaged homes in order for the applicant to remain in the original home at the original home site. The home to be assisted must have been owner-occupied at the time of the storm. This activity may be utilized by a HOP-eligible applicant who defers relocation and elects to repair and remain in the original home at the original home site.

**Homebuyer Assistance Activity** – The utilization of CDBG Disaster Recovery funding for up to 100 percent of the required down payment, reasonable closing costs, principal write-down assistance, subsidization of interest rates, and private mortgage insurance to facilitate the purchase of a new or existing home. The activity may be utilized in the relocation of a HOP participant or as assistance provided to a hurricane-impacted non-homeowner. The cap on homebuyer assistance for hurricane impacted non-homeowners is limited to \$40,000.

**Acquisition** – The utilization of CDBG funds to acquire real property. Acquisition-only is typically not considered a complete activity in the Program and must be combined with another eligible use (i.e. new construction).

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

**Single Family Rental** – Seven or less rental units under common ownership. Units may be on contiguous or scattered lots. Davis Bacon wages requirements apply to construction on CDBG-funded rental housing with eight or more rental units in the same property (not necessarily the same building) which are commonly-owned and operated as one rental, cooperative or condominium project. Scattered site rentals (rental properties not on an undivided lot or on contiguous lots or parcels) may exceed seven units without wage requirements.

**Multifamily Rental** – Eight or more rental units in the property. Davis Bacon wage requirements apply to construction on CDBG-funded rental housing with eight or more rental units in a property.

**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, as well as how the Program will be marketed, how Fair Housing Objectives will be achieved, and how funding will be prioritized as determined through the Needs Assessment.

**Low to Moderate Income (LMI) National Objective** – Activities which benefit households whose total annual gross income does not exceed 80 percent of Area Median Income (AMI), adjusted for family size. Income eligibility will be determined and verified in accordance

with 24 CFR Part 5 requirements using procedures as stated in the Technical Guide for Determining Income and Allowances, 3<sup>rd</sup> Edition (HUD-1780-CPD). The most current income limits, published annually by HUD, shall be used by the subrecipient to verify the income eligibility of each household applying for assistance at the time assistance is provided. The LMI economic subcategories of very low, low and moderate for the CDBG Program correspond to the economic subcategories of extremely low, very low and low as identified in the Conciliation Agreement and are defined as follows:

- 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
- 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

***Slum and Blight National Objective*** – Activities which help to eliminate slums and blighted conditions. Use of this National Objective is limited due to its inability to contribute towards the overall requirement for 55 percent of Ike and Dolly Round 2 funding to benefit low to moderate-income beneficiaries. It must be justified in the application for funding and the restrictions of its use will be expressly detailed in the contract between GLO and the subrecipient. Slum and Blight activities must meet the criteria of one of the three following categories:

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

***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 Disaster Recovery funding with respect to any part of a loss resulting from a major disaster as to which he has already received financial assistance under any other program or from insurance or any other source. The state will allow for the most permissive current interpretation provided by HUD in determining Duplication of Benefit.

***Individual Mitigation Measures (IMM)*** – Activities designed to mitigate and/or reduce risk beyond the pre-disaster condition of a housing unit when the activities are above and beyond federal, state, or local construction or code requirements. The State anticipates accessing additional funds for disaster activities under the Disaster Recovery Enhancement Fund (DREF) that must be matched by funding provided for IMM. In accordance with HUD's guidance, repair and rehabilitation of housing units, and the payment of flood insurance are not IMM activities. Examples of IMM activities include elevation above the base flood elevation level, or the addition of storm shutters, hurricane proof windows, roof

straps, etc. as long as those improvements are not required to comply with local code requirements and did not exist on the housing unit prior to the storm damage.

***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 contractors providing supplies, equipment, construction, or services, and may be further restricted by Program Rules or other guidance including applications.

***Family*** – A household composed of two or more related persons. The term family also includes one or more eligible persons living with another person or persons who are determined to be important to their care or well-being, and the surviving member or members of any family described in this definition who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death.

***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 (2) 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 low to moderate income objective is based on the LMI of households.

***Manufactured Housing Unit (MHU)*** – A structure, transportable in one or more sections which, in the traveling mode is eight body-feet or more in width, or forty 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.

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

***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.

***Area of High Minority Concentration*** – A census block group that consists of 65 percent or more of minorities. Minorities include all racial and ethnic population groups other than “White, non-Hispanic (Anglo).”

***Area of High Poverty Concentration*** – A census block group that consists of 35percent or more of the residents living in poverty. A household that meets the US Census Bureau’s poverty threshold is considered to be at or below poverty level for the Disaster Recovery Program.

## **Evaluation of Data**

- In order to develop the Program Design for all activities offered through Ike Round 2 funding, Harris County will use qualified data (HUD/FEMA data) to allocate the disaster funding, current FEMA data, or other data as approved.
- Qualified data will be used to document the impact of the relevant storm on the economic LMI subcategories and to assist Harris County in developing the plan for targeting the use of those funds, in the appropriate levels, to the appropriate economic categories.
- The method of data evaluation utilized by Harris County (i.e., class distribution categories by income, raw number of homes impacted versus the aggregated dollar amounts impacting communities, etc.) will be made available to the public for fifteen days on a publicly accessible website. Notice of the posting of the method of review will be provided to GLO not later than the day the method is posted on a website.
- If any public comment is made, Harris County will address the comment in a public response.
- Once the method of interpretation of the data has been vetted publicly and adopted by Harris County, Harris County will program the use of the funds. The data evaluated should provide targeted classes that will be used to develop the program and its marketing components.
- Persons with accessibility or other special needs adaptations should also be analyzed as part of the process.

## **Use of Prior Applications**

- Prior applications may be considered if they are within the designated targeted areas. This program is not intended to be a first-come-first-served program and therefore persons who have already applied Under Round 1 do not have a prior claim to be included in the program.
- Prior applications will be reviewed to ascertain whether they qualify under the new program guidelines. As this program is not a continuation of Round 1 programs, applicants must be re-qualified.

## **Program Requirements**

Harris County has provided a Needs Assessment to determine the types of programs and populations it will offer in their housing application. The GLO has reviewed and accepted the assessment and has contracted for housing activities with the County. As the subrecipient of the GLO for Disaster Recovery CDBG funding, Harris County has the following obligations:

- All housing activities must meet one of the HUD National Objectives required under the authoring statute of the CDBG program:
  - Benefit low- to moderate income persons (LMI); or
  - Eliminate slum or blight (SB).

- Prior to the completion of the Phase 1 Analysis of Impediments (disaster-area AI), Harris County will conduct a local review of impediments sufficient to support the required demonstration that any project submitted for priority funding affirmatively furthers fair housing.
- Once the Phase 1 disaster area AI is complete, Harris County will conduct whatever level of review and evaluation is necessary to apply the findings of the disaster area AI to their jurisdiction and design programs that affirmatively further fair housing in compliance with that AI and analysis.
- Harris County will incorporate existing Analysis of Impediments documents into any evaluation of how to use CDBG-DR funds to overcome impediments to fair housing.
- Within a period of no more than 18 months, from the start (effective) date of the commencement of the Program, the County will identify sufficient eligible beneficiaries and provide reasonable assurance that the County will be able to expend all applicable funds within GLO-established benchmarks as outlined in the Proposed Performance Statements in the contract between GLO and Harris County Applicants applying for disaster recovery assistance will be reviewed and processed by the County and must meet certain eligibility criteria to qualify for assistance. Eligibility criteria are further discussed in the activity-specific housing guideline section.
- All housing activities will comply with the Affirmative Marketing Plan further discussed below in an effort to overcome impediments to fair housing.
- All sites will undergo a complete environmental review prior to any commitment of funds. An environmental review consists of a statutory checklist of required review items. Properties with environmental conditions will not be permitted to proceed under housing activities unless the condition is corrected.
- Applicants for assistance must demonstrate that the damage, failure to function or displacement of population was as a result of Hurricane Ike. Hurricane damage can be documented as follows:
  - FEMA, SBA or Insurance award letters.
  - In the event that the above-referenced documentation is not available, an inspection report (complete with photos of the damage and a written assessment of the damage) from a damage assessment conducted by a qualified inspector supplied by Harris County that certifies that the damage occurred as a result of the hurricane will be acceptable.
  - In the event that FEMA, SBA or Insurance award letters are not available and an inspection report is inconclusive as to the cause of the damage, Harris County will provide alternative evidence, such as neighborhood-level media reports or documentation of damage by disaster response/relief organizations on a case-by-case basis to GLO for review and approval.
  - If an applicant was denied assistance by FEMA, Harris County will make assistance available through the CDBG Disaster Recovery Program.

## **Targeting Communities**

- HGAC's Needs Assessment along with Harris County's Needs Analysis helped to determine targeted communities for the housing programs. Targeted communities consist of the following areas that include: concentration of poverty, concentration of ethnicity, or concentration of minority; or residing within 100 year floodplain as well as any displaced populations such as the homeless.

## **Affirmative Marketing Plan**

Harris County is developing an Affirmative Marketing Plan and will be based upon the following requirements as outlined below. Local jurisdictions administering the CDBG Disaster Recovery 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 Marketing Plan, based on the U.S. Department of Housing and Urban Development (HUD) regulations, will be submitted to GLO for approval. The plan outlines the policies and procedures for housing activities as well as procedures 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, eligible persons from all racial, ethnic, national origin, religious, familial status, the disabled, "special needs," gender groups, and for each project or program, the populations least likely to apply, are:
  - Fully informed of vacant units available for sale and/or rent.
  - Encouraged to apply for purchase, rehabilitation, and/or rent.
  - Given the opportunity to buy and/or rent the unit of their choice.
  - Given the opportunity to rehabilitate their primary residence, which sustained damages due to Hurricane Ike and/or its after-effects.
- Program participants will be informed about available opportunities and supporting requirements via counselors, printed and electronic materials, publications, direct contact, workshops/seminars, and through the placement of flyers/posters in public facilities.

Particular emphasis is focused on successful outreach to LMI areas and those communities with minority concentrations that were affected by the disaster.

- In addition to marketing through widely available media outlets, efforts will be taken to affirmatively market the CDBG Disaster Recovery Program as follows:
  - Advertise with the local media outlets, including newspapers and broadcast media, which 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.
  - Other forms of outreach tailored to reaching the eligible population, including door to door outreach if necessary.
- Applications and forms will be offered in English and other languages prevailing within the Harris County unincorporated areas. In addition every effort will be made to assist such applicants in the application process.
  - In addition, 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.
  - Documentation of all marketing measures used, including copies of all advertisements and announcements, will be retained and made available to the public upon request.
  - Harris County will utilize 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 laws.
  - Harris County will develop an Affirmative Marketing Plan for each multifamily rental development receiving CDBG Disaster Recovery funding. The plan, pursuant to federal regulations, will outline strategies to inform the public about the housing opportunities, requirements/practices that the owner must adhere to in executing the Affirmative Marketing Plan, procedures that will be followed in soliciting applications, and a description of records that will be maintained and made available for review. Notice to Public Housing Authorities within the City of Houston and Harris County unincorporated areas will be issued to inform households on DHAP that permanent housing is available will be part of the Plan.
  - Harris County will include an evaluation of outreach activities and applications received to determine if outreach is successful and applications that are being received accurately reflect the socioeconomic and other forms of demographic diversity identified in the Needs Assessment. The evaluation will be an ongoing process and begin no later than one month after the program begins accepting applications. Harris County will submit reports to GLO for review before Harris County begins qualifying applicants, and periodically thereafter.
  - The availability of the Program funds will be advertised at a minimum through the following venues:
    - Local newspapers

- Local broadcast media
- Public or non-profit organizations and community meetings
- Other public groups
- Other outreach may include use of flyer in utility bills, church bulletins, and door to door outreach
- Evaluation of outreach activities and single family applications received will be necessary to determine if single family applications are received from a diverse population and ranges of income to ensure low/moderate income households are assisted in a proportion to the percentage of overall populations.

### **Size of Unit**

In accordance with HUD guidelines Harris County's Size of Unit Policy allows for two persons per bedroom as reasonable. Exceptions to this standard are based on the multiple factors of which Harris County is aware and recognize. Additionally, unit sizes will range from two (2) Bedrooms to four (4) Bedrooms.

### **Reporting Requirements**

Compliance will be maintained in accordance with the reporting requirements under GLO's CDBG Disaster Recovery Program. This includes all information and reports as required under the GLO contract with the County and demographic data and other information on applicants and awardees processed by the County as required by the Conciliation Agreement.

- Harris County will follow procedures as established by GLO to report on goals and compliance with Section 3 as required by 24 CFR Part 135 and the contract between GLO and the County. (Harris County's Section 3 Plan in Appendix)
- Harris County will follow procedures established by GLO to collect and report data relevant to affirmatively furthering fair housing and Civil Rights compliance as required by the Conciliation Agreement. 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 household's income
    - Household's income as a percentage of area median family income as defined by HUD
    - The race and ethnicity of the head of household
    - The household's familial status
    - The presence or non-presence of a household member with a disability

- For each activity providing housing or housing assistance that is not directly linked to a specific beneficiary:
  - The cost of the housing unit to the applicant and to the occupant
  - The maximum qualifying household income as a percentage of area median family income as defined by HUD
  - Restrictions regarding the age or familial status of occupants
  - The presence or absence of designs or services that make the housing unit accessible to an individual with a disability and the number of fully accessible units.

### **Records Retention**

All official records on programs and individual activities are maintained for a five (5) year period beyond the end of the affordability period for each housing activity.

### **Procurement Requirements**

Harris County will follow all federal, state, and local procurement procedures and laws applicable to this Program, and will confirm that no vendor is debarred from receiving state or federal funds. Harris County, per the GLO guidelines, will comply with Section 3 (24 CFR Part 135) requirements (see Harris County's Section 3 Plan in Appendix) prior to the start of construction on any contract activity.

### **Conflict of Interest**

In accordance with the conflict of interest regulations at 24 CFR 570.489 (h) and contained in the contract between the County and GLO prohibits local elected officials, County employees, and consultants who exercise functions with respect to CDBG Disaster Recovery 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.

Any exceptions to the conflict of interest provision will be submitted to the GLO and the County will not enter into any conflict of interest until a request for exception is granted.

### **Site and Development Restrictions**

Housing that is constructed or rehabilitated with CDBG funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. International Residential Code (IRC) (with windstorm provisions) and International Building Code (IBC) must be used as required where appropriate. All rehabilitation projects must comply with Housing Quality Standards (HQS) and all applicable local codes and ordinances. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.

All other CDBG-assisted housing (e.g., acquisition) must meet all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet HQS in 24 CFR Part 982.401. All multifamily rehabilitation developments are subject to a Uniform Physical Conditions Standards inspection. All deficiencies identified in that inspection must be corrected before final retainage is released.

Housing developments must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Part 794). Multifamily housing developments must meet the design and construction requirements at the Texas Administrative Code, Title 10, Chapter 60, Subchapter (B) 10 TAC §§60.201-211). Covered multifamily dwellings, as defined at 24 CFR Part 100.201 as well as common use facilities in developments with covered dwellings must meet the design and construction requirements at 24 CFR Part 100.205, which implement the Fair Housing Act (42 U.S.C. Part 3601–3619) and the design and construction requirements of the Fair Housing Act Design Manual. Additionally, developments involving new construction (excluding construction of nonresidential buildings) where some units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20 percent of each Unit type (i.e. one bedroom, two bedroom, three bedroom) must provide an accessible entry level and all common-use facilities in compliance with the design and construction requirements of the Fair Housing Act Design Manual, and include a minimum of one bedroom and one bathroom or powder room at the entry level. A compliance certification will be required after the development is completed from an inspector, architect, or accessibility specialist. Any developments designed as single family structures must also satisfy the requirements of Part 2306.514 of the Texas Government Code.

### **Duplication of Benefits**

The following are sources of funding assistance provided for structural damage and loss that are considered a duplication of benefits (DOB). Under federal law DOB must be deducted from the assistance amount (the amount that will be offered for the purchase of the property or for the repair of the structure): FEMA Individual Assistance (IA), FEMA National Flood Insurance Program (NFIP), Private Insurance, Small Business Administration (SBA) and other sources. Assistance received in the form of services instead of money, for property repairs from any source is not considered a duplication of benefits. Any additional duplication of benefits received by the applicant after the CDBG assistance is awarded must be applied to reduce the award amount. Funds received from any source including flood insurance, FEMA and hazard insurance that were used to cover repair to the property do not reduce the amount of disaster assistance if the evidence of expenditures at least equals the amount of assistance. Documentation must be provided demonstrating the cost and type of repair conducted. Link to HUD guidance regarding DOB: [http://www.glo.texas.gov/GLO/\\_documents/disaster-recovery/housing/forms/hud-dob-guidance.pdf](http://www.glo.texas.gov/GLO/_documents/disaster-recovery/housing/forms/hud-dob-guidance.pdf)

## **Complaint and Appeals Process**

- Citizen complaints will be handled as required under the following regulations:
  - 24 CFR 91.11(h) Citizen Participation Plan which states, “The citizen participation plan shall describe the State’s appropriate and practicable procedures to handle complaints from citizens related to the consolidated plan, amendments and performance report. At a minimum, the citizen participation plan shall require that the State must provide a timely, substantive written response to every written citizen complaint, within an established period of time (within 15 working days, where practicable, if the State is a CDBG recipient).”24 CFR 570.486(a)(7) Local Government Requirements, which states, “Provide citizens the address, phone number, and times for submitting complaints and grievances, and provide timely written answers to written complaints and grievances, within 15 working days, where practicable.”
  - 10 TAC Sec.1.17(a) Alternative Dispute Resolution which states, “In accordance with §2306.082, Texas Government Code, it is GLO’s policy to encourage the appropriate use of Alternative Dispute Resolution (“ADR”) procedures to assist in the fair and expeditious resolution of internal and external disputes involving GLO and the use of negotiated rulemaking procedures for the adoption of Department rules, consistent with the Governmental Dispute Resolution Act and the Negotiated Rulemaking Act (Chapters 2009 and 2008, respectively, Texas Government Code). GLO’s ADR procedures must conform, to the extent possible, to model guidelines issued by the State Office of Administrative Hearings for the use of ADR by state agencies (§2306.082(b), Texas Government Code).”
- Resolution of complaints will be handled sensitively and fairly. Complete and thorough program documentation and contractual agreements, careful implementation of policies and procedures, and clear and respectful methods of communication will help prevent and resolve complaints. Incorporation of escalation procedures into the complaint process will support resolution at the earliest state possible.
- Information about the right and how to file a complaint will be printed on all program applications, guidelines and Harris County’s web site in all local languages, as appropriate and reasonable.
- Types of Complaints
  - Policy: There are two types of complaints; formal and informal.
    1. Informal: Informal complaints may be verbal and can come from any party involved in the application process, including the homeowner or building contractor. A written procedure for handling these complaints is not required.
    2. Formal: Formal complaints are written complaints, including faxed and emailed statements. A written procedure for dealing with formal complaints is required.
- Informal Complaints

- Policy:
  - Informal complaints may be verbal, and can come from any party involved in the process, including the homeowner or building contractor.
- Procedure:
  1. A person who calls Harris County to file an informal complaint will be advised on how to file a formal complaint if their complaint cannot be immediately resolved.
  2. Harris County procedures will include a complaint escalation process in order to ensure complaints are handled at the earliest stage in the process.
- Formal Complaints
  - Policy
    - In the case that a citizen or organization desires to file a formal complaint against a Harris County action or decision, they will be informed of the following set of formal grievance procedures. Complaint and grievances procedures can be found at and filings should be provided to the Harris County Community Services Department (CSD), administer of the TX CDBG Disaster Recovery Funding, at 8410 Lantern Point; Houston, Texas 77054 between the hours of 8:00 am and 5:00 pm, Monday through Friday except on posted holidays.
  - 1. Submission of the complaint must be sent to the Director of CSD, with original signatures and letterhead (if applicable). The complaint must include details such as dates, procedures in question, history of the problem(s) and correspondence, and any relevant previous complaints.
  - 2. The complaint will then be given to the staff for a formal investigation.
  - 3. Staff will investigate the situation and draft a report to the Director, which will detail all findings related to the action or decision, such as historical background, persons involved in the action or decision, the reasoning behind the action or decision, and suggestions for reconciliation (if any).
  - 4. The individual or organization that filed the original complaint will be contacted and informed of the findings and applicable plan for reconciliation within 15 business days of receipt of the complaint.
  - 5. Appeals of the findings and applicable plan for reconciliation will be sent to the Texas General Land Office at 1700 N. Congress Ave. Suite 935; Austin, Texas 78701 within 15 business days of notification of findings by Harris County. Appeals will be submitted in writing with the name and contact information of the complainant and details of the complaint.

6. Any legal suits against CSD will be served to or filed with the County Judge at 1001 Preston Suite 911, Houston, Texas 77002, with copy to the Community Services Department, 8410 Lantern Point Drive, Houston, Texas 77054.

All formal complaints will be entered into a Complaint Tracking System which will store, track, and document resolution of the complaint.

Grievances regarding housing discrimination should be reported to the Houston HUD Office at 1301 Fannin, Ste. 2200, Houston, TX 77002.

- A file for each complaint will be maintained. The file will document each step of the complaint process and will include the following:
  1. The name of the person who filed the complaint;
  2. The date the complaint was received;
  3. A description of the complaint;
  4. The name of each person contacted in relation to the complaint;
  5. A summary of the results of the review or investigation of the complaint; and
  6. An explanation of the reason the file was closed, if the file was closed.
- Procedure:
  1. In order for a complaint to be processed it must be received in writing (includes fax and email) and must include:
    - i. The name of the complainant, and
    - ii. Contact information of the complainant
    - iii. Complaints may be submitted in the following ways:
    - iv. By mail: 8410 Lantern Point Dr., Houston, TX 77054
    - v. By fax: 713-578-2190
    - vi. Online: website: <http://www.csd.hctx.net/default.aspx>  
email: [hrc@csd.hctx.net](mailto:hrc@csd.hctx.net)

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

- Harris County has the right to change, modify, waive, or revoke all or any part of these guidelines, with the prior written approval of GLO.
- In the event that 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.

# Housing Program Specific Activities

## Purpose of Program & Program Requirements

The Harris County Disaster Recovery Affordable Rental Program has been designed to provide funds for rehabilitation, reconstruction, and/or new construction of affordable multi-family and single family rental housing projects in areas impacted by Hurricane Ike. Funding is available through the Community Development Block Grant (CDBG) Disaster Recovery Program, administered by the GLO.

The purpose of the Affordable Rental Program is to facilitate the rehabilitation, reconstruction, and/or new construction of affordable rental housing needs within the County's service area. Units qualifying for assistance must have sustained damage from Hurricane Ike. A minimum of 51 percent of the units must be restricted for ten or more years to low to moderate income (LMI) individuals earning 80 percent or less of the Area Median Family Income (AMFI) at affordable rents. The rents must comply with High HOME Investment Partnership (HOME) Rents and other existing Land Use Restriction Agreement (LURA) restrictions if applicable. HOME rent limits are defined by HUD and must equal the lesser of fair market rents or 30 percent of the adjusted income for people earning 65 percent of the AMFI. As part of its allocation of TX CDBG Round 2 Phase 2 Housing funding, Harris County will enact activities under two GLO contracts executed on July 2, 2012: a Rental Housing Contract \$36,075,937 and a Non-Rental Housing Contract \$12,427,855. At the time of the revisions to the guidelines (3/28/13), Harris County was in the process of amending the MOD and the contract budget to reflect the new Rental Housing Contract budget of \$43,004,201.14 and the new Non-Rental Housing Contract budget of \$5,469,180.

The following objectives are provided for the implementation and administration of a successful Rental Program:

- The primary objective of this Program is to provide decent, safe, and sanitary housing in the hurricane impacted areas through the provision of activities designed to mitigate storm damage that occurred as a result of Hurricane Ike.
- A second objective is to ensure that the housing needs of very low, low and moderate-income households are assisted with housing in no less than the proportion to their relative percentages of the overall populations which suffered housing damage within the communities being served.
- A third objective is to prioritize the provision of decent, safe, and sanitary housing for elderly and disabled populations with an emphasis on housing choice and design to reduce maintenance and insurance costs as well as provide for the provision of independent living options.

All housing activities will meet one of the CDBG National Objectives: Benefit to Low to Moderate Income (LMI), or Elimination of Slum and Blight.

## **Rental Housing Activities**

### **Multi-family Rental Activities**

#### *Eligible Activities*

For eligible multi-family rental housing development projects using TX CDBG Program funds to acquire, construct or rehabilitate rental housing, all are required to provide a minimum of 51 percent of the total project units as assisted units. Of the total assisted units, 100 percent must serve households at or below 80 percent of Median Family Income (MFI). The property owner or its representative must verify the income of each tenant occupying a TX CDBG assisted unit. The method used will be the *Section 8 Part 5* income verification. The maximum rents for CDBG-assisted rental developments shall be established by using the most current HOME Program high rent schedule. Rent schedules include the cost of utilities in the rent amount. All projects shall use utility allowances published by the Harris County Housing Authority unless located in another jurisdiction and then that jurisdiction's allowances will be used.

For properties with both assisted and non-assisted units, the County will select "fixed" or "floating" units at the time of project commitment. When TX CDBG-assisted units are "fixed", the specific units that are CDBG-assisted are designated and never change. When TX CDBG-assisted units are "floating", the units that are designated as CDBG-assisted may change over time as long as the total number of TX CDBG-assisted units in the project remains constant. TX CDBG-assisted units must be comparable and distributed throughout every unit type. For new construction of multi-family rental units, builders, design professionals, and developers must comply with the Americans with Disabilities Act, Federal Fair Housing Act, and Section 504 of the Rehabilitation Act of 1973, particularly in the construction of accessible units and common use areas. All TX CDBG-assisted affordable units must meet or exceed the Minimum Acceptable Standards for Residential Acquisition, Construction and Rehabilitation, as well as, state and local code requirements.

#### *Types and Amounts of Assistance:*

Per the GLO Housing Guidelines, the maximum award cap under the Affordable Multi-family Rental program is \$10,000,000 per development. TX CDBG funds may not be used to pay for damaged covered by any FEMA reimbursement, SBA assistance, insurance claim, or any delayed or future payments anticipated under insurance policies. TX CDBG Affordable Rental Program funds will be in the form of a zero percent performance-based loan and will be forgiven when all contractual obligations have been met, including satisfactory completion of construction and compliance with the 10 year affordability period. The terms of the loan/grant may be modified by agreement, if necessary, given other requirements from other financial programs (i.e. tax credit programs, etc.). A LURA will be placed on

developments and any applicable lenders must agree to subordinate to the LURA. The Developer/Borrower will guarantee completion of construction until a certificate of occupancy has been issued and retainage has been released. There is a 10 year affordability period under the LURA. Project construction must be completed within 18 months of the effective date of the contract, unless otherwise extended.

### *Participant Eligibility*

- For-profit, public housing authorities, units of local governments and not-for-profit Developers/Borrowers, acting individually or as participants in a limited partnership (LP) or limited liability corporation (LLC) are eligible to participate. Not-for-profit entities must provide evidence of IRS tax-exempt status. Developments are required to list properties on PHA landlord list and provide notification to DHAP providers.
- The Applicant, Development Owner, Principal or Developer/Borrower must be in good standing with any outstanding loans and loan commitments. There may be no defaults or negative collection actions on current or previous loans.
- No Applicant, Development Owner, Principal or Developer/Borrower or General Contractor may be “debarred” from the federal and state debarment lists, in accordance with all applicable laws.
- Applicant, Development Owner, Principal or Developer/Borrower must provide a complete listing with addresses of multifamily properties currently owned or managed.

### *Property Eligibility*

The Rental Housing Activities will be self-administered by Harris County Community Services Department staff (CSD). Activities will include multi-family and single-family rental units. Based on the GLO Housing Guidelines, Benefit to Low to Moderate Income persons is the only National Objective that is approved for the Rental Housing Program under Round 2.

### *Selection of Projects*

Through a Request for Proposals (RFP) process, the County will seek rental housing owners with units affected by Hurricane Ike in need of rehabilitation, reconstruction, construction, and/or hazard mitigation assistance and replace units destroyed by Hurricane Ike in the county. The County will target and place a high priority on those developments who predominately serve low, very low, extremely low, and moderate-income persons, seniors, and the disabled. The County will also seek proposals that assist Hurricane Ike displaced populations, such as the Homeless, who were identified in Harris County’s Need Assessment.

The purpose of the RFP process is to ensure the integrity of the recommended project selection process and to coordinate the application process by identifying the community's needs, building a system to enhance safe, affordable housing and enhance the quality of life and selecting projects that will effectively address those needs. Entities eligible to apply include private non-profit and for-profit developers and Public Housing Authorities with projects and or populations affected by Hurricane Ike. Entities not listed but interested in applying should contact the Harris County CSD staff to ensure eligibility. CSD will consider projects located in Harris County. The Formal Application Process requires the submission of a formal application or proposals from the applicant. A notice is published to the Harris County website as well as mass email distribution to interested parties. The RFP process is open and competitive. To participate in the process, potential applicants must submit a complete application by the established deadline and meet the program requirements.

Upon the receipt of applications, all are evaluated utilizing an evaluation worksheet, which is based on explicit selection criteria. The purpose of the evaluation worksheets is to provide staff with a tool to document their proposal review findings. The worksheet is based on the same scoring system with each section having a subtotal. Staff must review the entire proposal before assigning a score. The evaluation tool also includes an underwriting review which is discussed further in the Program Requirements, Underwriting and Environmental Review section.

CSD reserves the right to accept or reject any and all proposals received as a result of this invitation. In addition, CSD reserves the right to negotiate with all qualifying applicants or to cancel in whole or in part an application if deemed in the best interest of Harris County as it relates to the Consolidated Plan and/or the County's Agreement with GLO for TX CDBG Disaster Recovery funds. The CSD Director may require that applicants selected for funding participate in negotiations and resubmit any cost, technicality, or other revisions of their proposal. Final selection of awarded project(s) is approved by the CSD Director, and is recommended for approval by the Harris County Commissioners Court.

The applicant is responsible for maintaining complete and accurate records for the full period of the affordability period. These records must fully and completely support the satisfactory completion of all compliance items. These records must be provided to the County or GLO upon request. Compliance with these terms for the full affordability period will result in loan forgiveness, leaving the applicant with no obligation to repay the loan or interest on it. Failure to comply with terms will lead to non-compliance.

Hurricane damaged or destroyed projects awarded assistance will typically be in the 10-30 year old range. The repair/replacement assistance will extend the useful life of the development at least 10 years.

Proposed new construction located in the 100-year flood plain as identified on the most current FEMA Flood Maps must comply with the GLO flood policy.

### *Selection Criteria*

Based on Harris County's Needs Assessment projects providing the greatest benefit to the community will provide incentives for:

- Increasing the number of affordable units by exceeding the requirements to lease 51 percent of the units to low/moderate income households.
- Providing units to households with the highest need for affordable housing by agreeing to create set asides targeting very low, low, and moderate-income tenants.
- Providing broader access to person with disabilities through single story structures or those served by an elevator.
- Meeting low-maintenance and energy efficiencies by installing energy efficient products and low maintenance items.

### *Program Requirements, Underwriting, and Environmental Review:*

Multi-family rental projects awarded disaster recovery funds must satisfy six levels of eligibility requirements. Projects will be reviewed in terms of financial feasibility with the program's objectives. Financials, proformas, and loan information as well as the sources and uses of funds must be submitted identifying the proposed financing sources and expenses of the project. The proposed multifamily projects will go through underwriting which will review the ownership structure, property operations, the sources and uses of funds, and the financial statements of the owner and guarantor (if applicable). The underlying debt and operating expenses of the property will be reviewed to determine if the project is feasible during the affordability period and demonstrates income adequate to cover operating expenses and applicable debt service.

Upon allocation for funding, the property will go through and pass required environmental review process. For rehabilitation or construction activities, the Developer /Borrower must submit an acceptable Property Condition Assessment (PCA) conducted by a qualified third party. In addition to repair costs identified in the PCA, other costs will be considered if they extend the useful life of the project. The project costs must be reasonable and typical in the current marketplace for projects of similar scope. Plans and specifications must be submitted for replacement units.

### *Construction:*

- Housing that is constructed or rehabilitated with CDBG funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. When CDBG funds are used for rehabilitation development, the entire unit must be brought up to the applicable property standards and meet Housing Quality Standards. All newly constructed including reconstructed housing units must meet the current edition of the Model Energy Code (MEC) published by the Council of American Building Officials. GLO will

conduct a final inspection of the development. Common areas and units are subject to a Uniform Physical Conditions Standards inspection. Any deficiencies identified in that inspection must be corrected before final retainage is released.

- Housing developments must meet all accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973. Multifamily housing developments must meet the design and construction requirements at the Texas Administrative Code, Title 10, Chapter 60, Subchapter (B) 10 TAC 60.201-211. Covered multifamily dwellings must meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act.
- The Developer/borrower must comply with Labor Standards; Section 3 Plan; Minority/Business Enterprise (MBE); Small Business Enterprise (SBE) requirements; Affirmative Marketing; and Contractor Clearance.
- The project costs must be “reasonable and customary” as determined by acceptable, independent third party report or considered reasonable as documented by bidding process.
- All contracts will be payment and performance bonded. All projects are subject to The Davis-Bacon Wage Act, The Contract Work Hours and Safety Standards Act, The Copeland “Anti-Kickback” Act, Section 3 requirements, reporting and goals and should budget accordingly.
- Prior to commencement of construction, the Developer/Borrower must have a notice to proceed.
- The report and AIA forms 702 and 703 will be required prior to funding each draw request.
- Ten percent (10%) of each draw will be held as retainage until satisfactory completion of the project.

### **Compliance Requirements**

#### *Affordability Period:*

The compliance period or affordability period represents the minimum length of time (beginning upon project completion) a recipient of federal assistance for a rental housing project must be in compliance with programmatic as well as Harris County established rules and regulations regarding maximum rent limits, tenant income, and other applicable requirements. When the recipient fails to comply with the program regulations during the designated compliance period, the action triggers repayment of the direct federal subsidy to the County. The compliance period of TX CDBG Multi-family rental developments shall be a minimum of 20 years.

### *Labor Compliance:*

Harris County through CSD shall monitor projects for compliance with TX CDBG. Consistent with the County's standard monitoring procedures outlined in the Harris County Subrecipient Monitoring Plan, the CSD through its Grants Management and Financial Services Sections will conduct onsite monitoring at each assisted project at least annually, and through its Housing Construction and Inspection Services section will conduct inspections of the assisted units at least once annually during the affordability period for compliance with the Harris County Housing Standards for Multi-Family Rental projects.

All applicable developments must comply with applicable labor standards, including, but not limited to Davis-Bacon wages, Section 3, Minority / Business Enterprise, and Small Business Enterprise. Under the federal Davis-Bacon Wage Act (40 USC 276a-276-a5, 24 CFR Part 70, 24 CFR Part 570.603), prevailing wages must be paid on all construction and related work on projects that have eight (8) or more units.

### *Relocation:*

The Developer/Borrower is responsible for the relocation activities related to the project. The Developer/Borrower shall comply with program regulations at 24 CFR Part 570.606, the Uniform Relocation Assistance and Real Property Policies Act of 1970 ("URA"), as amended, at 49 CFR Part 24, and Part 104(d) of the Housing and Community Development Act of 1974, as amended, at 24 CFR Part 42. If applicable, they shall submit to CSD copies of all documentation relating to URA.

### *Project Completion*

When a project is finished, the procedures listed below will be followed to document completion and allow for retainage (the last 10 percent of project cost) to be paid:

- Developer/Borrower submits Final Draw for Retainage. This draw is identical in form to the others and includes the final inspection report from the third party inspector indicating that the project is complete.
- Developer/Borrower completes and submits a Final Wage Compliance Report.
- Developer/Borrower submits letter Certificate of Occupancy for project.
- Developer/Borrower submits letter certification from Architect that project meets requirements of the Americans with Disabilities Act.
- Developer/Borrower submits Certificate of Substantial Completion, and AIA form that is signed by the Owner, General Contractor, and Architect.
- Developer/Borrower submits Lien Release from General Contractor to show that all subcontractors have been paid.

### *Project Lease Up*

Harris County will ensure that multifamily developments assisted with CDBG funds are have a project tenant policy (TSP), Affirmative Marketing Plan, and schedule of leases and rents to ensure compliance with CDBG requirements.

### *Program Files*

The county will maintain accurate Rental Program files and records for general administration activities, for each development and tenant for a period of ten (10) years as required by GLO. Such files will be open for inspection to GLO or any of its duly authorized representatives, or funding source representative.

### **Single Family Rental Activities**

#### *Eligible Activities:*

For eligible single family rental housing development projects, TX CDBG Program funds may be used to acquire, construct and or rehabilitate/reconstruction rental housing and increase or replace the affordable rental stock in Harris County affected by Hurricane Ike. Applicants receiving TX CDBG funds for single family rental projects agree to lease the rental units to low-moderate income households (80 percent of Area Median Income or less) at restricted rents. Rents must comply with the High HOME rent limits.

#### *Types and Amounts of Assistance:*

Single family, detached dwellings are eligible for assistance. Condominiums, townhouses, duplexes, triplexes or four-plexes are not eligible. Each single family rental unit must currently have access to water, electricity, and sewer or septic service, or hookups to provide those services. The Maximum award cap under Single Family Rental Program is based on the number of bedrooms in the rental unit and whether rehabilitation/reconstruction or new construction. For new construction, units will have two (2) or greater bedrooms. Note, when a rental unit is assisted with TX CDBG funds, the entire unit must be brought up to HQS. Eligible costs include hard costs for construction and soft costs associated with repair or construction of rental units plus other costs permissible under 24 CFR 570.

Table: Single Family Rental Maximum Awards

	One Bedroom	Two Bedroom	Three Bedroom	Four+ Bedrooms
Max Award (Rehabilitation/Reconstruction)	\$50,000	\$60,000	\$70,000	\$80,000
Max Award (Construction)	-	\$110,000	\$115,000	\$120,000

TX CDBG funds may not be used to pay for damage covered by any FEMA reimbursement, SBA assistance, insurance claim, or any delayed or future payments anticipated under insurance policies. TX CDBG Affordable Rental Program funds will be in the form of a 0

percent performance-based loan/grant and will be forgiven when all contractual obligations have been met, including satisfactory completion of construction and compliance with the 10 year affordability period. The terms of the loan/grant may be modified by agreement, if necessary, given other requirements from other financial programs (i.e. tax credit programs, etc.). Project construction must be completed within 18 months of the effective date of the contract, unless otherwise extended. A LURA will be placed on each SF property receiving disaster funds to repair, construct or reconstruct rental units. The LURA must be approved by GLO. The LURA must contain a 10 year affordability period beginning after closeout of loan or grant and require acceptance of Section 8 housing choice rental vouchers when the owner owns 20 or more single family projects.

*Participant Eligibility:*

- Individual owners with fee simple title to the property are eligible to participate.
- The owner must be in good standing with any loans on the property or in default or negative collection actions on any current or previous loans.
- The property taxes must be current on the property.
- The owner of the property may not be “debarred” from the federal and state debarment lists, in accordance with 24 CFR 570.609, as well as other applicable laws.
- The owner must provide a complete listing with addresses of other rental properties currently owned or managed.
- All applicants must not owe any child support payment(s) under any order.

*Property Eligibility:*

- All properties must be located within the jurisdiction of the County and sustained damage from Hurricane Ike.
- Properties maybe rehabilitated, or replaced by reconstruction or new construction of the dwelling.
- Single Family, detached dwellings are eligible for assistance and must contain between one and three bedrooms at a minimum; priority is given properties with three or more bedrooms. Condominiums, townhomes, duplexes, triplexes or four-plexes are not eligible.
- Upon completion, the single family homes must meet Housing Quality Standards and benefit low-moderate income persons earning 80 percent or less of Area

Median Income as defined by HUD and detailed in the Housing and Community Development Act of 1974 (HCDA) Title I, 105(a).

- The rent for the unit occupied by the low-moderate income household must be occupied at affordable rents. The units occupied low-moderate income households must comply with the High HOME rent limits published by TDHCA under the HOME program through the affordability period. Compliance with rent limits is calculated in the same manner as the HOME program.
- Units do not have to be rental stock prior to application for assistance, however must be rented to certified LMI households if awarded repair or replacement funds.
- Housing units located where federal assistance is not permitted by the Coastal Barriers Resource Act or within runway clear zones of either a civil or military airport are not eligible.
- Each property must currently have access to water, electricity, and sewer or septic service, or hookups to provide those services.
- The on-going maintenance of hazard and flood insurance is a program requirement where applicable.

*Selection Criteria:*

Based on Harris County's Needs Assessment projects providing the greatest benefit to the community will provide incentives for:

- To expand the affordable housing stock priority is given to vacant units in a condition that is not suitable for occupancy.
- To encourage a vested interest in the projects, priority is given to projects where the landlord contributes at least 25 percent of the funds necessary to repair the property.
- To encourage housing for families, priority is given to projects with three bedrooms or more.
- Projects near public transportation, shopping and schools are considered in the point structure. Near is defined as within a two (2) mile radius.
- Single family rental structures must comply with Texas Government Code, Section 2306.154.

### *Program Requirements, Underwriting, and Environmental Review:*

Single family rental projects awarded disaster recovery funds must satisfy four levels of eligibility requirements. Projects will be reviewed in terms of financial feasibility with the program's objectives. When applicable, financials, proformas, and loan information as well as the sources and uses of funds must be submitted identifying the proposed financing sources and expenses of the project. The County will determine the type of underwriting process required for Single Family projects.

Upon allocation for funding, the property will go through and pass required environmental review process. For rehabilitation or construction activities, an acceptable Property Condition Assessment (PCA) must be conducted by a qualified third party. The work write up must be completed in sufficient detail to obtain bids or cost estimates. The project costs must be reasonable and typical in the current marketplace for projects of similar scope. Plans and specifications must be submitted for replacement units.

### **Financial Review of Projects**

#### *Construction*

- For rehabilitation the properties must comply with local building codes, and the entire structure must comply with local health and safety codes and standards, and housing quality standards (HQS).
- For reconstruction including newly constructed homes, the entire structure must be in compliance with building codes and zoning ordinances and applicable construction or livability standards after assistance including:
  - Energy standards as verified by a RESCHECK™ certification. The certification must be available in the file prior to purchase.
  - IRC as 11 of the IRC as required by Chapter 388 of the Health and Safety Code as applicable.
- The project costs must be “reasonable and customary” as determined by an acceptable, independent third party report or considered reasonable as documented by a bidding process.
- Under the Rehabilitation Program, any housing unit built before 1978 must be inspected for hazards associated with the presence of lead-based paint or may be presumed to have lead-based paint hazards. Proof of notifications, work completed and clearance examination must be available.
- Under the Rehabilitation Program, any housing unit must be in compliance with Section 31 of the Federal Fire Prevention Control Act of 1974 which requires that

any housing unit rehabilitated with Department funds be protected by a hard-wired or battery-operated smoke detector.

- Reconstructed or new construction must comply with Texas Government Code 2306.514.
- Ten percent (10%) of each draw will be held as retainage until satisfactory completion of the project.

### **Compliance Requirements**

#### *Affordability Period:*

Harris County through CSD shall monitor projects for compliance with TX CDBG. Consistent with the County's standard monitoring procedures outlined in the Harris County Monitoring Plan, the CSD through its Grants Management and Financial Services Sections will conduct onsite monitoring at each assisted project at least annually, and through its Housing Construction and Inspection Services section will conduct inspections of the assisted units at least once annually during the affordability period for compliance with the Harris County Housing Standards for Multi-Family Rental projects.

#### *Labor Compliance:*

All applicable developments must comply with applicable labor standards, including, but not limited to Davis-Bacon wages, Section 3, Minority / Business Enterprise, and Small Business Enterprise. Under the federal Davis-Bacon Wage Act (40 USC 276a-276-a5, 24 CFR Part 70, 24 CFR §570.603), prevailing wages must be paid on all construction and related work on projects that have eight (8) or more units.

#### *Relocation:*

The Developer/Borrower is responsible for the relocation activities related to the project. The Developer/Borrower shall comply with program regulations at 24 CFR Part 570.606, the Uniform Relocation Assistance and Real Property Policies Act of 1970 ("URA"), as amended, at 49 CFR Part 24, and §104(d) of the Housing and Community Development Act of 1974, as amended, at 24 CFR Part 42. If applicable, they shall submit to CSD copies of all documentation relating to URA.

#### *Landlord Requirements:*

- Leasing all units to tenants that have eligible household incomes (80 percent AMI or below).
- Charging rents that are at or below High HOME rents.

- Following income certification and verification procedures and keeping records on all tenants' income.
- Maintaining complete and accurate rent rolls.
- Renting units in accordance with HUD Fair Housing Standards.

The applicant is responsible for maintaining complete and accurate records for the full period of the loan term. These records must fully and completely support the satisfactory completion of all compliance items. These records must be provided to the County or GLO upon request.

Compliance with these terms for the full period of the loan will result in loan forgiveness, leaving the applicant with no obligation to repay the loan or interest on it. Failure to comply with terms will lead to non-compliance.

### **Rental Multi-family Buyout Activities**

For eligible rental multi-family buyout projects, TX CDBG Program funds may be used to buyout, relocate tenants, and demolish multi-family rental housing in Harris County affected by Hurricane Ike and that are in a repetitive flood area. Projects receiving TX CDBG funds for multi-family buyout, relocation and demolition activities agree to re-purpose the land use as to benefit flood control systems. The existing structure(s) will be removed and the property will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands/floodplain management practices. No new structure will be erected on the property other than a public facility that is open on all sides and functionally related to a designated open space, a rest room or a structure that the CSD Director approves in writing before the commencement of the construction of the structure.

#### *Types and Amounts of Assistance*

Multi-family housing dwellings that were affected by Hurricane Ike, are in a repetitive flood area, and are adjacent to a Harris County Flood Control District facility are eligible for assistance. Property is the land and improvements listed on the title or appraisal district recorded as published on the HCAD.org. CDBG funds may not be used to pay delinquent taxes. The awards are based on a third party appraisal, cost of demolition, relocation of existing tenant and project delivery costs.

#### *Relocation*

Due to the involuntary nature of the acquisition/buyout, tenants are entitled to assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Property owners must follow applicable URA requirements. The Developer/Borrower is responsible for the relocation activities related to the project. The Developer/Borrower shall comply with program regulations at 24 CFR Part 570.606, the Uniform Relocation

Assistance and Real Property Policies Act of 1970 (“URA”), as amended, at 49 CFR Part 24, and Part 104(d) of the Housing and Community Development Act of 1974, as amended, at 24 CFR Part 42. If applicable, they shall submit to CSD copies of all documentation relating to URA.

#### *Duplication of Benefits*

The following are sources of funding assistance provided for structural damage and loss that are considered a duplication of benefits (DOB). Under federal law DOB must be deducted from the assistance amount (the amount that will be offered for the purchase of the property): FEMA Individual Assistance (IA), FEMA National Flood Insurance Program (NFIP), Private Insurance, Small Business Administration (SBA) and other sources. Assistance received in the form of services instead of money, for property repairs from any source is not considered a duplication of benefits. Any additional duplication of benefits received by the applicant after the offer for purchase has been extended, the funding for the purchase of the property has been awarded or the purchase transaction has occurred, must be applied to reduce the award amount. Funds received from any source including flood insurance, FEMA and hazard insurance that were used to cover repair to the property do not reduce the amount of disaster assistance if the evidence of expenditures at least equals the amount of assistance. Documentation must be provided demonstrating the cost and type of repair conducted.

#### *Property before Closing*

Participant must remove all personal property from the residence prior to the day of closing. Anything remaining after closing becomes public property and must be disposed of in a public manner.

#### *Document Execution at Closing*

The following documents will be signed by the applicant at the time of agreement:

- Agreement for Sale
- Limited Subrogation Agreement

#### *Property after Closing*

Existing tenants will be relocated per URA requirements. Procured demolition service will demolish of the residential structure and any outbuildings and proper disposition of the debris, in accordance with state and federal environmental laws, rules and regulations. The county is responsible for the maintenance of the property. The county will take ownership of the property and is responsible for ensuring the property title is deed restricted remaining public open space in perpetuity. A covenant will be placed on the property being acquired to maintain it as open space, recreational, or wetlands/floodplain management practices.

### *Offer to Purchase and Appeals*

Applicant must sign a voluntary participation or non- participation agreement within 14 days of buy-out offer. If applicant does not agree to the offer, they may counter offer by providing their own appraisal prepared by a licensed appraiser. The County will review the counter offer and make a decision regarding the appraisal amount that is to be used.

If applicant appeals, the County will have ten (10) days to review the counter offer and make a decision regarding the appraisal amount that will be used. Applicant will be notified by mail of the final decision.

## **Non-Rental Housing Activities**

### **Homeowner Opportunity Program (HOP)**

#### **Introduction**

- The Homeowner Opportunity Program (HOP) is a Disaster Recovery Housing Program that involves options up to and including the “buyout” of a home that has been “destroyed” by the hurricanes and the subsequent relocation of the homeowners to a location that is a safer and higher opportunity neighborhood. Destroyed, for the purposes of the HOP, means that the home cannot feasibly be rehabilitated under the rehabilitation cap to the point where the entire house meets, at least, Housing Quality Standards (HQS). The options of the HOP include: the purchase of a vacant lot on which to build a new home or a modular housing unit or the purchase of an existing home.
- Harris County will make counseling available to income-qualified applicants living in a FEMA-designated “High Risk” area or area of high minority and/or poverty concentration (as approved by GLO) and extend the opportunity to participate in the HOP. The mandated counseling will include information on the applicant’s rights under the Fair Housing Act and the various disaster recovery housing program options; moreover, it will concentrate on providing the applicants the information and assistance necessary to facilitate their decision.
- Relocation counselors and licensed real estate professionals will explain the housing options and choices available to the applicants. It is a voluntary path, for the applicant; that is not to be confused with a compensation-style, traditional buyout involving only the acquisition of the damaged property. Relocation of applicants who qualify for the HOP must remain within the jurisdictional boundaries of the Houston Galveston Area Council (HGAC).

#### **Outreach Plan**

- Approximate available funding amount and households for each income level :

0-30%:	\$1,445,754.00	(10 households)
31-50%:	\$1,301,178.60	(8 households)
51-80%:	\$1,204,795	(7 households)
Slum and Blight:	\$867,452.40	(6 households)

- The Coordinator of the Outreach Program  
The Harris County Disaster Recovery Program Round 2 Project Coordinator will coordinate all aspects of the outreach program and will conduct the targeted outreach in the field.
- Harris County will utilize mailings, community meetings, door-to-door, governmental agencies, and community partners to reach our targeted population.
- Plan for contacting former residents of abandoned homes damaged by the storm  
Harris County Flood Control has a large database of homeowners that have homes that sustained extreme damage due to the storm. We plan to utilize their database to contact those homeowners.

### **Assisted Homeowner Eligibility Requirements**

- The following are threshold requirements, which must be met for an application to be eligible for assistance. Eligibility does not assure assistance, since a prioritization strategy within LMI economic subgroups will be required and it is expected that there will be more eligible applicants than can be served with available funds.
- Initial Eligibility. The applicant's address must be verified by the County, utilizing GLO's HOP GIS Map, to be located in the HOP Eligible Area. If the applicant's damaged property is located in the HOP Eligible Area the County will schedule the introduction meeting with HOP mobility counselor prior to ending the Personal Consultation.
- Income Eligibility. The income limits to be utilized for the Homeowner Opportunity Program are the current income limits established yearly by HUD for the Section 8 Housing Program. Harris County will always use the most recent income limits and will be monitored for compliance. Current income limits for use by this program may be found at: <http://www.huduser.org/portal/datasets/il.html>
- Proof of Ownership. The applicant must be an individual who owns the property to be replaced due to hurricane damage. The County will inspect the applicant's warranty deed or deed of trust to the damaged address. HOP participants must have fee simple title to the damaged address in order to participate in HOP. Ownership can be documented as follows:
  - Provide a copy of a valid deed of trust or warranty deed that is recorded in the County records which cites the applicant's name. For MHUs, a Statement of Ownership and Location (SOL) must be provided.
  - HOP eligible applicants with clouded titles may participate in GLO's Title Clearance Program or clear their title using alternative means if the applicant wishes to continue in the HOP relocation process.
    - Applicant's participating in the Title Clearance Program will have one year to obtain fee simple title and the County must hold the funds for this applicant to complete the title clearance process. However, applicants will be informed of their option to participate in the traditional buyout program and at any time during this period or at the end of the year, the applicant may revert to the traditional buyout program (Single Family Program). The County may also submit request to waive the one-year

requirement for applicants with significant title issues. These requests, submitted to the GLO, will be considered on a case-by-case basis.

- Principal Residency. The unit to be replaced must have been occupied by the applicant as the applicant's principle residence as of September 13, 2008 for Hurricane Ike. Principle residency for applicants can be demonstrated through property tax homestead exemptions. If a homestead exemption was not in place at the time of the disaster, an Affidavit of Principle Residency (form found here: <http://www.glo.texas.gov/GLO/disaster-recovery/forms/housing-forms-publications.html>) may be utilized as an alternative method of verification of principle 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 applicable, above-referenced date. Vacation homes and rental properties are not eligible for assistance under the Single Family Homeowner Program.
- Property Taxes. The County will confirm with the all taxing agencies the property tax status of all applicants. HOP eligible applicants must be current on all damaged address property taxes before the damaged property (address) will be conveyed to the County. Applicants must furnish evidence that property taxes are current.
- Duplication of Benefits. The County will verify all federal and state housing repair benefits received by the Household as related to Hurricane Ike. The County will verify amounts received with the granting party and verify benefit expenditures with the applicant. Fund expenditures may be verified by receipts or by a professional site estimate provided by the County.
- Child Support. The County will confirm with the Texas Attorney General's Office the current status of all child support payments owed by the applicant. All applicants and co-applicants must be current on payments for child support. If the applicant or co-applicant is not current on court ordered child support, that member will be required to enter into a payment plan to eliminate any arrears. Any applicant that enters into a payment plan must supply a copy of the payment plan signed by all applicable parties, along with documentation that they are current on their payment plan.

### **Counseling Made Available**

- As applications are being accepted and reviewed for determinations of eligibility to participate in the Program, each applicant will be counseled and the various disaster recovery housing program options evaluated with the applicant.
- Any LMI applicant will be allowed to receive counseling to provide guidance on the housing program options.
- Applicants determined to be eligible for participation in the HOP will receive counseling and professional real estate services to provide guidance on their housing options unless expressly declined by the applicant. Professional real estate services will include, but not be limited to such services as providing guidance about and the opportunity to visit properties and neighborhoods in higher opportunity areas and/or areas outside of high minority and poverty concentrations.

- Each counselor shall receive training provided by GLO in the housing programs offered by Harris County, receive affirmatively furthering fair housing training, and meet mortgage counseling licensing requirements consistent with federal and state law.
- Once a counselor is assigned to an application, the counselor will make contact with the applicant within 10 days. The counselor will remain with that applicant as the chief point of contact (mobility counselor), throughout the life of the application process until closing of the property. If a counselor leaves or is reassigned, the applicant will be assigned a new counselor who shall make contact with the applicant within 10 days of being assigned the file.

### **Programs Made Available**

- Counselors will have resource information available to them to provide educated advice and to assist in decision making by the clients. These materials should include, at a minimum, school district ratings for eligible communities in the County's jurisdiction, health service facilities and programs available in the community for those needing assistance, a mechanism for discussing transfer of programs currently being utilized by applicant, and average utility costs and taxes for eligible program communities.
- The County will ensure that the qualifications for each program does not discriminate against a person or direct their activity choices by steering applicants to one choice or another due to inequitable benefits. As part of the Program Design, the County must review the program and determine what additional costs would be included in each program in order to make each choice relatively equal in terms of total overall cost.
- Relocations through either lot acquisition and construction or acquisition of a new/existing home will be allowable only if the lot does not require home elevation expenses. Beneficiaries may not be relocated to FEMA-designated "High Risk" areas or areas of high minority or poverty concentration as determined by GLO. Participants should be relocated to safer and higher opportunity areas; nevertheless, there may be areas that require special attention for the purposes of relocation. Lots that need wells or septic work will be determined on a case by case basis. However, accessibility enhancements will be eligible for all programs.
- The program as designed must relocate persons in concentration of protected classes or poverty out of these conditions and not into other areas that have similar characteristics.

### **Use of External Professionals**

- HOP Homebuyer Assistance program will include the cost of professional services. Examples include real estate agents to provide guidance, including the opportunity to visit neighborhoods and properties, to advise applicants about lots or homes that are available in higher opportunity areas of the community with less concentrated areas of

poverty and/or minority population. Professionals must receive training as mandated by the State in order to be certified eligible to participate in this program.

- Professionals will be licensed by the state where appropriate. The County will, using proper procurement practices, hire full time professionals or create a qualified list of candidates and randomly assign them to files.

**Site Eligibility**

Damage Inspection. The County will utilize in-house staff to conduct damage inspection to verify hurricane damage and unmet need at the disaster address. The County will schedule an appointment with the applicant to visit the property and estimate the hurricane damage.

**Eligible Properties**

Eligible Properties that can be purchased include:

- Single-family Property (detached and attached 1-4 units)
- Condominium Unit
- Cooperative Unit
- Modular Home Unit
- Vacant Land (when coupled with a new home)

**Housing Assistance Caps**

	Non-HOP Homebuyer Assistance	HOP Homebuyer Assistance	HOP Homebuyer Assistance	Non-Rental Single Family Buyout
		New Construction	Existing Home	
Base Unit		Bid	Actual	
Vacant Land		\$ 35,000		
Water Well			\$ 30,000	
Septic System			\$ 25,000	
Accessibility		\$ 20,000	\$ 20,000	
Abatement			\$ 20,000	
Services		Actual or \$15,000	Actual or \$15,000	
Totals:	\$ 40,000	\$ 160,000.00	\$ 160,000.00	Appraised Value

The services category is limited to \$15,000 or actual costs and includes costs such as real estate professional fees, moving expenses, temporary relocation expenses, and utility connection costs. Temporary relocation assistance may be offered at the discretion of the

County; however, services are limited to applicants who qualify for the HOP and must be approved by the GLO as reasonable.

Housing purchases that exceed the maximum housing caps must be paid for with other sources of funds or a mortgage obtained by the homebuyer. The maximum housing assistance caps of the home to be acquired, new construction may not exceed Harris County's limits set at \$160,000.000. Harris County is not utilizing the Single Family Mortgages in Section 203(b) of the National Housing Act found at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/sfh/ins/203b--df](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/ins/203b--df).

### **Size of Units**

HUD guidelines provide occupancy policies that allow for two persons per bedroom as reasonable. Exceptions to this standard are based on the following factors:

- A. No more than two persons are required to occupy a bedroom.
- B. Persons of different generations (i.e. grandparents, parents, children), persons of the opposite sex (other than spouses/couples), and unrelated adults are not required to share a bedroom.
  - An adult is a person 18 years old or older.
- C. Couples living as spouses (whether or not legally married) must share the same bedroom for issuance size purposes.
- D. A live-in aide who is not a member of the family is not required to share a bedroom with another member of the household. Note: The need for a full time live-in aide must be documented. A waiver may be approved as outlined in the section on Issuance Size Exceptions.
- E. Individual medical problems (e.g. chronic illness) sometimes require separate bedrooms for household members who would otherwise be required to share a bedroom. Documentation supporting the larger sized unit and related subsidy must be provided and verified as valid. A waiver may be approved as outlined in the section on Issuance Size Exceptions.
- F. In most instances, a bedroom is not provided for a family member who will be absent most of the time, such as a member who is away in the military. If individual circumstances warrant special consideration, a waiver may be approved as outlined in the section on Issuance Size Exceptions.
- G. When determining family issuance size, include all children expected to reside in the unit in the next year as members of the household. Examples include, but are not limited to, the following:
  - Pregnant women: Children expected to be born to pregnant woman are included as members of the household.
  - Adoption: Children who are in the process of being adopted are included as members of the household.
  - Foster Children: Foster children residing in the unit along with families who are certified for foster care and are awaiting placement of children are included as members of the household. If children are

anticipated to occupy the unit within a reasonable period of time, they must be considered when determining the issuance size.

- Joint/Shared Custody Arrangements: In most instances children in joint/shared custody arrangements should occupy the unit at least 50 percent of the time. However if individual circumstances merit special consideration, a waiver may be approved as outlined in the section on Issuance Size Exceptions. The custody arrangement may be verified by the divorce decree/legal documents or by self-certification.
- Custody of Children in Process: Children whose custody is in the process of being obtained by an adult household member may be included as members of the household. Evidence that there is a reasonable likelihood that the child will be awarded to the adult (i.e. within three months) must be provided in order for such child to be included.
- Children Temporarily Absent from Household:
  - Children temporarily absent from the home due to placement in foster care may be included as members of the household. Evidence that there is a reasonable likelihood that the child will return to the household (i.e. within three months) must be provided in order for such child to be included.
  - Children who are away at school, but live with the family during school recesses are included as members of the household.

#### H. Preferred Unit Sizes

- 1 Bedroom – No CDBG DR built home will be only 1 Bedroom.
- 2 Bedrooms
  - Adult/couple
  - Adult/couple plus 1 child
  - Adult/couple plus 2 children of same sex
- 3 Bedrooms
  - Adult/couple plus 2 children of opposite sex
  - Adult/couple plus 3 children
  - Adult/couple plus 4 children (2 boys and 2 girls)
  - Adult/couple with medical needs plus 1 child
  - Adult/couple with medical needs plus 2 children of same sex
- 4 Bedrooms
  - Adult/couple plus 4 or 5 children (3 of same sex)
  - Adult/couple with medical needs plus 2 children of opposite sex
  - Adult/couple with medical needs plus 3 children
- Issuance Size Exceptions

- Waivers of Issuance size may be granted based on the following:
  1. Chronic Illness – An individual with an ongoing health problem who requires at least part-time assistance on a regular basis.
  2. Pending Child Custody Cases – Includes, but is not limited to, children in foster care who may be returning home, foster children, pending adoptions, etc.
  3. Parental Custody Situations – children physically occupy the unit less than 50 percent of the time as documented by a divorce decree and/or self-certification.
  4. Waivers for other individual circumstances may be granted with pre-approval by TDHCA.
- The family must request a waiver in writing and explain the need and justification.
- Waivers must be approved by Harris County.

### **Site Inspection**

After selecting a home, the Mobility Counselor will provide the County a sales contract. The County will confirm that the selected property is located in an eligible area. If the applicant is purchasing an existing home, then the County will send a site inspector to the property to ensure that the site meets HQS requirements. A representative of the County will inspect all properties to ensure they meet Section 8 HQS, at a minimum, prior to application approval. However, the inspection will not serve to assure the buyer that the property is free of defects. Therefore, the County will strongly encourage lenders and real estate professionals to advise the homebuyer to have an inspection performed for their benefit. The HQS inspection will be performed by a qualified or licensed real estate inspector and/or licensed contractor for specialized inspections. The homebuyer's inspection, or any other inspection report, will not be substituted for the County's inspection.

The applicant may not purchase existing homes that fail to meet HQS or that may not be reasonably rehabilitated. The applicant may be required to locate a different property.

After the HQS inspection, an environmental review must be performed on the property prior to federal funds being committed by the County. If the environmental assessment determines that the property is in the flood zone that property becomes ineligible for purchase. The applicant will be required to locate a different property. The Disaster Recovery Program will not purchase homes that have been determined to be in a floodway.

The County will include the HQS inspection approval and environmental clearance letter in the closing package.

### **Acquisition of Property**

- The County will take title to the original, storm-damaged property. Title may be transferred to another unit of local government other than the County as designated by the County.
- The acquisition cost for the original property destroyed by the storm will be the cost of a replacement house (up to \$160,000) based on the standardized specifications for the appropriate household composition and size which will be bid locally.
- All taxes must be current on the property to be acquired. Harris County cannot use CDBG DR funds to directly pay back taxes; however, applicants will be given the opportunity to pay back taxes.
- Outstanding liens or mortgages are the responsibility of the homeowner and must be satisfied prior to transfer of title.
- Fee simple title must be obtained. Should clear title not be available at the time of acquisition, the applicant will be allowed to participate in the GLO Title Clearance Program (pending available funding). Adequate funding to serve the applicant must be reserved until the title issues are resolved or one year from the date of the application have elapsed, whichever comes first.
- Eligible applicants who are unable to resolve title issues within one year of the application date may still qualify for regular homebuyer assistance (up to \$40,000).

### **Disposal of Property**

Procured demolition service will demolish the residential structure and any outbuildings and proper disposition of the debris, in accordance with state and federal environmental laws, rules and regulations. The County is responsible for the maintenance of the property. The County will take ownership of the property and is responsible for ensuring the property title is deed restricted remaining public open space in perpetuity. A covenant will be placed on the property being acquired to maintain it as open space, recreational, or wetlands/floodplain management practices.

### **Post-Move Mobility Counseling**

After the applicant has relocated the County and the Mobility Counselor shall introduce the applicant to their Post-Move Mobility Counselor. The Post Move Mobility Counselor shall provide transitional counseling services for up to 90 days after the applicant's relocation. Counseling services may include verification of transfer of utilities, enrollment in local school districts, and answering questions on home ownership and maintenance issues.

## **Non-Rental Single-family Buyout Activities (Opt-Out HOP Homeowners only)**

For eligible non-rental single-family buyout projects, CDBG DR Program funds may be used to buyout and demolish single-family housing units in Harris County affected by Hurricane Ike and that are in a repetitive flood area.

Eligible homeowners are those homeowners that elect not to participate in the HOP and opt-out after the option for relocation to a higher-opportunity area has been fully explained by the County and Mobility Counselor. Homeowner will be offered the traditional buyout involving only the acquisition of the damaged property as well as relocation and homebuyer assistance (offered per needs-based). Housing Assistance Caps chart on page 38 delineates the maximum amounts that may be made available to these homeowners.

### **Eligibility Requirements**

- The following are threshold requirements, which must be met for an applicant to be eligible for assistance. Eligibility does not assure assistance, since prioritization within LMI economic subgroups will exist and it is expected that there will be more eligible applicants than can be served with available funds.
- **Income Eligibility.** The income limits to be utilized for the Buyout Program are the current income limits established yearly by HUD for the Section 8 Housing Program. Current income limits for use by this program may be found at: <http://www.tdhca.state.tx.us/pmcomp/irl/home-cdbg-nsp.htm>.
- **Proof of Ownership.** The applicant must be an individual who owns the property to be replaced due to hurricane damage. Ownership can be documented as follows:
  1. Provide a copy of a valid deed of trust or warranty deed that is recorded in the county records which cites the applicant's name. For MHUs, a Statement of Ownership and Location (SOL) may be provided.
- **Principal Residency.** The unit to be acquired must have been occupied by the applicant as the applicant's principle residence as of September 13, 2008 for Hurricane Ike. Principal residency for applicants can be demonstrated through property tax homestead exemptions. If a homestead exemption was not in place at the time of the disaster, an Affidavit of Principal Residency may be utilized as an alternative method of verification of principal residency. The affidavit must be supported by documentation such as asset verification (income tax returns, credit check, etc.) or utility bills specific to the property address and name of the applicant which were active as of the applicable, above-referenced dates. Vacation homes and rental properties are not eligible for assistance under the Buyout Program.
- **Property Taxes.** Applicant must furnish evidence that property taxes are current at the time of closing.

- Duplication of Benefits. The County will verify all federal and state housing repair benefits received by the Household as related to Hurricane Ike. The County will verify amounts received with the granting party and verify benefit expenditures with the applicant. Fund expenditures may be verified by receipts or by a professional site estimate provided by the County.
- Child Support. All applicants and co-applicant will be required to sign an affidavit stating that they are current on payments for child support. If the applicant or co-applicant is not current on child support, that member will be required to enter into a payment plan. Any applicant that enters into a payment plan must supply a copy of the payment plan signed by all applicable parties, along with documentation that they are current on their payment plan. **Property Eligibility Requirements**
- The following threshold requirements are applicable to the assisted unit and must be met in order for the applicant to receive assistance. The applicant must provide proof of hurricane damage for the property.
  - Single-family owner-occupied units within Harris County's jurisdiction will be eligible for the buyout program.
  - Manufactured Housing Units (MHUs or mobile homes) units within Harris County's jurisdiction will be eligible for the buyout program.

### **Acquisition of Property**

- The County will take title to the original, storm-damaged property. Title may be transferred to another unit of local government other than the County as designated by the County.
- The acquisition cost for the original property destroyed by the storm will be the Harris County verified appraised value.
- Outstanding liens or mortgages are the responsibility of the homeowner and must be satisfied prior to transfer of title.
- Eligible applicants who are unable to resolve title issues within one year of the application date may still qualify for regular homebuyer assistance (up to \$40,000); however, assistance will not be available to applicants to rehabilitate or reconstruct the original home.

### **Disposal of Property**

Procured demolition service will demolish the residential structure and any outbuildings and proper disposition of the debris, in accordance with state and federal environmental laws, rules and regulations. The County is responsible for the maintenance of the property.

The County will take ownership of the property and is responsible for ensuring the property title is deed restricted remaining public open space in perpetuity. A covenant will be placed on the property being acquired to maintain it as open space, recreational, or wetlands/floodplain management practices.

## **Homebuyer Assistance Program (HBA)**

The Homebuyer Assistance Program is a voluntary program that will provide down payment and closing cost assistance to homeowners who are participating in a buy-out program as a result of damage caused to their primary residence by Hurricane Ike. This program will meet the HUD National Objective of Benefit to Low- to Moderate-Income Persons. Assistance under this activity may not be extended to households whose incomes exceed 80 percent of the AMFI.

Financial assistance will be provided to qualified applicants to purchase a comparable replacement unit in a Higher Opportunity Area. The goal of the program is to encourage homeowners who reside in a repetitive flood area to move out of harm's way and into safe, decent and sanitary housing.

Per the State's Housing Guidelines, any HBA provided to non-HOP-eligible applicants must be needs-based. CDBG regulations restrict homebuyer assistance to the amount up to and including the amount of assistance necessary to facilitate homeownership. For example, it is not a reasonable use of CDBG funding to provide the full amount of assistance, \$40,000, when only \$5,000 of mortgage gap financing is necessary for a bank to make an affordable loan to purchase the home. The amount of HBA necessary to leverage a private loan or otherwise bring about homeownership for non-HOP-eligible applicants will be documented on forms provided by the GLO.

### *Types and Amounts of Assistance*

Homebuyer Assistance is capped at \$40,000 in down payment and closing costs for eligible applicants to purchase a new or existing home outside the 100 year floodplain.

Due to the voluntary nature of the down payment assistance program, homeowners are not entitled to assistance under the URA.

# *Appendix*

## **Harris County Section 3 Plan**

### **Section 3 Purpose**

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as amended, requires that Harris County to ensure that training, employment and other economic opportunities generated by certain HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be given to low- and very low- income persons, particularly those who are recipients of governmental assistance for housing, and to businesses that provide economic opportunities for these persons.

### **County Responsibilities**

Harris County will ensure that the contractors and subcontractors performing work on Section 3 funded activities are in compliance with the Section 3 requirements as well as meeting or exceeding the numerical goals as outlined in the HUD Act.

To fulfill this responsibility Harris County has appointed a Section 3 Coordinator whose responsibilities are compliance and monitoring of all Section 3 activities for CDBG Disaster Recovery Program funded projects.

The initial steps that must be taken by the Coordinator to ensure that the County and its contractors meet or exceed the designated numerical goals will be to complete the following requirements below.

- Coordinate and/or conduct outreach opportunities to Section 3 businesses
- Conduct training for Department staff members semi-annually
- Conducting training for contractors
- Notify contractors of Section 3 responsibilities
- Certify Section 3 businesses
- Certify Section 3 residents
- Document Section 3 compliance actions
- Maintain a list of certified Section 3 residents by trade for Section 3 businesses
- Participate in the pre-bid, pre-construction, bid opening and or construction meetings to ensure that Section 3 business concerns are addressed
- Ensure that the Section 3 clause is noted in all contracts

- Prepare, create and or submit required Section 3 Reports to the GLO

Further discussion of the list requirements are detailed throughout the Plan. The minimum numeric goals are:

- 30 percent of total number of new hires as Section 3 Residents (i.e. 1 out of 3 new hires);
- 10 percent of all awarded construction contracts, awards to Section 3 Business Concerns;
- 3 percent of all awarded non-construction contracts, awards to Section 3 Business Concerns.

Types of economic opportunities available under Section 3:

- Jobs and employment opportunities
- Training and educational opportunities
- Contracts and business opportunities

### **Section 3 Residents**

Types of recipients receiving economic opportunities under Section 3 that should be given priority in hiring are those who are:

For training and employment

- Persons in public assisted housing including persons with disabilities
- Persons in the affected project neighborhood
- Participants in HUD Youth-build programs
- Where the Section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 *et seq.*), homeless persons residing in the service area or neighborhood in which the Section 3 covered project is located.

A resident seeking Section 3 preference shall submit a Section 3 Resident Certification Form to the Section 3 Coordinator or the contractor or subcontractor to verify and approve the certification. The County will maintain a list of Section 3 Residents and Business Concerns for current and/or future Section 3 job opportunities.

According to HUD a Self-Certification is an acceptable means for establishing eligibility as a Section 3 Resident. However, recipients may utilize acceptable support documentation with the Section 3 Resident Certification Form to include:

- Proof of residency in a public housing development
- Evidence of participation in a HUD Youthbuild program operated in the metropolitan (or non-metropolitan county) where the Section 3 covered assistance is spent
- Copy of Section 8 voucher certificate or voucher

- Evidence of eligibility or participation in a federally-assisted program for low- and very-low- income persons
- Evidence that the individual resides in the Section 3 area and is a low or very-low income person, as defined in Section 3(b)(2) of the U.S. Housing Act of 1937

### **Section 3 Business Concern**

Harris County will determine if a business qualifies for Section 3 designation by performing a Section 3 Business Concern Certification. Additionally, the County will refer to the GLO's Section 3 Business Certification listing to see if the applicable business is already listed as a Section 3 Business Concern.

A Section 3 Business Concern is one that is:

- Owned by 51 percent or more by Section 3 Residents; or
- Employs at least 30 percent of employees who qualify as Section 3 Residents (or within 3 years of the date of first employment with the business concern were Section 3 Residents); or
- Commits to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet one of the first two qualifications above.

Harris County will include the "Contractor Certification of Efforts to Comply Notice", in all bid packets. Additionally, the County will incorporate the Section 3 Clause into all solicitations and any contracts or subcontracts in excess of \$100,000 (24 CFR Part 135.38)

#### *Preference for Section 3 Business Concerns:*

Preference shall be awarded to Section 3 Business Concerns according to the following system:

- Where the Section 3 Covered Contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified Section 3 Business Concern with the lowest bid, if it is reasonable and no more than 10 percent higher than the lowest bid of the from any qualified source. If no bid by a qualified Section 3 Business Concern is within 10 percent of the lowest bid from any qualified source, the award shall be made to the source with the lowest bid.

- Where the Section 3 Covered Contract is to be awarded based on factors other than price, a request for bid shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of 15 to 25 percent of the total number of available rating points to be set aside for the provision of preference for Section 3 Business Concerns. The contract shall be awarded to the responsible firm whose bid is the most advantageous, considering price and all other factors specified in the rating system.

### **Contractor Requirements**

In responding to Bids all contractors and subcontractors are required to comply with the Harris County's Section 3 Plan. The contractor and the County will review the Section 3 Plan procedures and applicable forms that the contractor will use to report progress toward Section 3 goals.

#### *Direct employment of qualified candidates*

All general contractors and/or sub-contractors shall ensure that 30 percent of new hires will be Section 3 residents. During the development of the contract, the contractor will negotiate with the County for the number of Section 3-qualified candidates to be employed. The contract will obligate the contractor to achieve no less than the numerical goal established during the negotiation. Additionally, the contractor and/or sub-contractor will provide employed Section 3 residents with applicable training and/or educational opportunities.

#### *Guidelines for Direct Employment*

- Contractors should provide job opportunities for skilled and unskilled workers
- Contractors should maintain employment for candidates throughout the duration of a project (candidates will be employees of the contractor or subcontractor, not Harris County)
- All contracts using IHA resident workers and low- and very low- income persons who live in the area where a HUD assisted project is located under Section 3 are subject to the Davis-Bacon Act Wage Rate and the current HUD Form 52158, Maintenance Wage Rate Determination.
- All Contractors and Subcontractors will be required to post all new hire opportunities with the local Workforce Solutions Center, WorkinTexas.com, and the Harris County Section 3 Coordinator.

### **Compliance and Monitoring of Section 3**

The Section 3 Coordinator will analyze and evaluate the contractor's compliance with requirements and obligations set forth in the contract. In the event that a review reveals a contractor has not complied with Section 3 requirements, the County will undertake efforts to help the contractor achieve compliance.

In the event the contractor encounters a problem with a Section 3 employee (employee walks off job or quits; termination; job performance; attendance; tardiness; drug or alcohol use), the contractor should fully document the situation and immediately provide the documentation to the County's Section 3 Coordinator.

Ongoing failure or refusal to comply with the Section 3 Plan and contract may result in payment being withheld by the County until compliance is achieved or termination of the contract. Debarment or suspension of the contractor or limited denial of participation pursuant to 24 CFR Part 135 may result, when applicable.

### **Reports**

The contractor and or sub-contractor shall submit monthly reports regarding the status of each Section 3 participant. An annual report will also be requested from each contractor and/or subcontractor in connection to the performance of each project. This Annual Report will document the efforts and success of all Section 3 participants and subcontractors working under the general contractor, in reaching the percentage goals for employment and business opportunities established in these polices.

### **Certified Payroll**

The contractor and/or subcontractor shall submit weekly-certified payroll reports to the Section 3 Coordinator. This report shall be submitted weekly and clearly identify Section 3 Hires.

### **Site Visits**

The Section 3 Coordinator will conduct periodic site visits to the worksite. The Coordinator shall visibly notice each Section 3 hire on site. The general contractor will sign a monitoring form verifying that a Section 3 worker is present. If the worker is not on site, the Coordinator must contact the Section 3 hire.

### **Failure to Meet Required Goals**

The contractor will be given 30 days to achieve compliance otherwise thereafter payment from the County will stop. The contract may be terminated after 60 days.

### **Training and/or outreach efforts**

Harris County will conduct the following trainings:

- Conduct training for Department staff members semi-annually.

- Conduct training for contractors regularly and make presentations at various meetings, as needed.

### **Reporting Requirements**

Harris County will document actions taken to comply with the employment, training, and contracting requirements of Section 3, the results of actions taken, and impediments encountered. Records will include job vacancies, solicitation of bids or proposals, selection materials and contracting documents (including scope of work and contract amount), in accordance with Federal and State procurement laws and regulations.

Harris County will submit to the GLO:

- Section 3 Monthly Progress Report
- Section 3 Annual Summary Report

Contractors will submit to Harris County:

- New Hire Section 3 Monthly Compliance Report
- Training and Educational Documentation

### **The County's Section 3 Advisory Board**

In order to effectively manage the Section 3 Program, Harris County has put in place an advisory board, which will be served by several interested parties, groups, and organizations that will help guide compliance and success of the Section 3 program. The advisory board will participate in decision making and offer recommendations for all aspects of the program.

Additionally, the advisory board will participate in meetings where contractors justify their decision to terminate Section 3 residents.

The advisory board will meet once a month for the initial three months to ensure the accurate development of the Section 3 program. Thereafter, the board will meet quarterly and/or as needed.

### **Filing Complaints**

Complaints regarding the County's Section 3 Program must be submitted in writing to the Section 3 Coordinator. All complaints must include the complainant's name, address, telephone number, and a brief narrative detailing the complaint, including but not limited to, the date of the alleged violation and the date the alleged violation was discovered. Complaints shall be filed within 30 calendar days after the complainant becomes aware of any alleged violation.

The Section 3 Coordinator will investigate every complaint. All parties involved will have the opportunity to submit testimony and/or evidence as may be available and relevant to

the complaint. The Section 3 Coordinator will issue a written determination within 30 days after the filing of the complaint.

Filing a complaint does not terminate a contractor's Section 3 requirements. Contractors remain accountable for fulfilling the agreed upon Section 3 requirements.

All complaints should be submitted to:  
Section 3 Coordinator  
CDBG Disaster Recovery Program  
Harris County Community Services Department  
8410 Lantern Point Dr.  
Houston, TX 77054

Additionally, complaints can be submitted by fax and email:

- By fax: 713-578-2190
- Online: website: <http://www.csd.hctx.net/default.aspx>

Email: [hrc@csd.hctx.net](mailto:hrc@csd.hctx.net)

Office hours are between 8:00 a.m. and 5:00 p.m. except on posted holiday.