

**CDBG-DR Hurricane Harvey  
Voluntary Acquisition Guidelines  
City of Orange, Texas**

**(Public Comment Draft, June 6, 2019)**

Public comments and feedback will be received until 5:00 pm on June 20<sup>th</sup>, 2019.

Source Guidance: GLO-CDR Housing Guidelines September 19, 2018

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## **SECTION 1: GENERAL**

### **1.1 Background**

Hurricane Harvey was the 3<sup>rd</sup> major hurricane to impact the City of Orange during the period 2005-2017. Local impacts were severe, over 80% of the city's area flooded, and approximately 15,000 residents and 6,792 housing units were impacted or severely damaged.

Unmet Need Per Capita is one of the most vital metrics regarding a community's ability to recover following a disaster. Unmet need per capita allows for a more accurate depiction of impacts to non-metropolitan counties, who may not have the resources available to recover on their own. **In the case of Hurricane Harvey, the City of Orange had the highest housing per capita unmet need in the entire state (\$8,077 per person).**

The latest NOAA damage estimate from Harvey statewide is \$125 billion. As a result, Congress through HUD and GLO authorized \$5.024 billion in Round 1 of disaster recovery funds for the State of Texas.

Among the eligible activities for those funds, HUD has authorized the use of Voluntary Acquisition programs. Voluntary acquisition programs accomplish the following: (1) reduce the risk to homeowners from the effects of subsequent disasters, (2) assist in the recovery of low- and moderate-income households, and (3) protect taxpayer resources that might otherwise be needed after a disaster in the same area (80 FR 72102).

### **1.2 Acquisition Program (General)**

Voluntary acquisition programs support hazard mitigation, floodplain management goals, and resiliency by removing homeowners from the floodplain to minimize the possibility of future flooding to the home. The SETRPC (South East Texas Regional Planning Commission) Method of Distribution (MOD) finalized August 2018 allocated \$3,204,462 to the City of Orange to fund HUD-qualified voluntary acquisition projects.

After homes are purchased, the structures are demolished, and the property is utilized to the optimal extent in pursuit of housing goals for Low-Moderate Income households, the City's disaster recovery plan, and long-term disaster resiliency which may include redevelopment of housing which meets specifications defined by HUD and GLO. The City will only redevelop acquired property if it is not acquired through a buyout program. The Local Acquisition Program serves multiple objectives and provides a resiliency option versus rebuilding within a floodplain, and helps prevent repetitive losses and extreme risk to human health and safety.

As this project is not a buyout program as defined by HUD and the TX GLO in the State of Texas Plan for Disaster Recovery: Hurricane Harvey – Round 1, it does not carry the open space deed requirements post-property acquisition and does not require strategic acquisition of contiguous parcels of land for uses compatible with open space, recreational, natural floodplain functions, other ecosystem restoration, or wetlands management.

### 1.3 National Objective

The Voluntary Acquisition Program is structured to serve the Low-Moderate Income benefit National Objective. It will accomplish this by serving qualified residents from lowest-income households first, then continuing up the household income scale until funds are extinguished. It is anticipated that 100% of the funds will be utilized to acquire and assist relocation of qualified Low-Moderate Income households.

### 1.4 Definitions

Designated Risk Reduction Area (DRRA): The DRRA is defined as all areas within the City boundaries. The DRRA is delineated to meet the following definitions prescribed by the GLO: (1) the hazard must have been caused or exacerbated by the Presidentially-declared disaster area; (2) the hazard must be a predictable environmental threat to the safety and well-being of inhabitants as evidenced by the best available data and science; and (3) the Disaster Risk Reduction Area must be clearly delineated so that HUD and the public may easily determine which properties are located within the designated area.

Eligible Properties (EP): Eligible Properties are those within the DRRA with documented impacts from Hurricane Harvey.

Documented Impact (DI): Documented Impact from Hurricane Harvey includes copies of Flood Insurance Claim Adjustor Report and Claim Payment Summary, FEMA Damage Assessment, FEMA Individual Assistance Emergency Home Repair payments, and geo-referenced/time-stamped photos. As all potential participants are required to provide documented proof of impact, this captures the tie back to the storm requirement as stated in the GLO's Buyout and Acquisition Program Guidelines Checklist.

Decent Safe Sanitary Housing (DSSH) Minimum Threshold: The minimum threshold for DSSH is hereby defined as \$73,680 which is 80% of the median home value for owner-occupied housing in the City of Orange as of 2017 (source: United States Census Bureau; QuickFacts Orange city, Texas; <https://www.census.gov/quickfacts/orangecitytexas>).

## **SECTION 2: ELIGIBILITY AND APPLICATION**

### **2.1 Eligibility Test**

Applications must meet following prerequisites in order to be considered for voluntary acquisition:

- 1) Structure must be inside City Designated Risk Reduction Area (DRRA) and currently insured with an NFIP flood insurance policy,
- 2) Property owner must be able to provide documented proof of impact from Hurricane Harvey at the property,
- 3) Property owner agrees to voluntarily participate,
- 4) Structure must be a Single-Family Primary Residence. Primary residence status will be verified with the Orange County Appraisal District and property tax homestead exemption records; and
- 5) Applicant is current on their tax accounts and child support payments; tax account files will be verified with the Orange County Appraisal District and child support documentation will be verified with the Texas Department of Health & Human Services to ensure affirmative status.

Applications that meet all of the prerequisites will be ranked and prioritized based on the percentage of household income in relation to area median household income. In the event of a tie, the following criteria will be used in individual determinations as suggested in the GLO's Hurricane Harvey Disaster Recovery Housing Guidelines (updated September 19, 2018):

- 1) Households with members under the age of 18 (minors),
- 2) Female heads of household,
- 3) Elderly & disabled households, and
- 4) Military veterans in the household.

### **2.2 LMI Eligibility**

A household is considered LMI if they make less than 80% of the area median income. Income eligibility will be determined using Area Median Income (AMI), adjusted for family size and verified following the GLO's Adjusted Gross Income Methodology. The methodology uses the previous year's filed tax return or tax return transcript for all household members to verify the household's annual income. The Low (80%) Income Limit for a Family of 4 in Orange County in FY 2018 is \$49,450 (source: Texas General Land Office; What is LMI and How is it Calculated; <http://recovery.texas.gov/files/hud-requirements-reports/lmi-guidelines/how-lmi-is-calculated.pdf>). It is expected that 100% of the funds used for CDBG acquisition will benefit LMI households.

### **2.3 Eligibility Review and Appeals**

A committee will be formed comprised of City staff for the purpose of eligibility determinations and case management. Attention will be placed on uniform and consistent documentation materials and criteria used to make determinations.

A property owner may also appeal the Current Fair Market Value (CFMV) appraisal of their property. If they choose this option, a second appraisal can be conducted if paid for by the homeowner and conducted in accordance with USPAP standards by an independent objective licensed certified appraiser with no connections nor affiliations with interested parties. The results of these 2 appraisals will be averaged to formulate the CFMV portion of the acquisition offer.

### **2.4 False Claims Disclaimer**

False claims by applicant/homeowners are strictly prohibited. Application, qualification, and voluntary authorization documents signed by homeowner/applicant will carry the following warning disclaimer: "Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729."

## **SECTION 3: ACQUISITION OFFER, INCENTIVES, CLOSING**

### **3.1 Current Fair Market Value (CFMV)**

The initial basis for acquisition funds to seller is the Current Fair Market Value (CFMV) of their property. Appraisal methodology for this CDBG-DR acquisition project will be current fair market value of parcel (structure, land/lot, fee simple, highest best use assumption, comparable sales approach). The results of the CFMV appraisal will constitute the base offer.

### **3.2 Duplication of Benefits**

Duplication of Benefits (DOB) as defined by federal agencies are strictly prohibited. Due to the acquisition project framework, utilizing current Fair Market Value (FMV), most Duplication of Benefits will not be applicable. If Duplication of Benefits does occur, property owners will pay all funds back to the respective government agency.

### **3.3 Timeliness of Application Notice & Status**

An announcement will be posted and circulated announcing that applications are being accepted beginning TBD and that the deadline for applications is TBD, establishing an application period of 90 days. After the initial 90 day period, all applications that have been submitted will be reviewed for completeness and basic eligibility. From the list of applicants initially assessed to be potentially eligible, a follow-up correspondence will be made to request any additional information needed for secondary eligibility determination. Property owners will have 30 days to submit all necessary information. At the end of the 30 day period, all applicants who have submitted all required information and remain eligible will be ranked in descending order from lowest income to highest income. The appraisal process will be initiated for a wave of approximately 20 to 25 applicants beginning with those properties with the lowest incomes and continuing down the list. Additional waves will be initiated until the funds are extinguished so that 100% of the funds will be utilized.

Property owners will be contacted with an update on the status of their application within 30 days of each milestone/deadline.

### **3.4 Housing Incentives**

Subrecipients may use the Low to Moderate Housing Incentive (LMHI) to resettle households who were affected. Housing incentives are usually offered to encourage households to relocate to a more suitable environment, including an area promoted by the community's comprehensive recovery plan and may be in addition to acquisition or buyout awards. Housing incentives will only apply to participants that are relocating in the City of Orange.

The purpose of offering additional housing incentives is to assist certain applicants to obtain Decent Safe Sanitary Housing (DSSH) options in safer, more disaster-resilient areas. A Needs Assessment Methodology will be utilized for each qualified applicant file to determine the minimum necessary funding in order to obtain DSSH. The Needs Assessment Methodology will calculate the difference between the Current Fair Market Value (CFMV) of the property and the DSSH Minimum Threshold. The difference or shortfall between CFMV and DSSH Minimum Threshold may be made up through a combination of Uniform Relocation Assistance (URA) and Down Payment Assistance (DPA) up to a maximum allowable by the Texas General Land Office (GLO). Subrecipients must ensure that the intent of the housing incentive is satisfied at award.

Property owners with a property appraised at a CFMV less than the DSSH Minimum Threshold can potentially qualify additional housing incentives. Property owners with a property appraised at a CFMV greater than the DSSH Minimum Threshold will receive only the CFMV and are not eligible for any housing incentives.

**Table 3. Housing Assistance Caps**

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

Source: Texas General Land Office (GLO); Hurricane Harvey, Disaster Recovery, Housing Guidelines; Sept 19, 2018; pages 22-23

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

Source: Texas General Land Office (GLO); Hurricane Harvey, Disaster Recovery, Housing Guidelines; Sept 19, 2018; page 23

Ultimate proceeds paid to seller of qualified eligible acquisition property will be comprised of the following subtotals:

- 1) Current Fair Market Value (FMV) as determined by licensed real estate appraiser
- 2) Uniform Relocation Assistance benefits deemed eligible
  - a. Relocation assistance will not exceed \$35,000 for purchase of a lot or newly constructed home, or \$10,000 for an existing home.
  - b. This is a voluntary program so no involuntary displacement will occur. As only primary properties will be included in the program, there is no risk of renters and non-owner occupants being involuntarily displaced.
- 3) Temporary Relocation Assistance benefits deemed eligible
  - a. Temporary relocation assistance will not exceed \$5,000.
- 4) Qualified Down Payment Assistance benefits
 

In order to qualify for Down Payment Assistance Benefits, the following must apply:

- a. Purchased a lot or are using a pre-owned lot located outside of a floodplain or to a lower-risk area within the City of Orange limits for construction of a new home (a construction date must be provided), or the applicant purchased a newly constructed or existing home located outside of floodplain or a lower-risk area in the City of Orange limits.
- b. Purchased homes must be considered decent, safe, and sanitary (DSSH).
- c. The funding must be used within 60 days.
- d. The amount of assistance is based on the determined need of the applicant but will not exceed amount determined by the GLO.
- e. Eligible properties may reside within the City of Orange limits and must fit in the following categories:
  - i. Single family property (detached and attached 1-4 units)
  - ii. Condominium unit
  - iii. Cooperative unit
  - iv. Modular home/manufactured home
  - v. Vacant land

All costs for initial appraisal and closing will be paid by the project. Curative title issues will be the seller's responsibility to resolve but may be paid out of closing proceeds. Referrals to local legal aid services will provided for applicants with clouded titles or curative title issues.

### 3.5 Environmental Requirements

All sites will undergo a thorough environmental evaluation that approximately coincides with the timing of the initial appraisal. The environmental evaluation will be reviewed and approved by the GLO before an offer can be extended to the homeowner.

Lead-based paint and asbestos inspections will be conducted. No negative impacts to endangered species will occur as a result of this project and the US Fish and Wildlife Service (US FWS) will be consulted as to all project activities. US Department of Agriculture (USDA)-designated Prime Farmland will not be negatively impacted. Archaeological sites and historic structures will not be disturbed, and the State Historic Preservation Office (SHPO) will be consulted for verification. No hazardous materials will be disturbed and released into the environment over the course of this project. No wetlands will be negatively impacted and all necessary environmental permits will be obtained for project operations. All new buildings will be required to be built at a minimum of 2 feet above Base Flood Elevation (BFE). No new construction of residential structures will occur in a FEMA-designated floodway. Green building standards will be adhered to and green building practices will be employed. All relevant environmental laws and regulations will be followed.

### 3.6 Offer and Closing Process

Following the completion of the Current Fair Market Value (CFMV) appraisal and the calculation of additional housing assistance incentives the homeowner qualifies for, an offer to acquire property will be extended to the homeowner. If owner accepts, a sales agreement will be executed and documents sent to title company for deed research, issuance of title insurance policy, parcel boundary survey, and closing document preparation. Once closing date is set or negotiated, property owner will be given notice to vacate, instruction on utilities disconnection, and referrals for assistance with moving, etc. Advance payment of relocation assistance may be available for qualified applicants. Down payment assistance funds shall sit in escrow and shall be distributed to the proper agency upon relocation. Once closing is complete, demolition will begin. The entire structure, including discarded or abandoned items, will be removed from the property and disposed of at an approved disposal site.

### 3.7 Residential Anti-Displacement and Relocation Assistance Plan (RARAP)

This program is a voluntary acquisition program so there will be no involuntary displacement. Project management will provide general programmatic guidance. Additional support can be provided by Lone Star Legal Aid of Southeast Texas and the Orange County Office of Disaster Assistance, among other resources potentially available.

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## **SECTION 4: PROGRAM ADMINISTRATION**

### **4.1 Affirmative Marketing & Fair Housing**

The City of Orange shall ensure that no person shall on the ground of race, color, national origin, religion, sex, sexual orientation, age, familial status, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or be denied access to the CDBG Disaster Recovery Program. The City of Orange will retain documentation of all marketing measures used, including copies of all advertisements and announcements that will be available for public viewing upon request. The City will use the Fair Housing logo in advertising, post Fair Housing posters and related information, and, in general, inform the public of its rights and obligations under Fair Housing regulations. The City of Orange will engage community members to gather stakeholder input, disseminate important program information, and to answer questions.

### **4.2 Public Outreach & Targeted Communities**

All public notifications will include announcements in the City of Orange newspaper of record, on the City website, on City social media platforms, flyers that will be posted on bulletin boards and at points of congregation, targeted mailings, and a community survey.

### **4.3 Communication Strategies for Persons with Special Needs**

Program administrators will maintain bilingual capabilities in order to adequately communicate to non-native English-speaking applicants and will provide sign language assistance & assistance for those who are visually impaired when requested. All print & written materials will align with the GLO's guidelines for communications with persons with special needs in accordance with Title VI of the Civil Rights Act of 1964, including persons with disabilities (24 CFR 8.6), Limited English Proficiency (LEP), and other fair housing and civil rights requirements such as the effective communication requirements under the Americans with Disabilities Act. All print & written materials will be available in multiple languages. Every effort will be made to assist such property owners in the application process. In addition, community engagement & informational events will include bilingual staff. The State of Texas Emergency Assistance Registry (STEAR) will be reviewed for potential targeted outreach.

### **4.4 Record Keeping**

The City of Orange will fully comply with all record-keeping and reporting requirements including but not limited to:

- 1) Record-keeping; records will be maintained and on file electronically for a minimum of 3 years beyond the closing of the grant between the GLO and HUD. All projects, program activity files, and applicant information received will be maintained within the GLO's system of record.
- 2) Applicant data; applicant data will be maintained in a private file bound by federal Privacy Act rules and standards regarding disclosure of personal and sensitive information, as well as entered into the TIGR system. Generated monthly reports will be submitted to the GLO for review. Applicant data kept on file will include but is not limited to: household income at the time of assistance, the household income as a percentage of area median income, the race/ethnicity/gender of the head of the household, the household's familial status, and any disabilities or veterans in the household.

- 3) Section 3 reporting; the project will comply with all Section 3 requirements including but not limited to affirmative placement of qualified individuals from low-to-moderate income households and city residents seeking job placements. A Section 3 Plan will be created and continue to be updated throughout the program process. Quarterly reports will be filed in the GLO grant management system of record.

#### 4.5 Conflict of Interest

Conflicts of interest are defined as local elected officials, City employees, contractors, and consultants who exercise functions with respect to CDBG-DR activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities 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. Conflicts of interest are strictly prohibited in this program. Conflict of Interest Questionnaires (CIQs) and A503 forms will be completed and maintained on file for all parties with existing or potential conflicts of interest.

#### 4.6 Audit Requirements

A mandatory single audit which complies with all city, state, and local requirements will be performed by an independent accountant at the end of each fiscal year. This audit will be maintained on file in compliance with record-keeping procedures set forth above.

#### 4.7 Closeout Procedures

Following completion of project scope of work, invoices payments and reimbursements, closeout procedures will begin. The first step will be an internal audit, records inventory, and review of project financials. All data, records, and accounts will be reviewed and reconciled. The next step will be the packaging and summation of projects, including records structure for external audit and digital back-ups. The next step will be to request GLO and closeout procedures, including the delivery of any requested records, files or documents. Once all data requests are satisfied and final closeout is authorized by the GLO, the grant award contract will be closed by executing parties.

#### 4.8 Citizen Comments

Citizen comments and complaints should be directed to [grants@orangetexasgov.us](mailto:grants@orangetexasgov.us) or TBD.

The project manager will handle all homeowner inquiries and complaints, and a timely written response will be provided to every citizen comment. The response will be provided within 15 working days of the receipt of the comment. Complaints regarding fraud, waste, or abuse of government funds will be forwarded to the HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email: [hotline@hudoig.gov](mailto:hotline@hudoig.gov)).

Documentation for each complaint will be maintained. Each file will include contact information for the complainant, the initial complaint, the property address, any communications to and from complainant, results of the investigation, together with any notes, letters, or other investigative documentation, the date the complaint or appeal was closed, and any other action taken.