



City of Houston Build It Forward Housing Recovery Program

Harvey Small Rental Program Guidelines

Version 3.0

03/11/2022

CITY OF HOUSTON
HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT

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Version Table

Version #	Date Page(s)	Noted Edits	
1.0	11/08/2019	First Draft – While these guidelines are Version 1, the City of Houston submitted guidelines in September 2019 and received feedback from the General Land Office which was incorporated into the redesign and drafting of Version 1.	N/A
2.0	2/12/2020	Removed National Objectives not included in action plan	P. 5, P.41
2.0	2/12/2020	Additional language pertaining to program prioritization	P.6
2.0	2/12/2020	Omission of Multifamily references throughout document	various
2.0	2/12/2020	Clarification of eligibility criteria that all sites must be located within the city limits at application	P.7
2.0	2/12/2020	Inaccurate Emergency Waiver Request omitted	P.31
2.0	2/12/2020	Updated language to reflect HCDD’s revised Complaint and Appeal Policy	P. 32
2.0	2/12/2020	Revision of “Applicant” definition	P.35
2.1	05/07/2020	Various minor clarifications to total allocation of CDBG allocation, structure of purchase agreements, eligible activities, rent levels, eligibility of sites within the floodplain,	P. 4, P. 7 P. 9, P. 11 P. 15
3.0	03/11/2022	Revised guidance to construct multiple Projects concurrently Removed prioritization for a 40-year affordability period Revised language regarding types of eligible activities, namely rehabilitation, location within floodplain, eligibility requirements and underwriting requirements	P.8; P. 9 P.6, P.9 P.4. P.6, P.8, P.9,

Introduction

Through our recovery programs, the City of Houston is committed to building a resilient and equitable city after Hurricane Harvey. Our housing recovery programs seek to build safe and affordable homes across our city, in communities where people can thrive. This means investing in homes – rebuilding existing housing stock and constructing new homes in areas safe from future flooding – as well as in community amenities, economic engines, and resilience activities. We will use data to design and evaluate the success of our programs and will be transparent about how the recovery is unfolding. Recovery from Hurricane Harvey presents a historic opportunity to build forward into a Houston that’s stronger than ever before.

Harvey Recovery Small Rental Program Administration

The Disaster Recovery (DR-17) Small Rental Program (Small Rental Program) is intended to assist eligible City of Houston (City) applicants whose affordable housing units were directly impacted by Hurricane Harvey. The Texas General Land Office (GLO) issued a direct \$835,087,843 allocation of Community Development Block Grant-Disaster Recovery (CDBG- DR) funding to the City of Houston (City) for development and implementation of programs that directly benefit the residents of the City of Houston. The Harvey Recovery Small Rental Program is one of various programs intended to address the shortage of affordable rental housing units exacerbated by Hurricane Harvey. The Harvey Recovery Small Rental Program was assigned \$25,000,000 to be delivered in rolling applications issued under a Notice of Funding Availability (NOFA).

The United States Department of Housing and Urban Development (HUD) outlined the allocations and applicable waivers and alternative requirements their Federal Register Notice published on February 9, 2018 ([83 FR 5844](#)). Subsequent publications of waivers and alternative requirements can be found in the table below under Applicable Laws & Regulations.

The Small Rental Program will address both direct and indirect impacts of Hurricane Harvey on the area’s affordable rental housing stock by supporting the development of new small rental housing. The Harvey Small Rental Program will provide capacity building efforts to area non-profit organizations.

The City of Houston will administer its Small Rental Program in accordance with these Guidelines, City of Houston Harvey Standard Operating Procedures, and HUD CDBG-DR regulatory requirements and guidance. The City of Houston reserves the right to adjust program priorities and re-allocate program funds and program components (reimbursement,

, reconstruction and demolition) if in doing so would it better serve the affected communities and their residents.

The City of Houston reserves sole discretion of interpreting and applying these Guidelines, except for those items where GLO or HUD has indicated that their prior approval is required for implementation. HCDD will utilize administrative procedures to implement the program and modify them to meet any changes made to such rules and regulations of the oversight entities, which may occur over time. At all times, should any conflict in these procedures exist with the applicable funding resource, the requirements of the funding source shall take precedence, other than “local preferences” that are allowable under federal regulations.

Daily administration of this program will be under the supervision of the Director of HCDD, or their designee within the Multifamily Division. The HCDD Multifamily Division will be responsible for accepting applications during the intake process, eligibility determination, duplication of benefits review, inspection and environmental protocols, award determination, contract and contractor assignment, construction, and completion. The HCDD Finance Division will authorize payments to contractors after review and validation of submitted invoice packages by the Multifamily Division.

CDBG-DR National Objectives

In support of HUD’s recovery objectives, the City of Houston has specifically designed its storm recovery programs to help impacted residents and communities recover from damage inflicted by Hurricane Harvey. As expressed in the Federal Housing and Community Development Act, the primary objective of the general Community Development Block Grant (CDBG) program is “the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-and moderate -income (LMI).” Community Development Block Grant – Disaster Recovery funding appropriated in response to disasters must meet the general goals of the CDBG program.

All CDBG-DR funded activities through the City of Houston Harvey Recovery Small Rental Program must meet at least one of the three National Objectives defined in the authorizing statute of the CDBG program that includes benefiting Low and Moderate-Income Persons (LMI) (80% of Area Median Income).

Harvey Recovery Small Rental Program Priorities

Funding priorities have been established for applicants with proposals to finance new construction activities. Given that proposals meet all other threshold eligibility standards, meeting the following criteria additionally will establish precedence among all received applications. Priorities fall within the following areas and housing types:

- Meet the unmet needs for public housing and affordable households outlined in the Needs Assessment and Local Action Plan for Disaster Recovery: Hurricane Harvey.
- Concentrate financing for new construction within the following areas that promote higher standards of environmental and economic resiliency:
 - i. Complete Communities and other Community Reinvestment Areas (CRA) (e.g. Tax Increment Reinvestment Zones)
 - ii. Areas of low poverty concentration and high performing schools
 - iii. Areas experiencing high rental costs that cause displacement of Low and Moderate Income (LMI) households
 - iv. Transit Oriented Developments (TOD) that promote access to mass transportation options
- Permanent Supportive Housing (PSH) and/or housing serving special needs populations that include, but not limited to homeless housing, housing for people with disabilities and Section 811.
- Applications that reflect a minimum investment of either \$50,000 or 10% of total development costs.
- Applications that demonstrate a readiness to close within 6 months of notice of a final award and City Council approval.
- Proposals which are not located in the 100-year floodplain AND account for mitigation efforts which include restoring the surrounding natural environment or providing other demonstrable benefits to the residents and surrounding community.

These priorities will be considered as part of the NOFA scoring. However, meeting one or all prioritization criteria does not guarantee an award, as funding and program timelines are limited.

Small Rental Program Eligibility Overview

ELIGIBLE APPLICANTS:

1. Applicants will be limited to not-for-profit agencies or Community Development Corporations (CMC). Applicants may be participants in limited partnerships (LP) or limited liability corporations (LLC).

2. Applicants and Applicants' team members must be in good standing with HCDD on all previous grants, loans, or loan commitments. Applicants must affirm in writing that they do not have defaults or negative collection actions relating to any financial obligation, either to the City of Houston or any other public agency or private lender.
3. Applicants and Applicants' team members must have a proven track record of successful development and/or rehabilitation of at least one housing development, containing two or more units.
4. The applicant must demonstrate financial and organizational capacity to complete the Project.
5. Applicants, development owners, principals, development/borrowers or general contractors must not be "debarred" as cited on federal and state debarment lists in accordance with [24 CFR 570.609](#) and HCDD Policy and Procedure #01-014 as well as other applicable laws.
6. Applicants must not discriminate based on ethnicity, race, color, creed, religion, gender, national origin, age, disability, marital status, sexual orientation, gender identity, or Veteran's discharge status.

DEVELOPMENT ELIGIBILITY CRITERIA AND THRESHOLDS:

1. Applicants will be either the current owner of the property or, at the time of application, be under contract to purchase the property. Any purchase agreements must be structured as an option to purchase and conditional to environmental clearance by HCDD.
2. Development site must be located within the city limits of Houston at the time of application. Development sites for all applications will be reviewed by HCDD's GIS team during threshold review to ensure sites are located within Houston city limits.
3. Rental developments must have two to seven rental units under common ownership. Projects with four or more units will be prioritized. Projects with greater than 7 units, whether contiguous, non-contiguous, or under common ownership will not be eligible.
4. Development within the floodway is prohibited.
5. Proposed new construction located in the 100-year floodplain, as identified on the most current Federal Emergency Management Agency (FEMA) Flood Maps, must comply with [24 CFR Part 55](#).
6. CDBG regulations require 51% of the units developed comply with a 20- year affordability period which ensures LMI households earning 80% or less of the Area

Median Family Income (AMFI) maintain affordable rents. Additional affordability requirements will be outlined in these guidelines.

7. All units to be occupied by LMI households must have similar finishes and access to the same amenities as any market rate (non-LMI) units.
8. Developments must make all units within the property available for rent to Section 8 Housing Choice Rental Voucher holders during the affordability period.
9. Federal flood disaster assistance will not be provided for the new construction or reconstruction in the case of an owner required to have obtained flood insurance under applicable Federal law and subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property.
10. All awarded applications will be evaluated through an environmental and Affirmatively Furthering Fair Housing (AFFH) review.
11. The project costs must be reasonable and typical in the current marketplace for projects of similar scope. Third-party plan and cost reviews will be evaluated by the City for reasonableness. Supplemental clarification will be solicited from the performing consultant to address cost outside the reasonable range.
12. The Project must comply with all applicable federal and state requirements.
13. The Project must address identified impediments to fair housing choice.
14. Sites for new construction or reconstruction developments located in census tracts with greater than 25% poverty levels will not be financed, unless located within a Complete Community or recognized Concerted Revitalization Area.
15. No more than two applications per applicant per application cycle.
 - Application cycles are the time between the opening date of the respective Notice of Funding Available until the submission window closes.
16. Limitation of two projects in the application cycle. Project means a site or sites together with any building or buildings located on the site(s) under common ownership, management and financing, as a single undertaking. The “project” includes all activities associated with the site and building.
17. Applicants are eligible to construct multiple Projects concurrently provided they follow the guidance below:
 - **Ownership** - Borrowers are encouraged to own the projects through a single-asset entity (typically a limited liability company or limited partnership) that owns real estate but has no other assets. Single-asset

entities, or SAEs, are designed to limit liability for both borrowers and lenders. SAEs can also be used to independently distinguish DR-17 into specific deals when Borrowers are awarded funds for multiple transactions within a program year. However, it is not a requirement within the Small Rental Program (SRP) that Borrowers own real estate though a SAE and multiple Projects may be owned by the Borrower at one time provided the Projects meet additional criteria outlined below. **Location and site address** - Borrowers with multiple Projects in the SRP must be located in separate locations with uses that are independent and distinct from one another. Projects cannot share the same or similar addresses, be adjacent from one another, be located on contiguous or undivided lots or parcels, or share common amenities. Projects must be independent in terms of use and function of any other project. Examples of shared common uses that are prohibited include amenities or parking facilities.

- **Project Budget** - The budget of each Project in the SRP can only include costs associated with the Project and must not include any costs associated with a separate Project in the SRP. This include hard costs dedicated specifically for the construction and soft costs (i.e. design, permitting, surveying, legal ...etc.) that may be shared for the purposes of cost savings. Each Project must be independently underwritten and financed with books and accounting records kept separate and known and treated as separate and distinguishable properties during development and throughout the affordability period.
- **General contractor and subcontractors** - HCDD encourages Borrowers to utilize separate general contractors and subcontractors when undergoing multiple Projects at one time to ensure they are independently scoped, budgeted, and managed. However, HCDD acknowledges the benefits and efficiencies that may be taken advantage of when a general contractor and subcontractors are used on multiple Projects. If the Borrower elects to use a general contractor on more than one Project at any given time, they must demonstrate that the budget, schedule, and scope of work are independent of one another. Each project must have a separate name, construction schedule, and Owner Contractor Agreement with a defined schedule of values specific only to the individual project identified in the Owner Contractor Agreement. AIA G702/3 pay applications may not be rolled up or combined. It is required that any costs shared for the purposes of cost savings be fully broken out by project (with a described accounting rationale for attributed costs) for accounting purposes.

ELIGIBLE ACTIVITIES

1. New construction of small rental developments containing 2-7 units.
2. Acquisition and demolition as part of reconstruction
3. Acquisition of land in conjunction with new construction of small rental developments containing 2-7 units.

To note, rehabilitation of existing rental housing is not eligible under this program.

The Harvey Recovery Small Rental Standard Operating Procedure (SOP) and Notice(s) of Funding Available (NOFA) for the Harvey Recovery Small Rental Program capture program requirements and evaluation methodologies for all activities listed.

TYPES AND MAXIMUM ASSISTANCE

Transactions for individual projects will be limited to a maximum award of \$3,500,000. HCDD will release its initial NOFA to remain open until a minimum of \$10 million is subscribed. HCDD will prioritize applications that reflect either a minimum investment of \$50,000 or 10% of total development costs. This investment may be in the form of land, funded predevelopment cost expended with 12 months of the application date or other forms of in-kind equity provided by the applicant, but not to include developer fees. The department may elect to provide an award that accounts for 100% of total funding sources on a case-by-case basis. Additional funding criteria may be identified within the NOFA.

FINANCING TERMS

Award Structure

Awards will be structured as non-amortized loans. Loan commitments are not transferable and become due and payable in full in the event of noncompliance or default over the life of the agreement. Loans will have a 20-year minimum term to be fully forgiven at maturity but subject to a partial recapture agreement with HCDD during an event of sale or a cash-out refinance. Awards for Permanent Supportive Housing or other transactions for special needs housing may be performance-based loans with no repayment requirements.

LURA and Loan Duration

All awards will be subject to a minimum 20-year Land Use Restriction Agreement (LURA) period to commence the acknowledgement by HCDD and the General Land Office of Texas (GLO) of successful completion of the project. Prior to commencement of the LURA and loan period, HCDD will provide a maximum twenty-four (24) month construction period. This period will include 18 months for construction completion and six months for lease up. This construction period may be extended, with the Director's approval, on a case-by-case basis.

Loan Position

HCDD's LURA will be superior to all other liens. In most cases, HCDD's loan position will be junior to Senior Debt (if applicable); however, HCDD reserves the right to have a position senior to other sources of financing.

Fees

Applicants will be subject to an application fee up to \$500 due at the time of application. Applicants will be responsible for including all third-party expenses (attorney, plan and cost review, etc.) incurred by HCDD within the development budget, whether or not the loan closes. Modification of HCDD loan terms after loan closing may be subject to additional fees, no less than \$25,000, that will be determined at the time of the loan modification request. Subsequent to the construction period and throughout the affordability period, awardees will be subject to an annual Compliance Monitoring Fee of \$25 per HCDD financed unit.

AFFORDABILITY COVENANTS

- The LURA requires that the rents charged to low-income tenants are based upon the renter's income as a percentage of the AMFI established annually by HUD.
- The LURA also defines the number of units that will be restricted to low-income; very low-income; and extremely low-income tenants ("restricted units").
- The LURA will be recorded in higher priority than any first lien made by a commercial lender and will remain in force throughout the affordability period despite bankruptcy, sale, or other event transferring title. The LURA will be insured with a separate title insurance policy provided by the applicant.
- Sale of property is subject to HCDD approval. Purchaser must be a not-for-profit entity that would assume affordability requirements.
- Applicant will use its best efforts to distribute the restricted units among unit sizes in proportion to the distribution of unit sizes in the Property and to avoid concentration of restricted units in any area or areas of the Property.
- Developments must accept Section 8 Housing Choice Rental Vouchers for all units, whether or not they are restricted units, during the affordability period.
- Developments will have a minimum affordability period and loan term of 20 years.

RENT RESTRICTIONS

Each unit within the development will be rent restricted, targeting lower income households first. The chart below outlines proposed affordability requirements:

Number of Units	Units Reserved for LMI Households	30% AMI	50% AMI	60% AMI	80% AMI
2	2	1	1	0	0
3	3	1	1	1	0
4	4	1	1	1	1
5	5	2	1	1	1
6	6	2	2	1	1
7	7	2	2	2	1

Rents will be based on IRS Section 42(i)(3)(A) housing tax credit (HTC) rent and income limits for HUD sourced Extremely Low Income (30%), Very Low Income (50%) and Low Income (60% and 80%) limits. HCDD will review rents and incomes by the current year HTC and HUD limits in effect..

Other affordable housing subsidies (e.g. Housing Tax Credits) may be layered in the financing structure that may require additional rental restrictions. In these cases, the most restrictive rental restrictions will be applied.

UTILITY ALLOWANCE STANDARD

Tenant rents will be net of the utility allowance. HCDD will utilize the most recent utility allowance standard provided by the Houston Housing Authority.

PROPERTY AND CONSTRUCTION STANDARDS

All financed developments will be required to meet [HCDD’s Minimum Property Standards for Multifamily \(MPS\)](#). HCDD’s MPS will be applied to the new construction and maintenance of multifamily housing facilities that receive federal assistance derived from [24 CFR §200.925 and §200.926](#). The primary objective of the MPS is to establish the criteria for the life, health and safety of the residents at the property.

The MPS supplement local building codes require properties to meet minimum standards of workmanship, durability and performance of various components of the multifamily property during the period of affordability. These components include doors, windows, gates, stairwells, wall coverings, kitchen cabinets, carpeting, etc. of the property that would be maintained in good and safe working condition that ensures the life, health and safety of the residents at the property.

Housing constructed with CDBG funds must meet all applicable local codes and ordinances at the time of project completion. Additionally, housing must meet the accessibility requirements at [24 CFR Part 8](#), which implements Section 504 of the Rehabilitation Act of 1973 ([29 U.S.C.](#)

[§794](#)) and covered multifamily dwellings, as defined at [24 CFR §100.201](#), and must also meet the design and construction requirements at [24 CFR §100.205](#), which implement the Fair Housing Act ([42 U.S.C. §3601-§3619](#)).

HCDD 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.

ADDITIONAL REQUIREMENTS:

1. New housing construction and replacement of substantially damaged buildings must include compliance with ONE of the following green standards:
 - a. ENERGY STAR (Certified Homes or Multifamily High-Rise);
 - b. Enterprise Green Communities;
 - c. LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); or
 - d. ICC-700 National Green Building Standard.

Applicants will be required to submit a scoresheet of one of the selected green standards. In addition, awardees will be required to provide a Certificate of Compliance of the chosen standard's compliance process as proof. Homes and multifamily homes must also be built in compliance with FORTIFIED Home© standards.

2. Applicants must comply with the following to the extent that they are applicable to the work being performed: labor standards; worker protection requirements that may be adopted by the City, consistent with applicable law; Section 3 of the Housing and Urban Development Act of 1968; Minority/Business Enterprise (MBE), Small Business Enterprise (SBE), Affirmative Marketing, and Contractor Clearance requirements; and such other rules and regulations that the City may identify and require.
3. Project costs must be "reasonable and customary" as determined by an acceptable, independent third-party report. Initial reviews, provided by a third-party consultant, will include an evaluation of the proposed construction plans, an analysis of the proposed construction budget, and additional comments relating to project documentation to determine cost reasonableness.
4. The general contractor shall furnish a Payment and Performance bond for the full amount of the construction contract, which requires the contractor's full performance of the contract. The contractor shall also furnish a 1-year Maintenance bond to secure the warranty required under the construction contract between the owner and the contractor. The Maintenance bond must begin on the date of final acceptance of the completed

project by HCDD. Bonds shall be made payable to the City and the owner, in a form approved by the Director of HCDD. The surety issuing the bond to be on the current list of accepted sureties on federal bonds published by the U.S. Treasury Department and/or on the State Board of Insurance list of authorized insurance companies in Texas.

5. Prior to commencement of construction, the developer/borrower must have a Notice to Proceed issued by HCDD.
6. The American Institute of Architects (AIA) Forms G702 and G703 will be required prior to funding each draw request.
7. HCDD will retain 10% of the total award from each draw until satisfactory completion of the development. The final request for disbursement of retainage will be submitted to HCDD with supporting documentation no later than sixty (60) days after the termination date of the Contract to remain in compliance with the Contract and eligible for future funding. HCDD shall not be obligated to pay for costs incurred or performance rendered after the termination date of a Contract.
8. Any residential buildings constructed under this program must include installation of broadband infrastructure. For the purposes of this program, broadband service can either be hardwired or wireless, but it must be provided at speeds of at least 75 Mbps download and 5 Mbps upload.
9. Monthly inspection reports may be produced by either HCDD or an HCDD elected third party construction firm to provide and confirm work in progress. The City may rely on third-party inspection reports if the City is included as an addressee of the report. Borrowers will certify that each draw request is for actual costs expended and provide documentation to support such costs. HCDD will only pay for completed and documented work.
10. A Guaranteed Maximum Price Contract will be required. All subcontracts must be bid and tabulated.

Notice of Funding Availability & Administration

Applications submitted as a response to the Notice of Funding Availability (NOFA) will be used to competitively select project proposals. NOFAs will be administered per the latest HCDD NOFA Policy # XX-XXXX. The application or NOFA will clearly establish the process and acceptance period, threshold criteria, selection criteria, scoring criteria and the award process. Each application will require a completed and signed HCDD Conflict of Interest form by the applicant per the latest HCDD Conflict of Interest Policy #01-040.

Periodic NOFAs will be released, as needed, to manage workload and ensure a reserve funding for projects which may take longer to reach application stage. However, it is anticipated each NOFA will be released no later than annually from the previous release. Applicants will be limited to submitting a maximum of two applications during each NOFA cycle. Applications or proposals shall have a minimum 30-day submission deadline under the NOFA. Additional details will be established in the NOFA.

SCORING CRITERIA

All applications that will be evaluated for financing must meet HCDD's threshold review to be eligible for CDBG-DR funds. Applications that meet threshold review will be reviewed internally by a panel of HCDD and other City personnel based on the information provided. The panel will evaluate the applications against a set of predetermined scoring criteria outlined in this section. All applications will receive an overall score and be ranked based on the merits of the submission.

An application's score and ranking does not solely determine award status. An application must clearly demonstrate the development meets one or several of the priorities outlined in the guidelines and NOFA that will be determined by the panel. The panel will finalize and itemize a list of applications recommended to receive an award of CDBG-DR funds. The list of recommended transactions will be presented to the Mayor's office for approval. The Mayor's office will have authority to approve or deny applications that meet HCDD's threshold review and are in line with the administration's priorities.

Scoring criteria will include (but is not limited to) the following, with additional details established in the NOFA:

- Housing Types
- Applicant investment
- Organizational Expertise
- Location Information
- Project Information
- Neighborhood, development and site amenities
- Financial Analysis
- ☐ Housing for special needs populations (e.g. permanent supportive housing, previously homeless, section 811, etc.)

SELECTION CRITERIA

The selection of Applications or proposals may be based on the highest total score and/or other criteria. The selection criteria will be disclosed in the NOFA in adherence to the latest HCDD NOFA Policy #XX-XXXX.

APPLICATION UNDERWRITING

After application selection awardees will be underwritten to review the following:

- Experience and Financial Capacity - Applicants must have a documented capacity to construct, or rehabilitate, and operate housing that benefits low-income individuals. Applicants are expected to have sufficient liquidity to cover any funding shortfalls or

delays that may occur during construction, lease-up and operation of the property. Financial statements will be reviewed for positive cash flow and/or equity.

- At a minimum, applicants must furnish written evidence of at least one complete development of theirs, consisting of two or more units, at the time of application. Ongoing projects which are not complete will not be considered under this requirement.
- Development Financial Analysis - The operating expenses of the proposed development 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. Income should exceed expenses by a margin of no less than a 1.05 income/expense ratio. Sources and uses of funds will be reviewed to determine the adequacy of the funding to complete the project.
- Site Control and Market Analysis - Applicants will be either the current owner of the property or, at the time of application, be under contract to purchase the property. The site and market will undergo a Fair Housing Market Analysis to review the location, area amenities and comparable market rents.
- Third Party Reports - Applicants will be required to submit third party reports at the time of application or during underwriting to include the following:
 - Survey
 - Phase I Environmental Report
 - Appraisal (appraisals must be URA compliant); and
 - Market Study
- Project Readiness - Applicants may receive conditional awards subject to securing other project sources with final awards issued upon appropriation. Applicants will be required to demonstrate an ability to close on the City and all other financing sources by providing a timeline of the closing process. Applications that demonstrate a readiness to close within 6 months of notice of a final award and City Council approval will be prioritized.

FLOOD ZONES

Developments located in the floodway are prohibited.

Sites located within the 100-year floodplain and have reported disaster flooding within the past 10 years must report flooding incidences within the proposal application as well as submit an executed copy of the Sellers Disclosure Statement. HCDD may utilize public records to determine whether a prospective property has reported disaster flooding within the past 10 years. Properties which have exhibited disaster flooding may be ineligible for participation. This eligibility is at the discretion of the Assistant Director for Multifamily and Public Facilities.

All development is subject to [Chapter 19 of the City's Code of Ordinances](#). Mitigation efforts may include, but are not limited to, elevating the building site out of the floodplain, elevated podium construction, restricting ground floor space for residential use, pier and beam foundations for single-family units, etc. Any mitigation efforts will be considered on a case by case basis by HCDD. Applicants are advised to check property addresses against the most recent flood maps, which can be accessed on Harris County Flood Control District website at www.hcfc.org.

Community Engagement/Affirmative Marketing/Outreach Plan

The City of Houston engaged in a robust community engagement strategy to inform Houstonians on the status of their local government's efforts to secure funding for its long-term recovery from Hurricane Harvey. The City of Houston, through HCDD, is committed to affirmatively furthering fair housing through established affirmative marketing policies. Affirmative marketing efforts will include the development of an Affirmative Marketing & Outreach Plan based on U.S. Department of Housing and Urban Development (HUD) regulations to ensure that units financed through the Program are affirmatively marketed to the public at large. This plan will ensure that outreach and communication efforts reach eligible homeowners and renters from all racial, ethnic, national origin, religious, familial status, disabled, and gender groups.

The Affirmative Marketing & Outreach Plan will give detailed information about how the City of Houston plans for effective outreach to all groups. homeowners, landlords, and renters mentioned above, as well as how the application and enrollment process for programs will be suitable for persons with limited English proficiency, persons with disabilities and those with special needs. For each program offered by the City of Houston, notification to these populations will include: information on vacant units available for sale and/or rent; information on how to apply for unit purchase, rehabilitation or rental; opportunities to buy and/or rent the unit of their choice, and opportunities to rehabilitate their primary residence to address storm-impact.

Particular emphasis will be focused on development teams who have made successful outreach to LMI areas and those communities with minority concentrations that were affected by the storm. Outreach efforts will include door-to-door canvassing and special outreach efforts to hard-to-reach populations (e.g. seniors and persons with severe disabilities who either do not have information about the resources or are unable to independently apply for resources.)

In addition to marketing through widely available media outlets, efforts may be taken to affirmatively market the CDBG-DR 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 City of Houston’s Hurricane Harvey CDBG-DR funded recovery programs.
- Reach out to public or non-profit organizations and hold/attend community meetings.
- Other forms of outreach tailored to reaching the eligible population may be used, including door to door outreach if necessary, particularly on the weekends.
- Measures will be taken by the City to make the CDBG-DR Disaster Recovery 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 American Sign Language (ASL) translation when requested, and providing special assistance for those who are hearing or 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.

The City of Houston is required to use the Fair Housing logo in Program advertising, post fair housing posters and related information, and, in general, inform the public of its rights under fair housing regulations law. Evaluation of outreach activities and applications received will be necessary to determine if outreach is successful and applications that are received accurately reflect the socioeconomic and other forms of demographic diversity. Evaluation will be an ongoing process.

HCDD has discretion in the modification and/or addition of requirements to the Affirmative Marketing & Outreach Plan.

Needs Assessment

The City of Houston completed its Local Housing Needs Assessment to identify the impact of Hurricane Harvey on the city’s housing stock. Information was gathered from multiple sources to document the impact of Hurricane Harvey including a demographic profile of impacted households including low-and moderate households.

The impact on housing is based on an estimation of the extent and depth of flooding using a flood risk assessment methodology and an estimation of damage to all buildings in Houston using a damage assessment methodology. The two methodologies provide an assessment of the impact of Hurricane Harvey’s rainfall on residential buildings. The models used in these methodologies provide information on the level of inundation in each structure and the associated damage in dollar amounts to the building structure and its contents.

The entire City of Houston is located in an area HUD identified as “most impacted and distressed” regarding the damage from Hurricane Harvey. The City of Houston’s Local Action

Plan and Local Housing Needs Assessment are the basis for the development and prioritization of recovery activities in Houston using CDBG-DR funds. The City consulted with affected residents and stakeholders, such as the Houston Housing Authority, to assess the needs of the community. As additional data becomes available and as additional community and stakeholder engagements take place, the unmet needs and activities to address community needs through CDBG-DR funds may be updated.

Procurement

Subrecipients, vendors, and contractors shall provide adequate documentation to show that selection processes were carried out in an open, fair, uniform, and thorough manner to ensure that federal ([2 CFR 200.318–200.326](#)), State, and [City](#) requirements were met. Procurement will also comply with HCDD’s internal policy.

Record retention records must include, but are not limited to, the following information:

- Rational for the method of procurement;
- Evaluation and selection criteria;
- Contractor selection or rejection; and
- ☐ The basis for the cost or price.

During the procurement process, subrecipients, vendors and contractors should clearly identify any items included in the bid/purchase that are not included in the CDBG-DR agreement with the City. Subrecipients, vendors, contractors and the City may utilize HUD’s CDBG-DR and Procurement Guidance.

Subrecipients, vendors and contractors must procure goods and services using the federal procurement and contract requirements outlined in 2 CFR 200.318 – 200.326. These procurement requirements must be followed for reimbursement from grant allocations of CDBG-DR funds provided by HUD. Subrecipients, vendors and contractors and the City are also required to follow state and local procurement law and policies, as well as the additional requirements stated in 2 CFR Part 200.

Additionally, the City’s Strategic Procurement Division may review draft solicitations or responses prior to award for compliance with applicable city, state and federal rules and regulations. Subrecipients and the City should clearly identify during the procurement process any items included in the bid/purchase that are not included in the CDBG-DR contract.

Regardless of the type of procurement used, subrecipients, vendors, contractors and the City must execute a contract to document the period of performance, the work to be completed, the agreed price, and contractor or provider’s required compliance with all applicable federal, state, and local requirements that subrecipients and the City must follow. If there is a conflict

between federal, state, and local laws and regulations regarding procurement, the more stringent law or regulation will apply.

Additionally, subrecipients, vendors and contractors are required to achieve compliance with Section 3 ([24 CFR Part 135](#)). It is strongly suggested that HUD's best practices be utilized to help achieve compliance (HUD Model Section 3 Plan), including creating a Section 3 Plan. Subrecipients, vendors and contractors are also required to "take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible." (2 CFR 200.321).

Furthermore, HUD and the GLO require the City maintain a comprehensive public website that provides information for individuals and entities awaiting assistance for Harvey related damage, and the general public to see how all grant funds are used and managed/administered. To meet this requirement, the City and its subrecipients must make the following applicable items available to post on City's website: procurement policies and procedures; description of services or goods currently being procured by subrecipients; subrecipient and state administrative contracts and a summary of all procured contracts (as defined in 2 CFR 200.22), including those procured by subrecipients, vendors, contractors, or the city (e.g., a summary list of procurements, the phase of the procurement, details of ongoing procurement processes, requirements for proposals, and any liquidation of damages associated with a contractor's failure or inability to implement the contract, etc.). Updated summaries must also be posted monthly on the website. HUD will post guidance related to this requirement on the HUD Exchange website (www.hudexchange.info).

Financial Management

The City of Houston, as a CDBG-DR recipient, is required to follow the financial administration requirements outlined in 2 CFR 200. These standards help ensure that the financial systems put in place by the City:

1. Provide adequate, current, and complete disclosure of the financial results (regular financial reporting) of all financially assisted activities, in accordance with the financial reporting requirements of the grant.
2. Document that funds have been used only for authorized purposes. For CDBG-DR this includes not only eligible activities but that the funded projects meet a National Objective;
3. Maintain accounting records that show the sources and uses of funds, displaying funds authorized, obligated and unobligated balances, assets, liabilities, outlays or expenditures and income;
4. Establish effective internal controls over all cash, real and personal property, and other assets acquired with program funds;

5. Track actual program cost against program budget in a manner that relates to program productivity and accomplishments;
6. Use Uniform Administrative Requirements outlined in [2 CFR 200](#) principles to determine whether program costs are reasonable, allowable, and can be allocated, either directly or indirectly;
7. Maintain source documentation for accounting records;
8. Implement procedures for cash management that permit the timely disbursement to applicants and subrecipients and complete and accurate monitoring and reporting; and
9. Comply with [2 CFR 200 Subpart F](#)

The roles and responsibilities described below are related to the financial management of the City of Houston’s CDBG-DR allocation for Hurricane Harvey. These descriptions are not intended to be an exhaustive list of activities performed by each entity in relation to the CDBG-DR grant or in general.

THE CITY OF HOUSTON

1. Finance Department – The Strategic Procurement Division (SPD) is housed within the City of Houston’s Finance Department and is responsible for procuring goods and services for CDBG-DR funded activities.
2. The City Controller –The Office of the City Controller certifies the availability of funds prior to City Council approval of City commitments, processes and monitors disbursements, invests the City's funds, conducts internal audits of the City's departments and federal grant programs, operates and maintains its financial management system, conducts the sale of public improvement and revenue bonds and produces a comprehensive annual report of City finances - Comprehensive Annual Financial Report (CAFR). The Controller will be responsible for providing a variety of approvals for release of CDBG-DR funds as payment to contractors and beneficiaries.
3. Housing and Community Development Department (HCDD) – HCDD is the grant manager for Houston’s Hurricane Harvey CDBG-DR allocation and responsible for administering all programs outlined in the City’s Local Action Plan.
 - a. Multifamily Division: This division is responsible to select and underwrite viable affordable multifamily developments and administer HCDD proceeds during the construction period.
 - b. Disaster Recovery and Public Services Division: This division is responsible for program development and oversight, as well as community outreach.
 - c. Finance Division: This division is responsible for processing CDBG-DR grant funding through the Systems Applications and Products (SAP), performing draws in HUD’s Integrated Disbursement Information System (IDIS) and Disaster

Recovery Grant Reporting (DRGR) System, and reconciling budgets and expenditures. This division is also responsible for processing payment requests in SAP and federal reimbursement requests to the GLO to be realized in the City's budget.

- d. Planning and Grants Management Division: This division is responsible for the City's CDBG-DR Local Action Plan, Local Needs Assessment, program applications, other rated planning documents, substantial amendments, project/activity budget set-up and completion in IDIS and DRGR and related reporting to HUD and GLO.

KEY FUNDING OBJECTIVE

At least 70% of the City of Houston's CDBG-DR funds must be spent on LMI residents.

Duplication of Benefits

Many federal and state agencies are involved in responding to Presidentially declared major disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (the "Stafford Act"). Generally, Supplemental Appropriations Acts authorizing CDBG-DR funding and the Stafford Act include restrictions on using those program funds to provide assistance when insurance providers or other federal or state agencies have already funded all or a portion of the activity. Certain Supplemental Appropriations Acts also include restrictions against use of those program funds as a matching requirement, share, or contribution for any other federal program.

Each application will be reviewed to determine if previous funding awarded to the applicant was received for the same purpose. The City must determine the applicant's needs first and then calculate the applicant's Duplication of Benefits (DOB). Applicants must provide documentation of insurance, FEMA, SBA, and any other type of funding received. Additionally, the City will verify that the submitted documentation is accurate and current at the time of the award, to the extent possible (e.g., validate against FEMA data). The City will also determine if insurance was required under the terms of the applicant's mortgage or required as a condition of prior federal assistance received, as part of the application review.

The applicant must repay any assistance later received for the same purpose as those awarded or provided for with CDBG-DR funds. The applicant is obligated to certify they understand this requirement as outlined in detail within the subrogation terms included in their Grant Agreement. Applications will include a warning stating *"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."*

To comply with these requirements, the City of Houston will design Standard Operating

Procedures to ensure that any funds determined to be a DOB are deducted from the final assistance award amount for each applicant across the eligible activities of all programs.

Environmental

The environmental review process is required for all HUD-assisted projects to ensure that the proposed project does not negatively impact the surrounding environment and that the property site itself will not have an adverse environmental or health effect on end users.

All properties assisted under this Program will be subject to an Environmental Review by the City prior to demolition, land acquisition, and/or new construction. Developers will be required to submit the project site address, and parcel identification number, which the City will conduct the environmental review in compliance with [24 CFR Part 58](#). The project must pass an Environmental Review before the City will comply with the Notice to Proceed.

A commitment of funds can occur only upon satisfactory completion of an environmental review to determine whether the project meets federal, state, and local environmental standards, and receipt by the City of a release of funds from HUD under [24 CFR Part 58.35\(a\)](#) or [58.36](#). Developers must agree in writing that the provision of any funds to their project(s) is conditioned on HCDD's determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review. Developers' funding may be required to contract for environmental consulting services to provide the information required, which shall be an eligible project soft cost. In addition, the following regulations are applicable:

- Per [24 CFR 58.5\(i\)\(2\)\(i\)](#), it is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.
- Per [58.5\(i\)\(2\)\(ii\)](#) the environmental review of multifamily housing with five or more dwelling units (including leasing), or non-residential property, must include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to ensure that the occupants of proposed sites are not adversely affected by any of the hazards listed in paragraph (i)(2)(i) of this section.
- Lots to be acquired for selection cannot and will not undergo any development or other activity that constitutes a choice limiting action per [24 CFR 58.22](#), regardless of whether HUD or non-HUD funds are used. No HUD funds can or will be used prior to the issuance of the Release of Funds/Authority to Use Grant Funds (AUGF) and all necessary site-specific environmental review and clearance as required by [24 CFR 58](#).
- Regulations found at [24 CFR 58](#) also govern sound mitigation requirements if noise levels in a Normally Unacceptable Noise Zone (NUNZ, 65-75 decibels (dB)) or Unacceptable Noise Zone (UNZ, 75+ dB).

- [24 CFR 55](#) governs flood mitigation for any existing properties that reside in the 100-year floodplain.
- Hazardous materials described at [58.5\(i\)\(2\)\(i\)](#) cover all forms of contamination, including but not limited to lead and asbestos that may be found in older buildings, particularly those built prior to 1978.

An ASTM E1527-13 Phase I Environmental Site Assessment (ESA) under 6 months of age must accompany projects involving acquisition (rehab and new construction) as well as all new construction projects (with or without acquisition).

Program Compliance Standards

MINORITY BUSINESS ENTERPRISES/SMALL BUSINESS ENTERPRISES (MWSBE)

HCDD requires MWSBE participation for all federally funded contracts (CDBG, HOME, SPG, SEC 108, EDI, NSP), per [2 CFR 200.321](#). The City of Houston also requires 34% MWSBE participation goal of the amount of the award for all Non-federally funded projects (TIRZ, Bond, General funds) in excess of \$1,000,000.00.

PAY OR PLAY

In an effort to create a level playing field for competing contractors, the Pay or Play program ([Executive Order 1-7, as amended](#)) mandates City Contractors to offer their employees a minimum level of health benefits or contribute prescribed amount towards “Contractors Responsibility Fund” to defray the costs of providing health care to uninsured people in the Houston and Harris County area. This program applies to contracts for services in which the total expenditure by the City, including contingencies, amendments, supplemental terms and/or change orders equals or exceeds \$100,000. This program also applies to subcontracts for services in which the total value of the subcontract, including contingencies, amendments, supplemental terms and/or change orders equal or exceeds \$200,000.

CLOSING REQUIREMENTS

All transactions selected for financing will require City Council approval. Afterwards, documentation will require, but is not limited to, the following:

- Final Executed drafts of all required HCDD loan documentation
- Final Development Budget
- Final Sources & Uses including all approved documentation relating to the sources outlined in the transaction (e.g. senior loan documents, limited partnership agreements, Seller notes, etc.)
- Construction Contract

- Third Party Plan Review and Cost Analysis
- Survey, appraisal, bonds (or letter of credit), and liability insurance
- Tenant Selection Policy, Actual Lease with Addendum, Affirmative Marketing Plan, Relocation Plan if applicable, and Rent Schedule must be reviewed and approved by the Assistant Director for Multifamily and Public Facilities and Portfolio Compliance.
- Release of Funds Authorization from HUD
- Environmental Clearance
- Verification of Payment and Performance bond in place or acceptable Letter of Credit. Letters of Credit will only be accepted at the discretion of the Assistant Director for Multifamily and Public facilities on a case-by-case basis.

RELOCATION.

If existing tenants are required to move out of their units as a result of a project receiving federal funding, the developer must comply with both the Uniform Relocation Assistance Act and Real Property Acquisition Policies Act of 1970, as amended, (URA) as well as HCDD's Policies and Procedures for Relocation. The URA requires that the property owner receives a Notice to Seller form, and tenants (residential and nonresidential) receive all applicable URA notices and relocation assistance if impacted by the development's acquisition, demolition, and/or reconstruction.

HCDD staff will assist owners in complying with the URA. Applicants are required to provide the Notice to Seller, URA Assurances, tenant notices, a Relocation Plan, and the budget for any proposals of developments that will require relocation of current/displaced residents. The requirements include, but are not limited to: recordkeeping, document submittals, monthly reporting, and providing documentation related to efforts made to meet compliance to the URA. Projects are subject to monitoring compliance reviews.

LEASE UP PROCEDURES

Small Rental developments assisted with CDBG-DR funds are required to have a Project Tenant Selection Policy (TSP), Affirmative Marketing Plan, and a schedule of leases and rents to ensure compliance with CDBG-DR requirements. The TSP must be:

- Written and displayed at the project leasing in a common area;
- Consistent with the purpose of providing housing for families making 80 percent or less of AMFI;
- Reasonably related to program eligibility and tenant's ability to perform under the lease;
- Chronological, so that tenants taken from a written waiting list are assisted in order; and
- Designed to give prompt written notice of the grounds for rejection to any lessee rejected based on income.

Program Income

Any program income earned as a result of program-funded activities will be subject to the rules outlined in Federal Register notice [83 FR 5844](#). Program income received before closeout of the CDBG-DR grant is subject to CDBG-DR requirements and must be used in accordance with HCDD's Harvey CDBG-DR Action Plan.

Monitoring

During the affordability period, HCDD will monitor each project for financial stability, status on annual payments due, and compliance with the City's Minimum Property Standards and LURA. This will include, but is not limited to, the following:

- Regular review of audited financial statements;
- Annual inspections of property to assure that Minimum Property Standards are maintained;
- Verifying lease related documentation/actions to demonstrate compliance with Affirmative Marketing and Fair Housing requirements under local, state and federal rules in tenant selection/housing;
- Verifying income documentation and eligibility of persons certified/assisted; and
- Certifying/approving rent rates and utility allowances within limits set by local, state or federal agencies as applicable to each project.

HCDD will maintain accurate Affordable Rental Program files and records for general administration activities for each development and tenant for the duration of the Program and during the affordability period. Such files will be open for inspection by funding-source representatives.

Cross Cutting Federal Regulations

This program will be designed and implemented in compliance with cross-cutting federal regulations when applicable, including:

AMERICANS WITH DISABILITIES ACT (ADA)

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state, and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of telecommunications device for the deaf (TDD)/telephone relay services. The City of Houston Housing and Community Development Department (HCDD) takes affirmative steps to ensure that people with disabilities have equal access to the programs offered by HCDD, and that any services are delivered in the most integrated manner possible. HCDD's mandate to conform to the requirements of ADA flows down to every stakeholder, including sub-recipients, vendors, and developers.

EQUAL EMPLOYMENT OPPORTUNITY

[Executive Order 11246](#), Equal Employment Opportunity, as amended, prohibits federal contractors and federally-assisted construction contractors and subcontractors who do over \$10,000 in government business in one year from discriminating in employment decisions based on race, color, religion, sex, sexual orientation, gender identity, or national origin. The Executive Order also requires government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment. This regulation is adhered to within HCDD programs.

FAIR HOUSING

[The Fair Housing Act](#) requires all grantees, sub-recipients, and/or developers funded in whole or in part with HUD financial assistance to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability, or marital status.

HCDD enforces the Fair Housing Act by ensuring that all grantees, sub-recipients, and/or developers meet the applicable Fair Housing and Affirmative Marketing requirements, provide a marketing plan, and report on compliance in accordance with the Fair Housing Act and the associated forms on HCDD website, where applicable. The Affirmative Marketing Plan must comply with applicable Fair Housing Laws and demonstrate how the applicant will affirmatively further fair housing throughout applicable NCEM disaster recovery programs.

FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED

[The Fair Labor Standards Act of 1938](#), as amended (FLSA), establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked more than 40 per week. These labor standards are applicable to the entire construction contract, regardless if CDBG-DR funds finance only a portion of the project. Excluding the exceptions listed below, all workers employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under HCDD CDBG-DR program must be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with [the Davis-Bacon Act](#), as amended.

LIMITED ENGLISH PROFICIENCY

Presidential [Executive Order 131661](#) requires HCDD and all satellite offices, programs, sub-recipients, contractors, subcontractors, and/or developers funded whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. HCDD ensures fair access through the implementation of a Language Assistance Plan (LAP), which includes non-English-based outreach, translation services of vital documents, free language assistance services, and staff training.

MINORITY- AND/OR WOMAN-OWNED BUSINESS ENTERPRISES

The Presidential [Executive Order 12432](#) guidelines require selected federal agencies to promote and increase the utilization of Minority-Owned Business Enterprises (MBEs). [2 CFR 200.321](#) requires the non-federal entity to take all necessary steps to ensure that all sub-recipients, contractors, sub-contractors, and/or developers funded in whole or in part with HUD CDBG-DR financial assistance ensure that contracts and other economic opportunities are directed to small and minority firms, women-owned business enterprises (WBEs), and labor surplus area firms when possible.

SECTION 3

[Section 3 of the Housing and Urban Development Act of 1968](#) requires that grantees, sub-recipients, contractors, sub-contractors, and/or developers funded in whole or in part by CDBG-DR funding, to the greatest extent feasible, extend hiring opportunities and contracts to Section 3- eligible residents and businesses. Section 3-eligible residents are low- and very low- income persons, particularly those who live or reside in public, or government assisted housing.

RESIDENTIAL ANTI-DISPLACEMENT

All awardees must follow HCDD's Residential Anti-Displacement and Relocation Assistance Plan.¹ Awardees will agree to minimize displacement and provide relocation assistance to displaced LMI tenants.

Awardees must comply with the one-for-one replacement requirements at [24 CFR 42.375](#) in the event that an awardee demolishes or converts to a use other than as LMI dwelling units any occupied or vacant and occupiable LMI units. Pursuant to [83 FR 5844](#), the one-for-one requirement is waived in the event that the building undergoing demolishing or conversion is disaster-damaged and not suitable for rehabilitation.

UNIFORM RELOCATION ACT AND REAL PROPERTY ACQUISITION

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) establishes minimum standards for all federally-funded programs/projects that acquire property or displace person from their homes, businesses, or farms. The applicable federal regulation is located at [49 CFR 24](#) (URA) and in the [Tenant Assistance, Relocation and Real Property Acquisition Handbook](#) (HUD Handbook 1378).

The Federal Register Notice governing the grant by which this Program is funded ([83 FR 5844](#)) waived the one-for-one replacement requirements at Section 104(d)(2)(A)(i)-(ii) and (d)(3) and [24 CFR 42.375](#) in the case of LMI units which are disaster-damaged and not suitable for rehabilitation.

Sub-recipients or contractors must provide the following benefits to households or businesses that they displace:

¹ Appendix I of HCDD Policy #21-032: Relocation
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- Relocation advisory services;
- A minimum of 90-day notice to vacate;
- Comparable decent, safe and sanitary replacement housing (temporary or permanent);
- Reimbursement for moving expenses; and
- Payments for added cost of renting or purchasing comparable replacement housing.

Except where otherwise waived (see above), HCDD programs (including this one) which are funded by federal grants are subject to the URA and Section 104(d). HCDD policies and procedures, Notice of Funding Availability (NOFA), applicant certifications and/or written agreements for funds subject to the URA and Section 104(d) shall refer to federal and state rules, as appropriate.

REAL PROPERTY

If CDBG-DR funds are used to acquire real property, both HCDD Compliance and COH Legal will ensure that the property continues to be used for its intended (and approved) purpose; proper records are maintained to keep track of it; steps are taken to protect and maintain it; and that if the property is sold, any liens put in place by the City are resolved and paid for. HCDD, as the grantee, along with its sub-recipients and contractors, must tag and log all property valued greater than \$1,000 and update inventory records annually.

ACQUISITION OF REAL PROPERTY

Upon acceptance (usually via City Council) of the Department's acquisition request, the City will proceed with efforts to acquire any real property, including easements and right-of-way, required for the project. CDBG-DR federal funds, administered by HCDD and disbursed to subrecipients and direct contractors and/or beneficiaries, are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 CFR Part 24 (URA), 24 CFR Part 42 (Section 104(d)), and in the Real Estate Acquisition and Relocation Policy and Guidance Handbook (HUD Handbook 1378).

Sub-recipients or contractors must provide the following benefits to households that they displace:

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

A purchase option agreement on a proposed site or property prior to the completion of the environmental review may be allowed if the option agreement is subject to a determination by the sub-recipient on the desirability of the property for the project after the environmental

review is completed and the cost of the option is a nominal portion of the purchase price. HCDD reserves the right to disallow this exemption at the discretion of the Assistant Director for Multifamily and Public Facilities.

Prior to advertising for bids, the awardee must have obtained all lands, rights-of-way, and easements necessary for carrying out the project.

HCDD will provide property owners with the appropriate forms, including Involuntary Preliminary Acquisition Notice; Invitation to Accompany an Appraiser; Written Offer to Purchase; Statement of Basis of Just Compensation; Notice of Intent Not to Acquire; Donation and Appraisal Waiver; and Administrative Settlement.

INSURANCE AND PROPERTY MANAGEMENT

For all projects in the Program, all property owners must procure and maintain insurance for the duration of the agreement to protect all contract assets from loss due to any cause, such as theft, fraud, and physical damage. If CDBG-DR funds are used to acquire real property or personal property, the property owner is responsible for ensuring that:

1. The property continues to be used for its intended (and approved) purpose;
2. The awardee keeps track of, and takes care of, the property; and
3. If the awardee sells or disposes of the property during the contract period, the awardee reimburses HCDD for the share of the property's value according to the agreement.

RECORD KEEPING, RETENTION AND FILE MANAGEMENT

In accordance with HUD regulations, the GLO as the grantee, and HCDD as the sub-grantee and prime recipient of CDBG-DR funds follow the records retention requirements cited in [2 CFR 200](#), which includes financial records, supporting documents, statistical records and all other pertinent records. HCDD establishes recordkeeping and retention requirements in its sub-recipient and contractor agreements in accordance with the guidelines stated in [24 CFR 570.503\(b\)\(2\)](#).

REPORTING

As a recipient of CDBG-DR funds, HCDD, working with the GLO, will establish reporting requirements in accordance with [24 CFR 570.503\(b\)\(2\)](#). HCDD has established its own reporting requirements in accordance with the provisions as found in 2 CFR 200, as applicable:

- At execution of agreements;
- Monthly;
- Quarterly;
- Annually; and
- As required.

ACCESS TO RECORDS (STATE – CITY)

24 CFR 570.49 Recordkeeping requirements:

(c) Access to records.

(1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG funds and necessary to facilitate such reviews and audits.

(2) The State shall provide citizens with reasonable access to records regarding the past use of CDBG funds and ensure that units of general local government provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with State or local requirements concerning the privacy of personal records.

The availability of records is subject to the exemptions to public disclosure set forth in section 87(2) of the Public Officers Law. All Freedom of Information Law (FOIL) requests under the Public Officers Law must be made in writing to the Records Access Officer and will be processed in accordance with the procedures set forth therein.

AUDIT REQUIREMENTS

In accordance with [Subpart F of 2 CFR 200](#), non-federal entities that expend \$750,000 or more during their fiscal year in federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions therein. HCDD is responsible for conducting reviews of these single or program-specific audit reports and for coordinating the issuance of management decisions for audit findings relating to HCDD-provided federal funds.

FRAUD, WASTE AND ABUSE

The City will assess all program systems, processes and Standard Operating Procedures from an anti-fraud, waste, and abuse perspective. The City will provide anti-fraud training to program staff. Anyone with information regarding known or suspected misappropriation of funds or resources is encouraged to report the information to the City by sending a written report via U.S. mail to the following address: City of Houston, Housing and Community Development Department, 2100 Travis St, 9th Floor, Houston, TX 77002.

CONFIDENTIALITY/PRIVACY

The Program is committed to protecting the privacy of all individual stakeholders, including the public and those individuals working on the program. The purpose of this privacy policy is to establish when and under what conditions certain information relating to individuals may be disclosed. The data collected from applicants for the Program may contain personal information on individuals that is covered by the Federal Privacy Act of 1974, as well as

applicable state laws. These laws provide for confidentiality and restrict the disclosure of confidential and personal information. Unauthorized disclosure of such personal information may result in personal liability with civil and criminal penalties. The information collected may only be used for limited official purposes:

- Program staff may use personal information throughout the award process to ensure compliance with program requirements, reduce errors, and mitigate fraud and abuse.
- Independent auditors, when hired by the program to perform a financial or programmatic audit of the program, may use personal information in determining program compliance with all applicable HUD and federal regulations, including the Stafford Act, CDBG-DR requirements and State and local law.
- HCDD may disclose personal information on an applicant to those with official Power of Attorney for the applicant or for whom the applicant has provided written consent to do so.

Organizations assisting HCDD in executing the CDBG-DR Program must comply with all federal and state law enforcement and auditing requests. This includes, but is not limited to, HUD, FEMA, FBI, Office of the Comptroller, and the Office of the Inspector General.

Record Keeping and Reporting

The Harvey Recovery Small Rental Program will adhere to the record retention policies of either HCDD, the State of Texas, or HUD for the use of CDBG-DR funds as required by the grant.

All official records on programs and activities shall be maintained for at least five-years beyond the closing of the grant between the GLO and HUD. Applicant records may be maintained electronically.

Conflicts of Interest

All applicants will be subject to HCDD's Conflict of Interest Policy. No employee, agent, or officer, who exercises decision-making responsibility with respect to CDBG-DR funds and activities, is allowed to obtain a financial interest in or benefit from CDBG-DR activities, or have a financial interest in any contract, subcontract, or agreement regarding those activities or in the proceeds of the activities. The Small Rental Program will establish safeguards to prohibit employees, officers, and agents from using their position for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties. HCDD may require disclosure of any potential conflict of interest to the governing body of the locality, to the recipient's legal counsel, and as otherwise may be appropriate. City employees will also be subject to the latest [City of Houston Administrative Policy 2-22 Conflict of Interest](#).

Changes, Waivers and Conflicts

Waivers to the requirements in these Guidelines can only be approved by HCDD and the GLO and must be provided in writing. If these Guidelines conflict with local, state, or federal law, the more stringent requirement will prevail, provided that the requirement does not violate local, state, or federal law.

HCDD will publish all Program Guidelines on the City's website [www.recovery.houstontx.gov]. All guidelines will initially be published for a 30-day public comment period. Any subsequent changes to the Guidelines after approval by the Texas General Land Office will be posted for a minimum of (7) seven days for public comment and the latest versions available on the City's website.

WAIVERS

As the program matures, it is possible there will be requests for waivers and alternative requirements to these Guidelines. These requested changes and waivers must be consolidated, reviewed, and approved by the GLO. To request a waiver, HCDD must submit a written request on HCDD letterhead that includes the following:

1. The Guideline for which the waiver applies
2. The requirement to be waived or altered
3. Alternative requirement or language
4. Detailed statement of how the request is necessary to address unmet recovery needs

GENERAL PROGRAM WAIVER REQUEST

A General Program Waiver request includes a requested change to the Guidelines for administrative, eligibility, national objective, expenditure deadline, or overall benefit requirements, for which approval from the GLO is needed within thirty (30) days. The request must demonstrate that the funds will be used for an eligible CDBG-DR eligible activity and meet a national objective.

Waivers of this category must be published for seven (7) days and public comment received and addressed before implementation.

Guideline Updates/Public Comments

HCDD will publish all Program Guidelines on the City's website [www.recovery.houstontx.gov]: All guidelines will initially be published for a 30-day public comment period. Any subsequent changes to the Guidelines after approval by the Texas General Land Office will be posted for a minimum of seven days for public comment and the latest versions available on the City's website.

Complaints

The City of Houston Housing and Community Development Department (HCDD) welcomes feedback and complaints from any member of the public. Complaints are accepted in writing or over the telephone. A timely, written response will be provided to all Complainants (or logged in the case of anonymous complaints) by the designated HCDD staff person(s) within 15 working days. Additionally, all complaints submitted will be logged and tracked by the designated HCDD staff person(s), including date of complaint submission, type of complaint, status of resolution and outcome. For further information, please refer to the HCDD recovery website, <https://recovery.houstontx.gov>

CONTACT INFORMATION

Mailing Address

Housing and Community Development Department
2100 Travis St., 9th Floor
Houston, TX 77002
Attn: Planning & Grants Management

Email Address

HCDDComplaintsAppeals@houstontx.gov

Telephone

(832) 394-6200

HCDD Business Hours

Monday through Friday
8:00 AM to 5:00 PM

Appeals

HCDD's appeal process will be provided in writing to any appellant upon request or receipt of an appeal, and the same process will be clearly posted on the City's websites, including disaster recovery websites and entitlement program websites. HCDD will keep a record of each appeal that it receives and include all communications and their resolutions therein.

Applicants have the right to appeal decisions made on their program file based on the following:

- Non-receipt of award through NOFA or RFP process
- Denied services through any of HCDD's programs
- Program eligibility determination
- Program award calculation
- Procedural error where the application was not processed by program staff in

- accordance with the program guidelines
- Affirmatively Furthering Fair Housing

Appeals must be made in writing, and may either be in letter form, through HCDD's website, or on HCDD's Appeal Request Form (available on HCDD's website or at the HCDD office). Written appeals will be accepted either by mail or in-person at the HCDD office. To be considered complete, an appeal must contain the following information:

- Name
- Property Address
- Mailing Address (if different from Property Address)
- Phone
- Application number (if applicable)
- Email Address
- Reason for Appeal

Appeals must be made within thirty (30) days of notice of the determination on the applicant's file that generated the appeal. Upon receipt of an appeal, HCDD will respond in writing to the appellant of the program area's decision regarding the appeal and provide the basis thereof within thirty (30) days, as practicable.

APPEALS REVIEW COMMITTEE

Should the initial appeal process with the program area not achieve a resolution amenable to the appellant, the appellant has the right to escalate the appeal, in writing, to the Appeals Review Committee (ARC). The appellant may only escalate the appeal after the completion of the initial program area process.

The ARC will process the escalated appeal within thirty (30) days, as practicable. The ARC will transmit their decision to the appellant in writing.

TEXAS GENERAL LAND OFFICE

Should the appellant not be satisfied with the outcome determined by the ARC, they have the option to dispute the decision by sending an appeal in writing to the Texas General Land Office (GLO). The appellant has thirty (30) days to submit an appeal directly to GLO following receipt of the ARC's decision regarding their appeal.

If no word on a pending appeal is received by HCDD within the appropriate timeline from GLO, HCDD will designate the appeal decision made by the Appeals Review Committee as the final decision and consider the matter closed.

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Program Closeout

HCDD assigned program staff will coordinate all required file documentation with applicants and contractors necessary for verification of completion of construction to program requirements and submit for approval of completion and closeout and proper record keeping. In accordance with HCDD approved Standard Operating Procedures, the HCDD assigned project staff will ensure compliance with program construction requirements.

Definitions

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

Adjusted Gross Income (AGI): AGI is an individual's total gross income minus specific deductions as shown on the federal tax return.

Affirmatively Furthering Fair Housing (AFFH): AFFH is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. The HUD AFFH assessment tool and final rule can be found here: <https://www.hud.gov/AFFH>

Affordability Period: The time period during which a property must comply with CDBG-DR program rules and regulations, including primary residency, income, and rent restrictions as applicable.

Applicant: Not-for-profit agencies or Community Development Corporations (CMC). Applicants may be participants in limited partnerships (LP) or limited liability corporations (LLC).

Area Median Family Income (AMFI): Calculated annual limits based on HUD-estimated median family income with adjustments based on family size used for demonstrating LMI beneficiaries in the programs. May also be referred to Area Median Income (AMI) in other program documents.

Beneficiary: The recipient deriving advantage from CDBG-DR funding.

Builder/Contractor: (Used interchangeably) A person who contracts to construct or repair houses or buildings and/or supervises building operations.

Davis-Bacon Act of 1931 (40 USC Part 3141 et seq.) and Related Acts (DBRA): All laborers and mechanics employed by contractors or subcontractors in the performance of construction work

financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. This applies to the rehabilitation and reconstruction of residential property only if such property contains not less than 8 units.

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

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

Elevation Standards: Standards that apply to new construction, repair of substantial damage, or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR 55.2(b)(1).

Environmental Review: All qualified projects must undergo an environmental review process. This process ensures that the activities comply with National Environmental Policy Act (NEPA) and other applicable state and federal laws.

Event: The Presidentially declared Hurricane Harvey, and subsequent flooding, disaster event.

Family: The term "family" means all persons living together in the same housing unit, as further defined under 24 CFR 570.3.

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

Flood Hazard Area: Areas designated by FEMA as having risk of flooding.

Flood Insurance: The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a

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

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

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

Floodway: FEMA designated channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

General Land Office (GLO): The Texas General Land Office is the lead agency for managing the State’s Community Development Block Grant – Disaster Recovery grants.

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

Green Building Standards: All projects must meet an industry-recognized standard that has achieved certification under at least one of the following programs: (1) ENERGY STAR (Certified Homes or Multifamily High-Rise), (2) EPA Indoor Air Plus (Energy Star a prerequisite), (3) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development), or (4) ICC–700 National Green Building Standard.

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

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

Housing and Community Development Act of 1974, as amended by the Supplemental

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

Housing and Urban Development Act of 1968, Section 3: Requires program administrators ensure that training, employment, and other economic opportunities generated by HUD financial assistance shall be directed to the greatest extent feasible and consistent with existing federal, state, and local laws and regulations, to low- and very low-income persons. Recipients of Section 3-covered funding ensure compliance and the compliance of their contractors/subcontractors with the Section 3 requirements, as outlined in 24 CFR 135.32.

Housing Quality Standards (HQS): The HQS establish certain minimum standards for buildings constructed under HUD housing programs. This includes single family homes and multifamily housing as outlined in 24 CFR 982.401.

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

Low/Mod Income (LMI): Activities which benefit persons of income that does not exceed 80 percent of the area median income:

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

Manufactured Housing Unit (MHU): A structure, transportable in one or more sections which in the traveling mode is 8 body-feet or more in width, or 40 body-feet or more in length, or when erected on site, is at least 320 square feet, and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

Mitigation: Improvements made to reduce the possibility of property damage, personal and

commercial hardship, as well as long lasting monetary burdens. For example, creating a flood mitigation program such as an acquisition of at-risk flood-prone property/housing, and elevation of housing in high-risk floodplains are two visible and effective mitigation projects that can be taken to make residents and communities safer in the face of natural disasters.

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

Needs Assessment: A needs assessment is a critical component in the allocation of funding across and within National Objectives for CDBG-DR funds. A given needs assessment will recommend the proportions of funding that should be set aside to benefit each LMI and non-LMI economic group. The needs assessment will determine the activities to be offered, the demographics to receive concentrated attention, the disabled, "special needs," vulnerable populations, and target areas to be served. The needs assessment will also include an assessment of the types of public services activities that may be needed to complement the program. The needs assessment should set goals within the income brackets similar to the housing damage sustained within the impacted areas. Deviations from goals must be approved by the City before the Program may move forward. Each needs assessment will be posted for a 30-day public comment period and approved by the GLO before implementation.

New Construction: A replacement home that substantially exceeds the original footprint on the existing lot (if permitted) or the construction of a new home in a new location. This activity also includes the new construction of conventionally framed housing, modular homes/stick-built, and manufactured housing unit (MHU).

One for One Replacement: Subpart B Requirements Under Section 104(d) of the Housing and Community Development Act of 1974, 24 CFR 42.375 provides for public and/or assisted lower-income dwelling units to be demolished or converted to a use be replaced with comparable lower-income dwelling units. This requirement has been waived under [83 FR 5844, Vol. 83, No. 28](#)

Overall Benefit: The City must certify that, in the aggregate, not less than 70 percent of the CDBG-DR funds received by the City will be used for activities that benefit LMI households.

Project: A site or sites together with any building or buildings containing 2-7 units located on the site(s) under common ownership, management and financing, to be assisted with CDBG-DR funds as a single undertaking. The Project includes all of the activities associated with the site and building.

Reconstruction: Demolition and rebuilding of a stick-built or modular housing unit on the same lot in substantially the same footprint and manner. This activity also includes replacing an

existing substandard manufactured housing unit (MHU) with a new or standard MHU or stick-built/modular housing unit. The number of units on the lot may not increase, and the total square footage of the original, principal residence structure to be reconstructed may not be substantially exceeded; however, the number of rooms in a unit may be increased or decreased based on the applicant's current household size.

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

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

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

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

Substantial Improvement: Any reconstruction, addition, or other improvement of a structure which the cost equals or exceeds 50 percent of the fair market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure" (44 CFR 59.1). Developments must be designed principally for residential use and located in the 100-year floodplain (or 1 percent annual chance floodplain) for the substantial damage and improvement tests to apply as directed in FRN Vol. 83, No. 28.

Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended

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

Vendor: Vendors and private grant administrators procured by the city or contractors to provide supplies, equipment, or services necessary to implement the Program and to serve program needs. Upon approval, the vendor may implement the Program or act on behalf of the City.