



COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY PROGRAM HURRICANES IKE AND DOLLY ROUND 2

HOUSING GUIDELINES

INTRODUCTION

- A. The Texas Department of Housing and Community Affairs (TDHCA or the Department) partnered with the Texas Department of Rural Affairs (TDRA) in the administration of a Community Development Block Grant (CDBG) Disaster Recovery Program (Program) funded by the U.S. Department of Housing and Urban Development (HUD) under Public Law 110-329. TDHCA is the agency responsible for the administration of disaster funds allocated to housing activities. TDHCA contracts with Cities, Counties and Councils of Government to administer these funds at the local level and carry out eligible housing activities.
- B. Housing Guidelines were developed to serve as the basis for Hurricanes Ike and Dolly Round 2 housing programs. The Housing Guidelines consist of General Guidelines, which were developed to provide direction for issues that affect all of the housing programs. The General Guidelines are further divided into Part A, General Program Guidelines and Part B, [Homeowner Opportunity Program \(HOP\)](#). Activity-specific guidelines for [Homeowner Assistance](#), [Homebuyer Assistance](#) and [Rental Activities](#) are included in the Housing Guidelines as Attachment A, Attachment B, and Attachment C, respectively. Applicants who qualify to fully participate in the HOP and elect to participate or decline to participate in a buyout of their original, storm-damaged property will be subject to either the Homebuyer Assistance Guidelines or the Homeowner Assistance Guidelines, depending upon their choice. These Round 2 Housing Guidelines do not replace or supersede the Guidelines developed by subrecipients under Round 1 funding, unless expressly amended to be included in those Guidelines.

PART A – GENERAL PROGRAM GUIDELINES

I. PROGRAM OBJECTIVES

- A. Texas is still in the recovery process for both its communities and residents due to the impacts suffered by Hurricanes Ike and Dolly. The primary focus of this Program is to

provide relief for those people impacted by Hurricanes Ike or Dolly while addressing recognized impediments to affirmatively furthering fair housing as required under the Fair Housing Act. Assistance will be provided under a variety of housing activities including acquisition, rehabilitation, reconstruction, new construction, demolition, elevation, hazard mitigation, and storm hardening of homeowner and rental housing units.

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

II. DEFINITIONS

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

Reconstruction – Demolition and re-building of a stick-built or modular housing unit on the same lot in substantially the same footprint and manner. Activity also includes replacing an existing substandard manufactured housing unit (MHU) with a 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.

New Construction – A replacement home that substantially exceeds the original footprint on the existing lot (if permitted) or the construction of a new home in a new location.

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

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

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

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

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

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

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

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

Program Design – The selection and development of programs and activities based on a Needs Assessment. The Program Design must include the type of housing activities that will be offered by the subrecipient, as well as how the Program will be marketed, how Fair Housing Objectives will be achieved, and how funding will be prioritized as determined through the Needs Assessment.

Low to Moderate Income (LMI) National Objective – Activities which benefit households whose total annual gross income does not exceed 80% of Area Median Income (AMI), adjusted for family size. Income eligibility will be determined and verified in accordance with 24 CFR Part 5 requirements using procedures as stated in the Technical Guide for Determining Income and Allowances, 3rd Edition (HUD-1780-CPD). The most current income limits, published annually by HUD, shall be used by the subrecipient to verify the income eligibility of each household applying for assistance at the time assistance is provided. The LMI economic

subcategories of very low, low and moderate for the CDBG Program correspond to the economic subcategories of extremely low, very low and low as identified in the Conciliation Agreement and are defined as follows:

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

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

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

Urgent Need National Objective – An urgent need that exists because existing conditions pose serious & immediate threat to health/welfare of community, the existing conditions are recent or recently became urgent (typically within 18 months), and the subrecipient cannot finance the activities on its own because other funding sources are not available. Use of this National Objective is not anticipated to be permitted with Ike and Dolly Round 2 funding.

Duplication of Benefits – The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG Disaster Recovery funding with respect to any part of a loss resulting from a major disaster as to which he has already received financial assistance under any other program or from insurance or any other source. The state will allow for the most permissive current interpretation provided by HUD in determining Duplication of Benefit.

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

Subrecipient – Cities, Counties, Indian Tribes, local governmental agencies (including COGs), private non-profits (including faith-based organizations), or a for-profit entity authorized under 24 CFR 570.201(o). The definition of subrecipient does not include procured contractors providing supplies, equipment, construction, or services, and may be further restricted by Program Rules or other guidance including applications.

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

Household – A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two (2) or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the low to moderate income objective is based on the LMI of households.

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

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

FEMA-Designated High Risk Area: Areas designated by FEMA as vulnerable to significant wind and/or storm surge damage and areas located in 100-year flood zones. These areas will be identified during the environmental review process for each participating jurisdiction.

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

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

III. EVALUATION OF DATA

- A. In order to develop the Program Design for all activities offered through Ike and Dolly Round 2 funding, each subrecipient must use qualified data (HUD/FEMA data used to allocate the disaster funding, current FEMA data, data used to support the litigation involving FEMA undercounts in the Lower Rio Grande Valley, or other data as approved

- B. Qualified data will be used to document the impact of the relevant storm on the economic LMI subcategories and to assist the subrecipient in developing the plan for targeting the use of those funds, in the appropriate levels, to the appropriate economic categories.
- C. The method of data evaluation utilized by the subrecipient (i.e., class distribution categories by income, raw number of homes impacted versus the aggregated dollar amounts impacting communities, etc.) must be made available to the public for fifteen days on a publicly accessible website. Notice of the posting of the method of review must be provided to TDHCA not later than the day the method is posted on a website.
- D. If any public comment is made, the subrecipient must address the comment in a public response.
- E. Once the method of interpretation of the data has been vetted publicly and adopted by the subrecipient, the subrecipient should program the use of the funds. The data evaluated should provide targeted classes that will be used to develop the program and its marketing components.
- F. Persons with accessibility or other special needs adaptations should also be analyzed as part of the process.

IV. USE OF PRIOR APPLICATIONS

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

V. TARGETING COMMUNITIES

- A. Once the most impacted areas/income brackets have been developed, the subrecipient should, at a minimum, set aside an equal amount of the funds to provide an equitable relationship between determined damages to the socio-economic LMI subcategories and the funds received. Subrecipients may provide an additional amount of funds to the lowest income levels if desired.

- B. Once targeted areas are identified, the subrecipient shall use either conduct an analysis of impediments to fair housing or rely on the Phase 1 Analysis of Impediments (AI) determine what impediments to fair housing choice exist in those areas.
- C. Based on the percentages of unmet need remaining for the LMI income subcategory populations as identified by the needs assessment and the specific impediments identified by the Phase 1 AI, recommended actions to overcome the impediments should be developed into a program plan.
- D. As called for in Part A of the General Program Guidelines, an affirmative marketing plan to conduct outreach to the impacted communities is required in order to apply for the disaster recovery program. The outreach program developed should be approved in advance by TDHCA or, in the alternative, posted for 15 days for comment on a publicly accessible website with notice to TDHCA that the plan has been made public. Public comments made should be addressed prior to utilization of the plan.

VI. PROGRAM REQUIREMENTS

- A. All housing activities must meet one of the three National Objectives required under the authorizing statute of the CDBG program:
 - Benefit Low to Moderate Income (LMI) persons;
 - Aid in the prevention or elimination of slums or blight (Slum and Blight); and
 - Meet a need having a particular urgency (Urgent Need). (The use of Urgent Need is not anticipated to be permitted with Ike and Dolly Round 2 funding).
- B. Subrecipient must conduct a Needs Assessment to determine the types of programs it will offer and the Needs Assessment will become the basis for Program Design. The Needs Assessment will determine the activities to be offered, the demographics to receive concentrated attention and the target areas to be served. The subrecipient must demonstrate how the programs and activities selected for those areas will overcome the identified impediments to fair housing.
- C. Subrecipient's obligations are as follows:
 - a. Prior to the completion of the Phase 1 Analysis of Impediments (disaster-area AI), subrecipients must conduct a local review of impediments sufficient to support the required demonstration that any project submitted for priority funding affirmatively furthers fair housing.
 - b. Once the Phase 1 disaster area AI is complete, subrecipients must conduct whatever level of review and evaluation is necessary to apply the findings of the disaster area AI to their jurisdiction and design programs that affirmatively further fair housing in compliance with that AI and analysis. Local jurisdictions do not need to conduct a local Analysis of Impediments in addition to the disaster area AI.

- c. Subrecipients may incorporate existing Analysis of Impediments documents into any evaluation of how to use CDBG-DR funds to overcome impediments to fair housing, but cannot substitute a local AI for the disaster area AI and should be cautious about using existing documents as many are not in compliance with HUD's current Fair Housing guidance.
- d. TDHCA's proposed subrecipient performance standards will require that within a period of no more than eighteen months from the date of commencement of the Program, which is the start (effective) date of the contract between TDHCA and the subrecipient. Each subrecipient will have identified sufficient eligible beneficiaries such that the subrecipient will be able to provide reasonable assurance that the subrecipient will be able to expend all applicable funds within TDHCA-established benchmarks.
- e. The Needs Assessment and analysis of HUD/FEMA demographic disaster victim data will dictate the proportions of funding that must be set aside to benefit each LMI economic group. Original FEMA data is not sufficient alone and must be adjusted with other eligible sources of data. Factors for this adjustment should be supplemented by local studies and litigation where available as well as HUD allocation formulas which add a "challenge to recover" factor to FEMA and SBA data. TDHCA will assist the subrecipient with the analysis and provide applicable raw data.
- f. Applicants applying for disaster assistance are processed by the subrecipient and must meet certain eligibility standards to qualify for assistance. Eligibility standards are further discussed in the activity-specific housing guidelines.
- g. All sites must undergo a complete environmental review prior to any commitment of funds. An environmental review consists of a statutory checklist of required review items. Properties with environmental conditions will not be permitted to proceed under housing activities unless the condition is corrected. No work can start on a site until the environmental assessment is complete.
- h. For assistance activities, it must be demonstrated that the damage or destruction to structures was a direct result of Hurricanes Ike or Dolly. Hurricane damage can be documented as follows:
 - i. FEMA, SBA or Insurance award letters.
 - ii. In the event that the above-referenced documentation is not available, an inspection report (complete with photos of the damage and a written assessment of the damage) from a damage assessment conducted by a qualified inspector supplied by the subrecipient that certifies that the damage occurred as a result of the hurricane will be acceptable.

- iii. In the event that FEMA, SBA or Insurance award letters are not available and an inspection report is inconclusive as to the cause of the damage, the subrecipient may provide alternative evidence, such as neighborhood-level media reports or documentation of damage by disaster response/relief organizations on a case-by-case basis to TDHCA for review and approval.
- iv. If an applicant was denied assistance by FEMA, assistance through the CDBG Disaster Recovery Program may still be available. Subrecipients are prohibited from refusing housing assistance to applicants solely on the basis that the applicants were denied assistance by FEMA.

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

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

- a. Pregnant women: Children expected to be born to pregnant women are included as members of the household.
- b. Adoption: Children who are in the process of being adopted are included as members of the household.
- c. Foster Children: Foster children residing in the unit along with families who are certified for foster care and are awaiting placement of children are included as members of the household. If children are anticipated to occupy the unit within a reasonable period of time, they must be considered when determining the issuance size.
- d. Joint/Shared Custody Arrangements: In most instances children in joint/shared custody arrangements should occupy the unit at least 50% of the time. However if individual circumstances merit special consideration, a waiver may be approved as outlined in the section on Issuance Size Exceptions. The custody arrangement may be verified by the divorce decree/legal documents or by self certification.
- e. Custody of Children in Process: Children whose custody is in the process of being obtained by an adult household member may be included as members of the household. Evidence that there is a reasonable likelihood that the child will be awarded to the adult (i.e. within three months) must be provided in order for such child to be included.
- f. Children Temporarily Absent from Household:
 - i. Children temporarily absent from the home due to placement in foster care may be included as members of the household. Evidence that there is a reasonable likelihood that the child will return to the household (i.e. within three months) must be provided in order for such child to be included.
 - ii. Children who are away at school, but live with the family during school recesses are included as members of the household.

H. Preferred Unit Sizes

- a. 1 Bedroom – No CDBG DR built home will be only 1 Bedroom.
- b. 2 Bedrooms
 - i. Adult/couple
 - ii. Adult/couple plus 1 child
 - iii. Adult/couple plus 2 children of same sex

c. 3 Bedrooms

- i. Adult/couple plus 2 children of opposite sex
- ii. Adult/couple plus 3 children
- iii. Adult/couple plus 4 children (2 boys and 2 girls)
- iv. Adult/couple with medical needs plus 1 child
- v. Adult/couple with medical needs plus 2 children of same sex

d. 4 Bedrooms

- i. Adult/couple plus 4 or 5 children (3 of same sex)
- ii. Adult/couple with medical needs plus 2 children of opposite sex
- iii. Adult/couple with medical needs plus 3 children

e. Issuance Size Exceptions

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

VIII. HOUSING ASSISTANCE CAPS

	Non-HOP Homebuyer Assistance	HOP Homebuyer Assistance	Homeowner Assistance	
			Reconstruction/ New Construction	Rehabilitation
Base Unit		Bid	Bid	\$65,000
Vacant Land		\$35,000		
Non-Coastal Elevation			\$35,000	\$35,000
Coastal Elevation			\$60,000	\$60,000
Water Well			\$30,000	\$30,000
Septic System			\$25,000	\$25,000
Accessibility		\$20,000	\$20,000	\$20,000
Abatement		\$20,000	\$20,000	\$20,000
Services		Actual or \$15,000	Actual or \$15,000	Actual or \$15,000
Totals:	\$40,000			

- A. Housing Assistance Caps are discussed further in the Homeowner and Homebuyer Guidelines.

IX. AFFIRMATIVE MARKETING PLAN - Local jurisdictions administering the CDBG Disaster Recovery Program are committed to affirmatively furthering fair housing through established affirmative marketing policies. Affirmative marketing efforts for the disaster funding will include the following:

- A. An Affirmative Marketing Plan, based on the U.S. Department of Housing and Urban Development (HUD) regulations, will be submitted to TDHCA for approval. The plan must outline the policies and procedures for housing activities. Procedures are established to affirmatively market units financed through the Program. The procedures cover dissemination of information, technical assistance to applicants, project management, reporting requirements, and project review.
- B. The goal is to ensure that, eligible persons from all racial, ethnic, national origin, religious, familial status, the disabled, “special needs,” gender groups, and for each project or program, the populations least likely to apply, are:
- Fully informed of vacant units available for sale and / or rent.
 - Encouraged to apply for purchase, rehabilitation, and / or rent.
 - Given the opportunity to buy and / or rent the unit of their choice.
 - Given the opportunity to rehabilitate their primary residence, which sustained damages due to Hurricanes Ike or Dolly and / or its after-effects.
- C. Program participants will be informed about available opportunities and supporting requirements via counselors, printed and electronic materials, publications, direct contact, workshops/seminars, and through the placement of flyers/posters in public facilities.

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

- D. In addition to marketing through widely available media outlets, efforts will be taken to affirmatively market the CDBG Disaster Recovery Program as follows:
- Advertise with the local media outlets, including newspapers and broadcast media, which provide unique access for persons who are considered members of a protected class under the Fair Housing Act.
 - Include flyers in utility and tax bills advertising the Program.
 - Reach out to public or non-profit organizations and hold/attend community meetings.
 - Other forms of outreach tailored to reaching the eligible population, including door to door outreach if necessary.
- E. Applications and forms will be offered in English and other languages prevailing in the region. In addition every effort will be made to assist such applicants in the application process.
- F. In addition, measures will be taken to make the Program accessible to persons who are considered members of a protected class under the Fair Housing Act by holding informational meetings in buildings that are compliant with the Americans with Disabilities Act (ADA), providing sign language assistance when requested, and providing special assistance for those who are visually impaired when requested.
- G. Applications and forms will be offered in English and other languages prevailing in the region. In addition every effort will be made to assist such applicants in the application process.
- H. Documentation of all marketing measures used, including copies of all advertisements and announcements, will be retained and made available to the public upon request.
- I. The subrecipient will be required to use the Fair Housing logo in Program advertising, post Fair Housing posters and related information, and, in general, inform the public of its rights under Fair Housing regulations law.
- J. Multifamily rental programs must develop an Affirmative Marketing Plan for each development receiving CDBG Disaster Recovery funding. The plan, pursuant to federal regulations, will outline strategies to inform the public about the housing opportunities, requirements/practices that the owner must adhere to in executing the Affirmative Marketing Plan, procedures that will be followed in soliciting applications, and a description of records that will be maintained and made available for review. Notice to Public Housing Authorities in the region in order to inform households on DHAP that permanent housing is available should be part of the Plan.
- K. Evaluation of outreach activities and applications received will be necessary to determine if outreach is successful and applications that are being received accurately reflect the

socioeconomic and other forms of demographic diversity identified in the Needs Assessment. Evaluation should be an ongoing process and begin no later than one month after the program begins accepting applications. TDHCA should review these reports before the subrecipient begins qualifying applicants, and periodically thereafter.

L. The availability of the Program funds shall be advertised at a minimum through the following venues:

a. Local newspapers, including but not limited to the following:

1. A
2. B
3. C

b. Local broadcast media, including but not limited to the following:

1. A
2. B
3. C

c. Public or non-profit organizations, community meetings, including but not limited to the following:

1. A
2. B
3. C

d. Other public groups including but not limited to:

1. A
2. B
3. C

e. Other outreach may include use of flyer in utility bills, church bulletins, and door to door outreach.

f. Evaluation of outreach activities and single family applications received will be necessary to determine if single family applications are received from a diverse population and ranges of income to ensure low/moderate income households are assisted in a proportion to the percentage of overall populations.

M. Applications and forms will be offered in English and other languages prevailing in the region. In addition every effort will be made to assist such applicants in the application process.

X. REPORTING REQUIREMENTS

- A. Compliance will be maintained in accordance with the reporting requirements under TDHCA's CDBG Disaster Recovery Program. This includes all information and reports as required under the TDHCA contract with the subrecipient and demographic data and other information on applicants and awardees processed by the subrecipient as required by the Conciliation Agreement.
- a. TDHCA will establish procedures for subrecipients to periodically report on goals and compliance with Section 3 as required by 24 CFR Part 135 and the contract between TDHCA and the subrecipient.
 - b. TDHCA will establish procedures for subrecipients to collect and report data relevant to Affirmatively Furthering Fair Housing and Civil Rights compliance as required by the Conciliation Agreement. The reporting requirements will include, but not be limited to the following:
 - i. For each program activity requiring a direct application by an individual or non-institutional entity:
 - 1. Applicant household's income
 - 2. Household's income as a percentage of area median family income as defined by HUD
 - 3. The race and ethnicity of the head of household
 - 4. The household's familial status
 - 5. The presence or non-presence of a household member with a disability
 - ii. For each activity providing housing or housing assistance that is not directly linked to a specific beneficiary:
 - 1. The cost of the housing unit to the applicant and to the occupant
 - 2. The maximum qualifying household income as a percentage of area median family income as defined by HUD
 - 3. Restrictions regarding the age or familial status of occupants
 - 4. The presence or absence of designs or services that make the housing unit accessible to an individual with a disability and the number of fully accessible units.

XI. RECORDS RETENTION

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

XII. PROCUREMENT REQUIREMENTS

- A. Procurement is the acquisition of goods and services to be used internally by the subrecipient to carry out the Program. The procurement process includes the decision to purchase as well as the process to complete the purchase. The federal government has established a set of procurement rules at 24 CFR Part 84 and 85 that apply to CDBG-funded projects. These rules are in place to ensure that federal dollars are spent fairly and encourage open competition for the best level of service and price. In addition, the State of Texas has enacted a set of regulations that also apply to CDBG contracts through the Uniform Grant Management Standards, the Texas Government Code and the Local Government Code. If a conflict between federal and state procurement regulations should occur, safe harbor is typically found in the more stringent regulation.
- B. Subrecipient is required to submit a plan for compliance with Section 3 (24 CFR Part 135) requirements for TDHCA approval prior to the start of construction on any contract activity.

XIII. SITE AND DEVELOPMENT RESTRICTIONS

- A. Housing that is constructed or rehabilitated with CDBG funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. International Residential Code (IRC) (with windstorm provisions) and International Building Code (IBC) must be used as required where appropriate. All rehabilitation projects must comply with Housing Quality Standards (HQS) and all applicable local codes and ordinances. To avoid duplicative inspections when Federal Housing Administration (FHA) financing is involved in a CDBG-assisted property, the subrecipient may rely on a Minimum Property Standards (MPS) inspection performed by a qualified person. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.
- B. All other CDBG-assisted housing (e.g., acquisition) must meet all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR §982.401. All multifamily rehabilitation developments are subject to a Uniform Physical Conditions Standards inspection. All deficiencies identified in that inspection must be corrected before final retainage is released.
- C. Housing developments must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794). Multifamily housing developments must meet the design and construction requirements at the Texas

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

- D. All Applications will be required to meet Section 8 Housing Quality Standards detailed under 24 CFR §982.401, Texas Minimum Construction Standards, as well as the Fair Housing Accessibility Standards and Section 504 of the Rehabilitation Act of 1973. Developments must also meet all local building codes or standards that may apply.

XIV. CONFLICT OF INTEREST

- A. The conflict of interest regulations contained in the contract between the subrecipient and TDHCA prohibit local elected officials, subrecipient employees, and consultants who exercise functions with respect to CDBG Disaster Recovery activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, from receiving any benefit from the activity either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.
- B. For purposes of this section, “family” is defined to include parents (including mother-in-law and father-in-law), grandparents, siblings (including sister-in-law and brother-in-law), and children of an official covered under the CDBG conflict of interest regulations at 24 CFR Sec. 570.489(h).
- C. The Department is able to consider granting an exception to the conflict of interest provision should it be determined by TDHCA that the subrecipient has adequately and publicly addressed all of the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the Housing and Community Development Act of 1974 and the effective and efficient administration of the program. Do not enter into a conflict of interest until a request for an exception has been granted.

XV. COMPLAINT/APPEAL PROCESS

A. Citizen complaints will be handled as required under the following regulations:

- a. 24 CFR 91.11(h) Citizen Participation Plan which states, “The citizen participation plan shall describe the State’s appropriate and practicable procedures to handle complaints from citizens related to the consolidated plan, amendments and performance report. At a minimum, the citizen participation plan shall require that the State must provide a timely, substantive written response to every written citizen complaint, within an established period of time (within 15 working days, where practicable, if the State is a CDBG recipient).”
- b. 24 CFR 570.486(a)(7) Local Government Requirements, which states, “Provide citizens the address, phone number, and times for submitting complaints and grievances, and provide timely written answers to written complaints and grievances, within 15 working days, where practicable.”
- c. 10 TAC Sec.1.17(a) Alternative Dispute Resolution which states, “In accordance with §2306.082, Texas Government Code, it is TDHCA's policy to encourage the appropriate use of Alternative Dispute Resolution ("ADR") procedures to assist in the fair and expeditious resolution of internal and external disputes involving TDHCA and the use of negotiated rulemaking procedures for the adoption of Department rules, consistent with the Governmental Dispute Resolution Act and the Negotiated Rulemaking Act (Chapters 2009 and 2008, respectively, Texas Government Code). TDHCA's ADR procedures must conform, to the extent possible, to model guidelines issued by the State Office of Administrative Hearings for the use of ADR by state agencies (§2306.082(b), Texas Government Code).”

B. Resolution of complaints must be handled sensitively and fairly. Complete and thorough program documentation and contractual agreements, careful implementation of policies and procedures, and clear and respectful methods of communication will help prevent and resolve complaints. Incorporation of escalation procedures into the complaint process will support resolution at the earliest stage possible.

C. Information about the right and how to file a complaint shall be printed on all program applications, guidelines and subrecipient web sites in all local languages, as appropriate and reasonable.

D. Types of Complaints

- a. Policy: There are two types of complaints; formal and informal.
 - i. Informal: Informal complaints may be verbal and can come from any party involved in the application process, including the homeowner or

building contractor. A written procedure for handling these complaints is not required.

- ii. Formal: Formal complaints are written complaints, including faxed and emailed statements. A written procedure for dealing with formal complaints is required.

b. Required Documentation: Statement of policy only. No required documentation.

c. Verification Procedures: Statement of policy only. No verification procedures required.

E. Informal Complaints

a. Policy:

- i. Informal complaints may be verbal, and can come from any party involved in the process, including the homeowner or building contractor.

- ii. A written procedure for handling these complaints is not required.

b. Required Documentation: Statement of policy only. No required documentation

c. Procedure:

- i. A person who calls the subrecipient to file an informal complaint will be advised on how to file a formal complaint if their complaint cannot be immediately resolved.
- ii. The subrecipient procedures will include a complaint escalation process in order to ensure complaints are handled at the earliest stage in the process.
- iii. Parties interested in TDHCA's Programs are directed by program literature, the program and the website and information provided by subrecipient staff. Notwithstanding these directions, some individuals will choose to make inquiries directly to TDHCA.
- iv. The following outlines suggested procedures in the event a question is posed directly to TDHCA:

d. Action for subrecipient Staff:

- i. Obtain all pertinent applicant details including name, address, contact number and application ID.

- ii. Capture the details of the question or complaint to include the names of program personnel previously contacted.
- iii. Contact subrecipient Program Manager and provide details of the query. Forward copies or originals of any documents or correspondence received. Please include how any questions were answered, what information was provided and what action you would like the subrecipient Program Manager to take, if any.

F. Formal Complaints

a. Policy:

- i. Formal complaints are written statements of grievance. These complaints may come to the subrecipient Program Manager or TDHCA in the form of a fax, email or letter and are handled through a documented set of procedures that comply with federal regulations and TDHCA requirements. The Complaint Tracking System will be used to store, track, and document resolution of the complaint.
- ii. The formal complaint process tracks the process outlined by TDHCA for handling complaints.
- iii. If the formal complaint is submitted to TDHCA, TDHCA at their discretion will submit the complaint to the subrecipient.
- iv. The subrecipient will document, process, and file all complaints received from TDHCA following the policy and procedures outlined.
- v. Complaints with insufficient data or submitted by a third party with no standing in the application about which the complaint is being submitted need not be accepted.

b. Required Documentation:

- i. The Complaint Policy and Procedures documentation includes the following elements:
 - 1. Definition of the kind of disputes or complaints that will be handled.
 - 2. Identification and description of the party responsible for handling the complaint and the disposition.
 - 3. Appeal process available to complainants, including how an appeal is initiated, to whom the appeal is made, time limits for filing an

appeal, and any details pertaining to the reviewer or person(s) who handle the appeal; and

4. How to file a formal complaint

c. A file for each complaint will be maintained. The file will document each step of the complaint process and will include the following:

- i. The name of the person who filed the complaint;
- ii. The date the complaint was received;
- iii. A description of the complaint;
- iv. The name of each person contacted in relation to the complaint;
- v. A summary of the results of the review or investigation of the complaint; and
- vi. An explanation of the reason the file was closed, if the file was closed.

d. Procedure:

i. In order for a complaint to be processed it must be received in writing (includes fax and email) and must include:

1. The name of the complainant, and
2. Contact information of the complainant
3. Complaints may be submitted in the following ways:
4. By mail: (insert subrecipient mail info)
5. By fax: (insert subrecipient fax info)
6. Online: (insert subrecipient online info)

ii. Upon receipt of a written complaint, the PM or designee will perform the following steps:

1. Assign a control number to the complaint;
2. Review and/or investigate the complaint;
3. Determine to which program the complaint refers;

4. Submit the findings to an individual designated by TDHCA;
 5. Provide a copy of TDHCA's policies and procedures relating to investigation and resolution to the complainant and to each person who is subject of the complaint;
 6. Notify the complainant of the resolution within fifteen (15) business days after the complaint was received.
- iii. The following outlines the procedure in the event a formal complaint is received:
1. Enter all pertinent information into the Complaint Tracking System. Enter the information under the category "Complaint Tracking". This will generate a Ticket/Control number. There will be a separate file or ticket for each complaint. The entry must contain the following information:
 - a. The name of the person filing complaint
 - b. The date the complaint was received
 - c. A description of the complaint
 2. Upload an electronic copy of the complaint into the Complaint Tracking System.
 3. Notification will be sent via email to Operations Manager from the Complaint Tracking System. The ticket status will be updated to "Assigned".
 4. Determine if complaint is complete, relevant and has standing.
 5. The complaint will be reviewed in detail and investigated through to resolution. Findings will be forwarded to an individual designated by TDHCA.
 6. Progress updates of the review/investigation will be entered into the Complaint Tracking System by specific ticket number.
 7. Notification will be sent to complainant within fifteen (15) business days after the complaint was received.
 8. Once resolution has been determined and notice has been sent to complainant, the status of the ticket will be updated to "Closed".

- iv. Citizens will be provided with the address, phone numbers, and times for submitting complaints or grievances.
- v. The Complaint Tracking System will categorize complaints, track the resolution process, and report on complaint status.
- vi. Corrective action is implemented, where warranted.

XVI. CHANGES, WAIVERS, AND/OR CONFLICTS

- A. The subrecipient has the right to change, modify, waive, or revoke all or any part of these guidelines, with the prior written approval of TDHCA.
- B. Waivers to the requirements in these Guidelines can only be approved by TDHCA and must be in provided in writing. TDHCA will provide the option for a waiver, only after the posting of the waiver request on the Department website for a public comment period of at least ten (10) days. The waiver request must demonstrate why the housing guidelines are not practicable for the subrecipient.
- C. In the event that these Guidelines conflict with local, state, or federal law, the more stringent requirement will prevail, provided that the requirement does not violate local, state or federal law.

PART B – HOMEOWNER OPPORTUNITY PROGRAM

INTRODUCTION

- A. The Homeowner Opportunity Program (HOP) is a Disaster Recovery Housing Program that involves options up to and including the “buyout” of a home that has been “destroyed” by the hurricanes and the subsequent relocation of the homeowners to a location that is a safer and higher opportunity neighborhood. Destroyed, for the purposes of the HOP, means that the home cannot feasibly be rehabilitated under the rehabilitation cap to the point where the entire house meets, at least, Housing Quality Standards (HQS). Households for whom rehabilitation is sufficient will not qualify for relocation under the HOP. Households whose home has been destroyed may elect to decline relocation and reconstruct the original, storm destroyed property to remain in place. The options of the HOP include: reconstruction or replacement of the existing home; the purchase of a vacant lot on which to build a new home or locate a manufactured home; or the purchase of a home.
- B. Subrecipients must make counseling available to income-qualified applicants living in a FEMA-designated “High Risk” area or area of high minority and/or poverty

concentration (as approved by TDHCA) and extend the opportunity to participate in the HOP. The mandated counseling will include information on the applicant's rights under the Fair Housing Act and the various disaster recovery housing program options; moreover, it will concentrate on providing the applicants the information and assistance necessary to facilitate their decision as to whether to rebuild in place or to relocate.

- C. Relocation counselors and licensed real estate professionals will explain the housing options and choices available to the applicants. It is a voluntary path, for the applicant, that is not to be confused with a compensation-style, traditional buyout involving only the acquisition of the damaged property. Relocation of applicants who qualify for the HOP must remain within the jurisdictional boundaries of the Council of Government (COG) to which the original storm-damaged residence pertains.
- D. Any subrecipient who intends to provide housing benefits must develop a program that provides opportunities consistent with this guidance prior to seeking applications. To accomplish this, Reconstruction, Rehabilitation, LMI Homebuyer Assistance, or Acquisition (combined with another eligible activity) must be offered at a minimum. TDHCA will provide the subrecipient with technical assistance and guidance relating to the HOP process, counselor qualifications and reporting forms.

I. COUNSELING MADE AVAILABLE

- A. As applications are being accepted and reviewed for determinations of eligibility to participate in the Program, each applicant should be counseled and the various disaster recovery housing program options evaluated with the applicant.
- B. Any LMI applicant should be allowed to receive counseling to provide guidance on the housing program options.
- C. Applicants determined to be eligible for participation in the HOP will receive counseling and professional real estate services to provide guidance on their housing options unless expressly declined by the applicant. Professional real estate services will include, but not be limited to such services as providing guidance about and the opportunity to visit properties and neighborhoods in higher opportunity areas and/or areas outside of high minority and poverty concentrations.
- D. Each counselor shall receive training provided by TDHCA in the housing programs offered by the subrecipient, receive affirmatively furthering fair housing training, and meet mortgage counseling licensing requirements consistent with federal and state law.
- E. Once a counselor is assigned to an application, the counselor should make contact with the applicant within 10 days. The counselor should remain with that applicant as the chief point of contact (case manager), throughout the life of the application process until

closing of the property. If a counselor leaves or is reassigned, the applicant will be assigned a new counselor who shall make contact with the applicant within 10 days of being assigned the file.

II. PROGRAMS MUST BE MADE AVAILABLE

- A. Counselors should have resource information available to them to provide educated advice and to assist in decision making by the clients. These materials should include, at a minimum, school district ratings for eligible communities in the subrecipient's jurisdiction, health service facilities and programs available in the community for those needing assistance, a mechanism for discussing transfer of programs currently being utilized by applicant, and average utility costs and taxes for eligible program communities.
- B. The subrecipient must develop the qualifications for each program that does not discriminate against a person or direct their activity choices by steering applicants to one choice or another due to inequitable benefits. As part of the Program Design, the subrecipient must review the program and determine what additional costs would be included in each program in order to make each choice relatively equal in terms of total overall cost.
 - a. Relative equality does not mean that the total cost of a reconstructing a home plus all other expenses eligible for rebuilding in place: a new water well, a new septic system, accessibility features (ramp, lift, etc.), and/or housing elevation would necessarily be the total amount of funds available for a relocation scenario through the HOP Homebuyer Assistance activity. The equal alternative is the cost of the house to which the beneficiary is relocated (CDBG DR assistance limited by the bids received for the standardized core home) plus accessibility features alone. The comparison is on the home provided, not the funds expended.
- C. Relocations through either lot acquisition and construction or acquisition of a new/existing home will only be allowable only if the lot does not require home elevation expenses. Beneficiaries may not be relocated to FEMA-designated "High Risk" areas or areas of high minority or poverty concentration as determined by TDHCA. Participants should be relocated to safer and higher opportunity areas; nevertheless, there may be areas that require special attention for the purposes of relocation. Lots that need wells or septic work will be determined on a case by case basis. However, accessibility enhancements will be eligible for all programs.
- D. The program as designed must relocate persons in concentration of protected classes or poverty out of these conditions and not into other areas that have similar characteristics.

III. USE OF EXTERNAL PROFESSIONALS

- A. The HOP Homebuyer Assistance program will include the cost of professional services. Examples include real estate agents to provide guidance, including the opportunity to

visit neighborhoods and properties, to advise applicants about lots or homes that are available in higher opportunity areas of the community with less concentrated areas of poverty and/or minority population. Professionals must receive training as mandated by the State in order to be certified eligible to participate in this program.

- B. Professionals must be licensed by the state where appropriate. The subrecipient can, using proper procurement practices, hire full time professionals or create a qualified list of candidates and randomly assign them to files. The subrecipient should include estimated fees and associated costs in their program design.
- C. Liability issues may be addressed in the program design.

IV. DOCUMENTATION OF PROGRAM

- A. The program design should include required documentation throughout the program. TDHCA will develop standardized documentation for the subrecipients to utilize to document that the program was offered and the decision by the applicant to participate or not was made with informed consent. The applicant's signature documenting that they received counseling should be obtained.
- B. Any professional services rendered should create a contract with the applicant making the applicant aware that they are representing the applicant and not the program.
- C. In the event that the applicant refuses to receive counseling and wants to rebuild in place only, an affidavit form should be filled out by the applicant and notarized.

V. ACQUISITION OF PROPERTY

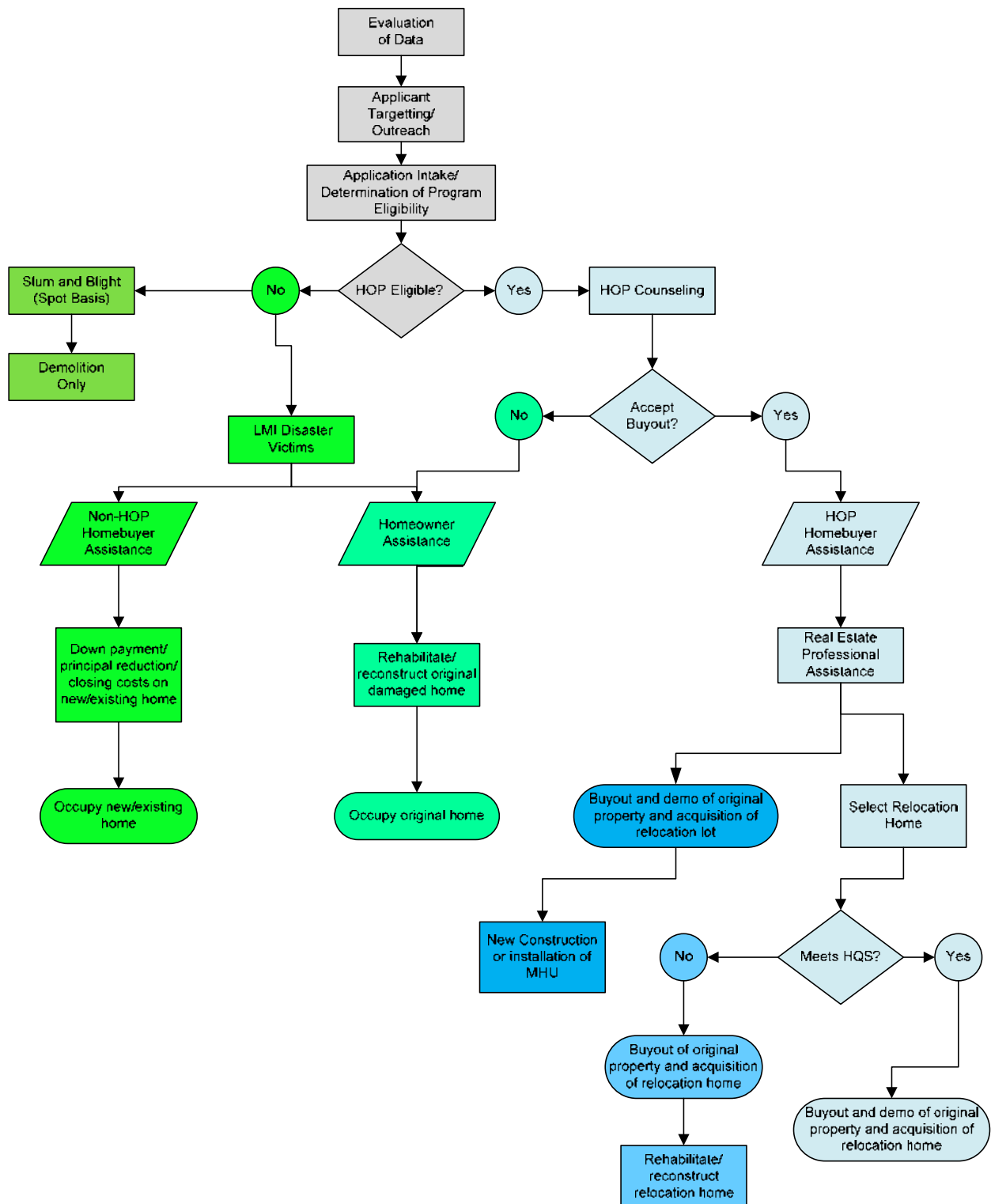
- A. The subrecipient must take title to the original, storm-damaged property. Title may be transferred to another unit of local government other than the subrecipient.
- B. The acquisition cost for the original property destroyed by the storm will be the cost of a replacement house based on the standardized specifications for the appropriate household composition and size which will be bid locally.
- C. Taxes must be current on the property to be acquired. CDBG DR funds cannot be used to directly pay back taxes. Applicants must be given the opportunity to pay back taxes.
- D. Outstanding liens or mortgages are the responsibility of the homeowner and must be satisfied prior to transfer of title.
- E. Fee simple title must be obtained. Should clear title not be available at the time of acquisition, the applicant will be allowed to participate in the TDHCA Title Clearance Program (pending available funding). Adequate funding to serve the applicant must be reserved until the title issues are resolved or one year from the date of the application have elapsed, whichever comes first.

- a. Eligible applicants who are unable to resolve title issues within one year of the application date may still qualify for regular homebuyer assistance (up to \$40,000). Assistance to rehabilitate or reconstruct the original home may also still be available.

VI. DISPOSAL OF PROPERTY

- A. The program should determine how property acquired shall be used once acquired through the buyout program. The property must meet the requirements of the CDBG Program in particular and HUD guidance in general.
- B. The existing property that is bought out will be demolished; demolition of the property may be performed with CDBG DR funds.
- C. To the extent allowed by HUD and where the final use of the property will be known and consistent with CDBG regulations and for the purposes of the relocation of the applicant, transfer of title to a nonprofit will be allowed.

APPENDIX A – IKE AND DOLLY ROUND 2 HOUSING GUIDELINES FLOWCHART



ATTACHMENT A

HURRICANES IKE AND DOLLY ROUND 2

SINGLE FAMILY HOMEOWNER PROGRAM GUIDELINES

INTRODUCTION

- A. The Texas Department of Housing and Community Affairs (TDHCA or the Department) is partnering with the Texas Department of Rural Affairs (TDRA) in the administration of funds under a Community Development Block Grant (CDBG) Disaster Recovery Program (Program) funded by the U.S. Department of Housing and Urban Development (HUD) under Public Law 110-329. TDHCA is the lead agency and responsible for disaster funds allocated to housing activities. Local entities including Cities, Counties and Councils of Local Government administer these funds on the local level for housing activities.
- B. Housing Guidelines have been developed to serve as the basis for housing programs related to Round 2 of the Program. This document is expected to serve as direction for the Single Family Homeowner Program activities funded under Round 2. These Guidelines do not replace or supersede the Guidelines developed in use under Round 1. Additionally, these guidelines supplement the General Guidelines which provide direction for issues that affect all of the programs and cover all areas of administration not expressly covered in this document. Subrecipient must incorporate those elements into their Single Family Homeowner Program.
- C. Subrecipient has received Hurricanes Ike and Dolly Round 2 Disaster Recovery Community Development Block Grant (CDBG) funding for a Single Family Homeowner Program administered by the Texas Department of Housing and Community Affairs (TDHCA or the Department).
- D. Benefit to Low to Moderate Income (LMI) is the principal National Objective approved for the Disaster Recovery Single Family Homeowner Program under Round 2. The use of Slum and Blight is eligible and, if requested by the subrecipient, will be evaluated during application review. The use of Urgent Need is not anticipated to be permitted with Ike and Dolly Round 2 funding. Eligible activities, which are defined in the General Guidelines, are as follows: rehabilitation, reconstruction, replacement, or new construction, and associated elevation and demolition. Subrecipient may also provide assistance for Individual Mitigation Measures (energy efficiency and storm mitigation activities). All activities must be consistent with the subrecipients' obligation to proportionately assist beneficiaries based on the needs assessment.

I. PROGRAM OBJECTIVES

- A. Texas was hard hit by hurricanes and is still in the recovery process both for its communities and its residents. The primary focus of this program is to provide relief for

those people impacted with consideration given to affirmatively further fair housing, as called for within the Fair Housing Act.

- B. The following objectives are provided for the implementation and administration of a successful CDBG Single Family Homeowner Program. Actual selection of applicants is discussed in Section XI of the Guidelines.
 - a. The primary objective of this Program is to provide decent, safe, and sanitary housing in the hurricane impacted areas through the provision of activities designed to mitigate storm damage that occurred as a result of Hurricanes Ike and Dolly, as well as any future hurricanes.
 - b. A second objective is to ensure that the housing needs of very low, low and moderate-income households are assisted with housing in no less than the proportion to their relative percentages of the overall populations which suffered housing damage within the communities being served.
 - c. A third objective is to prioritize the provision of decent, safe and sanitary housing for elderly and disabled populations with an emphasis on housing choice and design to reduce maintenance and insurance costs as well as provide for the provision of independent living options.

II. PROGRAM DESIGN

- A. Subrecipient will design a program utilizing the damage assessments provided by HUD and where appropriate, local data and Federal Emergency Management Agency (FEMA) data in order to determine the areas and populations most impacted by the storms. TDHCA will assist with the analysis and provide raw data.
- B. Needs Assessment. The subrecipient's Program Design must be based on a Needs Assessment, working with HUD information and conducted by local governments, according to the requirements detailed in the General Guidelines. That assessment serves as the basis for the specific Single Family Homeowner Program that will be offered by the subrecipient. Specifically, the assessment will be used to determine the activities to be offered to meet the types of housing needs experienced by the affected population, the demographics to receive concentrated attention and the target areas to be served.
- C. Program Marketing. The Program Design must feature an effective marketing program to encourage application. Marketing program requirements are detailed in the General Guidelines.
- D. Priorities for Evaluating Applicants. Results based on data from the Needs Assessment must be met. The LMI demographic groups must be disaggregated as follows:
 - a. 0% - 30% AMFI

- b. 31% - 50% AMFI
 - c. 51% - 80% AMFI
- E. All eligible applicants must be evaluated in order to establish the priority of funds within the above-referenced economic subgroups. Each subgroup must be funded at the levels indicated by the Needs Assessment and analysis; however, the lowest income households may be funded at a level in excess of their population's percentage of need. The intention is to incorporate both the family and dwelling characteristics of applicants in order to establish a system that gives the households that are less able to address need without public assistance a higher priority. The following household characteristics indicate a funding priority within the economic subgroups:
- a. Disability. If one or more members of a household have a documented disability that affects the design of the assisted unit, that household may be given priority within their income subgroup.
 - b. Age. If one or more members of the household are less than 18 years of age or 62 years of age or older, and has a lower AMFI.
- F. Application Intake and Counseling. A mechanism must be incorporated into Program Design to prevent any pre-screening of applicants without a written application being taken. Anyone who makes an inquiry about the program will be provided a TDHCA application package to complete; all such inquiries will be reported in a format to be provided by TDHCA.
- G. To provide the greatest chance for the Conciliation Agreement to be successful, single family applicants will be provided a counselor as an application intake person to explain the various programs and activities.
- H. Counselors or interpreters able to communicate with the applicant in their primary language will be assigned to the clients as appropriate. Counselors will be trained to be well versed in all activities, but specifically the buyout program found in the Conciliation Agreement that will explain options for LMI applicants to overcome recognized impediments to fair housing. Such a program will provide the following to those who have been determined by the subrecipient to qualify for the HOP:
- a. Provide counseling for the purchase of existing property including but not limited to realtor support, moving support and other program benefits to allow the applicants to select this option without a diminution of benefits.
 - b. Provide counseling for the new construction of a home on an alternative site including lot acquisition costs.
 - c. Provide counseling for reconstruction in place.

- I. Requirements for the buyout program are detailed in the Homebuyer Program guidelines under the Acquisition with Rehabilitation/Reconstruction section. These guidelines do not address requirements specific to this activity.
- J. Housing Standardization.¹ For new and reconstructed homes, construction specifications (for 2, 3 and 4 bedroom homes with total square footage ranges), will be developed by TDHCA. Each home must be constructed in accordance with Chapter 2306.514, Texas Government Code. The subrecipient may engage an architect to allow for local architectural variations; however, basic square footage (within ranges), room requirements, building materials and general specifications must remain standardized for any home newly constructed or reconstructed with CDBG DR funding. Elevation options will be developed by the subrecipient. The standardized specifications will then be put out for bid locally.
- K. Visitability Checklist (requirements are for first floor only, if multiple floors exist):
- At least one 36” entrance door (preferably the main entrance) is on an accessible route served by a ramp or no-step entrance
 - Each interior door is at least a standard 32” door, unless the door provides access only to a closed of less than 15 square feet
 - All door handles are to be lever door handles
 - Each hallway has a width of at least 36” and is level, with ramped or beveled changes at each door threshold
 - Each bathroom wall is reinforced for potential installation of grab bars
 - Each electrical panel, light switch or thermostat is not higher than 48” above the floor
 - Each electrical plug or other receptacle is at least 15” above the floor
 - If the applicable building codes do not prescribe another location for the breaker boxes, each breaker box is located not higher than 48” above the floor inside the building
 - Toilet seats are to be 1’4” – 1’7” above the floor
 - Design a minimum of 2’6” wide x 4’ open floor area with an out swinging door in at least one half bath and preferably one full bathroom
- L. Size of Units. Guidance for the preferred amount of people per bedroom is discussed in the General Program Guidelines. The total square footage (attached garages not included) ranges are as follows:
- 2 bedroom/1-2 bath home: 1,000 – 1,330 SF
 - 3 bedroom/1-2 bath home: 1,331 – 1,425 SF
 - 4 bedroom/2 bath home: 1,426 – 1,500 SF
- M. Housing Assistance Caps. Homeowner Assistance is limited by the Housing Assistance caps in the General Guidelines. The base unit “bid” amount is the maximum amount of

¹ Standardized specifications were not available at the time of the posting of this document. The specifications will be posted as an addendum/attachment to the Guidelines.

assistance available to reconstruct or newly construct a home. It is set when the standardized set of new home specifications in the Guidelines are bid locally. The intent of this rule is to equalize the funding available for different activities and choices. Homeowner Assistance allows for additional costs above the base unit amount including elevation and abatement. Additional costs are specified and capped in the General Guidelines.

- N. Rehabilitation of existing, hurricane damaged homes is capped at \$65,000. Additional expenses, such as elevation, are allowed as limited by the Housing Assistance Caps as described in the General Guidelines. Estimated rehabilitation costs exceeding this cap will be recommended for reconstruction.

III. ASSISTED HOMEOWNER ELIGIBILITY REQUIREMENTS

- A. The following are threshold requirements, which must be met for an applicant to be eligible for assistance. Eligibility does not assure assistance, since a prioritization strategy within LMI economic subgroups will be required (consistent with Program Design requirements) and it is expected that there will be more eligible applicants than can be served with available funds.
- B. Income Eligibility. The income limits to be utilized for the CDBG Single Family Homeowner Program are the current income limits established yearly by HUD for the Section 8 Housing Program. Subrecipient must always use the most recent income limits and will be monitored for compliance. All beneficiaries of the Single Family Homeowner Program must meet a National Objective. The Low to Moderate Income (LMI) National Objective is defined as providing a benefit to households at incomes of up to 80% of the locality's median income as computed on the most current HUD Section 8 Income Limits. Any activity carried out with CDBG funds that involves acquisition, rehabilitation or reconstruction of property to provide housing is considered to benefit LMI persons only to the extent such housing will, upon completion, be occupied by such persons. Current income limits for use by this program may be found at: <http://www.tdhca.state.tx.us/pmcomp/irl/home-cdbg-nsp.htm>.
- C. Proof of Ownership. The applicant must be an individual who owns the property to be repaired, rebuilt or replaced due to hurricane damage. Ownership can be documented as follows:
 - a. Provide a copy of a valid deed of trust or warranty deed that is recorded in the county records which cites the applicant's name. For MHUs, a Statement of Ownership and Location (SOL) may be provided.

- b. Recognizing a need for alternatives to traditional proof of ownership for persons impacted by natural disasters, the Texas Legislature passed language that has been codified in the Texas Government Code section 2306.188, and addressed in rules by 10 Texas Administrative Code Section 54.3. For the purposes of federally funded disaster recovery programs, this means that ownership may be proven in the following manner:
 - ii. Applicants may prove ownership by providing alternative documentation and completing a notarized affidavit that certifies that one of the following circumstances applies:
 - 1. there is nobody else who has the right to claim ownership;
 - 2. anyone who has a right to claim ownership has agreed to participate in the program; or
 - 3. anyone who has a right to claim ownership could not be located (after reasonable attempts to contact).
 - ii. The alternative documentation that can be provided instead of a copy of the deed includes (in order of preference):
 - 1. tax receipts;
 - 2. home insurance;
 - 3. utility bills; or
 - 4. other documentation deemed to be acceptable by TDHCA
 - iii. The documentation must show that the applicant was the person responsible for paying for these items at the time of the disaster. The required affidavit, form instructions and informational flyer may be found under Homeowner Assistance Forms at: <http://www.tdhca.state.tx.us/cdbg/ike-and-Dolly/forms/index.htm>.
 - iv. The above-referenced alternatives are not optional and must be incorporated into Program Design and allowed to prove ownership for all CDBG Disaster Recovery Programs in the State of Texas.
- D. Principal Residency. The unit to be rehabilitated, reconstructed or replaced must have been occupied by the applicant as the applicant's principal residence as of July 23, 2008 for Hurricane Dolly and September 13, 2008 for Hurricane Ike. Principal residency for

applicants can be demonstrated through property tax homestead exemptions. If a homestead exemption was not in place at the time of the disaster, an Affidavit of Principal Residency (form to be provided by TDHCA) may be utilized as an alternative method of verification of principal residency. The affidavit must be supported by documentation such as asset verification (income tax returns, credit check, etc.) or utility bills specific to the property address and name of the applicant which were active as of the applicable, above-referenced dates. Vacation homes and rental properties are not eligible for assistance under the Single Family Homeowner Program.

- E. Property Taxes. Applicant must furnish evidence that property taxes are current, have an approved payment plan or qualify for an exemption under current laws. Applicant must prove that property taxes have been paid or that one of the following alternatives have been met:
 - a. the property owner qualified for and received a tax deferral as allowed under Section 33.06 of the Texas Property Tax Code;
 - b. the property owner qualified for and received a tax exemption pursuant to Section 11.182 of the Texas Property Tax Code; or
 - c. the applicant entered into a payment plan with the applicable taxing authority.
- F. Support documentation verifying the tax deferral or tax exemption must be provided by the applicant. Any applicant that enters into a payment plan must supply a signed copy of the payment plan from the applicable taxing entity, along with documentation that they are current on their payment plan. The required affidavit and instructions may be found under Homeowner Assistance Forms at: <http://www.tdhca.state.tx.us/cdbg/ike-and-Dolly/forms/index.htm>.
- G. Insurance. Hazard insurance may be purchased on behalf of the assisted homeowner by CDBG Disaster Recovery Program for one year from the date of assistance. Assisted homeowners will be required to maintain hazard insurance. Failure to maintain hazard insurance may impact future disaster assistance.
- H. If the unit is located in the 100-year flood plain, flood insurance is required. Flood insurance will be purchased on behalf of the assisted homeowner by CDBG Disaster Recovery Program for one year from the date of assistance. Homeowners are required to maintain flood insurance after the first year. Failure to maintain flood insurance will impact future disaster assistance.

- I. Child Support. All applicants and co-applicants must be current on payments for child support. If the applicant or co-applicant is not current on child support, that member will be required to enter into a payment plan. Any applicant that enters into a payment plan must supply a copy of the payment plan signed by all applicable parties, along with documentation that they are current on their payment plan. The required forms and instructions may be found under Homeowner Assistance Forms at: <http://www.tdhca.state.tx.us/cdbg/ike-and-Dolly/forms/index.htm>.

IV. PROPERTY ELIGIBILITY REQUIREMENTS

- A. The following threshold requirements are applicable to the assisted unit and must be met in order for the applicant to receive assistance. Proof of Hurricane damage is discussed in the General Program Guidelines.
 - a. Unit Characteristics. Only single-family owner-occupied units within the subrecipient's jurisdiction will be eligible for single family homeowner programs.
 - b. Manufactured Housing Units (MHUs or mobile homes) are eligible for rehabilitation at the discretion of the subrecipient. However, the MHU to be rehabilitated must be no more than 5 years old at the time of assistance and no more than \$10,000 in hard and soft construction costs can be used to rehabilitate a MHU. The MHU must meet HQS upon completion. MHU rehabilitation costs that exceed \$10,000 will require reconstruction. Reconstruction of MHUs will consist of replacing the MHU with another MHU or a stick-built home that will meet only the current needs of the family or individual.

V. TYPES OF ASSISTANCE OFFERED

- A. Rehabilitation, Reconstruction, or New Construction assistance may be offered to applicants. Based on the extent of damage, applicants may be eligible for rehabilitation or reconstruction of their homes, or they may be offered new construction assistance.
- B. The option of new construction is limited for applicants who do not qualify for, or who do not select full participation in the HOP Homebuyer Assistance Program, which includes the buyout and demolition of the original, hurricane-damaged property. New construction for non-HOP Homebuyer applicants is limited to situations where local zoning/building permits, or federal requirements, such as environmental regulations, will not allow the reconstruction of the original, hurricane-damaged home.
- C. Temporary relocation assistance may be offered at the discretion of the subrecipient; however, the assistance may not exceed \$5,000 per household.

VI. TYPES OF IMPROVEMENTS

- A. Improvements needed to meet HUD Section 8 Existing Housing Quality Standards, and Cost Effective Energy Measures are eligible improvements.

- B. Improvements must be physically attached to the house and be permanent in nature (e.g., sheds or garages located separately from the house are ineligible). Eligibility of attached structures such as carports or utility rooms is based upon available funds and agreement by TDHCA in cases where safety or the structural integrity of the house is involved.
- C. Improvements will include as necessary lead-based paint abatement, asbestos abatement, handicapped accessibility for special needs, energy efficiency or ventilation items such as ceiling fans, window screens, screen doors, and window blinds.
- D. Individual Mitigation Measures (IMM) that mitigate and/or reduce risk for future disasters where the measures are above and beyond federal, state, or local construction or code requirements, and additionally the improvements exceed those that existed prior to the storm. Examples include elevation above the base flood elevation level, the addition of storm shutters, hurricane proof windows, roof straps, etc. as long as those improvements are not required to comply with local code or wind zone requirements.
- E. Cook stoves, refrigerators, and other necessary appliances are eligible items, but will only be considered when they are not present or the repair would not be cost effective. They will be dealt with on a case-by-case basis.
- F. Required permits, if any, will be obtained by the contractor at his/her expense and will be included as part of the bid costs.
- G. Assistance will not be used for luxury items, including but not limited to garage door openers, security systems, swimming pools, fences, and television satellite dishes.

VII. SUPPLEMENTAL IMPROVEMENTS

- A. All debris, abandoned vehicles, and buildings that pose a safety and/or health threat as determined by the local jurisdiction or person qualified to make such a determination, must be removed from the property prior to the start of construction. The assisted homeowners will remove derelict personal property.
- B. All electrical components must be inspected including service, meter, wiring, and fixtures even if no electrical work is being specified. Unsafe components must be replaced. All exposed wiring, switches, and light bulbs in living areas must be encased.
- C. All homes must be equipped with a smoke detector installed in conformance with the one and two-family dwelling code.
- D. Rehabilitated homes inhabited by handicapped or elderly persons must be analyzed as to the special physical needs of such persons. Improvements such as widened doorways, ramps, level entry and doorways, and grab bars in bath areas must be installed, if appropriate.

- E. If a home is to be reconstructed or a replacement home provided, the original home must be removed from the site.

VIII. FORMS OF ASSISTANCE

- A. Single Family Homeowner assistance shall be provided in the form of an Unsecured Deferred Forgivable Note (Note). The Note (Form 13.09) may be found under Homeowner Assistance at: <http://www.tdhca.state.tx.us/cdbg/ike-and-Dolly/forms/index.htm>.
- B. The subrecipient will be required to execute the Note with assisted homeowners (TDHCA will not be involved in the Note's execution) for all homeowner activities under the Hurricanes Ike and Dolly Disaster Recovery Programs. The Note will be required to be recorded in the County Courthouse records. The Note will require assisted homeowners to maintain principal residency in the assisted property for 3 years. Cash out refinancing, home equity loans or any loans utilizing the assisted residence as collateral are not allowed for three years; violation will activate the repayment terms of the Note. The subrecipient is required to monitor assisted households for compliance with the terms of the Note. Homeowners that default on the terms of the Note may be reported to Credit Bureaus and the Texas Office of the Attorney General.
- C. If the assisted homeowner continues to occupy the home until the term of the note expires, the owner pays nothing and there are no conditions on the disposition of the property. If the property is sold, transferred or vacated by the assisted homeowner for any single period that exceeds thirty (30) days during the three-year forgivable loan period, the repayment terms of the Note will be enforced except in those cases addressed in the paragraph below. Migrant farm workers who are recipients of a home under this program, may, when proven to be performing work for not more than six months, may leave a home vacant during the time of their employment, (but may not rent out the home), provided the recipient intends to return to the home. If the assisted homeowner for any reason ceases to reside in the assisted unit during the subrecipient's CDBG contract period, only LMI persons may reoccupy the unit until the contract is administratively closed by the Department or the CDBG contract period expires, whichever is earlier.
 - a. Accelerated Forgiveness in Certain Cases: In the event of (1) the death, (2) relocation to a managed care facility, or (3) relocation resulting from documented mental or physical incapacitation of the sole remaining assisted homeowner identified in the original application, the subrecipient may forgive any remaining loan balance. However, the requirement that only LMI persons may occupy the assisted housing unit until the CDBG contract is closed by the Department or the contract period expires shall not be waived by the subrecipient. Any waiver of this policy must be given by the Department.

IX. CONSTRUCTION

- A. If the unit to be assisted was built prior to 1978 and the type of assistance offered will be rehabilitation, the assisted unit will be tested for the presence of lead based paint. If present, the removal of lead based paint will be considered in the costs of rehabilitation under the Abatement cap as described in the General Guidelines. Lead paint inspection provides two benefits: (1) the costs of abatement are considerable and must be factored into the cost estimates for rehabilitation and (2) the health risks to residents, particularly children, may be severe so any presence of lead based paint in an assisted unit, even one that is to be reconstructed, must be reported so that the residents may seek appropriate medical attention.
- B. A pre-construction conference between the assisted homeowner, contractor, and the subrecipient will be conducted to insure that all parties are in agreement about the work to be completed. The pre-construction conference will consist of two parts: The first part deals with basic contract and procedural issues: begin and end dates of the contract; terms of the contract; payment schedules and procedures; inspection procedures and requirements; responsibilities of the contractor and the assisted homeowner; change order procedures; payment requests and procedures (escrow account); lead-based paint requirements; role of the subrecipient; complaint and conflict resolution procedures; and other programmatic procedures. The second part will consist of a walk-through of the house for rehabilitation assistance. All parties should understand how the work will proceed. Instructions will be given regarding clean up by the homeowner prior to the work, and the contractor after the work.
- C. Housing that is constructed or rehabilitated with CDBG funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. International Residential Code (IRC) (with windstorm provisions) and International Building Code (IBC) which will be used as required and as appropriate. All rehabilitation projects must comply with Housing Quality Standards (HQS) and all applicable local codes and ordinances. Additional codes and standards requirements are detailed in the General Guidelines.

X. CONTRACTOR SELECTION AND PROCUREMENT REQUIREMENTS

- A. Federal and State laws Governing Procurement
 - a. Texas Local Government Code - Chapter 252 (Municipalities) and Chapter 262 (Counties)
 - b. The full text of the Chapters from the Texas Local Government Code can be found via the internet at: <http://www.legis.state.tx.us/>.
- B. Chapter 252 Municipal Grant Recipients Construction Bidding Procedures

- a. TDHCA's municipal Grant Recipients are generally required to conduct competitive sealed bid procurement for any and all contracts over \$50,000.
- b. Municipalities are required by state law to advertise their invitation for bids in a newspaper published in the municipality at least once a week for two consecutive weeks. The date of the first publication must be before the 14th day before the date set to publicly open the bids. If no newspaper is published in the municipality, the notice must be posted at city hall for fourteen days prior to the date of the bid opening [Texas Local Government Code Section 252.041(a)].

C. Chapter 262 County Grant Recipients Construction Bidding Procedures

- a. TDHCA's county Grant Recipients are generally required to conduct competitive sealed bid procurement for any and all contracts over \$50,000.
- b. Counties are required by state law to publish a notice in a newspaper of general circulation in the county at least once a week, with the first day of publication occurring before the 14th day before the date of the bid opening. If there is no newspaper of general circulation in the county, the notice must be posted in a prominent place in the courthouse for fourteen days prior to the date of the bid opening [Texas Local Government Code Section 262.025(a)].

D. Texas Government Code, Chapter 2254

- a. This code as amended is also known as the Professional Service Procurement Act. This code governs the local government procurement of professional services. It prohibits the procurement of architects or engineers based on bid price and requires government entities to first select the most highly qualified provider based on demonstrated competence and qualifications, and then attempt to negotiate with that provider a contract at a fair and reasonable price. The full text of this act can be found via the internet at: <http://www.legis.state.tx.us/>.

E. Texas Local Government Code, Chapter 171

- a. This code as amended requires local government officials to disclose conflicts of interest and sets forth rules that require officials to abstain where they are in a position to vote or make a decision on any matter involving a business entity or real property for which they have an interest in. The full text of this Chapter from the Texas Local Government Code can be found via the internet at: <http://www.legis.state.tx.us/>.

F. Procurement Standards

- a. Uniform Grant Management Standards (UGMS) - Governor's Office of Budget and Planning (June 2004)

- i. NOTE: The Procurement Standards from the Governor's Office of Budget and Planning (UGMS) were incorporated into the changes in OMB Circular A-87 and revised OMB Circular A-102 to make the standards consistent with federal law. In addition to applicable federal and state regulations, many local governments have laws and regulations regarding procurement. The subrecipient is required to be aware of local laws that may affect its procurement policies. Remember, the rule is that the most restrictive regulation applies.
- ii. In cases where state or local law is stricter than federal regulations, the subrecipient must follow the state or local laws and in cases where state or local law is more lenient than federal regulations, the subrecipient must follow federal regulations.

G. HUD Conflict of Interest regulations at 24 CFR 570.489(h)

- a. This regulation sets forth prohibitions against the use of CDBG funds by employees and officials for private gain.

H. OMB Circular A-102, CFR 24 Part 85.36 - Grants and Cooperative Agreements with State and Local Governments).

- a. A-102 governs the use of grants, contracts and cooperative agreements. Implementation regulations can be found at 24 CFR Part 85. The full text of A-102 can be found via the Internet at: <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.

I. CFR 24 Part 84

- a. Federal grants and agreements awarded to institutions of higher education, hospitals, and other non-profit organizations.

XI. CONSTRUCTION AGREEMENT

- A. The construction agreement for stick-built homes will be a tri-party agreement between the Rehabilitation/Reconstruction Contractor, the assisted homeowner and the subrecipient (lender).

XII. PROPERTY INSPECTIONS AND FINAL PAYMENT

A. Preliminary Inspections

- a. A preliminary inspection will be conducted by the subrecipient to determine the condition of the unit for each application and to verify hurricane damage if FEMA, Small Business Administration (SBA) or Insurance award letters are not available. The initial inspection will be conducted by the subrecipient's inspector

or another qualified inspector and a list of the deficiencies will be prepared. The inspection will provide an estimate of repair costs to determine whether rehabilitation or reconstruction will be offered and must be in sufficient detail to be utilized in the creation of work write-ups.

B. Progress Inspections

- a. Progress inspections serve three primary purposes: 1) to evaluate the contractor's progress; 2) to confirm that local building codes or standards have been satisfactorily met; and 3) to confirm that all requirements of the contract have been met to all parties' satisfaction.
- b. At key stages in the project, the subrecipient will schedule inspections. Key stages are times when work such as wiring and plumbing are completed and still exposed prior to the wall or flooring being replaced; or when work being performed by a specialty subcontractor, who will be present for only a short time, is nearing completion.
- c. Inspections to approve progress payments will be made at a time requested by the contractor. These inspections will be made promptly upon request so as not to delay the processing of the contractor's payments. If at all possible, the same person will conduct inspections each time.
- d. The subrecipient requires that electrical work be completed by an electrician with an approved license from a city or cities that issue such licenses.
- e. A master licensed plumber must perform all plumbing work.
- f. Building permits are required for all applicable construction work.
- g. The assisted homeowner and the subrecipient will sign the inspection forms as acknowledgement that the work was completed and meets their approval. If the assisted homeowner is not satisfied with any aspect of the work, the inspection forms should not be signed until the contractor has corrected the faulty work.

C. Final Inspections

- a. When work is nearing completion, the contractor will notify the subrecipient of a specific date when the job will be ready for a final inspection. The purpose of the final inspection is to guarantee that all work called for in the contract has been completed according to specification. If progress inspections were conducted often enough to make mid-course corrections, the final inspection should only need to catch those items which have been done since the last inspection. The final inspection will be as thorough and deliberate as the initial inspection. Finished carpentry, painting, backfilling, electrical fixtures, all single family homeowner activities, and clean-up should be closely checked for completion.

- b. The subrecipient will make sure that the assisted homeowner has received all warranties and instruction booklets for installed equipment.
- c. As in all construction projects, a punch list will be developed toward the end of the job. A punch list is a listing of items written as specifications, which constitute the work necessary to complete the contract. The contractor and the subrecipient as a result of the final inspection will develop the punch list, although the contractor and the assisted homeowner prior to the final inspection can develop it. Either way, the punch list will represent work yet to be done, not additional work over and above the original or amended contract. Once the punch list has been prepared, no other work items are expected of the contractor. If the punch list contains more than ten (10) items, the contractor is not ready for a final inspection.

D. Certificate of Completion and Owner Acceptance

- a. After all items on the punch list have been satisfactorily completed, and all warranties issued, the project can be brought to final resolution. For purposes of accountability, the Single Family Homeowner Program must have written documentation that the assisted homeowner and subrecipient have accepted the work.

E. Warranties and Retainage

- a. When final inspection determines that the work is completed in accordance with the contract, the subrecipient will submit the contractor's request for payment and upon receipt of the funds, disburse the funds to the contractor. The subrecipient may retain 10% of the funds pending a supplemental inspection in no less than thirty (30) days. Following a satisfactory supplemental inspection, the retainage will be paid to the contractor upon availability of grant funds following the final thirty (30) day inspection.
- b. If any problems are identified in this supplemental inspection, the subrecipient will then notify the contractor to come back and correct the same within a reasonable amount of time, not to exceed two weeks. Should the contractor fail to do so, the subrecipient will not disburse the retainage, the assisted homeowner may take any necessary legal recourse, and the contractor will be barred from performing any more rehabilitation/reconstruction work in the subrecipient. In addition, should the contractor be doing other work under this Single family homeowner Program and fails to correct any warranty problems, no other payments will be made to him/her until such problems are corrected.
- c. All work performed by the contractor will be guaranteed for a period of one (1) year. Such warranty will be stipulated in the construction contract between the contractor and the homeowner. For a period of one (1) year, the assisted

homeowner may require the contractor to correct defects or problems arising from his or her work under this contract. Should the contractor fail to do so, the assisted homeowner may take any necessary legal recourse as prescribed in the rehabilitation contract. A reasonable amount of time will be given to correct the problem; however, in no case will such time exceed two weeks to respond.

XIII. FILES AND REPORTS

- A. The subrecipient will maintain accurate Single family homeowner Program files and records for general administration activities, for each applicant, and for each assisted homeowner for a period of three (3) years as required by the TDHCA. Such files will be open for inspection as to qualifications, bids, and awards.

XIV. CHANGES, WAIVERS, AND/OR CONFLICTS

- A. The subrecipient has the right to change, modify, waive, or revoke all or any part of these guidelines, with the written approval of TDHCA.
- B. Waivers to the requirements in these Guidelines can only be approved by TDHCA and must be in provided in writing.
- C. In the event that these Guidelines conflict with local, state, or federal law, the more stringent requirement will prevail, provided that the requirement does not violate local, state or federal law.

ATTACHMENT B

HURRICANES IKE AND DOLLY ROUND 2 HOMEBUYER ASSISTANCE PROGRAM GUIDELINES

INTRODUCTION

- A. The Texas Department of Housing and Community Affairs (TDHCA or the Department) is partnering with the Texas Department of Rural Affairs (TDRA) in the administration of funds under a Community Development Block Grant (CDBG) Disaster Recovery Program (Program) funded by the U.S. Department of Housing and Urban Development (HUD) under Public Law 110-329. TDHCA is the lead agency responsible for disaster funds allocated to housing activities. Local entities including Cities, Counties, and Councils of Local Government administer these funds on the local level for housing activities.
- B. Housing guidelines have been developed to serve as the basis for housing programs related to Round 2 of the Program. This document is expected to serve as direction for the Homebuyer Assistance activities funded under Round 2. These guidelines do not replace or supersede the guidelines developed and in use under Round 1. Additionally, these guidelines supplement the General Guidelines which provide direction for issues that affect all of the programs and cover all areas of administration not expressly covered in this document. Subrecipient must incorporate those elements into their Homebuyer Assistance Program.
- C. Subrecipient has received Hurricanes Ike and Dolly Round 2 Disaster Recovery Community Development Block Grant (CDBG) funding for a Homebuyer Assistance (HBA) Program administered by TDHCA.
- D. Please note that the regular state CDBG program refers to homebuyer assistance (HBA) as “Homeownership Assistance.” The use of these terms differs slightly in the CDBG DR Program. The CDBG DR Program makes a distinction to separate activities that benefit hurricane victims who choose to remain in and repair their existing hurricane-damaged home from those who seek assistance to purchase a new home. Homeowners that elect to repair their existing home will be subject to the Homeowner Assistance Guidelines. Hurricane victims that elect to seek assistance to purchase a new home will be subject to this document, the Homebuyer Assistance Guidelines.
- E. The applicants’ principal residence at the time of the storm must have been impacted by the hurricanes in order to qualify for HBA. In order to assist the subrecipients to meet their Affirmatively Furthering Fair Housing goals, the option to assist applicants who were not homeowners at the time of the storm is available. However, any HBA provided to non HOP-eligible applicants must be needs-based. CDBG regulations restrict homebuyer assistance to the amount up to and including the amount of assistance necessary to facilitate homeownership. For example, it is not a reasonable use of CDBG

funding to provide the full amount of assistance, \$40,000, when only \$5,000 of mortgage gap financing is necessary for a bank to make an affordable loan to purchase the home. The amount of HBA necessary to leverage a private loan or otherwise bring about homeownership for non HOP-eligible applicants must be documented on forms to be provided by TDHCA.

- F. Eligible activities for Homebuyer Assistance include traditional HBA activities such as: down payment assistance, principal reduction, all reasonable closing costs including pre-paid items, and principal write-down assistance as required for the property being purchased. These HBA activities are limited to \$40,000 for non HOP-eligible applicants. Applicants that are eligible and elect to participate in the HOP qualify for a wider range of activities to facilitate the purchase of a home. HOP homebuyer assistance includes the acquisition (buyout) of the original, hurricane-damaged property combined with the acquisition of another home (if the property to be purchased meets HQS) or the activity of Acquisition with Rehabilitation, Reconstruction and New Construction (if the property to be purchased does not meet HQS or if a lot is purchased on which to build a new stick-built home or locate a MHU).

I. PROGRAM OBJECTIVES

- A. Texas was hard hit by hurricanes and is still in the recovery process both for its communities and its residents. The primary focus of this Program is to provide relief for those people impacted within the goals identified by HUD to affirmatively further fair housing.
- B. The following objectives are provided for the implementation and administration of a successful Homebuyer Assistance Program.
 - a. The primary objective of this Program is to provide decent, safe, and sanitary housing in the hurricane impacted areas through the provision of homebuyer assistance: to facilitate the purchase of a home; acquisition with rehabilitation, reconstruction or new construction; and other assistance necessary to make homeownership affordable to applicants in the affected area.
 - b. A second objective is to ensure that the housing needs of very low, low and moderate-income households are assisted with housing in no less than the proportion to their relative percentages of the overall populations which suffered housing damage within the communities being served.
 - c. A third objective is to prioritize the provision of decent, safe, and sanitary housing for elderly and disabled populations with an emphasis on housing choice and design to reduce maintenance and insurance costs as well as provide for the provision of independent living options.
- C. Applicants seeking assistance to purchase a home are subject to the HBA Guidelines. All homebuyer assistance must be targeted to the socio-economic subcategories and

demographics resulting from the needs assessments as described in the General Guidelines.

- a. Applicants are eligible for the HOP if they meet all three of the following criteria: at or below 80% AMI; owner of a hurricane-damaged home; and the damaged residence was located in a FEMA-designated “High Risk Area” or an area of high minority and poverty concentration as approved by TDHCA. Please note that the ownership and principal residency requirements, as detailed in the General Guidelines, apply to the HOP; however, in order for a buyout and relocation to take place the applicant must be able to prove ownership through possession of fee simple title.
- b. Homebuyer Assistance applicants that are not eligible to participate in the HOP must still meet the following criteria to be eligible for HBA: at or below 80% AMI and primary residence at the time of the storm in a residence that was damaged by the hurricane.

II. PROGRAM PURPOSE

- A. The provision of homebuyer assistance to facilitate the purchase of new and existing single family homes to benefit hurricane victims. Homebuyer assistance may be provided to applicants who fully qualify for and elect to participate in the HOP and income-eligible households that were affected by the hurricanes but who do not qualify for the HOP. Income-eligible households who do not fully qualify for the HOP include applicants who do not possess fee simple title to the original, hurricane-damaged property to be acquired (bought out) or who cannot obtain clear title within one year of the application date. The subrecipient cannot acquire property for which clear title cannot be obtained.
- B. The HOP homebuyer assistance to acquire the original, hurricane-damaged home is not the same program as the FEMA Buyout Program. If a buyout is involved in Ike and Dolly Round 2 of the TDHCA Disaster Recovery Program, it is a phase of an activity to help hurricane victims in FEMA-designated High Risk areas and areas of high minority and poverty concentrations relocate to areas that do not exhibit those characteristics. It will involve both the buyout of the original property and permanent relocation of the beneficiary.
- C. Under the HOP, applicants receive assistance from trained counselors to determine the housing activities that offer the best option for the household. The options include rebuilding in place, the purchase of a new home or the purchase of a vacant lot on which to build a home. For those that opt to move from their existing home located in a FEMA-declared High Risk area or areas of high minority and poverty concentrations (as confirmed by TDHCA), title to the existing property will be transferred to the subrecipient without a separate acquisition “buyout” of the existing property. The value of the existing property is replaced by the cost of the replacement home.

III. TARGET AREAS

- A. Indicate service area subrecipient's political boundaries.
- B. Indicate any particular areas in those boundaries where assistance will be targeted to affirmatively further fair housing through disaster recovery. The Phase 1 Analysis of Impediments will help establish these target communities by providing detailed maps on minority and poverty concentrations. Assistance will be provided to the subrecipients by TDHCA to determine FEMA-designated High Risk areas prior to and including the environmental review process.

IV. ELIGIBLE BENEFICIARIES

- A. Assistance under this activity may not be extended to households whose incomes exceed 80% of the Area Median Family Income (AMFI). All homebuyer assistance must be targeted to the socio-economic subcategories and demographics as described in the General Guidelines.

V. AMOUNT OF ASSISTANCE

- A. HBA assistance is capped at \$40,000 for non HOP-eligible applicants.
- B. HOP Homebuyer Assistance is limited to the Housing Assistance Caps in the General Guidelines. The base unit "bid" amount is the maximum amount of assistance available to purchase a new/existing home. It is set when the standardized set of new home specifications in the General Guidelines are bid locally. The intent of this rule is to equalize the funding available for different activities and choices. HOP Homebuyer Assistance allows for additional costs above the base unit amount including any necessary accessibility items or features abatement measures, and services. Additional costs are specified and capped in the General Guidelines.
 - a. The services category is limited to \$15,000 or actual costs and includes costs such as real estate professional fees, moving expenses and utility connection costs. Services are limited to applicants who qualify for the HOP.
 - b. The vacant land limit is set at \$35,000. Although this is the cap, it is not also the floor; the actual lot cost should not exceed the standard single lot size in the community.
- C. Housing purchases that exceed the maximum limits must be paid for with other sources of funds or a mortgage obtained by the homebuyer. The maximum total purchase price of the home to be acquired may not exceed the limits set for Single Family Mortgages in Section 203(b) of the National Housing Act.
- D. Temporary relocation assistance may be offered at the discretion of the subrecipient; however, the assistance may not exceed \$5,000 per household. It is anticipated that the

assistance will be provided when the closing occurs for the new or existing home purchase and temporary relocation assistance may not be necessary.

VI. PROGRAM LIMITATION

- A. Applicants participating in the Buyout Program must contribute 100% of the assistance received under that Program toward the purchase of the newly acquired property.

VII. PROPERTY TYPE

- A. Eligible properties that can be purchased:
 - a. Single-family property (detached and attached 1-4 units)
 - b. Condominium unit
 - c. Cooperative unit
 - d. Modular home/Manufactured home
 - e. Vacant land

VIII. TYPES OF IMPROVEMENTS

- A. For HOP Homebuyer Assistance activities involving acquisition with rehabilitation, reconstruction or new construction, subrecipient must follow the guidance in the Single Family Homeowner Program Guidelines for construction requirements (Section XI), contractor selection (Section XII), construction agreement (Section XIII), and property inspections and payment (Section XIV).
- B. In addition to financial assistance provided for the purchase of the property, funding may also be used for the following items up to the maximum assistance amount allowed:
 - a. Improvements needed to meet HUD Section 8 Existing Housing Quality Standards, and Cost Effective Energy Measures are eligible improvements.
 - b. Improvements must be physically attached to the house and be permanent in nature (e.g., sheds or garages located separately from the house are ineligible). Eligibility of attached structures such as carports or utility rooms is based upon available funds and agreement by TDHCA in cases where safety or the structural integrity of the house is involved.
 - c. Improvements will include as necessary lead-based paint abatement, asbestos abatement, handicapped accessibility for special needs, energy efficiency or ventilation items such as ceiling fans, window screens, screen doors, and window blinds.

- d. Individual Mitigation Measures (IMM) that mitigate and/or reduce risk for future disasters where the measures are above and beyond federal, state, or local construction or code requirements, and additionally the improvements exceed those that existed prior to the storm. Examples include elevation above the base flood elevation level, the addition of storm shutters, hurricane proof windows, roof straps, etc. as long as those improvements are not required to comply with local code or wind zone requirements.
- e. Cook stoves, refrigerators, and other necessary appliances are eligible items, but will only be considered when they are not present or the repair would not be cost effective. They will be dealt with on a case-by-case basis.
- f. Required permits, if any, will be obtained by the contractor at his/her expense and will be included as part of the bid costs.
- g. Assistance will not be used for luxury items, including but not limited to garage door openers, security systems, swimming pools, fences, and television satellite dishes.

IX. INSPECTION STANDARDS

- A. A representative of subrecipient will inspect all properties to ensure they meet Section 8 Housing Quality Standards at a minimum prior to application approval. However, the inspection will not serve to assure the buyer that the property is free of defects. Therefore, the subrecipient should strongly encourage lenders and real estate professionals to advise potential homebuyers to have an inspection performed for their benefit. The inspection must be performed by a qualified or licensed real estate inspector and/or licensed contractor for specialized inspections, i.e., plumber, electrician, HVAC mechanic. The homebuyer's inspection, or any other inspection report, will not be substituted for the subrecipient inspection.
- B. Properties built prior to 1978 may contain lead-based paint and will be visually inspected by the subrecipient's designated inspector for defective paint. If a property fails the visual inspection, it will be determined unacceptable until the painted surfaces are corrected. All applicable sales contracts must include the "Addendum for Seller's Disclosure of Information on Lead-based Paint & Lead-based Paint Hazards as Required by Federal Law".

X. ENVIRONMENTAL REVIEW

- A. An environmental review must be performed on the property prior to federal funds being committed by the subrecipient (24 CFR Parts 50, 58, 574, 582, 583, and 970). No commitment or disbursement of funds will occur prior to the completion of this review. The environmental assessment reviews the wetlands, coastal zones, flood zones, and runway clear zones. If the environmental assessment determines that the property is in the

flood zone, the Lender is required to escrow hazard and flood insurance for the life of the 1st loan. Also, the Disaster Recovery Program will not assist homes that have been determined to be in the floodway.

XI. UNIFORM RELOCATION ACT

- A. The Uniform Relocation Act (URA) applies to federally assisted homebuyer programs. Under the CDBG Program guidelines, the Seller(s) must not displace tenants of the property being purchased. The applicable “Notice to Seller(s)” must be signed and dated by the Seller and placed in the applicant’s file.

XII. USE OF FUNDS

- A. Direct financial assistance to offset portions of the down payment, reasonable closing costs, pre-paid items and/or principal write-down assistance required for a home purchase. Prepaid items include but are not limited to the initial payment for hazard insurance, flood insurance, and mortgage insurance.

XIII. COUNSELING EDUCATION PROGRAM

- A. The applicant must complete at least eight (8) hours of homebuyer education from any participating HUD Approved Housing Counseling Agency prior to acceptance into the Program. The certification for the course is valid for one year. Counseling programs will encourage individuals to participate in homeownership and provide a method to track the achievement of the homeownership goal. Costs of the program vary depending on who provides the courses. The Neighborhood Housing Services (NHS) homebuyer assistance curriculum is preferred.

XIV. TERMS OF ASSISTANCE

- A. Assistance that meets or exceeds \$40,000 requires a ten-year affordability period (Affordability Period).
- B. Throughout the affordability period, the homeowner is required to maintain principal residency, maintain hazard and, if applicable, flood insurance, and pay property taxes on the assisted property. Failure to maintain hazard insurance may result in the lack of future federal assistance; however failure to maintain flood insurance (if required because the property is in a floodplain) will result in the lack of future federal assistance should a future disaster event occur.

XV. LOAN TERMS

- A. The Disaster Recovery Program loan is not assumable during the Affordability Period.
- B. Future subordinations of the Disaster Recovery Program loan to a newly obtained senior loan are subject to TDHCA’s discretion.

- C. The applicant must occupy the property as his/her principal residence throughout the Affordability Period. If the applicant occupies the property as his/her principal residence for the Affordability Period, no recapture restrictions will apply.
- D. If the property is sold (including foreclosure) transferred and /or is no longer the homeowner's primary residence during the Affordability Period, the subrecipient may recapture a portion of the remaining balance of the Disaster Recovery Program loan note. The homeowner will receive a twenty (20) percent credit for each year the property is his/her principal residence. The maximum amount the subrecipient will recapture will be the full amount of the Disaster Recovery Program loan note and any balance would immediately become due and payable to the subrecipient who will remit the proceeds to TDHCA.
- E. If the homeowner vacates or rents the property, the full amount of the Disaster Recovery Program loan will be immediately due and payable, unless the homeowner establishes his/her actual residency pursuant to evidence acceptable to TDHCA, in which case the homeowner will receive a twenty (20) percent credit for each year the property is his/her principal residence.
- F. In the case of other default during the Affordability Period, the subrecipient may pursue all remedies available under the Disaster Recovery Program loan note, the Disaster Recovery Program loan Deed of Trust, or other Disaster Recovery Program loan documents. During the continuance of any such default, the Disaster Recovery Program loan shall bear interest at a rate of six percent (6%) per annum ("Default Rate").
- G. Applicants that fully participate in the HOP Homebuyer Assistance Program, which includes the buyout of the original, hurricane-damaged property and the acquisition of a new/existing home, will have a lien recorded in the county courthouse preventing cash-out refinancing, home equity loans, or utilization of the relocation home as collateral for the full term of the affordability period unless expressly permitted by TDHCA.

XVI. FILES AND REPORTS

- A. The subrecipient will maintain accurate Homebuyer Assistance Program files and records for general administration activities, for each applicant, and for each assisted homeowner for a period of three (3) years as required by the Department. Such files will be open for inspection as to qualifications, bids, and awards.

XVII. CHANGES, WAIVERS, AND/OR CONFLICTS

- A. The subrecipient has the right to change, modify, waive, or revoke all or any part of these guidelines, with the written approval of TDHCA.
- B. Waivers to the requirements in these Guidelines can only be approved by TDHCA and must be provided in writing.

- C. In the event that these Guidelines conflict with local, state, or federal law, the more stringent requirement will prevail, provided that the requirement does not violate local, state or federal law.

ATTACHMENT C

HURRICANES IKE AND DOLLY ROUND 2 RENTAL PROGRAM GUIDELINES

INTRODUCTION

- A. The Texas Department of Housing and Community Affairs (TDHCA or the Department) is partnering with the Texas Department of Rural Affairs (TDRA) in the administration of funds under a Community Development Block Grant (CDBG) Disaster Recovery Program (Program) funded by the U.S. Department of Housing and Urban Development (HUD) under Public Law 110-329. TDHCA is the lead agency and responsible for disaster funds allocated to housing activities. Local entities including Cities, Counties and Councils of Local Government administer these funds on the local level for housing activities.
- B. Housing Guidelines have been developed to serve as the basis for housing programs related to Round 2 of the Program. This document is expected to serve as direction for the Rental Program activities funded under Round 2. These Guidelines do not replace or supersede the Guidelines developed and in use under Round 1. Additionally, these guidelines supplement the General Guidelines which provide direction for issues that affect all of the programs and cover all areas of administration not expressly covered in this document. Subrecipient must incorporate those elements into their Rental Program. At the option of the subrecipient, rental program activities may be offered as a housing program to the residents of the subrecipient's jurisdiction. Rental activities may include single family or multifamily rental activities or both.
- C. Subrecipient has received Hurricanes Ike and Dolly Round 2 Disaster Recovery Community Development Block Grant (CDBG) funding for a Rental Program administered by the Texas Department of Housing and Community Affairs (TDHCA or the Department).
- D. Benefit to Low to Moderate Income (LMI) is the only National Objective that is approved for the Rental Program under Round 2. Eligible activities, which are defined in the General Guidelines, are as follows: rehabilitation, reconstruction, replacement, or new construction, and associated elevation and demolition. Subrecipient may also provide assistance for Individual Mitigation Measures (energy efficiency and storm mitigation activities).

I. PROGRAM OBJECTIVES

- A. Texas was hard hit by hurricanes and is still in the recovery process both for its communities and its residents. The primary focus of this program is to provide relief for those people impacted with consideration given to affirmatively further fair housing, as called for within the Fair Housing Act.

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

II. PROGRAM PURPOSE

- A. The Hurricane Ike Disaster Recovery (DR) Affordable Rental Program has been designed the to provide funds for rehabilitation, reconstruction, and/or new construction of affordable multi-family and single family rental housing projects in areas impacted by Hurricane Ike or Dolly. Funding is available through the Community Development Block Grant (CDBG) Disaster Recovery Program, administered by the Texas Department of Housing and Community Affairs (TDHCA).
- B. The purpose of the Affordable Rental Program is to facilitate the rehabilitation, reconstruction, and/or new construction of affordable rental housing needs within the subrecipient's service area. Units qualifying for assistance must have sustained damage from Hurricanes Ike or Dolly. A minimum of 51% of the units must be restricted for ten or more years to low to moderate income (LMI) individuals earning 80% or less of the Area Median Family Income (AMFI) at affordable rents. The rents must comply with High HOME Investment Partnership (HOME) Rents and other existing Land Use Restriction Agreement (LURA) restrictions if applicable. HOME rent limits are defined by HUD and must equal the lesser of fair market rents or 30% of the adjusted income for people earning 65% of the AMFI and can be found on TDHCA's website at (<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/rent/>) and (<http://www.tdhca.state.tx.us/pmcdocs/10-FMR-TBRA.pdf>)

PART A - MULTIFAMILY RENTAL PROGRAM

I. TYPES AND AMOUNTS OF ASSISTANCE

- A. The maximum award cap under the Affordable Multifamily Rental Program is \$10,000,000 per development. Exact award will depend upon the amount of storm damage, the cost reasonableness of funds bringing the property up to Housing Quality Standards (HQS), and other funding sources available. Eligible costs include hard costs for construction and soft costs associated with repair or construction of rental units plus other costs permissible under 24 CFR 570.
- B. The CDBG funds may not be used to pay for damages covered by any FEMA reimbursement, SBA assistance, insurance claim, or any insurance policy including delayed or future payments anticipated under insurance policies.
- C. The CDBG Affordable Rental Program funds will be in the form of a 0% performance-based loan and will be forgiven when all contractual obligations have been met, including satisfactory completion of construction and compliance with the ten-year affordability period. The terms of the loan / grant may be modified by agreement, if necessary, given other requirements from other financial programs (i.e. tax credit programs, etc.).
- D. A Land Use Restriction Agreement (LURA) will be placed on developments and any applicable lenders must agree to subordinate to the LURA. The Developer / Borrower will guarantee completion of construction until a certificate of occupancy has been issued and retainage has been released. There is a ten year affordability period under the LURA.
- E. Project construction must be completed within 18 months of the effective date of the contract, unless otherwise extended.

II. PROPERTY ELIGIBILITY

- A. All properties must be located within the jurisdiction of the subrecipient and sustained damage from Hurricane Ike or Dolly.
- B. Any subrecipient that intends to offer an Affordable Multifamily Rental Program must develop a NOFA or application process to fund rehabilitation of existing multifamily housing developments or replacement of damaged units through reconstruction or new construction. Projects evaluated for awards are evaluated according to the priorities established in the NOFA or application. The NOFA or application process must comply with Selection Criteria requirements identified in Section IV, paragraph A of these guidelines.
- C. Hurricane damaged or destroyed projects awarded assistance will typically be in the 10-30 year old range. The repair/replacement assistance will extend the useful life of the development at least ten years.

- D. Proposed new construction located in the 100-year flood plain as identified on the most current Federal Emergency Management Agency (FEMA) Flood Maps must comply with the TDHCA flood policy found in 10 TAC Part 1 Section 50.6.
- E. At a minimum, 51% of the total number of units in the development must benefit low-moderate income persons earning 80% or less of Area Median Income as defined by HUD and detailed in the Housing and Community Development Act of 1974 (HCDA) Title I, 105(a).
- F. Rent restricted units occupied by low-moderate income households must be occupied at affordable rents. The units occupied low-moderate income households must comply with the High HOME rent limits published by TDHCA under the HOME program. Rent restrictions for the units occupied by LMI households apply through the ten year affordability period. Compliance with rent limits is calculated in the same manner as the HOME program.

III. PARTICIPANT ELIGIBILITY REQUIREMENTS

- A. For-profit, public housing authorities, units of local governments and not-for-profit Developers/ Borrowers, acting individually or as participants in a limited partnership [LP] or limited liability corporation [LLC] are eligible to participate. Not-for-profit entities must provide evidence of IRS tax-exempt status. Developments are required to list properties on PHA landlord list and provide notification to DHAP providers.
- B. The Applicant, Development Owner, Principal or Developer/Borrower must be in good standing with any outstanding loans and loan commitments. There may be no defaults or negative collection actions on current or previous loans.
- C. No Applicant, Developer Owner, Principal or Development/Borrower or General Contractor may be “debarred” from the federal and state debarment lists, in accordance with 24 CFR §570.609, as well as other applicable laws.
- D. Applicant, Developer Owner, Principal or Developer/Borrower must provide a complete listing with addresses of multifamily properties currently owned or managed.

IV. SELECTION CRITERIA

- A. Any subrecipient that intends to offer an Affordable Multifamily Rental Program must develop a NOFA or application process. The application or NOFA process should identify the properties that provide the greatest benefit to the community to those with the greatest need. The subrecipient will develop criteria to award funds to the projects meeting the housing goals and objectives the program, and fair housing as well as those of the community. All awards must be made to applicants that demonstrate capacity to complete the development planned in the application. The Selection Criteria utilized must

be consistent with overcoming the impediments identified in the Interim AI. The NOFA or application must meet the following criteria:

- a. Direct funds to the needs of the community as determined by the Needs Assessment.
 - b. Use of the funds must affirmatively further fair housing and increase housing choice; therefore, selected criteria must be consistent with overcoming impediments identified in the Phase 1 Analysis of Impediments.
- B. A Land Use Restriction Agreement (LURA) will be placed on each multifamily development receiving disaster funds to repair, construct or reconstruct rental units. The LURA sets forth income and rent restrictions applicable to units of affordable rental housing with respect to the specific affordable rental housing. These documents will be filed with the local county clerk's office in the land records. The LURA must be approved by TDHCA and require all multifamily projects and projects with 20 or more single family units under common ownership to accept of section 8 housing choice rental vouchers during the affordability period. The LURA imposes the requirements on the property for the full ten (10) years affordability period.
- C. Based on the Needs Assessment, criteria developed by the subrecipient to identify projects providing the greatest benefit to the community will provide incentives for:
 - a. Increasing the number of affordable units by exceeding the requirement to lease 51% of the units to low/moderate income households.
 - b. Providing units to households with the highest need for affordable housing by agreeing to create set asides targeting very low, low, and moderate-income tenants.
 - c. Providing broader access to persons with disabilities through single story structures or those served by an elevator.
 - d. Meeting low-maintenance and energy efficiencies by installing energy efficient products and low maintenance items. Combinations of the following items can be used up to the maximum number of points:
 - i. Install water-conserving fixtures in all units with the following specifications for toilets and shower heads, and follow requirements for other fixtures wherever and whenever they are replaced: toilets – 1.6 gallons per flush; showerheads – 2.0 gallons per minute; kitchen faucets – 2.0 GPM; bathroom faucets – 2.0 GPM.
 - ii. Install Energy Star or equivalent refrigerators in all units.

- iii. Install Energy Star or equivalent lighting fixtures in all interior units and use. Energy Star or high-efficiency commercial grade fixtures in all common areas.
- iv. Use tankless hot water heaters or install conventional hot water heaters in rooms with drains or catch pans piped to the exterior of the dwelling and with non-water sensitive floor coverings (for all units).
- v. Install Energy Star or equivalent power vented fans or range hoods that exhaust to the exterior (in all units).
- vi. Install Energy Star or equivalent bathroom fans in all units that exhaust to the outdoors which has a humidistat sensor or timer, or operates continuously in all units.
- vii. Install correctly sized HVAC units (according to Manual J) of at least 14 SEER or better in all units.
- viii. Perform an energy analysis of existing building condition, estimate costs of improvements, and make those improvements resulting in a 10 year or shorter payback.

V. PROGRAM REQUIREMENTS

- A. Projects awarded disaster recovery funds must satisfy six levels of eligibility requirements.
- B. The project will also be reviewed in terms of financial feasibility with the objective to repair existing hurricane damage and bring the property up to standard to extend the useful life or replace the severely damaged units. Financials, proformas, and loan information as well as the sources and uses of funds must be submitted identifying the proposed financing sources and expenses of the project.
- C. Upon allocation for funding, the property will go through environmental review.
- D. Rehabilitation or construction activities. The Developer / Borrower must submit an acceptable Property Condition Assessment (PCA) conducted by a qualified third party. In addition to repair costs identified in the PCA, other costs will be considered if they extend the useful life of the project. The project costs must be reasonable and typical in the current marketplace for projects of similar scope. Plans and specifications must be submitted for replacement units.
- E. The project must comply with all applicable federal and state requirements.
- F. The project must address identified impediments to fair housing choice.

- G. The project must serve the local population impacted by the hurricanes.

VI. UNDERWRITING

- A. The proposed multifamily projects will go through underwriting which will review the ownership structure, property operations, the sources and uses of funds, and the financial statements of the owner and guarantor (if applicable).
- B. The underlying debt and operating expenses of the property will be reviewed to determine if the project is feasible during the affordability period and demonstrates income adequate to cover operating expenses and applicable debt service.
- C. Sources and uses will be reviewed to determine the adequacy of the funding to complete the project in conjunction with the PCA. The scope of work including the repair of any hurricane damage will be assessed.
- D. Following underwriting, a contract will be executed between the developer and the subrecipient. This contract will specify the terms under which the funding is provided to the project; the number of units to be renovated / developed; the affordability period; and other conditions of the agreement.

VII. ENVIRONMENTAL REVIEW

- A. Each development assisted with CDBG Disaster Recovery funds must be environmentally cleared. No commitment or disbursement of funds will occur prior to the completion of this review. The environmental assessment reviews the wetlands, coastal zones, flood zones and runway clear zones.
- B. Rental Program funds cannot be used to assist rental units (Multi and single family) that have been determined to be in the Coastal Barrier Resource Zones or airport runway clear zones. Once the Environmental Review is complete the review is forwarded to TDHCA for environmental clearance.
- C. The Developer / Borrower must comply with all applicable laws with respect to lead based paint in conjunction with Section 302 of the Lead Based Paint Poisoning Prevent Action (42 USC Section 4831(b)), as well as the presence of asbestos containing materials within the project.
- D. A Property Condition Assessment must be conducted for rehabilitation. The PCA must conform to American Society for Testing and Materials (ASTM - <http://www.astm.org/>) "2018 Standard Guidelines for Property Condition Assessments." The Developer / Borrower are also directed to the TDHCA Section 1.36 of the 2009 REA Rules for PCA guidance (<http://www.tdhca.state.tx.us/readocs/10-REARules.pdf>).

VIII. CONSTRUCTION

- A. Housing that is constructed or rehabilitated with CDBG funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. When CDBG funds are used for a rehabilitation development, the entire unit must be brought up to the applicable property standards and meet Housing Quality Standards. All newly constructed including reconstructed housing units must meet the current edition of the Model Energy Code (MEC) (<http://www.energycodes.gov/>) published by the Council of American Building Officials. TDHCA 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.
- B. Housing developments must meet all accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794). Multifamily housing developments must meet the design and construction requirements at the Texas Administrative Code, Title 10, Chapter 60, Subchapter (B) 10 TAC § 60.201-211). Covered multifamily dwellings, as defined at 24 CFR §100.201, as well as common use facilities in developments covered cover dwelling must meet the design and construction requirements at 24 CFR §100.205, which implement the Fair Housing Act (42 U.S.C.3601-4619).
- C. The Developer/borrower must comply with Labor Standards; Section 3 Plan; Minority / Business Enterprise (MBE); Small Business Enterprise (SBE) requirements; Affirmative Marketing; and Contractor Clearance.
- D. The project costs must be “reasonable and customary” as determined by an acceptable, independent third party report or considered reasonable as documented by a bidding process.
- E. All contracts will be payment and performance bonded. All projects are subject to The Davis-Bacon Wage Act (40 USC 276a-276-a5, 24 CFR Part 70), The Contract Work Hours and Safety Standards Act (40 USC 327 et seq), The Copeland “Anti-Kickback” Act (18 USC Sec 874), Section 3 (24 CFR Part 135) requirements, reporting and goals and should budget accordingly.
- F. Prior to commencement of construction, the Developer / Borrower must have a notice to proceed. Scatter site projects owned by a sole owner with 8 or more units must comply with the Davis-Bacon Wage Act (40 USC 276a-276-a5, 24 CFR Part 70).
- G. The report and AIA forms 702 and 703 will be required prior to funding each draw request.
- H. Ten percent (10%) of each draw will be held as retainage until satisfactory completion of the project.

COMPLIANCE REQUIREMENTS

IX. LABOR STANDARDS

- A. All applicable developments must comply with applicable labor standards, including, but not limited to Davis-Bacon wages, Section 3, Minority / Business Enterprise, and Small Business Enterprise. Under the federal Davis-Bacon Wage Act (40 USC 276a-276-a5, 24 CFR Part 70, 24 CFR §570.603), prevailing wages must be paid on all construction and related work on projects that have eight (8) or more units.
- B. The following information will be provided on all projects to the TDHCA Labor Standards Specialist:
 - a. Notes of bid and preconstruction conferences as well as attendance rosters with attendees signatures.
 - b. Notice to Proceed.
 - c. All Department of Labor (DOL) General Wage Determination reports showing prevailing wages applicable to each project throughout the construction phase.
 - d. Final Wage Compliance Report
 - e. Davis-Bacon communications, including:
 - i. Department of Labor communications
 - ii. Letters to Contractor(s) requesting payments of restitution owed to workers and liquidated damages, including copies of letters confirming Contractor(s) compliance and / or resolution of labor-related issues. Department of Labor (DOL) Semi-Annual Report with all required reporting data associated with the CDBG-DR Hurricane Ike award.
 - iii. Additional documentation as required by TDHCA.

X. RELOCATION

- A. The Developer/Borrower is responsible for the relocation activities related to the project. The Developer / Borrower shall comply with program regulations at 24 CFR §570.606, the Uniform Relocation Assistance and Real Property Policies Act of 1970 (“URA”), as amended, at 49 CFR §24, and §104(d) of the Housing and Community Development Act of 1974, as amended, at 24 CFR §42.
- B. If applicable, Developer / Borrower shall submit to the subrecipient copies of all documentation relating to URA, including but not limited to, a Relocation Plan with

Assurance Letter, Notice to Real Property, Tenant Status Reports, and all Notices with Tenant Acknowledgments as required by the LURA.

XI. PROJECT COMPLETION AND RELEASE OF RETAINAGE PROCEDURES

- A. When a project is finished, the procedures listed below will be followed to document completion and allow for retainage (the last 10% of project costs) to be paid. List of items include:
- a. Developer / Borrower submits Final Draw for Retainage. This draw is identical in form to the others and includes the final inspection report from the third party inspector indicating that the project is complete.
 - b. Developer / Borrower completes and submits a Final Wage Compliance Report.
 - c. Developer / Borrower submits Certificate of Occupancy for project.
 - d. Developer / Borrower submits letter certification from Architect that project meets requirements of the Americans with Disabilities Act.
 - e. Developer / Borrower submits Certificate of Substantial Completion, and AIA form that is signed by the Owner, General Contractor, and Architect.
 - f. Developer / Borrower submits Lien Release from General Contractor to show that all subcontractors have been paid. (Contractor = Subrecipient) and (Subcontractor = Building Contractor).

XII. PROJECT LEASE UP PROCEDURES

- A. Multifamily developments assisted with CDBG funds are required to have a project tenant selection policy (TSP), Affirmative Marketing Plan, and schedule of leases & rents to ensure compliance with CDBG requirements. The tenant selection policy must be:
- a. Written and displayed at the project leasing in a common area.
 - b. Consistent with the purpose of providing housing for families making 80% or less of AMFI.
 - c. Reasonably related to program eligibility and Lessee's ability to perform under the lease.
 - d. Chronological, so that tenants taken from a written waiting list are assisted in order.
 - e. Designed to give prompt written notice of the grounds for rejection to any Lessee rejected based on income.

XIII. ANNUAL MONITORING PROCEDURES

- A. Completed projects require annual monitoring. Monitoring will be conducted by the subrecipient throughout affordability period. The results and reviews of monitoring activities ensure the provision of safe, decent, affordable rental housing in compliance with all applicable regulations. Income targets and rents must comply with Affordable Rental Program LURA requirements and other compliance requirements. Monitoring includes:
- a. On-site inspection of rehabilitated properties to ensure compliance with Housing Quality Standards (HQS) under 24 CFR Sec. 982-401.
 - b. Compliance Standards Review (CSR) to ensure compliance with the CDBG regulations and the NOFA, but not limited to, the following:
 - i. Affordable Rental Housing
 - ii. Subsequent Rents during the Affordability Period
 - iii. Initial and Annual Recertification of Tenant Income
 - iv. Periods of Affordability
 - v. Tenant and Participant Protection (lease term, prohibited lease terms, tenant selection policy)
 - vi. Civil Rights Act of 1964 and Amendments
 - vii. Section 504 of the Rehabilitation Act of 1973
 - viii. Architectural Barriers Act and the Americans with Disabilities Act
 - ix. Design and construction requirements
 - x. For Rehab projects, entire structure must meet Housing Quality Standard
 - xi. Benefit all income targets including the CDBG LMI requirement to least 51% of the units to LMI households
 - xii. Affirmative Marketing
 - xiii. National Flood Insurance Program
 - xiv. Displacement, relocation, acquisition, and replacement Lead-Based Paint Compliance

- xv. Fair Housing and Equal Opportunity
 - xvi. Section 3 (24 CFR Part 135) goals and reporting requirements
 - xvii. Applicant data reporting as required by the Conciliation Requirement
- c. Notification in writing of the results of the monitoring activity will be provided to the borrower, with a stated corrective action plan, if one is needed.

XIV. FILES AND REPORTS

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

XV. CHANGES, WAIVERS, AND/OR CONFLICTS

- A. The subrecipient has the right to change, modify, waive, or revoke all or any part of these guidelines, with the prior written approval of TDHCA.

PART B – SINGLE FAMILY RENTAL PROGRAM

A single family rental program's goal is to restore existing neighborhoods and to increase the affordable rental stock in a community affected by Hurricanes Ike or Dolly. Applicants receiving CDBG Disaster Recovery funds to rehabilitate or reconstruct damaged properties agree to lease the rental units to low-moderate income households (80% of Area Median Income or less) at restricted rents. Rents must comply with the High HOME rent limits.

The CDBG funds are provided in the form of a forgivable loan / grant.

I. TYPES AND AMOUNT OF ASSISTANCE

- A. The subrecipient will develop a process to accept applications for funding to serve low, very low, extremely low and moderate-income households. Funding priorities will be developed in a manner that affirmatively furthers fair housing objectives.
- B. The maximum award cap under the Single Family Rental Program is based on the number of bedrooms in the rental unit. The exact award will depend upon the amount of storm damage, the cost of rehabilitation or reconstruction up to maximum award amount. When a rental unit is assisted with disaster recovery funds, the entire unit must be brought up to Housing Quality Standards (HQS). Eligible costs include hard costs for construction and soft costs associated with repair or construction of rental units plus other costs permissible under 24 CFR 570.

Table A: Maximum Awards

	One Bedroom	Two Bedrooms	Three Bedrooms
Max award	\$50,000	\$60,000	\$70,000

II. PROPERTY ELIGIBILITY

- A. All properties must be located within the jurisdiction of the subrecipient and sustained damage from Hurricane Ike or Dolly.
- B. Properties maybe rehabilitated, or replaced by reconstruction or new construction of the dwelling.
- C. Single Family, detached dwellings are eligible for assistance and must contain between one and three bedrooms at a minimum; priority is given properties with three or more bedrooms. Condominiums, townhomes, duplexes, triplexes or four-plexes are not eligible.
- D. Any subrecipient that intends to offer an Affordable Single Family Rental Program must develop an application process to fund rehabilitation of existing multifamily housing developments or replacement of damaged units through reconstruction or new construction. Projects evaluated for awards are evaluated according to the priorities established in the application.
- E. Upon completion, the single family homes must meet Housing Quality Standards and benefit low-moderate income persons earning 80% or less of Area Median Income as defined by HUD and detailed in the Housing and Community Development Act of 1974 (HCDA) Title I, 105(a).
- F. The rent for the unit occupied by the low-moderate income household must be occupied at affordable rents. The units occupied low-moderate income households must comply with the High HOME rent limits published by TDHCA under the HOME program through the affordability period. Compliance with rent limits is calculated in the same manner as the HOME program.
- G. Units do not have to be rental stock prior to application for assistance, however must be rented to certified LMI households if awarded repair or replacement funds.
- H. Housing units located where federal assistance is not permitted by the Coastal Barriers Resource Act or within runway clear zones of either a civil or military airport are not eligible.
- I. Each property must currently have access to water, electricity, and sewer or septic service, or hookups to provide those services.

- J. The on-going maintenance of hazard and flood insurance is a program requirement where applicable.

III. PARTICIPANT ELIGIBILITY REQUIREMENTS

- A. Individual owners with fee simple title to the property are eligible to participate.
- B. The owner must be in good standing with any loans on the property or in default or negative collection actions on any current or previous loans.
- C. The property taxes must be current on the property.
- D. The owner of the property may be “debarred” from the federal and state debarment lists, in accordance with 24 CFR §570.609, as well as other applicable laws.
- E. The owner must provide a complete listing with addresses of other rental properties currently owned or managed.
- F. All applicants must not owe any child support payment(s) under any court order.
 - a. If an applicant is not current on child support payments, that member will be required to enter into a payment plan and must supply a copy of the payment plan signed by all applicable parties, along with documentation that they are current on their payment plan. The required forms and instructions can be found under Homeowner Assistance Forms at: <http://www.tdhca.state.tx.us/cdbg/ike-and-Dolly/forms/index.htm>.

IV. SELECTION CRITERIA

- A. Any subrecipient that intends to offer a Single Family Rental Program must develop an application process. The application process should identify the properties that provide the greatest benefit to the community with the greatest need. Applications will be developed with criteria to allow the subrecipient to determine which projects meet the housing goals and objectives of the community as well as affirmatively further fair housing objectives.
- B. Criteria developed by the subrecipient to identify projects providing the greatest benefit to:
 - a. To expand the affordable housing stock priority is given to vacant units in a condition that is not suitable for occupancy.
 - b. To encourage a vested interest in the projects, priority is given to projects where the landlord contributes at least 25% of the funds necessary to repair the property.

- c. To encourage housing for families, priority is given to projects with three bedrooms or more.
- d. Projects near public transportation, shopping and schools are considered in the point structure. Near is defined as within a 2 mile radius.
- e. Single family rental structures must comply with Texas Government Code, Section 2306.154.

V. PROGRAM REQUIREMENTS

- A. Housing assistance funds must satisfy four levels of eligibility requirements.
 - a. The property must meet eligibility requirements listed under Section II. The property must require repair, rehabilitation or reconstruction and the owner must provide documentation or third party inspections to support storm damage.
 - b. The property must pass a federally required environmental review.
 - c. Rehabilitation or construction activities. A Property Condition Assessment must be conducted by a third party. The work write up must be completed in sufficient detail to obtain bids or cost estimates. Rehabilitation of the residence must bring the property into compliance with local health, safety and building codes and pass a Housing Quality Standards inspection. The project costs must be reasonable and typical in the current marketplace for projects of similar scope. Plans and specifications must be submitted for replacement units.
 - d. The project must comply with all applicable federal and state requirements.

VI. UNDERWRITING

- A. The subrecipient will determine the type of feasibility or underwriting process required for Single Family projects.

VII. ENVIRONMENTAL REVIEW

- A. The environmental review is a separate and distinct review from any other review. Other previously performed (or applicant-provided) environmental reviews will not satisfy the requirements. Be aware that applicants are prohibited from beginning repairs, rehabilitation or reconstruction until they receive their SRRAP loans.
 - a. There are three potential steps to the review:
 - i. Step 1 – Initial Review: An environmental assessor will visit the property. The assessor will take photos and possibly measurements of the property from the street. They will collect tax information in order to determine the

date of construction of structures on the property. Applicants do not need to be present for this visit.

- ii. Step 2 – Issue Analysis: If the Initial Review reveals a potential environmental issue, further analysis will be required. This analysis may require follow-up site visits or additional research. TDHCA will schedule required follow-up visits in order to perform the necessary analysis. Applicants will be notified if they are required to be present for these follow-up visits.
- iii. Step 3 – Issue Mitigation: Any issue that cannot be cleared through Issue Analysis will need to be mitigated before environmental clearance is granted. TDHCA will not pay for mitigation of any issue identified during the environmental review; however, applicants will be told what is required and may choose to mitigate the issue or withdraw from the SRRAP. All mitigation must be completed within the timeframe specified by TDHCA. Examples of mitigation include making modifications to the building plans, moving the building site, or obtaining special permits for the property.

VIII. CONSTRUCTION

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

- E. Under the Rehabilitation Program, any housing unit must be in compliance with Section 31 of the Federal Fire Prevention Control Act of 1974 which requires that any housing unit rehabilitated with Department funds be protected by a hard-wired or battery-operated smoke detector.
- F. Reconstructed or new construction must comply with Texas Government Code 2306.514.
- G. Ten percent (10%) of each draw will be held as retainage until satisfactory completion of the project.

IX. COMPLIANCE

- A. In exchange for the loan award, each applicant agrees to comply with all LURA terms and requirements as a rental landlord.

X. LAND USE RESTRICTION

- A. A Land Use Restriction Agreement (LURA) will be placed on each SF property receiving disaster funds to repair, construct or reconstruct rental units. The LURA must be approved by TDHCA. The LURA must contain a ten (10) year affordability period beginning after closeout of loan or grant and require acceptance of Section 8 housing choice rental vouchers when the owner owns 20 or more single family projects.
- B. Applicants will be required to sign a Land Use Restriction Agreement (LURA), which sets forth income and rent restrictions applicable to units of affordable rental housing and constituting, with respect to the specific affordable rental housing. These documents will be filed with the local county clerk's office in the land records. The LURA imposes the requirements on the property for the full loan period of five (5) years.
- C. The Land Use Restriction Agreement is an officially-filed restriction that ensures the property will remain rent restricted for the full loan period. At the end of the loan period, the restriction will automatically terminate and will no longer be valid or enforceable. Since the LURA is "self executing", nothing will need to be filed at the local county clerk's office to show that the loan period has ended. If the applicant abides by the terms and conditions of the LURA for the full five (5) year compliance period, the loan will be forgiven and no interest will be charged provided the landlord complies with the LURA requirements.
- D. The Land Use Restriction Agreement will expire on the fifth (5th) anniversary of the later of the issuance of the Certificate of Occupancy or the loan closing.

XI. FORGIVABLE LOAN DEFAULT

- A. Disaster assistance is provided as an unsecured note to landlords receiving rehabilitation or reconstruction assistance.

- B. Violation of any terms of the LURA will result in a Statement of Noncompliance being issued to the applicant. The notice will state clearly the reasons for noncompliance and will allow the applicant time to correct the non-compliance.
- C. If the applicant is in default, the amount of loan principal then outstanding (based upon the amount previously forgiven during the 5 year period) shall immediately become due and payable.
- D. Upon default the forgivable loan will immediately convert to an interest-bearing demand note and becomes immediately due and payable.
- E. The due and payable amount will be based upon the unforgiven amount of the loan.
- F. Default occurs at the property level. If the unit is found to be non-compliant with the LURA, then the entire property will be considered in default.
- G. Interest on defaulted loan awards will be set at the London Interbank Offered Rate (LIBOR) plus one percent (1%). Interest will be calculated beginning on the date that the first check is issued.

XII. RELOCATION

- A. The Developer/Borrower is responsible for the relocation activities related to the project. The Developer / Borrower shall comply with program regulations at 24 CFR §570.606, the Uniform Relocation Assistance and Real Property Policies Act of 1970 ("URA"), as amended, at 49 CFR §24, and §104(d) of the Housing and Community Development Act of 1974, as amended, at 24 CFR §42.
- B. If applicable, Developer / Borrower shall submit to the subrecipient copies of all documentation relating to URA, including but not limited to, a Relocation Plan with Assurance Letter, Notice to Real Property, Tenant Status Reports, and all Notices with Tenant Acknowledgments as required by the URA.

XIII. LANDLORD REQUIREMENTS

- A. These requirements include:
 - a. Leasing all units to tenants that have eligible household incomes (80% AMI or below).
 - b. Charging rents that are at or below High HOME rents.
 - c. Following income certification and verification procedures and keeping records on all tenants' income.
 - d. Maintaining complete and accurate rent rolls.

- e. Renting units in accordance with HUD Fair Housing Standards.
- B. The applicant is responsible for maintaining complete and accurate records for the full period of the loan term. These records must fully and completely support the satisfactory completion of all compliance items. These records must be provided to the subrecipient or TDHCA upon request.
- C. Compliance with these terms for the full period of the loan will result in loan forgiveness, leaving the applicant with no obligation to repay the loan or interest on it. Failure to comply with terms will lead to non-compliance.