



*The GLO-CDR Implementation Manual provides guidance for CDBG-DR and CDBG-MIT subrecipients and should not be construed as exhaustive instructions.*

# CHAPTER 16—INFRASTRUCTURE

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## **CHAPTER 16—INFRASTRUCTURE**

### **16.1 Introduction**

This implementation manual details activities related to the compliant execution of CDBG-DR and/or CDBG-MIT Programs. This chapter is designed to cover activities relating specifically to implementation of a local infrastructure program including additional information regarding Method of Distribution processes, subrecipient responsibilities, the application process, eligible and ineligible activities, contracting, and project kickoff.

The Texas General Land Office staff will relay information to the subrecipient via the Texas General Land Office Community Development and Revitalization website, [www.recovery.texas.gov](http://www.recovery.texas.gov), through trainings and checklists, and during on-site monitoring and reviews. Additional resources may be found on GLO-CDR's Infrastructure Resources Page (see [Resources](#)—Resource 16.1 at the end of this chapter).

### **16.2 Method of Distribution**

The Method of Distribution (“MOD”) defined by the applicable Action Plan outlines how funding is disseminated for each disaster allocation. The MOD may take many factors into consideration including census data, FEMA Individual Assistance data, FEMA Public Assistance data, the Social Vulnerability Index (“SoVI”), and other relevant factors to distribute funds. Many past allocations have defined use of partnerships with the Texas Association of Regional Councils and the Regional Councils of Government to determine the most effective and efficient way to distribute infrastructure funds to local communities following those specific disasters.

### **16.3 Subrecipient**

Subrecipient should review the appropriate Application Guide prior to beginning the application process. While preparing the application for submission, the subrecipient is responsible for identifying tie back to the specific disaster, eligible program activities proposed, the national objective to be met, CDBG-DR and/or CDBG-MIT funded activities and other funding to be used in a detailed budget proposal, and the level of environmental review required. Subrecipients are encouraged to integrate mitigation measures into rebuilding activities and encouraged to achieve objectives outlined in regionally or locally established plans and policies that are designed to reduce future risk to the jurisdiction. Each infrastructure activity must demonstrate how it will contribute to the long-term recovery and restoration of housing.

Each subrecipient must provide information about how the declared disaster impacted the community and the plan for recovery and resiliency. Descriptions should identify the specific disaster (date and duration), describe how the disaster threatened health and safety in the community, the facilities that were damaged, the current condition of those facilities, and detail of how the specific project will resolve the issue and ensure a more safe and resilient community.

In all cases, the GLO works closely with local communities throughout the grant process to ensure projects remain eligible for CDBG-DR and/or CDBG-MIT funding and are successful and compliant. In addition to all rules and regulations identified in the Subrecipient Agreement, each project must



undergo an environmental review, contractors must be procured properly under 2 CFR 200, and costs must be carefully tracked for duplication of benefits and eligible activities.

## **16.4 Affirmatively Furthering Fair Housing (AFFH) Review**

The GLO will seek to ensure that infrastructure activities will avoid disproportionate impact on vulnerable communities and will create, to the extent practicable, opportunities to address economic inequities facing local communities. All project applications will undergo an AFFH review by the GLO before approval. AFFH application reviews will include assessments of a proposed project's (1) area demography, (2) socioeconomic characteristics, (3) housing configuration and needs, (4) educational, transportation, and health care opportunities, (5) environmental hazards or concerns, and (6) all other factors material to the AFFH determination.

## **16.5 Eligibility Review Procedures**

GLO completes an eligibility review of every application. Through this process the Grant Manager or assigned representative confirms the application is complete and all proposed activities are program eligible.

All applications will be reviewed by GLO staff or its assigned representatives to determine if each application (1) is complete, (2) proposes activities that are eligible, (3) meets a national objective, and (4) meets program requirements.

The application review procedures consist of the following steps:

1. Each eligible entity must apply prior to the application due date and time as indicated in the corresponding Application Guide.
2. Review of applications for completeness and eligibility of proposed activities. Upon receipt of an application, GLO will perform a completeness and eligibility review to determine whether the application is complete and whether all proposed activities are program eligible. If the application does not include all required information, staff will contact the locality and explain the deficiencies that have been discovered and how they must be addressed. A response correcting the deficiencies must be submitted to GLO within the prescribed timelines. This review will be conducted by GLO or an appointed representative and may require the applicant to correct, clarify, and resubmit deficient documents electronically.

## **16.6 Activity Related Eligibility**

Infrastructure activities must contribute to the long-term recovery and restoration of housing. CDBG-DR and/or CDBG-MIT eligible activities will be allowed so long as the activity is directly related to the major natural disaster declaration, through actual damage or subsequent indirect damage, and is allowed under the applicable Action Plan. An activity underway prior to a Presidential disaster declaration will not qualify unless the disaster impacted the project.

Nonresidential structures must be elevated to the standards described in this paragraph or floodproofed, in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(3)(ii) or



successor standard, up to at least two feet above the 100-year (or 1 percent annual chance) floodplain. All Critical Actions, as defined at 24 CFR 55.2(b)(3), within the 500-year (or 0.2 percent annual chance) floodplain must be elevated or floodproofed (in accordance with the FEMA standards) to the higher of the 500-year floodplain elevation or three feet above the 100-year floodplain elevation. If the 500-year floodplain or elevation is unavailable, and the Critical Action is in the 100-year floodplain, then the structure must be elevated or floodproofed at least three feet above the 100-year floodplain elevation. Critical Actions are defined as an “activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons or damage to property.” For example, Critical Actions include hospitals, nursing homes, police stations, fire stations and principal utility lines.

The following categories are not exhaustive and are meant to provide additional guidance and further definition concerning eligible and ineligible activities.

### **16.6.1 Flood control and drainage repair and improvements**

#### Eligible Activities:

- Common drainage projects include reshaping and protecting eroded banks, correcting damaged drainage facilities, construction of water detention ponds, and repairing levees dams and structures. However, the purchasing of floodplain easements will be categorized under the Property Buyout Projects category for this application;
- If CDBG-DR funds are used for levees and dams, the applicant must: (1) register and maintain entries regarding such structures with the U.S. Army Corps of Engineers (“USACE”) National Levee Database or National Inventory of Dams, (2) ensure that the structure is admitted in the USACE PL 84–99 Program (Levee Rehabilitation and Improvement Program), and (3) ensure that the structure is accredited under the FEMA National Flood Insurance Program; and
- Permanent drainage facilities (storm sewer lines, concrete structures, culverts, related ditch grading). Note: The CDBG-DR program considers curb and gutter, when eligible, to be a street improvements activity and not a drainage improvements activity.

#### Ineligible Activities:

- Ditch cleaning and other operation/maintenance activities; and
- Dam and Levees are prohibited from being used to enlarge a dam or levee beyond the original footprint of the structure that existed prior to the disaster event.

### **16.6.2 Restoration of infrastructure (i.e. water and sewer facilities, streets, provision of generators, removal of debris, bridges, etc.)**

#### Eligible Activities:

- Replacement of existing lines (only if damaged or resulted in failure to function as designed);
- Installation of fire hydrants;
- Reconstruction of intake stations;
- Replacement of major equipment (e.g., clarifiers);
- Reconstruction of elevated or ground storage tanks.



- Emergency power generators; and
- Acquisition of real property (including ROWs/easements).

Ineligible Activities:

- Cleaning of lines;
- Maintenance/repair of existing ground and elevated storage tanks (including interior and exterior painting unless the repair extends the useful life of the tank by at least 10 years);
- Improvements made necessary because of poor maintenance or operational practices;
- Replacement of minor equipment;
- Minor facility repairs; and
- Any improvements which will result in operations that are not in compliance with applicable state, federal, and local laws and regulations.

### **16.6.3 Wastewater Improvements**

Eligible Activities:

- Replacement of existing lines (only if damaged or resulted in failure to function as designed);
- Installation of service connections and service reconnections on public property;
- Reconstruction of lift stations;
- Reconstruction of a sewage treatment plant;
- Emergency power generators; and
- Acquisition of real property (including ROWs/easements).

Ineligible Activities:

- Cleaning of lines;
- Rehabilitation of lift stations if no damage or failure to function took place;
- Replacement of minor equipment;
- Minor facility repairs;
- Improvements made necessary because of poor maintenance or operational practices; and
- Any improvements which will result in operations that are not in compliance with applicable state, federal, or local laws and regulations.

### **16.6.4 Road/Street Improvements**

The repair of roads under this project type must be directly related to damages sustained as a result of the event and not a lack of maintenance.

Eligible Activities:

- Construction of roadways at new locations, regardless of surface materials to be used;
- Construction of added width capacity in the form of additional lanes;
- Acquisition of additional right-of-ways for construction at new locations, or for added width capacity;



- Projects that increase the structural strength of the roadway or improve service of the roadway; generally, this refers to improvements in the surface material quality (e.g., caliche to crushed rock, crushed rock to asphalt, etc.);
- Bridge/culvert replacement (where deteriorated or damaged). Bridges within the Texas Department of Transportation Bridge Program may not be eligible. These structures will be reviewed by GLO on a case-by-case basis; and
- Curb and gutter, when done in conjunction with other eligible street activities. (Note: The CDBG-DR program considers curb and gutter, when eligible, to be a street improvement activity and not a drainage improvements activity).

### Ineligible Activities:

- Seal-coating;
- Overlays; and
- Level-ups.

### **16.6.5 Debris Removal**

Debris may consist primarily of vegetation, construction and demolition materials from damaged or destroyed structures, and personal property. The methods by which applicants may choose to collect and store debris prior to proper disposal depends greatly on the type of debris, as well as the capabilities of the jurisdiction. Prior to collecting debris, all pertinent environmental concerns must be taken into consideration; for example, the removal of debris from natural streams will often require a Clean Water Act Section 404 permit from the United States Army Corp of Engineers ("USACE").

While construction and demolition debris may be collected and disposed of at an appropriately rated landfill, woody and/or vegetative debris must be stored prior to disposal; this will require the use of a temporary debris storage and reduction sites ("TDSR"). The preparation and operation of a TDSR site is typically left to the contractor; however, local jurisdictions choosing to conduct their own debris operations may review Chapter 7 of the FEMA Debris Management Guide regarding the use of TDSR sites.

Maintaining the life expectancy of landfills in and around the state is of great concern; therefore, applicants proposing to dispose of woody and/or vegetative debris must choose burning, chipping, or grinding as the method of disposal. If the project proposes to dispose of woody and/or vegetative debris by sending it to a landfill, the applicant must provide adequate justification for their decision. These applications will be reviewed on a case-by-case basis. Applicants choosing other forms of disposal for woody and/or vegetative debris must contact GLO prior to submitting their applications for additional direction. All required permits must be acquired prior to beginning debris operations (e.g., TCEQ Burn Permits, Environmental Documents, etc.).

### **16.6.6 Gas System improvements**

#### Eligible Activities:

- Replacement of existing lines (only if damaged or resulted in failure to function);
- Replacement of major equipment; and
- Acquisition of real property (including ROWs/easements).



Ineligible Activities:

- Cleaning of lines;
- Improvements made necessary because of poor maintenance or operational practices;
- Replacement of minor equipment; and
- Any improvements which will result in operations that are not in compliance with applicable state, federal, and local laws and regulations.

**16.6.7 Fire Protection Facilities**

Eligible Activities:

- Fire stations; fire trucks; fire equipment; and
- Emergency power generators.

Ineligible Activities:

- Equipment and furnishings not necessary for fire protection.

**16.6.8 Neighborhood/Community/Senior Centers/Shelter**

Eligible Activities:

- Rehabilitation or replacement of existing buildings;
- Acquisition of real property;
- Emergency power generators;
- Fixed equipment; and
- Construction of new shelters.

Ineligible Activities:

- Improvements not directly related to the disaster event, direct or indirect damage;
- Facilities that have a primary and/or sole purpose as a Point of Distribution (POD);
- Emergency Operations Centers (EOCs); and
- Fueling stations.

**16.6.9 Demolition, Rehabilitation of Publicly or Privately-Owned Commercial or Industrial building, and Code Enforcement**

All demolition activities must be explained within the Project Summary section of the application in terms of how the proposed activity does not overlap with non-infrastructure funds available through GLO. For example, clearance and demolition of a damaged housing structure would be a Housing activity, not a Clearance and Demolition project under GLO infrastructure activities.

**16.7 Subrecipient Agreement Execution**

When all project eligibility issues have been resolved, GLO staff will draft the Subrecipient Agreement based on the information approved in the subrecipient's application. GLO may negotiate any technical elements with the subrecipient provided the award amount is not increased, the level of benefits described in the application is not decreased, and/or there are no changes that would impact eligibility.





## **16.8 Kick-off Meeting**

There are two types of formal Kick-Off meetings that occur for Infrastructure projects, the first is the Subrecipient Agreement Kick-Off meeting. This meeting occurs as soon as a Subrecipient Agreement is fully executed between the subrecipient and the GLO. This meeting thoroughly reviews the Subrecipient Agreement terms, expectations, and requirements. Budgets and schedules are confirmed and subrecipient are advised of next steps including documentation required before funding can be paid.

The other type of Kick-Off meeting is also known as a Pre-Construction conference and occurs after the construction contract has been executed. This type of Kick-off meeting is between the subrecipient and their construction contractors. In these Kick-Off meetings, the following information is provided: verification of bonds & insurance, explanation of all Davis Bacon requirements, other requirements for inspections and draw submissions. The subrecipient is responsible for issuing wage determination in advance of procurements, along with Section 3 and MBE/DBE/WBE requirements. In addition, the subrecipient is responsible for securing “cost reasonableness” estimates and conducting procurement for project contractors. The subrecipient is required to prepare a Pre-construction conference report to document this meeting.





## **16.9 Resources**

GLO-CDR has created a comprehensive website which contains necessary forms, checklists, detailed guidance documents, and additional resources to supplement this Implementation Manual. Please see [www.recovery.texas.gov](http://www.recovery.texas.gov) for more information. The following resources are referenced within this chapter and will be updated as new forms and documents are developed.

<b>Resource Number</b>	<b>Topic</b>	<b>URL</b>
Resource 16.1	<a href="#">GLO-CDR Infrastructure Resources Page</a>	<a href="https://recovery.texas.gov/grant-administration/grant-implementation/infrastructure/index.html">https://recovery.texas.gov/grant-administration/grant-implementation/infrastructure/index.html</a>

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*Questions:* Please direct all questions regarding your specific program or project to your assigned GLO Grant Manager. Send comments related to the GLO-CDR Implementation Manual to [ImplementationManual.glo@recovery.texas.gov](mailto:ImplementationManual.glo@recovery.texas.gov)