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Draft CDBG-DR Buyout Program Guidelines

Austin County, Texas

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§1.0.1 Background and Need

The hurricane season of 2017 proved to be the most expensive in United States history, impacting families from Puerto Rico to Florida and across the Texas coast. Hurricane Harvey made landfall on August 25, 2017, between Port Aransas and Port O'Connor as a Category 4 hurricane with sustained winds over 130 mph. After initial impact, Hurricane Harvey's winds began to decrease, but due to two high-pressure systems to the east and west, it remained fixed over the Texas coast for the next 4 days. During this period, as much as 60 inches of rain fell over the impacted area.

The General Land Office (GLO) estimates the cost of damages from Hurricane Harvey at \$120 billion, making it the costliest event in U.S. history. The hurricane shut down ports, trade, tourism, oil and gas production, agricultural production, and general businesses across most of the Texas coast, for almost a week and, in some cases, significantly longer.

Hurricane Harvey resulted in record rainfall totals of 34 trillion gallons of water. Combining this record rainfall together with the fact that Hurricane Harvey made landfall twice creates a three-event narrative: the initial landfall in Aransas County; the unprecedented rainfall in the Houston metroplex and surrounding areas; and Hurricane Harvey's second landfall which caused massive flooding in Southeast Texas. Following these three events, tens of thousands of homes that had never been flooded took on water, and evacuations and rescues continued for days after landfall.

Austin County experienced heavy rains and flooding starting on August 27, 2017 and ending on September 2, 2017. The prolonged heavy rains overflowed ditches, inundated roadways, and flooded homes and businesses. The health and safety of residents was jeopardized by these extreme weather conditions. Hurricane Harvey's extreme weather caused severe property damage for many residents, especially those with homes near the Brazos River, which overflowed on August 27. Seven-foot-deep water inundated homes in the Lazy River Subdivision, causing extraordinary amounts of damage. Some residents were still displaced as of March 2019.

According to FEMA Individual Assistance data, Hurricane Harvey cost Austin County residents \$1,997,020 in real property losses. By the end of the storm, 201 households received flood damage, while only 88 households had flood insurance. Of those properties that were damaged, 35 were classified as 'major-high' severity losses.

§2.0.1 Introduction

In response to the damage caused by Hurricane Harvey and other natural disasters that occurred across the nation in 2017, the U.S. Congress appropriated \$28 billion in Federal Fiscal Year 2018 funds for the Community Development Block Grant-Disaster Recovery (CDBG-DR) program through Public Law 113-2. Enacted on January 29, 2013, this law stipulates that these funds be used for the following recovery efforts:

"...for necessary expenses for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the most impacted and distressed areas resulting from a major declared disaster that occurred in 2017 (except as otherwise provided under this heading) pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): Provided, That funds shall be awarded directly to the State, unit of general local government, or Indian tribe (as such term is defined in section 102 of the Housing and Community Development Act of 1974) at the discretion of the Secretary..."

Ultimately, HUD determined that the portion of the entire allocation that would be granted to the State of Texas would be \$5.024 billion in Federal Register Volume 82 Number 28. Subsequent to this determination, the State of Texas developed a framework for locally administrated CDBG-DR buyouts and acquisitions under the umbrella of its Local Buyout and Acquisition Program. This program was described along with several other disaster recovery initiatives as outlined in the State of Texas Action Plan for Community Development Block Grant Program Disaster Recovery (“Action Plan”). The Local Buyout and Acquisition Program is designed to assist Texans whose homes were damaged by Hurricane Harvey.

Following a framework created by the State of Texas, communities that were allocated funds for buyouts/acquisitions will aim to purchase homes that were impacted by Hurricane Harvey. Communities received allocations under a formal Method of Distribution Process (“MOD”) organized and administrated by regional Counsels of Governments (“COGs”). To receive a buyout/acquisition allocation, COGs must have determined that localities had more than one million dollars of housing need that could be addressed through buyout/acquisition program activities.

Austin County name received an allocation totaling to \$1,655,654.00 through the Houston-Galveston Area Council MOD. **This money will be used as the sole funding source for the County’s voluntary buyout program. No acquisitions or redevelopment will be conducted. This program will offer buyouts to property owners in select target areas in Austin County who suffered real property damage during Hurricane Harvey. Per HUD requirements, 70% of the allocation’s project costs will be spent serving low-to-moderate income households. Property owners must be able to provide direct or indirect impact from Harvey to be considered eligible. All offers to purchase made through this program are capped at the FHA lending limit in Austin County, which is \$331,760.00 for a single-family home or \$424,800.00 for a two-family home.**

§2.0.2 Acronyms and Definitions

§2.1.1 Acronyms

Acronym	Name
AA	Allowable Activities
AFFH	Affirmative Further Fair Housing
ABFE	Advisory Base Flood Elevations
BFE	Base Flood Elevation
CDBG	Community Development Block Grant
CRS	Community Rating System
DHAP	Disaster Housing Assistance Program
DRGR	Disaster Recovery Grant Reporting System
DOB	Duplication of Benefit
ECR	Estimated Cost of Repair
FMV	Fair Market Value
FEMA	Federal Emergency Management Agency
GLO	State of Texas General Land Office
HQS	Housing Quality Standards
HUD	Department of Housing and Urban Development
IFB	Invitation for Bid

IRS	Internal Revenue Service
LEP	Limited English Proficiency
LMI	Low to Moderate Income
MPS	Minimum Property Standards
MBE	Minority Business Enterprise
NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
OIA	Office of Internal Audit
OIG	HUD Office of Inspector General
PCB	Policy Change Control Board
POA	Power of Attorney
QA	Quality Assurance
QC	Quality Control
QPR	Quarterly Performance Report
RV	Recreational Vehicle
REO	Real Estate Owned Property
RFP	Request for Proposal
RFQ	Request for Qualifications
RE	Responsible Entity
SAVE	Systematic Alien Verification for Entitlements
SBA	Small Business Administration
SEQR	State Environmental Quality Review Act
SFHA	Special Flood Hazard Area
SOW	Scope of Work
SSC	Site Specific Checklist
SSDI	Social Security Disability Income
TSA	Transitional Shelter Assistance
UGLG	Units of General Local Government
URA	Uniform Relocation Act

§2.1.2 Definitions

100-Year Floodplain: Also referred to as ‘base flood.’ This term, adopted by the NFIP as the basis for mapping, insurance rating, and regulating new construction, is the flood plain that would be inundated in the event of a 100-year flood. The 100-year floodplain has a one percent chance of sustaining equaled or exceeded inundation during any given year.

Affirmative Further Fair Housing - The County desires to ensure that the program meets the requirements of the Affirmatively Furthering Fair Housing Final Rule to provide all residents of the County an opportunity to improve their living environments within the program parameters as established by GLO. To that end, the County has examined areas of concentration or people of racial and ethnic status for inclusion within the program and adopted the Fair Housing Marketing

Plan to provide additional outreach to ensure eligibility for participation. (See Section 3.2.1).

Advisory Base Flood Elevations (ABFE): Provide a better picture of current flood risk than the existing Flood Insurance Rate Maps (FIRMs), which in some cases are more than 25 years old. The new ABFEs are the recommended elevation of the lowest floor of a building. State law, some communities, and the Residential Building Code may require that the lowest floor be built above the ABFE. The ABFEs are based on Federal Emergency Management Associations (FEMA) coastal studies that were completed before Hurricane Sandy. The studies include data that has been collected and analyzed over a number of years. Though advisory now, eventually information used to develop the ABFEs will be incorporated into official FIRMs.

Base Flood Elevation (BFE): The elevation that waters from a 100-year flood will reach.

Change Orders: Modifications to the Scope of Work required due to unforeseen circumstances.

Community Development Block Grant (CDBG): A federal program administered by the US Department of Housing & Urban Development (HUD) which provides grant funds to local and state governments. The CDBG program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses.

Condominium: A building or complex in which units of property, such as apartments, are owned by individuals and common parts of the property, such as the grounds and building structure, are owned jointly by the unit owners.

Condominium Association: The entity made up of the unit owners responsible for the maintenance and operation of:

- Common elements owned in undivided shares by unit owners
- Other real property in which the unit owners have use rights

Contract for Deed (also referred to as a Lease Purchase Agreement): Legal document that establishes items to be met in order for the deed to a piece of property to transfer from one person to another, usually in exchange for monthly payments until the purchase price has been paid.

Contract of Sale: The formal contract between the County and the Property owner that stipulates the legal terms of the real estate transaction. All property owners will have the option of having an attorney review the contract of sale. Any cost involved in these reviews will not be covered by the County.

Conveyance: The act of transferring an ownership interest in a property from one party to another. Conveyance also refers to the written instrument, such as a deed or lease, that transfers legal title of a property from the seller to the buyer.

Cooperative apartments (Coops): Owner owns stock in the corporation that owns the apartment

building. The building then “leases” the cooperative apartment to the buyer under a long-term proprietary lease. Coop owners pay monthly maintenance to the building corporation for items such as the expenses of maintaining and operating the building property, property taxes and the underlying mortgage on the building (if any).

Demolition: Permanent removal of all residential structures and personal property from a piece of land.

Disaster Recovery Grant Reporting System (DRGR): The Disaster Recovery Grant Reporting system was developed by HUD's Office of Community Planning and Development for the Disaster Recovery CDBG program and other special appropriations. Data from the system is used by HUD staff to review activities funded under these programs and for required quarterly reports to Congress.

Disaster Risk Reduction Area: A geographic area outside of a floodplain and/or floodway that a grantee or subrecipient can target for pre-storm FMV buyouts. To create a Disaster Risk Reduction Area (“DRRA”), the purchasing agency must prove (1) The hazard was caused or exacerbated by the Presidentially declared disaster for which the grantee received its CDBG–DR allocation; (2) The hazard must be a predictable environmental threat to the safety and well-being of program beneficiaries, as evidenced by the best available data and science; and (3) The Disaster Risk Reduction Area must be clearly delineated so that HUD and the public may easily determine which properties are located within the Disaster Risk Reduction Area. See Federal Register Vol. 80 No. 222.

Duplex: A residential structure consisting of two separate dwelling units, side by side or one above the other.

Duplication of Benefit (DOB): Any payments the Property owner received for disaster assistance for the same loss that the Program is providing assistance. A duplication occurs when a beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose. The amount of the duplication is the amount of assistance provided in excess of need.

Earth Movement: Is a FEMA term where there are shifts to land caused by landslide, slope failure, saturated soil mass moving by liquidity down a slope, or sinking of the earth.

Elderly Person: [24 CFR 891.205] An elderly person is a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

Environmental Review Record (ERR): A permanent set of files containing all documentation pertaining to the environmental review compliance procedures conducted and environmental clearance documents

Environmental Code: Properties located where federal assistance is not permitted are ineligible for Program assistance. Properties must be in compliance with Environmental Code 24 CFR Part 58.

Person with Disabilities: [24 CFR 5.403]. A person with disabilities for purposes of program eligibility:

1. Means a person who:
 - a. Has a disability, as defined in 42 U.S.C. 423;
 - i. Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
 - ii. In the case of an individual who has attained the age of 55 and is blind, inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time. For the purposes of this definition, the term blindness means central vision acuity of 20/200 or less in the better eye with use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purposes of this paragraph as having a central visual acuity of 20/200 or less.
 - b. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
 - i. Is expected to be of long-continued and indefinite duration,
 - ii. Substantially impedes his or her ability to live independently, and
 - iii. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
 - iv. Has a developmental disability, as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8))

Federal Emergency Management Agency (FEMA): An agency of the United States Department of Homeland Security. The agency's primary purpose is to coordinate the response to a disaster that has occurred in the United States and that overwhelms the resources of local and state authorities.

Fair Housing: Activities that follow the rules and guidelines set forth in the Fair Housing Act and subsequent fair housing legislation. The goal of these activities is to eliminate housing discrimination, promote economic opportunity, and achieve diverse, inclusive communities.

Fair Housing Marketing Plan: A marketing strategy designed to attract applicants of all majority and minority groups, regardless of sex, handicap, familial status, etc. to participate in the housing activities which are being marketed.

Fair Market Value: The hypothetical price that a willing buyer and seller will agree upon when they are acting freely, carefully, and with complete knowledge of the situation.

Garden Apartments: Multi-unit apartment complexes usually located on one or two stories with the entrances to individual apartments contained along a common walkway. These complexes usually have a common off-street parking lot as well as other common public spaces.

Gift of Property: A form of property transfer without exchange or payment.

Grantee: The term “grantee” refers to any jurisdiction receiving a direct award from HUD under Notice FR-5696-N-01.

Department of Housing and Urban Development (HUD): Federal department through which the Program funds are distributed to grantees.

Invitation for Bid (IFB): The method used for the sealed bid process. IFBs usually include a copy of the specifications for the particular proposed purchase, instructions for preparation of bids, and the conditions of purchase, delivery and payment schedule. The IFB also designates the date and time of bid opening.

Internal Revenue Service (IRS): Federal department responsible for tax collection and tax law enforcement.

Limited English Proficiency (LEP): A designation for person that are unable to communicate effectively in English because their primary language is not English and they have not developed fluency in the English language. A person with Limited English Proficiency may have difficulty speaking or reading English. An LEP person will benefit from an interpreter who will translate to and from the person’s primary language. An LEP person may also need documents written in English translated into his or her primary language so that person can understand important documents related to health and human services.

Lost Ownership: Property owners who lost ownership of their homes due to foreclosure, or are pending foreclosure, are ineligible for Program assistance.

Low-to-Moderate Income (LMI): Low to moderate income people are those having incomes not more than the “moderate-income’ level (80% Area Median Family Income) set by the federal government for the HUD assisted Housing Programs. This income standard changes from year to year and varies by household size, county and the metropolitan statistical area.

Manufactured home: Built in a factory and installed on the home site. They must meet HUD construction requirements. If built before the 1976 HUD Code, they are commonly called mobile homes.

Minimum Property Standards (MPS): Established certain minimum standards for buildings constructed under HUD housing programs. This includes new single family homes, multi-family housing and health care type facilities.

Minority Business Enterprise (MBE): A business that is owned and controlled (minimum of 51 percent ownership) by a member of a minority group.

Mixed-Status Family: Is a family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

National: A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Noncitizen: A person who is neither a citizen nor a national of the United States.

National of the United States: A non-US citizen who holds allegiance to the US is not considered an alien. For practical purposes, this describes a few people who live on some islands in the South Pacific.

National Environmental Policy Act (NEPA): Establishes a broad national framework for protecting the environment. NEPA's basic policy is to assure that all branches of government give proper consideration to the environment prior to undertaking any major federal action that could significantly affect the environment.

National Flood Insurance Program (NFIP): Created by Congress in 1968 to reduce future flood damage through floodplain management and to provide people with flood insurance through individual agents and insurance companies. FEMA manages the NFIP.

Notice of Opportunity to Rescind: The Property owner has three (3) business days to rescind the contract signing. On the fourth business day, the Property owner signs the form to either rescind the contract or to move forward with the program.

HUD Office of Inspector General (OIG): OIG's mission is independent and objective reporting to the Secretary and the Congress for the purpose of bringing about positive change in the integrity, efficiency, and effectiveness of HUD operations. The Office of Inspector General became statutory with the signing of the Inspector General Act of 1978 (Public Law 95-452).

Power of Attorney (POA): An authorization to act on someone else's behalf in a legal or business matter.

Purchase Contracts: Contract for deed is not eligible unless the Property owner converts his/her contract to full ownership prior to receiving funding assistance from the program.

Quality Assurance (QA): Planned and systematic production processes that provide confidence that the policy and procedures of the Program are being executed as planned.

Quality Control (QC): Testing to ensure that the policy and procedures of the Program are being executed as planned.

Quarterly Performance Report (QPR): Each grantee must submit a QPR through the DRGR system no later than 30 days following the end of each calendar quarter. Within 3 days of submission to HUD, each QPR must be posted on the grantee’s official web site.

Reconstruction: The labor, materials, tools and other costs of rebuilding.

Recreational Vehicle (RV): A motorized wheeled vehicle used for camping or other recreational activities.

Request for Proposal (RFP): A procurement document designed to solicit proposal services where cost is considered as a factor.

Request for Qualifications (RFQ): A procurement document designed to solicit a quote for services defined.

Responsible Entity (RE): Under 24 CFR Part 58, the term “responsible entity” (RE) means the grantee receiving CDBG assistance. The responsible entity must complete the environmental review process. The RE is responsible for ensuring compliance with NEPA and the Federal laws and authorities has been achieved, for issuing the public notification, for submitting the request for release of funds and certification, when required, and for ensuring the Environmental Review Record (ERR) is complete.

Reverse Mortgage: A special type of home loan that lets a Property owner convert the equity in his/her home into cash. To qualify, the Property owner must be at least 62 years of age, must occupy the property as their principal residence, and must have sufficient equity in the property.

Real Estate Owned Property (REO): A property owned by a lender—typically a bank, government agency, or government loan insurer—after an unsuccessful sale at a foreclosure auction.

Second Home: If a second home is not rented out at any time during the year, it is a second home regardless of if it is used by the household or not. If a home is rented out part of the year and the owner uses the home more than 14 days or more than 10 percent of the number of days during the year that the home is rented, then it is a second home. If a home is rented out for part or all of the year and the owner does not use the home long enough then it is rental property and not a second home.

Short Sale: When a financially distressed homeowner sells their property for less than the amount due on the mortgage. The buyer of the property is a third party (not the bank), and all proceeds from the sale go to the lender. The lender either forgives the difference or gets a deficiency judgment against the borrower requiring him or her to pay the lender all or part of the difference between the sale price and the original value of the mortgage. In some states, this difference must legally be forgiven in a short sale.

Site Specific Checklist (SSC): The environmental compliance checklist that is required to document environmental clearance before Federal funds are permitted to be awarded.

Slum and Blight: “Blighted area” and “slum” mean an area in which at least seventy per cent of the parcels are blighted parcels and those blighted parcels substantially impair or arrest the sound growth of the state or a political subdivision of the state, retard the provision of housing accommodations, constitute an economic or social liability, or are a menace to the public health, safety, morals, or welfare in their present condition and use

Small Business Administration (SBA): SBA’s Office of Disaster Assistance (ODA) provides affordable, timely and accessible financial assistance to Property owners, renters, and businesses. The SBA low-interest, long-term loans are the primary form of federal assistance for the repair and rebuilding of non-farm, private sector disaster losses.

Special Flood Hazard Area (SFHA): The base floodplain displayed on FEMA maps. It includes the A and V zones.

Scope of Work (SOW): The Scope of Work will be prepared after a thorough on-site inspection and documented into a project specific work write-up report. The work write-up will identify needed repairs to bring the home up to the Program’s minimum property standards.

Subordination Agreement: A written contract in which a lender who has secured a loan by a mortgage or deed of trust agrees with the property owner to subordinate the earlier loan to a new loan (thus giving the new loan priority in any foreclosure or payoff).

Subrogation: The process by which duplicative assistance paid to the Property owner after receiving an award are remitted to the Program in order to rectify a duplication of benefit.

Substantial Damage: Occurs when a property sustains damages that equal or exceed 50 percent of its Fair Market Value (FMV) prior to the event, as determined by a local authorized official (e.g., a code officer) and is sent a Substantial Damage Letter, or if the ECR/AA value (minus elevation and bulkheads costs) meets or exceeds 50 percent of the Program cap.

Systematic Alien Verification for Entitlements (SAVE): Is a web-based service that helps federal, state and local benefit-issuing agencies, institutions, and licensing agencies determine the immigration status of benefit Property owners so only those entitled to benefits receive them.

TIGR: The central electronic grants management system that the State has chosen to use for the Program.

Trust: A legal vehicle to hold property subject to certain duties and to protect it for another individual(s).

Two-Family Homes: Owner occupying one unit and a tenant occupying the other.

Uniform Relocation Act (URA): A federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms.

Urgent Need Objective: Under the disaster recovery federal regulations, HUD has determined that an urgent need exists within the Presidentially Declared counties. An urgent need exists because existing conditions pose serious and immediate threat to health/welfare of community, the existing conditions are recent or recently became urgent (typically within 18 months), and the sub-grantee or state cannot finance the activities on its own because other funding sources are not available. All Property owners which cannot meet the LMI National Objective will be placed into the Urgent Needs category.

§3.0.1 Objectives

§3.1.1 GLO Housing Guidelines

The primary focus of the Subrecipient's housing buyout program is to provide relief for survivors affected by an event while complying with all CDBG-DR requirements and addressing recognized impediments to fair housing choice as required under the Fair Housing Act. Assistance will be provided to survivors under activities related to buyout/acquisition, resettlement and housing incentives, and social equity incentives. The buyout program will aim to meet the following objectives:

- Efficiently remove repetitive loss, severe repetitive loss, and otherwise vulnerable housing from flood prone areas while assisting homeowners with the process of purchasing safe replacement homes outside of the floodplain
- Prioritize households in which members are under the age of 18, female heads of household, elderly and disabled households, and/or Veteran populations while affirmatively furthering fair housing.
- Emphasize replacement housing choices and designs to reduce maintenance and insurance costs, as well as provide the provision of independent living options.

§3.2.1 Affirmatively Furthering Fair Housing

Austin County is committed to affirmatively furthering Fair Housing. The County has selected areas impacted by the storm that have been designated as target buyout areas (see map at the end of Guidelines). The total allocation available to the County may be insufficient to purchase homes from every interested property owner in the target areas.

During a review of the Program, the GLO determined that the area identified as the Lazy River was potentially a racially and ethnically diverse area, but a detailed analysis was not completed. The goal of Affirmatively Furthering Fair Housing rule is to provide additional opportunities areas where racial and ethnic minorities may benefit from Federal, state and local resources that may not have been historically available.

One condition placed on Austin County during a GLO AFFH review of the intended Buyout program was:

Austin County should maintain a free-standing participant log with all applicants with the amount of the award in each area (acquisition, relocation assistance and Homebuyer Assistance), and, where possible, the race or ethnicity of the applicant (since this is generally voluntary information, if it is not obtainable, that should be indicated) for each applicant whether awarded or not. Personally Identifiable Information should not be included (social security numbers, driver's license information or mortgage information) as it is not relevant for this review. A log

of this nature will expedite the review for GLO monitors or outside parties to ensure the program is in keeping with the goals of the Affirmatively Furthering Fair Housing Final Rule.

The County, either on its own or through a Program Manager will be responsible for the development of this list and, prior to awards being made, the County will analyze the list to ensure that the applicants involved, where possible in the buyout target area, are in conformance, at a minimum, to the overall population demographics of the County. In the event that there are not sufficient racial and/or ethnic minorities on the application list or participating in the program, the County will provide additional outreach within the target areas or provide certification that every property owner in the target has been contacted at a personal level (see Section 4.3.3a) and has chosen not to participate.

In the event that the racial and ethnic participation cannot be achieved within the 70% LMI program requirements, the incomes of those who do not meet the LMI requirement will be included in the list maintained by the County and added as an exhibit to the certification.

Austin County is committed to affirmatively furthering fair housing through established affirmative marketing policies. The County's affirmative marketing efforts for the disaster funding will include the following:

- An Affirmative Fair Housing Marketing Plan, based on HUD regulations, will be followed by The County. The plan includes items on GLO's checklist to affirmatively market units financed through the Program. The procedures cover dissemination of information, technical assistance to applicants, project management, reporting requirements, and project review.
- The goal is to ensure that outreach and communication efforts reach eligible survivors from all racial, ethnic, national origin, religious, familial status, the disabled, "special needs," and gender groups. Notification to these populations will include:
 - Information regarding their eligibility for the buyout program and a summary of what the program does
 - Encouragement to apply for the buyout program
 - Given the opportunity to relocate to an area of their choice
- Emphasis will be focused on successful outreach to LMI areas and those communities with minority concentrations that were affected by the disaster. Outreach efforts will include door-to-door canvassing and special outreach efforts to hard-to-reach populations (e.g., seniors, and persons with severe disabilities who either do not have information about the resources available or are unable to apply for resources).
- In addition to marketing through widely available media outlets, efforts may be taken to affirmatively market the CDBG-DR Program as follows:
 - Advertise with the local media outlets, including newspapers and broadcast media, that 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; and
 - Other forms of outreach tailored to reaching the eligible population, including door-to-door outreach, and on the weekends, if necessary.
 - 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.

- Applications and forms will be offered in English and other languages prevailing in the region in accordance with Title VI of the Civil Rights Act of 1964, including persons with disabilities (24 CFR 8.6), Limited English Proficiency (LEP), and other fair housing and civil rights requirements such as the effective communication requirements under the Americans with Disabilities Act. Every effort will be made to assist such applicants in the application process.
- Case managers will help navigate and inform survivors who may qualify for acquisition and buyout of their damaged unit to remove them from flood hazards, environmental hazards, and other unsafe conditions while meeting AFFH obligations.
- Documentation of all marketing measures used, including copies of all advertisements and announcements, will be retained and made available to the public upon request.
- The County will 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.

§3.3.1 HUD Section 3

Austin County is committed to furthering the goals of HUD Section 3. Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135] represents HUD's policy for providing preference for new employment, training, and contracting opportunities created from the usage of covered HUD funds to low- and very low-income residents of the community where certain funds are spent (regardless of race or gender), and the businesses that substantially employ these persons. In order to comply with Section 3, the buyout program will do the following whenever necessary;

1. Implementing procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;
2. Notifying potential contractors working on Section 3 covered projects of their responsibilities;
3. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
4. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
5. Assisting and actively cooperating with the Department in making contractors and subcontractors comply;
6. Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
7. Documenting actions taken to comply with Section 3; and
8. Submitting Section 3 Quarterly and Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

§4.0.1 Project Design

§4.1.1 Eligible Costs

The County's buyout program will concentrate its efforts on increasing regional resiliency by removing residential dwelling units from the most dangerous flood-prone areas in its jurisdiction. The process will

involve several costs, both direct costs and administrative/delivery costs, to ensure the project's activities will meet all applicable federal, state, and local guidelines. The County anticipates the following eligible costs that will be paid through the allocation:

- Home purchase costs
- Home demolition and disposal costs
- Housing incentive costs
- Environmental services (Tier I and Tier II) costs
- Appraisal costs
- Title/legal/escrow costs
- Case Management costs
- Rental assistance (tenant URA) costs
- Program management and administrative costs

Paying costs related to these line items will be considered lawful and eligible uses of The County's buyout allocation.

§4.1.2 End Use of Real Property Acquired

Any real property acquired through this buyout program will result in the land remaining open green space in perpetuity. Reconstruction may NOT occur on lots in these areas; lots will be maintained as flooding buffer zones or other non-residential/commercial uses. The purchase of vacant land in buyout areas is permissible, subject to the application prioritization process (see §4.5.1). Any cost of maintaining the property after demolition will be paid for by Austin County, unless a HUD-allowable agreement is made with another party.

§4.2.1 National Objective Methodology

All program activities must meet one of the three National Objectives required under the authorizing statute of the CDBG program. The CDBG-DR Buyout Program will principally provide assistance to those households meeting the LMI objective. When the Property owner does not meet the definition of the LMI Objective, eligibility for assistance will be provided through the Urgent Need Objective.

In determining income, the program will use the most recent signed federal income tax returns (e.g., IRS Forms, 1040, 1040A or 1040EZ).

If one or all household members do not have an IRS tax return, or the income situation has changed since the tax return(s) was filed, any of the following applicable documents must be presented for every household member that is 18 or older:

- Minimum of three current and consecutive months of check stubs (if the household member is paid monthly)
- Minimum of four current and consecutive check stubs (if the household member is paid weekly, bi-weekly or bi-monthly)
- Pension statement showing current monthly or yearly gross amount
- Social Security statement or IRS Form 1099
- Unemployment statement

- Certification of Zero Income Form
- Completed Household Income Worksheet and Certification

Under the disaster recovery federal regulations, HUD has determined that an urgent need exists within the Presidentially Declared counties. An urgent need exists because existing conditions pose serious and immediate threat to health/welfare of community, the existing conditions are recent or recently became urgent (typically within 18 months), and the County or state cannot finance the activities on its own because other funding sources are not available. All Property owners which cannot meet the LMI National Objective will be placed into the Urgent Needs category.

§4.2.2 70% LMI Requirement

The U.S. Department of Housing and Urban Development has established the requirement that 70% of the aggregate of CDBG-DR funds be utilized for the benefit of the low and moderate-income population in the impacted area. The U.S. Department of Housing and Urban Development has indicated they will only consider a waiver to this requirement if it can be adequately demonstrated that the needs of the low- or moderate-income population within the impacted area have had their needs sufficiently addressed or potentially if the impact is less than 70% low- or moderate-income persons. As a result, the County will prioritize LMI applicants and provide ongoing monitoring to ensure that 70% of the allocation is used benefiting LMI households. If the County determines that the impacted population eligible for buyout assistance does not have enough LMI households to meet the 70% LMI requirement, the County will seek a waiver from the GLO and provide supporting data with its waiver request.

§4.2.3 Income Certification Process

The household income level for each program applicant will be determined during an in-person or remotely conducted intake meeting with the property owner(s). The County will collect household income documentation (see §4.2.1 National Objective Methodology) and will verify the household income using the HUD CDBG-DR income certification calculator found at <https://www.hudexchange.info/incomecalculator/>.

§4.2.4 Needs Assessment Methodology

HUD guidance stipulates that CDBG funds should be last in the hierarchy of recovery funds made available to beneficiaries. From Federal Register Notice Vol. 76 No. 221:

Since CDBG disaster recovery provides long-term recovery assistance via supplemental congressional appropriations and falls lower in the hierarchy of delivery than FEMA or SBA assistance, it is intended to supplement rather than supplant these sources of assistance.

The County's Program, which is intended to purchase real property that is vulnerable to future severe weather events and increase regional housing resiliency, is required to develop a needs assessment methodology that ensures CDBG-DR assistance is the last assistance provided to the beneficiary related to Hurricane Harvey. Any funds provided to the applicant after their CDBG-DR buyout award is paid may be subject to recapture.

The County will determine each applicant's unmet need through the following process:

An appraisal will determine the fair market value of the property. The total need of each applicant is equivalent to the appraisal value. The County will then determine what assistance the applicant has

already received as a benefit towards the property that has not been utilized for its intended purpose. Examples include NFIP claim disbursements or FEMA grants that were intended for property repair but were not utilized for property repair. These unused monies reduce the applicant need for resettlement and are deducted from the total need. This methodology is further described in §4.8.5 *Offer Calculation Methodology*. The remaining total need after the deductions represent the unmet need. The intent of Austin County's Program is to determine each applicant's unmet need and deliver the total unmet need to them at a real estate closing in exchange for title to the subject property.

§4.3.1 Buyout Target Area

The County has three target areas, all of which fall in the 100-year flood plain and are displayed in the map at the end of this manual. The first buyout site is the Lazy River Subdivision located approximately five miles East of Sealy, TX. The other two target areas are individual properties located in rural Austin County. Their respective addresses are 625 Mixville Rd, Sealy, Texas 77474 and 615 Schultz Rd, Sealy, Texas 77474. The addresses displayed in the map of the first buyout site are those that have been identified as eligible, however other properties in the Lazy River Subdivision will not be excluded from applying.

§4.3.1a Identification of Buyout Areas

The buyout target areas chosen for this project were the same areas targeted in a HMGP buyout application that did not receive funding. Prior to both applications, these areas were identified by the County as being the hardest hit parcels in the wake of Hurricane Harvey. **Furthermore, they had received substantial flooding in previous events in 2016 and in the 1990s, and a concentration of Severe Repetitive Loss (SRL) housing structures exist in these areas.** County staff and commissioners have stated that these areas receive the majority of County administered disaster relief assistance during flood events, and contain many properties with severe repetitive property loss.

§4.3.2 Eligible Property Types for Buyout Assistance

Only certain types of real property will be eligible for buyout assistance. Owner-occupied and tenant-occupied one and two-family residential properties will be eligible for assistance and will be prioritized over other eligible types of properties. Vacant lots are also eligible for buyout assistance and may prove essential to meeting the objectives of the Program by preventing further residential development in the buyout target area. Vacant lands in the buyout area will be considered last in line in terms of prioritization *regardless of owner household income*. This will allow the County to uniformly prioritize families living in the target area over real estate investors, speculators, or developers who own vacant land as a financial investment. Special considerations, including prioritization over single-family and two-family homes, will be given to vacant lands with MHUs present on the property. MHUs are especially vulnerable to severe weather and MHU owners/renters may be among the highest served beneficiaries of buyout and relocation assistance. The prioritization methodology of mobile home parks (or vacant lands with the presence of MHUs) will be determined by the County in writing on a case-by-case basis. **The County will rely on the Texas Department of Housing and Community Affairs Manufactured Housing Division's rules when purchasing storm-damaged mobile homes. AFFH will be considered as a factor when analyzing land with structures and vacant land.**

§4.3.3 Program Marketing

The County's buyout program is voluntary, meaning that property owners must choose to participate and eminent domain cannot be utilized. As a result, it is incumbent upon the County to effectively market the buyout program to ensure homeowners are aware of the program and know how to participate. The

County will utilize various marketing and outreach strategies to target property owners, recognizing that certain marketing strategies will reach only a subset of individuals.

§4.3.3a Affirmative Marketing Plan (AMP)

An Affirmative Fair Housing Marketing Plan, based on HUD regulations, will be followed by the County. The plan includes items on GLO's checklist to affirmatively market the County's buyout program. The following resources will be leveraged by the County to affirmatively market its buyout program.

- Newspapers
 - Local and regional newspapers provide an important outlet to deliver information about the Buyout Program. Print ads in newspapers will be run in accordance with the phased approach corresponding with key program dates including outreach events and deadlines. This plan also proposes the use of earned media engagement with these outlets. For earned media outreach, the County will coordinate pre-scheduled individual briefings with journalists to apprise them on the program's progress and to push key messages to homeowners, in addition to press releases on program progress and updates distributed to community media contacts.
- Outreach Activities
 - Community engagement is an ongoing process that requires continuous education and simple messaging provided in a variety of delivery methods. Each occurrence deepens the connection to the community and seeks to persuade program participation. This plan uses a data-driven integrated communications methodology that combines simple, clear, and consistent messaging through traditional and nontraditional media, grassroots outreach and face-to-face engagement. Community engagement input has revealed a need to differentiate buyouts with other GLO recovery programs like the reimbursement program, HAP, and the local infrastructure program. Additionally, efforts will be taken to affirmatively market the Buyout Program by advertising with media outlets that provide unique access for persons who are considered members of a protected class under the Fair Housing Act.
 - Outreach to affected communities will rely heavily on grassroots outreach. As part of that effort, this plan relies on the following methodology designed to make the most impact and build trust with communities we serve. Community engagement will follow the following general pattern:
 - Inform: The inform stage will be used to share information, listen for potential program success challenges, clarify information, and help bring the program top of mind for the intended end-user.
 - Educate: The education phase shares the who, what, when, where, why, and how repeatedly to gain the attention and spark interest in the program.
 - Collaborate: The collaboration stage will incorporate trusted ambassadors, community partners, and elected officials to assist in promotion and community buy-in. These stakeholders will be key to building trust and program acceptance. While collaborators and testimonials are important, the outreach team will use an integrated methodology to ensure all the responsibility for success is not solely dependent on one tactical success.
 - Decision Making and Follow-up: The decision-making and follow-up stage requires one-on-one customer service with homeowners and potential applicants to ensure they understand the entirety of the program's policies and requirements

and are provided the necessary support to use their grant funding for repairs or reconstruction.

- Postcards/Direct Mail
 - Homeowners and renters identified in targeted areas will receive an initial Voluntary Acquisition Notice and/or General Information Notice from the program with information on how to participate in the program and general contact information including phone number and emails of case managers. Additional letters will be created and sent on an as needed basis: approaching deadlines, application status, etc.
- Network of Community Partnerships
 - A critical strategy in ensuring the success of this outreach effort will be in cultivating and maintaining a network of community organizations and influencers who are engaged and willing to support buyout outreach efforts. This will take the form of an internal listserv of individual contact people for relevant organizations: public service offices, local service based nonprofits, library publicity officers, and local elected officials. This list will be used to send information about upcoming application intake events and buyout program eligibility. Community partners with physical locations will be given an informational poster and a one-page flyer to place in common areas.
 - In addition, the County will invite the network of community partners to participate in a series of ongoing meetings and conference calls to provide updates on the program and receive information from them based on the feedback they are hearing within the communities they serve. This sharing of information allows our program to best meet the needs of the unique communities in the area served.
- In-home Application Support
 - For elderly or disabled populations, the program will provide in-home application support. To receive in-home application support, homeowners will schedule an appointment for a case manager to visit them in their home. During the visit, the specialist will assist in completing a program application, gather documentation, answer any questions, and review next steps for the applicant.
- Outreach to Residents of Abandoned Homes and Displaced Persons
 - To identify displaced residents and abandoned homes, program staff will work with appraisal districts and code enforcement authorities to attain batch ownership data to identify properties that have been abandoned and where owners currently reside. Once addresses are identified, staff will search online tax records to verify ownership and principal residency (homestead exemption on property) at the time of the storm to eliminate spending resources on ineligible properties and attain the current mailing address of the owner. Program staff will also work to request listed phones and email addresses from the FEMA IA dataset to contact displaced homeowners. Email and phone communication will be the primary means of contact, particularly for those who have been displaced out of the immediate area.
- Door-to-Door Canvassing
 - Canvassing neighborhoods to inform people of the Buyout Program is a way to get to know residents and provide detailed program information and answers beyond what any ads or press releases can provide.
 - In areas where it is determined to be effective and safe, the Buyout team will send teams of canvassers to affected homes that have not completed the application to provide educational and program promotional materials. In addition, if-feasible, canvassers can

be equipped with mobile tablet devices to input homeowner information and printed door hangers to leave, should a homeowner be unavailable at the time of the visit.

- Door Hangers
 - Door hangers will be left during canvassing outreach for homeowners who were unavailable when a program representative visited their home. This tactic encompasses homeowners who may not be living at their residence due to hurricane damage.
- Community Meetings
 - The Outreach Team will participate in a variety of events in an effort to meet homeowners where they are. Getting buy-in to the program from existing community organizations and entities legitimizes the Buyout Program and allows it to capitalize on existing meetings and constituencies to disseminate messaging. By partnering with existing community events and planning multiple series of program-hosted events, Buyout personnel will be able to meet face-to-face with homeowners, distribute helpful information, and provide one-on-one assistance.
 - Presentations during the community meetings will cover the following topics:
 - Overview of the Buyout Program, including program aid options;
 - How to apply;
 - Program eligibility requirements; and
 - The application process.

§4.3.4 Timelines and Notices

The County is required to spend buyout allocation within a timeframe determined by GLO and HUD. As a result, the buyout program must enforce deadlines for certain project milestones. Deadlines will be communicated to program applicants in writing and verbally. Applicants that don't meet certain progress deadlines due to their own delays will be subject to withdrawal from the program. The proposed timeline is as follows:

Date	Action
Monday, February 10, 2020	Program Guidelines Posted for Public Comment
Monday, February 24, 2020	Open of application intake
Wednesday, March 18, 2020	Program Guideline Public Comment Period Closed
Friday, July 31, 2020	Close of application intake
Friday, July 31, 2020	Proposed Date for Initiation of Offers
Friday, October 30, 2020	Proposed date of Offer Acceptance Deadline
Friday, August 27, 2021	Proposed Date of Closing Deadline
Monday, October 11, 2021	Proposed Date for Demolition Deadline
Sunday, April 24, 2022	Proposed Date for Housing Incentive Deadlines
Sunday, April 24, 2022	Completion of all Activities and Final Reports Submitted

§4.4.1 Environmental Clearance Requirements

Specific instructions concerning environmental requirements are made available to all recipients, subrecipients, or contractors. CDBG-DR funding is contingent on compliance with the National Environmental Policy Act (NEPA) and related environmental and historic preservation legislation and executive orders. Accordingly, environmental review activities are carried out for site contamination and demolition control, and documented prior to commitment of funds.

§4.4.2 Environmental Review Processes

Properties located where federal assistance is not permitted are ineligible for assistance. Properties must be in compliance with Environmental Code 24 CFR Part 58. Specific instructions concerning environmental requirements will be made available to all recipients, sub-recipients, or Contractors. CDBG disaster grant funding from HUD is contingent on compliance with the National Environmental Policy Act (NEPA) and related environmental and historic preservation legislation and executive orders. Accordingly, environmental review activities will be carried out for site contamination and demolition control and documented prior to commitment of funds.

HUD's Environmental Review Procedures allow grantees to assume environmental review responsibilities. In addition:

- The County will assume the role of the Responsible Entity (RE), responsible for undertaking compliance efforts for the Program.
- The GLO will submit any requests for release of funds directly to HUD for review and approval.
- The County will be responsible to perform the Environmental Review Records (ERRs) or contract out for a preparer of the ERRs.
- The County's Grant Administrator will conduct an environmental analysis and prepare compliance documentation in support of the broad and site-specific environmental reviews, utilizing a tiered approach, in accordance with GLO regulations.
- The County will review all environmental draft documents as outlined in the required documentation and sign all documents requiring RE or agency official signatures.
- A broad, or Tier 1, review must be completed before HUD will release funds and a site-specific, or Tier 2, review must be completed for a site before funds can be committed to that particular site. The site-specific analysis, consisting of the Site-Specific Checklist and supporting documentation will be completed by the Grant Administrator. The site specific ERRs will be reviewed and signed off by the County. Once these reviews have been completed there can be a commitment of funds.
- The Grant Administrator is responsible for working in good faith with the County where additional documentation may be necessary to resolve an outstanding environmental/historic preservation compliance factor.

The environmental review will be performed in two phases: a broad review and a site-specific review. Lead and asbestos testing will typically be reserved for the site-specific review. The Phase II ESA (site-specific review) serves as the first step in remediation for any property with contamination levels deemed unsafe.

If remediation activities are required for lead, the contractor will obtain the necessary waste permits along with enclosure materials and/or paint removal equipment. A certified abatement contractor will be procured. Warning signs will be posted; all residents and construction workers in the vicinity will be informed and protected from contamination at the time of remediation. Waste will be securely stored and disposed of upon completion of cleanup. A clearance examination will be performed by an independent party at least one hour after the completed cleanup. If clearance fails, cleanup and/or abatement work will be repeated for a subsequent examination. Residents will be notified of the nature and results of the abatement work. If unsafe levels of lead are determined to exist in the soil, soil abatement will be utilized in the form of soil removal and replacement or soil cleaning.

For asbestos, any building built prior to 1978 will require a qualified asbestos inspector to perform a comprehensive building asbestos survey to locate and assess any presence of asbestos. If there is asbestos

and it is friable or damaged, HUD recommends it be removed. If it is not friable or damaged, HUD recommends it, at a minimum, be encapsulated.

Applicants will also need to complete the 58.6 checklist for the desired buyout property. This consists of questions regarding: National Flood Insurance Program participation, Coastal Barrier Improvement Act compliance, and Runway Clear Zones compliance.

The grant administrator will provide a narrative Environmental Report and any supporting documentation for the project. Failure to complete this environmental checklist (environmental review and 58.6 checklist) will impede the program's ability to receive funding from HUD.

§4.5.1 Application Prioritization

This program will prioritize LMI property owners, regardless of whether they live on the land or are leasing it to others. In order to ensure that 70% of the allocation is spent on LMI households per HUD rules, the County will always give priority to houses below that income threshold. The County has elected to utilize additional prioritization procedures beyond those mandated by HUD and the GLO. In descending order, the County will prioritize veterans, disabled persons, elderly persons, female heads of households, and households with members below the age of 18. This additional prioritization policy will apply to both LMI and UN applicants. When multiple applicants fall under the same prioritization criteria (for example, are both veterans and LMI) the applications will be considered on a first come first serve basis depending on the date they submitted their application to the County.

§4.5.1a Contiguous Tracts of Land for Open Space and Vacant Parcels

The County will implement several policies designed to increase its ability to buy contiguous tracts of land that will be reserved as open space in perpetuity. The policies are designed to reduce the amount of “checkerboarding” or “patchwork implementation” that may result from an entity's refusal to acquire subdivided lots that don't contain a dwelling unit or any improvement values.

- Vacant land that is contiguous to an eligible property with a structure and is under the same ownership as that property is eligible to be purchased in the same real estate transaction as the property with the structure. Plots of land where a structure once stood at the time of Hurricane Harvey are eligible for a buyout and do not need to be contiguous to an eligible Property.
- Vacant lands that are not contiguous to an eligible property are eligible for buyout assistance only if the County has provided assistance to every applicant that has applied and there is remaining funding to conduct buyouts. Vacant lands may not be used to meet the County's national objective obligations if there are UN applicants waiting for buyout assistance for their primary residence. The County will deliberately avoid purchasing non-contiguous vacant parcels and will actively try to market the program to property owners of housing units. The purchase of non-contiguous vacant lands will occur only if the County determines that there is no additional need for housing buyouts. The rationale of buying out vacant lots is that these buyouts remove the possibility of future development in flood-prone areas.

§4.6.1 Applicant Data

All applicant data is secured in the County's management information system for a specified period of time in accordance with the current Record Keeping and Retention Period (see §4.6.2 Record Keeping and Retention Period).

Recordkeeping, including scanning, uploading to the County's management information system, and filing of pertinent program documentation retention policies are to provide both a physical and an electronic record of activities so that documentation is accessible for audit purposes.

In order to protect non-public personal information, data security measures are in place. For example, hardware and software data security protocols such as the requirement for signed non-disclosure agreements prior to receipt of access credentials for the County's management information system. The County also requires that hard copy files containing non-public personal information are kept in locked file cabinets to ensure their physical security.

§4.6.1a Household Demographic Information

Household demographic information will be obtained at the time of the intake meeting and will be a part of the applicant file. This information will be collected for reporting purposes only and will have no bearing on applicant prioritization, applicant eligibility, home purchase prices, or incentive payments in the program.

§4.6.2 Record Keeping and Retention Period

All official records on programs and individual activities will be maintained by the County for a 3-year period beyond the closing of a grant between the GLO and HUD. Applicant records will be maintained electronically. All projects, program activity files, and applicant information received will be maintained within the GLO's system of record.

§4.7.1 Verification of Eligibility

The County is required to determine eligibility for each property owner that desires to sell their damaged home through the buyout program. The following items will be verified for each applicant to determine eligibility prior to the issuance of an offer to purchase:

1. Property located in floodplain or in an approved DRRA
2. Proof of storm impact (tie-back)
3. FEMA non-compliance status
4. Citizenship or legal immigration status
5. Property ownership
6. Property location in relation to the target buyout area (if applicable)
7. Household income information
8. Occupancy at subject property (owner-occupied, tenant-occupied, other)

§4.7.2 Verification of Storm Impact and Proof of Damage (Tie-Back)

The County is obligated to only offer CDBG-DR housing assistance to properties to affected by Hurricane Harvey. HUD requires that all projects funded by this allocation be related to direct or indirect storm impact. From the February 2018 Federal Register notice:

c. Clarification of disaster-related activities. All CDBG-DR funded activities must clearly address an impact of the disaster for which funding was allocated. Given standard CDBG requirements, this means each activity must: (1) Be a CDBG-eligible activity (or be eligible under a waiver or alternative requirement in this notice); (2) meet a national objective; and (3) address a direct or indirect impact from the major disaster in a Presidentially-declared county.

To comply with the federal requirement, the County will verify that each property purchased under the buyout program was damaged by Hurricane Harvey. Any one of the following sources of information will be considered sufficient evidence that a property sustained direct impact by Hurricane Harvey:

- Photographs of property damage
- FEMA assistance
- Homeowners insurance claims
- Flood insurance claims
- Adjuster reports
- SBA documentation

In some cases, property owners may apply for a buyout when they feel that they've been indirectly impacted by Hurricane Harvey. This might include situations where Harvey critically damaged infrastructure that is necessary for land access to a home. In these cases, the County will review buyout requests on a case-by-case basis and ensure that the threshold for indirect storm damage was met. If the County approves an application based on indirect storm damage, it will include a memo in the applicant file providing justification for the eligibility determination.

§4.7.3 Conflict of Interest Policy

The conflict of interest regulations contained in the contract between the County and the GLO prohibit local elected officials, Subrecipient employees, contractors, and consultants who exercise functions with respect to CDBG-DR activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, 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.

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-DR conflict of interest regulations at 24 CFR Sec. 570.489(h).

The GLO can consider granting an exception in writing to the conflict of interest provision should it be determined by the GLO that the County 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. If the situation arises, the County will not enter into a conflict of interest until justification has been received and approved by the GLO in accordance with applicable procurement laws.

§4.7.4 Documentation Signatures and False Claim Language

The Program will require each applicant to sign several documents during the intake, offer, and closing process. Signatures on most documents are required to be original (some exceptions apply, such as third-party authorizations).

All intake documents meant to obtain information from applicants will include a signed statement verifying that the information provided is true, complete and accurate. Any false, fictitious, or fraudulent information, or the omission of any material, may subject the applicant to criminal, civil or administrative penalties. Program documents will include the following statement:

“Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.”

§4.7.5 Proof of Ownership

All owners of properties proposed for buyout must voluntarily agree to sell the property to the County. Any property owner with a recorded interest in the property who refuses to agree to sell the property has the power to veto the transaction and prevent the Buyout.

- If any Owner of a Property is deceased, whether before or after the Storm event, the Executor (or Administrator) of the Estate of [decedent name] must join in the sale of the Property to the County.
- Probate Court consideration and approval is required before the County buys real property from any probate estate.
- Property owned with other individuals: property owners who owned and occupied a structure at the time of the storm that is located on land that they owned along with other individuals (e.g., owned together with their family) must be treated as a property owner on owned land and are eligible.
- Purchase contracts: Contract for deed is not eligible unless the property owner converts his/her contract to full ownership prior to receiving funding assistance from the program.
- Rent or Lease-to-own is not eligible unless the property owner converts their contract to full ownership prior to receiving funding assistance from the program.
- Conditional Sale Contracts are not eligible unless the property owner converts their contract to full ownership prior to receiving funding assistance from the program.
 - The following legal documents are proof that a Property owner was purchasing a home on a contract as identified above:
 - Notarized contract dated and executed prior to the incident date for review by the Program’s legal/escrow provider
 - Notarized and executed contract that was filed prior to the incident date in the conveyance records of the county
- Proof that a contract has been completed and title conveyed to the purchaser is provided by one of the following:
 - Presentation to the Case Manager of a notarized, executed conveyance document from the seller to the contract purchaser
 - Evidence of recordation of the title in the name of the Property owner in the conveyance records of the county.

§4.7.5a Applicants Unable to Clear Title

Title clearance is a necessary component of any traditional real estate transaction. The County will only purchase properties that have clear title as determined by its procured title company. It is the responsibility of the property owner to assist the title company with obtaining clear title. In some cases, the County predicts that applicants will have to obtain legal assistance from private attorneys or pro-bono legal aid organizations. The cost of these legal services is at the expense of the property owner(s). If an applicant is unable to clear title within a reasonable amount of time, the buyout program may determine that they are ineligible for assistance. In these cases, the County will establish the closing deadline at least 90 days in advance and inform the property owner with a documented phone call and certified mailing.

§4.7.5b Subsequent Owners

Property Owners who purchased a home in buyout area following the effects of Hurricane Harvey may be eligible for buyout assistance. Under these circumstances Subsequent Property Owners are

eligible to receive a grant equivalent to the price they purchased the home at, capped at the pre-storm FMV without resettlement incentives. These owners may qualify for a moving expense incentive if they are currently residing in the subject property as their primary residence.

§4.7.5c Gift of Property

A Gift of Property is a form of property transfer without consideration. The beneficiary of the gift is eligible for the same award as the original Property Owner. The beneficiary of the gift is not considered to be a Subsequent Owner.

For the purpose of the Program, a Gift of Property must be:

- In writing;
- Notarized; and,
- Recorded in the public record.

The Program reserves the right to demand any award amount to be paid back in full to the County if, at any time, a determination is made that a transfer of money between the two parties had occurred in conjunction with the Gift of Property.

§4.7.5d Properties Owned by Estates or Business Entities

Properties owned by estates or business entities are eligible for pre-storm FMV buyout assistance under the Urgent Need national objective. For businesses, the buyout program applicant must be able to prove that business owned the property at the time of the storm and that the applicant(s) was/were the owner(s) of the business. For estates, the estate or decedent must meet the occupancy requirements for incentive eligibility. For properties owned within a business entity (LLC, LP, Corp, ect.) the principle owner(s) of the business entity must reside in the property to be eligible for resettlement incentive eligibility. Interested parties in the estate and the owners of the businesses must have owned and occupied the property (or rented the property) at the time of the storm in order to be eligible.

§4.7.6 Proof of Property Taxes

Property Owners who have applied to the Program must pay all property taxes due as identified by the title search at closing and payable on the storm-damaged property until the day of closing on the sale of their property to the County through the Program. If there are property taxes the title search did not identify by closing, the Program, as owners of the property, will pay the property taxes prior to final disposition. The County may provide reimbursement to Property Owners for the property taxes paid for the period of time after ownership of the property was transferred to the County (i.e., from the day of closing until the end date of the effective payment period). The pro rata reimbursement amount is calculated prior to the closing and the funds are provided to the Property Owner(s) as part of their net proceeds at the time of closing. Only payments made towards the principal of the property taxes due are subject to reimbursement from the County; any interest or fees incurred from late or delinquent payments are not eligible for reimbursement.

§4.7.7 Proof of Non-Delinquent Child Support

All household members over the age of 18 must be current on payments for child support. If the household member is not current on child support, that individual will be required to enter into a payment plan that will be obtained from the Office of Attorney General (OAG). A copy of the payment plan signed by all applicable parties along with documentation demonstrating that they are current on their payment plan must be supplied.

§4.7.8 Second Homes

A property is considered a second home if it is not rented out at any time during the year, regardless of whether it is used by the household or not. In addition, a property is a second home if it is rented out part of the year and the owner uses the home more than 14 days or more than 10 percent of the number of days during the year. If a home is rented out for part or all of the year and the owner does not use the home long enough then it is rental property and not a second home.

Properties that are identified as second homes are eligible for an amount not to exceed the current FMV without incentives. Duplication of benefits will still apply and can reduce the offer amount to a value below the current FMV.

Properties that were vacant on a temporary basis at the time of the storm due to reasons relating to a demonstrable hardship (health, job loss, death, divorce, disability, business failure, etc.) are not considered to be second homes, and are eligible for pre-storm FMV plus incentives. Properties that sustained direct and/or indirect impact by Hurricane Harvey and have been vacant since the storm's impact are not considered second homes and are eligible for pre-storm FMV plus incentives.

§4.7.9 Duplication of Benefit Verification

The most common sources of disaster recovery assistance are from homeowner's insurance, FEMA, NFIP, and SBA. However, assistance may also come from non-profit organizations, faith-based organizations, other disaster relief organizations, and other governmental entities. Duplicative Assistance includes, but is not limited to, the following benefits:

National Flood Insurance Program (NFIP): Insurance proceeds received must be disclosed by the Owner(s) and verified by the Program. Payments from the NFIP for building loss are classified as repair assistance and will be considered duplicative assistance.

Private Insurance: All insurance proceeds received must be disclosed by the Owner(s) and verified by the Program by obtaining a final claims letter or contacting the insurance company. Any funds received that are classified as building loss or sewer backup will be classified as repair assistance and will be considered duplicative assistance.

Federal Emergency Management Agency (FEMA): FEMA proceeds received must be disclosed by the Owner(s) and must be verified by the Program. Any funds received for property repair will be classified as duplicative assistance.

Small Business Administration (SBA): SBA proceeds approved and/or received must be disclosed by the applicant and verified by the Program. Any applicant with an SBA loan of less than \$14,000 must provide documentation that he or she is current on his or her repayment plan and outstanding SBA loans must be satisfied prior to the County taking ownership of the property. The applicant's award is reduced by this amount at closing and the loan is satisfied prior to the County taking ownership of the property. Any SBA loan exceeding \$14,000.00 is secured against the subject property and will be repaid (satisfied) at closing pursuant to traditional real estate transfer procedures. SBA loans are unique in that the deduction of the DOB occurs at the closing table (which reduces the applicant's net proceeds) as opposed to at the time of the offer.

Other: Funds received from other sources must be disclosed by the Owner(s) and verified by Program. Examples include nonprofits, other governmental agencies, and social groups.

§4.7.9a SOP for Open Insurance Claims and Pending Litigation

Applicants participating in the Program are not eligible to receive an offer if they are involved in litigation or any other process that will change their duplicative benefits. Applicants will sign a subrogation agreement indicating that they will repay any funds they received deemed to be duplicative after their Program real estate closing. In an effort to avoid this and the costs involved in the subrogation process, the County will not purchase any homes that are subject to an ongoing insurance settlement case or legal action. The deadline for litigation settlements that could impact duplication of benefits is October 30th, 2020.

§4.7.9b SBA Loans

If funds intended for the same purpose as Program assistance are available from another source, the applicant may wish to seek those funds first to avoid the necessity of subrogation efforts and repayment transactions potentially resulting in the event of receiving that subsequent assistance. Loans from the U.S. Small Business Administration (SBA) are a major source of disaster recovery assistance, and many owners of residential property find that SBA loans meet all of their uninsured disaster recovery assistance requirements.

A variety of legitimate reasons can preclude an applicant from receiving SBA assistance that the Program might initially view as available to an applicant. If an applicant has declined an SBA loan, it is presumed that a legitimate purpose for the declination existed and the SBA loan amount will not be deducted from the award amount.

SBA proceeds that were approved and received by the applicant must be disclosed by the applicant and verified by the Program. Applicants will be required to pay off any SBA loan in full to participate in the Program. See SBA loan description in §4.7.9 *Duplication of Benefit Verification*.

§4.7.10 Flood Insurance Requirement Review (FEMA Non-Compliance)

HUD's housing assistance guidelines state that an individual is ineligible for CDBG-DR housing assistance if they've received prior disaster recovery monies conditioned upon their obtaining flood insurance and the owner subsequently failed to do so. The Program refers to these owners as "FEMA non-compliant." FEMA non-compliant applicants are not eligible to receive funds above the post-storm/current FMV. They are also not eligible for incentives. If these owners are considered displaced persons through the URA, they are eligible to receive benefits through the URA beyond the current FMV.

§4.7.11 Citizenship and Eligible Immigrants

The Property owner must be a United States citizen or an eligible immigrant as verified by a signed declaration and one of the following:

- U.S. Citizens
 - A valid U.S. Passport
 - A valid Birth Certificate
 - Certificate of Naturalization
 - Proof of FEMA assistance
 - TXDOT issued driver's license
- Eligible Immigrant
 - Will be verified through SAVE, an online verification system to validate that Property owner is an immigrant eligible for federal benefits.

- Must provide declaration of lawful presence in the United States and have photographic identification such as a passport.

§4.7.12 Ineligibility Determinations and Notifications

Certain properties and/or owners may be determined to be ineligible for buyout assistance. Upon a determination of ineligibility, the property owner will be notified over the phone and in writing and the justification of the ineligibility determination will be provided.

§4.8.1 Award Calculations and Incentives

The County’s buyout program has established a uniform award calculation and a uniform incentive structure. To ensure the equitable treatment of property owners, no individualized negotiations with applicants may occur.

§4.8.2 Program Caps

The program will utilize the 2020 FHA lending limits as the cap for each parcel purchased under the program. This cap includes all incentives paid to the applicant. No applicant may receive a purchase price plus incentive award that exceeds the 2020 FHA lending limit, \$331,760.00. Additional program caps are itemized below:

Cap Description	Cap Amount
Purchase of Single-Family Home	\$331,760.00
Purchase of Two-Family Home	\$424,800.00
Optional Moving Assistance	\$5,000.00
LMI Housing Incentive – Affixed Home Buyout	\$15,000.00
LMI Housing Incentive - MHU Buyout	\$30,000.00

§4.8.3 Eligible Costs at Closing

All customary costs associated with the purchase of private property, including appraisal, legal, survey, title preparation and insurance, are paid for by the County, using CDBG-DR funding. Demolition, and site work, including environmental remediation, grading, and security, are also paid for under this Program.

§4.8.4 Valuation Process

The County requires appraisals for all properties participating in the Program. The appraisal, whether setting a pre-storm (buyout) or setting a post-storm base (see FEMA non-compliant and subsequent owner), is used to establish the Fair Market Value (FMV) for participating properties. The pre-storm FMV is established by forensic appraisal, and post-storm is established by a current appraisal, but performed by the contracted appraiser. The appraisal report must itemize the value of the land and the value of any improvements on the property. Once produced, the appraisal is reviewed and certified by a second disinterested licensed appraiser. All appraisals used in this program are certified before use or dissemination.

§4.8.4a Appeal of the Valuation

The County recognizes that some property owners will not agree with the contracted appraiser’s valuation of their home. Property valuations contain many variables and two appraisers may reach differing conclusions regarding the fair market value of the same property. As a result, the County has developed the following process available to property owners for them to formally contest and appeal the determined

fair market value of their properties. Property owners may not change the value of their properties in any method outside of the following process:

1. Property owner informs the County in writing that they intend to appeal.
2. Property owner hires their own appraiser to conduct an appraisal of the home. The appraiser must be licensed/certified to conduct real estate appraisals.
3. The property owner provides the new appraisal report to the County.
4. If the new appraisal report shows a value increase of 15% or less over the original appraisal report, the new value is automatically accepted by the County. A new offer is calculated and provided to the property owner.
5. If the new appraisal report shows a value less than the original appraisal report, the original value is used and the offer remains unchanged.
6. If the new appraisal report shows a value increase of greater than 15%, the County must order a third appraisal at the program's expense. The value of the middle appraisal (the median value) will be used for the purposes of generating the offer amount.

§4.8.5 Uniform Offer Calculation Methodology

Once the VOB investigation is complete, a formal Verification of Disaster Benefits Received form is completed and reviewed, then forwarded to the Case Manager. Funds received from other sources which are determined a DOB are deducted from the structure's FMV unless the Property Owner can demonstrate, through receipts, that the funds received have already been expended on eligible costs. It is the responsibility of the owner to maintain receipts. Inspectors will not be procured to estimate the cost of post-disaster improvements. The resulting value cannot exceed the applicable program cap. DOBs cannot be used to decrease an award to lower than the property's land value. Below is an example award calculation:

Offer Example 1:

Pre-storm structure value	\$50,000.00	
Pre-storm land value	\$20,000.00	
Pre-Storm FMV	\$70,000.00	
Homeowners Insurance	-\$5,000.00	
Flood Insurance (NFIP)	-\$20,000.00	
FEMA Repair Grant	\$0.00	
Other Govt' Sources	\$0.00	
Other Non-Govt' Sources	\$0.00	
Sum of Duplicating Benefits ("DOBs")	-\$25,000.00	<i>(Cannot exceed pre-storm structure value)</i>
Eligible Receipts for Repair	\$10,000.00	
Eligible Receipts for Temporary Housing	\$3,000.00	
Sum of DOB "Offsets"	\$13,000.00	<i>(Cannot exceed sum of DOBs)</i>
Final Offer (Award Amount)	\$58,000.00	<i>(Pre-Storm FMV minus Sum of DOBs plus Sum of Offsets)</i>

Offer Example 2 (Program Caps):

Pre-storm structure value	\$450,000.00	
Pre-storm land value	\$80,000.00	
Pre-Storm FMV	\$530,000.00	
Homeowners Insurance	-\$30,000.00	
Flood Insurance (NFIP)	-\$90,000.00	
FEMA Repair Grant	\$0.00	
Other Govt' Sources	\$0.00	
Other Non-Govt' Sources	\$0.00	
Sum of Duplicating Benefits ("DOBs")	-\$120,000.00	<i>(Cannot exceed pre-storm structure value)</i>
Eligible Receipts for Repair	\$100,000.00	
Eligible Receipts for Temporary Housing	\$0.00	
Sum of DOB "Offsets"	\$100,000.00	<i>(Cannot exceed sum of DOBs)</i>
Calculated Award	\$510,000.00	
Program Cap for Single-Family Home	\$331,760.00	
Final Offer (Award Amount)	\$331,760.00	<i>(Offer cannot exceed 2020 FHA Limit)</i>

Offer & Incentive Example 3 (Affixed Home):

Pre-storm structure value	\$60,000.00	
Pre-storm land value	\$20,000.00	
Pre-Storm FMV	\$80,000.00	
Homeowners Insurance	-\$5,000.00	
Flood Insurance (NFIP)	\$0.00	
FEMA Repair Grant	\$0.00	
Other Govt' Sources	\$0.00	
Other Non-Govt' Sources	\$0.00	
Sum of Duplicating Benefits ("DOBs")	-\$5,000.00	<i>(Cannot exceed pre-storm structure value)</i>
Eligible Receipts for Repair	\$8,000.00	
Eligible Receipts for Temporary Housing	\$0.00	
Sum of DOB "Offsets"	\$5,000.00	<i>(Cannot exceed sum of DOBs)</i>
Final Offer (Award Amount)	\$80,000.00	<i>(Pre-Storm FMV minus Sum of DOBs plus Sum of Offsets)</i>
Optional Moving Assistance	\$5,000.00	<i>(Automatically paid to owner-occupants)</i>
Replacement Property Total Cost	\$95,000.00	
Resettlement Incentive	\$15,000.00	<i>(Cost of Replacement Property minus Final Offer of Buyout Property)</i>
Total Compensation to LMI Applicant	\$100,000.00	<i>(Sum of Buyout, Moving Assistance, and Resettlement Incentive)</i>

Offer & Incentive Example 4 (Mobile Home/MHUs):

Pre-storm structure value	\$0.00	
Pre-storm land value	\$22,000.00	
Pre-Storm FMV	\$22,000.00	
Homeowners Insurance	\$0.00	
Flood Insurance (NFIP)	\$0.00	
FEMA Repair Grant	\$0.00	
Other Govt' Sources	\$0.00	
Other Non-Govt' Sources	\$0.00	
Sum of Duplicating Benefits ("DOBs")	\$0.00	<i>(Cannot exceed pre-storm structure value)</i>
Eligible Receipts for Repair	\$2,000.00	
Eligible Receipts for Temporary Housing	\$0.00	
Sum of DOB "Offsets"	\$0.00	<i>(Cannot exceed sum of DOBs)</i>
Final Offer (Award Amount)	\$22,000.00	<i>(Pre-Storm FMV minus Sum of DOBs plus Sum of Offsets)</i>
Optional Moving Assistance	\$5,000.00	<i>(Automatically paid to owner-occupants)</i>
Replacement Property Total Cost	\$60,000.00	
Resettlement Incentive	\$30,000.00	<i>(Cost of Replacement Property minus Final Offer of Buyout Property capped at \$30k)</i>
Total Compensation to LMI Applicant	\$57,000.00	<i>(Sum of Buyout, Moving Assistance, and Resettlement Incentive)</i>

§4.8.6 Incentive Payment Methodology

All participating owner-occupants are eligible for a payment of \$5,000 as option moving assistance upon closing. This benefit is meant to cover moving costs that might otherwise be a burden significant enough to lower participation rates. Additional relocation housing incentives will be available to qualified LMI households. This relocation benefit is dependent upon relocation to another property within Austin County which is either outside of SHFA and Floodway or constructed at a height of 1 ft ABFE in a 100-year flood plan, or 3 ft ABFE in a 500-year flood plain. The replacement property must also meet DSS/HQS housing standards. This benefit will match the difference between the cost of the new home and the purchase price of the buyout property up to the max allowable benefit as determined by the County. The maximum benefit for a person moving from an affixed dwelling unit is \$20,000 and maximum for a mobile home unit is \$35,000. Included in these benefit caps is the automatic moving cost benefit, thus the maximum relocation benefit for MHUs is \$30,000, and \$15,000 for affixed homes. It will be the responsibility of the homeowner to prove through a contract of sale document how much the replacement dwelling will cost. Program participants have eight months (240 days) to claim this benefit, thus it is not necessary to immediately purchase property upon selling their house through the buyout program.

§4.9.1 Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA)

Pursuant to HUD and other federal guidelines, the County is required to comply with Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). HUD describes the objective of the URA as follows:

(1) to provide uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects; (2) to ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement; (3) to ensure that no individual or family is displaced unless decent, safe and sanitary housing is available within the displaced person's financial means; (4) to help improve the housing conditions of displaced persons living in substandard housing; and (5) to encourage and expedite acquisition by agreement and without coercion.

The buyout program being implemented by the County will not displace any owner-occupants, as the program is voluntary in nature. However, rental properties are eligible for buyout assistance and any tenants residing in the rental properties may be considered displaced persons by the County's buyout activities. The County has developed an Anti-Displacement and Relocation Plan which will be followed to ensure the equitable treatments of tenants displaced by buyout activities.

§4.9.2 Anti-Displacement and Relocation Plan

In accordance with the Housing and Community Development Act of 1974, as amended, (HCDA), and US Department of Housing and Urban Development (HUD) regulations at 24 CFR 42.325 and 570.440 (1), use of Community Development Block Grant Disaster Recovery (CDBG-DR) funds will minimize adverse impacts on persons of low and moderate-income persons. The purpose of this Residential Anti-displacement and Relocation Assistance Plan (RARAP) is to provide guidance on complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), (Pub. L 91-645, 42 U.S.C. 4601 et seq) and section 104(d) of the HCD Act (42 U.S.C. 5304(d))(Section 104(d)). The implementing regulations for the URA are at 49 CFR part 24. The regulations for section 104(d) are at 24 CFR part 42, subpart C.

One-for-one replacement requirements at section 104(d)(2)(A)(i) and (ii) and (d)(3) of the HCD Act and 24 CFR 42.375 are waived in connection with funds allocated under this notice for lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation. Also, The relocation assistance requirements at section 104(d)(2)(A) of the HCD Act and 24 CFR 42.350 are waived to the extent that they differ from the requirements of the URA and implementing regulations at 49 CFR part 24, as modified by this notice, for activities related to disaster recovery. Lastly, The requirements of sections 204 and 205 of the URA, and 49 CFR 24.2(a)(6)(vii), 24.2(a)(6)(ix), and 24.402(b) are waived to the extent necessary to permit a grantee to meet all or a portion of a grantee's replacement housing payment obligation to a displaced tenant by offering rental housing through a tenant based rental assistance (TBRA) housing program subsidy (e.g., Section 8 rental voucher or certificate), provided that comparable replacement dwellings are made available to the tenant in accordance with 49 CFR 24.204(a) where the owner is willing to participate in the TBRA program, and the period of authorized assistance is at least 42 months.

General Information Notice (GIN) - The URA regulations require that persons who are scheduled to be displaced will be provided with a GIN as soon as feasible. This program may involve both persons who are actually displaced and persons who are not displaced. If the tenant-occupant of a dwelling moves permanently from the property after submission of an application for HUD financial assistance, the tenant will be presumed to qualify as a "displaced person." To minimize such unintended displacements, HUD policy considers all occupants within a proposed HUD-assisted project involving buyouts as scheduled to be displaced for purposes of issuing a

GIN. All occupants, therefore, will be provided with a GIN. The template for the GIN is attached in the Appendix.

Tenant Intake Meeting- As soon as feasible, the County shall contact each person who is affected by the project to discuss his/her needs, preferences and concerns. Whenever feasible, contact shall be face-to-face. These meetings will take place after the landowner intake meeting and before the buyout offer is sent to the landowner. This scheduling is meant to avoid the possible issue of tenant ineligibility for HUD/URA assistance. It is possible that some tenants in the buyout target area are undocumented persons and are thus ineligible to receive benefits from HUD. However, HUD requires that all displaced tenants receive URA relocation assistance. Thus, properties with undocumented tenants are ineligible to participate in the program because if they were to do so they would either be in violation of the URA or the HUD rule against benefiting undocumented persons. If a property is deemed ineligible for buyout for reasons related to tenant eligibility, that property owner will receive a phone call and a letter from the county stating that the property is ineligible for participation in the buyout program because of tenant ineligibility for HUD assistance.

If the tenant does not qualify for relocation assistance, or if at any time the landowner decides not to participate in the program, the tenant will receive a Notice of Nondisplacement and will not be eligible to receive assistance.

Notice of Nondisplacement - If a person does not qualify as a displaced person (see Paragraph 1-4 J.), HUD policy requires that such persons be provided with a Notice of Nondisplacement (see Paragraph 1-4 AA.) to advise them of the County's determination and their right to appeal. A tenant will be defined as "non-displaced" only if they received a Move-In notice outlining the property owner's participation in the buyout program before they signed the lease. Even if there was no intention to displace the person, if they were not given timely information essential to making an informed judgment about a move, it is assumed that the person's move was an involuntary move caused by the project.

If the landowner continues to participate in the buyout program and eventually signs a contract of sale with the County, the tenants will be then given a Notice of Relocation Eligibility and 90 Day Notice to vacate. In order to have these documents ready to send immediately after contract signing, the case management team will have identified three comparable replacement dwellings that are currently for rent and completed and internally approved HUD Form 40061 before contract signing.

Notice of Relocation Eligibility (NOE) (49 CFR 24.203(b)). The NOE will be issued promptly after the initiation of negotiations (contract of sale between County and land owner), and will describe the available relocation assistance, the estimated amount of assistance based on the displaced person's individual circumstances and needs, and the procedures for obtaining the assistance. This Notice will be specific to the person and their situation so that they will have a clear understanding of the type and amount of payments and/or other assistance they may be entitled to claim

Ninety-Day Notice (49 CFR 24.203(c)). The 90-day notice shall not be given before the displaced person is issued a notice of relocation eligibility (or notice of ineligibility) for relocation assistance. The 90-day notice need not be issued if: (a) there is no structure, growing stock, or personal property on the real property, or (b) the occupant made an informed decision

to relocate and vacated the property without prior notice to the property owner, (c) in the case of an owner-occupant who moves as a result of a voluntary buyout described in 49 CFR 24.101(b)(1) or (2), the delivery of possession is specified in the purchase contract, or (d) the person is an unlawful occupant.

Determining Cost of Comparable Replacement Dwelling (49 CFR 24.403(a)). The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling (49 CFR 24.2(a)(6)). If available, at least three comparable replacement dwellings shall be examined (including internal and external inspection) to ensure that the replacement dwelling is decent, safe and sanitary as defined at 49 CFR 24.2(a)(8). The upper limit of the replacement housing payment shall be established on the basis of the cost for the comparable replacement dwelling that is most representative of, and equal to, or better than, the displacement dwelling.

1. For purposes of establishing the payment limit, comparable replacement dwellings shall, to the extent feasible, be selected within the County.
2. A copy of Form HUD-40061, Selection of Most Representative Comparable Replacement Dwelling for Purposes of Computing a Replacement Housing Payment, is included as Appendix 12. The form is optional; however, if the form is not used, other reasonable documentation will be maintained. NOTE: When selecting the most representative comparable replacement dwelling for a person with disabilities, reasonable accommodation is to be determined on a case-by-case basis.
3. The County may limit the amount of replacement housing payment to the amount required to obtain a comparable replacement dwelling only if it gives a timely written notice (referral) of such comparable replacement dwelling. If the County fails to offer a comparable replacement dwelling before the person enters into a lease or purchase agreement for, and occupies, a decent, safe and sanitary replacement dwelling, HUD may require the replacement housing payment be based on the cost of such decent, safe and sanitary replacement dwelling, or take such other corrective action as may be deemed necessary to mitigate (to the extent possible) the adverse consequences of the deficiency.

Inspection of Replacement Dwelling (49 CFR 24.403(b)). Before making a replacement housing payment or releasing a payment from escrow, the County or its designated representative shall make a thorough internal and external inspection of the replacement dwelling to determine whether it is decent, safe and sanitary (as defined at 49 CFR 24.2(a)(8)). A copy of the inspection report should be included with the pertinent claim form in the County's files. (See also Chapter 6, Paragraph 6-2C.1(h).) NOTE: The definition of "decent, safe and sanitary" provides that replacement units will contain the accessibility features needed by displaced persons with disabilities.

If the County determines that a replacement housing payment may have to be denied because the replacement dwelling selected by a displaced person is not decent, safe and sanitary (e.g., does not meet the local code), it will so notify the displaced person, determine if the property can be made decent, safe and sanitary, and/or assist the person to locate another replacement unit.

(1) Amount of payment. An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed \$7,200.00 for rental assistance. (See § 24.404.) Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

(i) The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or

(ii) The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

(2)Base monthly rental for displacement dwelling. The base monthly rental for the displacement dwelling is the lesser of:

(i) The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the Agency (for an owner-occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances);

(ii) Thirty (30) percent of the displaced person's average monthly gross household income if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 Programs 4. The base monthly rental shall be established solely on the criteria in paragraph (b)(2)(i) of this section for persons with income exceeding the survey's "low income" limits, for persons refusing to provide appropriate evidence of income, and for persons who are dependents. A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise; or,

Down Payment Assistance. An eligible displaced person who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would receive under paragraph (b) of this section if the person rented a comparable replacement dwelling. At the Agency's discretion, a downpayment assistance payment that is less than \$5,250 may be increased to any amount not to exceed \$5,250. However, the payment to a displaced homeowner shall not exceed the amount the owner would receive under § 24.401(b) if he or she met the 180-day occupancy requirement. If the Agency elects to provide the maximum payment of \$5,250 as a downpayment, the Agency shall apply this discretion in a uniform and consistent manner, so that eligible displaced persons in like circumstances are treated equally. A displaced person eligible to receive a payment as a 180-day owner-occupant under § 24.401(a) is not eligible for this payment.**Manner of Disbursing Rental Assistance.** Relocation assistance payments for residential tenants who are displaced for HUD projects are subject to 42 USC Sec. 3537c and will be disbursed in installments, except that lump sum payments may be made to cover (1) moving expenses, (2) a downpayment on the purchase of replacement housing, or incidental expenses related to (1) or (2). Whenever the payment is made in installments, the full amount of the approved payment shall be disbursed in regular installments, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.

The frequency of these disbursements will be determined by the County in consultation with the tenant. However, there will be no less than three installment payments, except when the rental assistance payment is \$500 or less. Where the rental assistance payment is \$500 or less, it is recommended that payment may be made in two installments with no less than a four-month interval between payments.

Determination to provide replacement housing of last resort. Whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants, as specified in § 24.401 or § 24.402, as appropriate, the Agency shall provide additional or alternative assistance under the provisions of this subpart. Any decision to provide last resort housing assistance will be adequately justified either:

(1) On a case-by-case basis, for good cause, which means that appropriate consideration has been given to:

(i) The availability of comparable replacement housing in the program or project area;

(ii) The resources available to provide comparable replacement housing; and

(iii) The individual circumstances of the displaced person, or

(2) By a determination that:

(i) There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; and, therefore, last resort housing assistance is necessary for the area as a whole;

(ii) A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and

(iii) The method selected for providing last resort housing assistance is cost effective, considering all elements, which contribute to total program or project costs.

Documentation. Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. A displaced person will be provided reasonable assistance necessary to complete and file any required claim for payment.

Expeditious payments. The County shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

Advanced payments. If a person demonstrates the need for an advanced relocation payment in order to avoid or reduce a hardship, the County shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

(d)Time for filing.

(1) All claims for a relocation payment shall be filed with the County no later than 18 months after:

(i) For tenants, the date of displacement.

(ii) For owners, the date of displacement or the date of the final payment for the buyout of the real property, whichever is later.

(2) The County shall waive this time period for good cause.

Notice of denial of claim. If the County disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

Mobile homes. Relocation assistance for owners of mobile homes on rented land will be handled on a case-by-case basis depending on physical and financial feasibility. Two options are available; moving the mobile home to a lot outside of the floodplain or offering a replacement mobile home outside the floodplain. The County will perform a cost-benefit analysis for each mobile home applicant and select the most financially feasible option. In both relocation options, moving costs and 42 months of lot fees will be paid for by the County. Both options are described below.

Moves from a mobile home. A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a mobile home may be determined based on the cost of one, or a combination of the following methods: (self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section. Eligible expenses for moves from a mobile home include those expenses described in paragraphs (g)(1) through (g)(7) of this section. In addition to the items in paragraph (a) of this section, the owner-occupant of a mobile home that is moved as personal property and used as the person's replacement dwelling, is also eligible for the moving expenses described in paragraphs (g)(8) through (g)(10) of this section.)

(1)**Commercial move** - moves performed by a professional mover.

(2)**Self-move** - moves that may be performed by the displaced person in one or a combination of the following methods:

(i)**Fixed Residential Moving Cost Schedule.** (Described in § 24.302.)

(ii)**Actual cost move.** Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.

Replacement housing payment for 180-day mobile homeowner displaced from a mobile home, and/or from the acquired mobile home site.

(a)**Eligibility.** An owner-occupant displaced from a mobile home or site is entitled to a replacement housing payment, not to exceed \$31,00.00, under § 24.401 if:

(1) The person occupied the mobile home on the displacement site for at least 180 days immediately before:

(i) The initiation of negotiations to acquire the mobile home, if the person owned the mobile home and the mobile home is real property;

(ii) The initiation of negotiations to acquire the mobile home site if the mobile home is personal property, but the person owns the mobile home site; or

(iii) The date of the County's written notification to the owner-occupant that the owner is determined to be displaced from the mobile home as described in paragraphs (a)(3)(i) through (iv) of this section.

(2) The person meets the other basic eligibility requirements at § 24.401(a)(2); and

(3) The County acquires the mobile home as real estate, or acquires the mobile home site from the displaced owner, or the mobile home is personal property but the owner is displaced from the mobile home because the County determines that the mobile home:

(i) Is not, and cannot economically be made decent, safe, and sanitary;

(ii) Cannot be relocated without substantial damage or unreasonable cost;

(iii) Cannot be relocated because there is no available comparable replacement site; or

(iv) Cannot be relocated because it does not meet mobile home park entrance requirements.

(b) Replacement housing payment computation for a 180-day owner that is displaced from a mobile home. The replacement housing payment for an eligible displaced 180-day owner is computed as described at § 24.401(b) incorporating the following, as applicable:

(1) If the County acquires the mobile home as real estate and/or acquires the owned site, the purchase cost used to compute the price differential payment is the actual amount paid to the owner as just compensation for the buyout of the mobile home, and/or site, if owned by the displaced mobile homeowner.

(2) If the County does not purchase the mobile home as real estate but the owner is determined to be displaced from the mobile home and eligible for a replacement housing payment based on paragraph (a)(1)(iii) of this section, the eligible price differential payment for the purchase of a comparable replacement mobile home, is the lesser of the displaced mobile homeowner's net cost to purchase a replacement mobile home (*i.e.*, purchase price of the replacement mobile home less trade-in or sale proceeds of the displacement mobile home); or, the cost of the County's selected comparable mobile home less the County's estimate of the salvage or trade-in value for the mobile home from which the person is displaced.

(3) If a comparable replacement mobile home site is not available, the price differential payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

(c) Rental assistance payment for a 180-day owner-occupant that is displaced from a leased or rented mobile home site. If the displacement mobile home site is leased or rented, a displaced 180-day owner-occupant is entitled to a rental assistance payment computed as described in § 24.402(b). This rental assistance payment may be used to

lease a replacement site; may be applied to the purchase price of a replacement site; or may be applied, with any replacement housing payment attributable to the mobile home, to the purchase of a replacement mobile home or conventional decent, safe and sanitary dwelling.

(d) *Owner-occupant not displaced from the mobile home.* If the County determines that a mobile home is personal property and may be relocated to a comparable replacement site, but the owner-occupant elects not to do so, the owner is not entitled to a replacement housing payment for the purchase of a replacement mobile home. However, the owner is eligible for moving costs described at § 24.301 and any replacement housing payment for the purchase or rental of a comparable site as described in this section or § 24.503 as applicable.

In some cases, renters of participating properties may be paying little to no rent, posing a challenge for relocation assistance. In those cases, the County will offer pay for moving costs and offer relocation assistance for the gap between the estimated fair market rent of the displacement unit and the monthly cost of a replacement unit outside of the floodplain.

§4.10.1 Complaint and Appeal Process

All written citizen complaints which identify deficiencies relative to the County's buyout program will merit careful and prompt consideration. All good faith attempts will be made to satisfactorily resolve the complaints at the local level. Complaints must be filed with the Chief Elected Official (Judge/Mayor), Agency Head, or Executive Director who will investigate and review the complaint. A written response from the Chief Elected Official, Agency Head, or Executive Director to the complainant will be made within 15 working days, where practicable.

All citizen complaints relative to Fair Housing/Equal Opportunity violations involving discrimination will be forwarded to the following address for disposition:

Texas Workforce Commission
Civil Rights Division
1117 Trinity Street, Room 144-T
Austin, Texas 78701

Policy and/or procedure changes meant to satisfy a valid complaint may require a policy manual amendment. The County will undertake this activity if the complaint warrants such a revision. The County will not undertake any policy and/or procedure changes stemming from complaints that can be categorized in the following ways:

1. The applicant's description of needs and objectives is plainly inconsistent with available facts and data;
2. The activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant; or
3. The request does not comply with the requirements set forth by HUD or the GLO

Documentation must be kept at the local level to support compliance with the aforementioned requirements.

§4.10.2 Case Management Services

The County recognizes that its buyout program has many guidelines, policies, nuances, and requirements that may present challenges for persons without expert knowledge of CDBG-DR programs. As a result,

the County has chosen to use specialized Case Managers to assist property owners that participate in the program. Each property owner and tenant will be assigned a Case Manager who will remain their point-of-contact for meetings and phone calls throughout the buyout program's activities and steps. Applicants will only be reassigned Case Managers if there are changes to staff, or if necessary because of language barriers or homeowner disabilities. Every Case Management assignment decision will be made with the property owner's best interest in mind and often times the property owner's input and preferences will be heavily considered. Case Managers will be somewhat like an agent with an escrow company, confirming everyone's papers are in order, making sure each party produces the properly signed documents when required, and verifying information on each document. They will also be like a coach as they guide property owners and tenants through a complex program, ideally building a positive relationship with them. Case Managers must assure that each program participant completes every required step in the process. Additionally, Case Managers must create a documentary record that proves every required step is properly completed.

§4.10.2a Other Languages and Disabilities

Program Case Managers will be able to communicate with the applicant in their primary language and should be assigned to the clients as appropriate. If necessary, a translation service will be procured by the third-party Case Manager provider. Additionally, they must ensure effective communications with persons with disabilities pursuant to 24 CFR 8.6 and other fair housing and civil rights requirements (such as the effective communication requirements under section 504 and the Americans with Disabilities Act). Counselors will be trained to be well-versed in all housing recovery activity requirements.

§4.11.1 Applicant Closings (Real Estate Settlement)

The County and the homeowner will agree to the terms of the real estate transaction when they sign the contract of sale. The contract of sale will not be customized for each individual applicant – a contract template will be designed by the County's attorney. The contract will stipulate the terms of the real estate closing. It will direction for the seller in terms of the anticipated vacancy date, the on-or-about closing date, the sellers' responsibility for disconnecting utilities, and what happens to abandoned items on the property. The applicant will agree to these terms in writing and will be responsible for complying with the terms of the contract. The contract will also include language regarding seller failures to comply with the terms.

In many cases, the County anticipates that homeowners will move on their closing date or shortly before their closing date. At the time of closing, the seller will surrender occupancy to the property and will no longer have access to any structures there. To assist homeowners with the burden of moving, the County will supply each homeowner with a list of moving companies and storage facilities local to the buyout target areas.

It is the County's policy to avoid undue procedural obstacles that delay, inconvenience, or impair completing transactions under the Program. The County, for this reason, accommodates reasonable seller requests when doing so does not expose the program to delay, liability, extra costs, or risk of loss.

The County can, under certain conditions, accommodate a seller who requests that all of the net proceeds from sale of a parcel under the program be paid to an agent instead of the seller in the conveyance granting title to the County and who executed the contract of sale.

If the terms of this procedure are fully satisfied, the seller must make the request in writing, acknowledge that payment to the agent will satisfy seller's right to net purchase proceeds, and indemnify the County for any losses resulting from disbursement to the agent.

§4.11.1a Foreclosures and Short Sales

Property owners who lost ownership of their homes due to foreclosure are ineligible for assistance, as they are no longer the owners of record. However, the buyout program may purchase properties that are in foreclosure proceedings by obtaining an Undertaking Letter and full mortgage payoff from the foreclosing attorney. Voluntarily selling a property with a delinquent mortgage balance is a common remedy for the non-payment of a mortgage.

In some cases, the outstanding balance of the mortgage may be greater than the purchase price of the property. In such cases, the property owner is unable to convey clear title to the County because the mortgage cannot be satisfied. As a result, the property owner has two options available to them:

- The property owner may bring personal funds to the closing table to satisfy the mortgage in full. While this solution is not practical for most property owners, particularly LMI property owners with fixed incomes, it is an option that will allow the conveyance of the property with clear title.
- The property owner and their Case Manager can work with the mortgage servicer to obtain a short sale approval. A short sale is a sale of real estate in which the net proceeds from selling the property will fall short of the debts secured by liens against the property. In this case, if all lien holders agree to accept less than the amount owed on the debt, a sale of the property can be accomplished.

The County's buyout program will undertake all efforts to assist property owners with obtaining a short sale if the property owner desires an outcome involving a short sale. However, short sale approvals are subject to the lender review, and cannot be guaranteed as an outcome in all cases. Property owners should inform their assigned Case Manager if they think a short sale will be required to convey title.

§4.11.2 End-Use Restrictions

The County memorializes the covenants made in connection with the property in the CDBG- DR Program. For properties purchased through the Program, a Declaration of Covenants and Restrictions (EBA Agreement) is incorporated with the deed for each parcel and recorded in the real property records office that serves the county where the property is found. Copies of the EBA Agreements are saved in the Program files. All restrictive covenants are recorded prior to, or at the time of, disposition. The Austin County Road and Bridge Maintenance Departments will be responsible for monitoring the end-use of buyout properties to ensure no future redevelopment.

§4.12.1 Demolition of Structures

The County is responsible for demolishing structures after buyout purchases are complete. Structures must be demolished 45 days after the County obtains title to the property. Exceptions may only be made to the 45-day rule for health and safety concerns or if necessary permitting and environmental review processes make it impossible to meet that deadline. The County will also comply with HUD guidance related to lead and asbestos (see §4.4.2). The County's demolition contractor must adhere to all federal, state, and local laws pertaining to the safe demolition and disposal of materials.

From the Department of Labor Davis-Bacon handbook:

Demolition work in relation to construction. (a) To determine whether a demolition contract is subject to DBRA, it is necessary to look at the entire scope of that contract as well as other contracts that might be part of the same overall project. Demolition, standing alone, (except for demolition work under Urban Renewal projects authorized pursuant to the Housing Act of 1949, as amended) is not necessarily considered to be "construction, alteration, and/or repair of a

public building or a public work” subject to the prevailing wage requirements of DBRA. For example, the demolition of a building because such structure is no longer needed would not in itself be a covered construction activity. However, where an existing building is being demolished and further construction activity at the site is contemplated that is subject to DBRA, DBRA would apply to such demolition, such as demolition performed to permit construction of a new building or highway (see AAM No. 190 and FOH 14d08).

Based on this guidance, the County will not monitor wages for its demolition contractor, as the stand-alone demolition activity is exempt from DBRA.

§4.13.1 File Closeout

Following completion of buyout activities, including the disbursement of any post-closing resettlement incentives, the County will complete an end-to-end (“ETE”) checklist to ensure the file meets all of the applicable program requirements. This task will be completed for each applicant file regardless of if the applicant received any funds or completed a real estate transaction. The County will comply with all GLO file closeout procedures, including (but not limited to) the “left side/right side” file organization format.

§4.13.2 Audit Requirements

The County’s management information system provides immediate tracking and imaging of all buyout program documentation, including but not limited to:

- Property owner notifications
- Eligibility verification documentation
- Financial funds disbursement
- Documentation to ensure data security and Program oversight to create a clear audit trail of the Program.

All Property owner data will be secured in the County’s management information system for a specified period of time.

Recordkeeping, including scanning, uploading to the GLO’s management information system, and filing of pertinent program documentation retention policies are to provide both a physical and an electronic record of activities so that documentation is accessible for audit purposes.

Documentation standards allow for program activities to be traced so that any possible audit issues are resolved. Records will be maintained in hard copy and/or electronically. All records will be copied, scanned, and filed for physical and electronic record. In order to protect non-public personal information, data security measures will be in place, such as hardware and software data security protocols and physical security for hard copy files.

§5.0.1 Public Comment

[Insert public comments and subrecipient responses to all comments received.]