

# **ORANGE COUNTY**

**DR-4332**

**Orange County**

**Local Buyout Program**

**Community Development and  
Revitalization**

# ***DR-4332 Orange County Local Buyout Program***

## **Introduction**

The General Land Office (GLO), Orange County, and Long-Term Recovery

As a result of Hurricane Harvey (TX-DR-4332), Orange County received over 60 inches of rainfall during the period between August 24, 2017 and September 1, 2017 and flooded nearly 90% of the county. Flood waters did not recede in some parts of the County until September 8, 2017. Streets, homes and businesses throughout the County were inundated with water for nearly two weeks.

As a result of the massive, widespread flooding, the County suffered significant damages to public infrastructure, critical facilities and housing. Hurricane Harvey was a particularly slow-moving storm and it stalled over parts of Texas, dropping unprecedented amounts of rain. Many residents moved into a temporary shelter at Pine Forest Elementary School when the shelter needed to be evacuated on August 31st due to rising floodwaters. Hundreds of residents were stranded without food or power in low lying neighborhoods, and parts of Interstate-10 were completely flooded. The sewer system failed to function, resulting in backup of raw sewage into homes. Roads were impassable, causing residents to be stranded in their homes, many of whom did not have access to clean water as the system suffered prolonged periods of electrical outages. A large percentage of the residents faced an imminent threat of bodily injury during the disaster event.

According to NFIP Claims filed Aug 23-Sept 5, 2017, 2,761 households in Orange County filed NFIP claims with 803 of those households designated by FEMA as repetitive loss (RP). As of August 28, 2018, SBA approved \$262,425,100 in disaster assistance loans.

FEMA data indicates that over 14,142 individuals filed for FEMA individual assistance (FEMA-IA). The total loss of housing equated to \$184,531,050.66 in FEMA verified loss. The County's economy came to a grinding halt. Residents and businesses continue to face the challenges associated with post-disaster recovery after a storm of unprecedented magnitude.

In response to the needs of homeowners, Orange County applied for \$4,042,406.17 and received federal funding through the South East Texas Regional Planning Commission (SETRPC) Method of Distribution via the State Grantee, The Texas General Land Office (GLO). The GLO's Community Development and Revitalization (GLO-CDR) division oversees the administration of

Community Development Block Grant Disaster Recovery (CDBG-DR) funds provided by the U.S. Department of Housing and Urban Development (HUD) following a disaster. These funds remain the most flexible recovery source available and can support communities with protection and resiliency.

The voluntary buyout program will remove homes and people from harm's way and move people to more resilient, sanitary, and less flood prone housing. The County will acquire approximately seventeen (17) properties damaged during Hurricane Harvey or located within Special Flood Hazard Areas, and convert the properties to green space, retention ponds, or to other non-habitable use. The program will relocate homeowners and their families to low risk areas outside of the floodplain/floodway and assist qualified applicants in moving/relocation expenses. Buyout incentives, relocation assistance and down payment assistance may be utilized to encourage eligible households to relocate to a suitable living environment. Additionally, the County has approved use of Buyout Program funds as matching funds for approved participants at or below 80% Area Median Income (AMI) and are within the Orange County Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program (HMGP)

The purpose of the Orange County DR-4332 Local Buyout Guidelines is to aid in the long-term recovery efforts by encouraging families who face a risk to health and safety due to hazards created by Hurricane Harvey to permanently relocate to areas outside of the floodplain, floodway, or Disaster Risk Reduction area (DRRA). This Program will be administered by the Orange County. 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 prove direct or indirect impact from Harvey to be considered eligible.

## **Overview**

The DR-4332 Buyout Program is designed to assist homeowners that are currently located in the floodplain floodway, or Disaster Risk Reduction Area DRRA to relocate to an area that is less prone to flooding and disaster.

Additional DRRA's may be established at a later to time if conditions are identified that warrant designation by Council and have been approved the (GLO-CDR).

## Goals

HUD has authorized the use of buyout programs to:

- (1) Reduce the risk to homeowners from the effects of subsequent disasters.
- (2) Assist in the recovery of low to moderate income households.
- (3) Protect taxpayer resources that might otherwise be needed after disaster in the same area (80 FR 72102).
- (4) Buyout programs support hazard mitigation, floodplain management goals, and resiliency by removing homeowners from the floodplain, thus eliminating vulnerability to future flooding situations.

Orange County has established that in order to be eligible for a buyout, the home or property must be located in a floodplain, floodway, or DRRA. Having a home located in a floodplain, floodway, or DRRA is a predictable environmental threat to the safety and well-being of program beneficiaries as evidenced by the best available data and science.

## Timeline

Date	Action
October 7, 2020	Program Guidelines Posted for Public Comment (30 days)
November 6, 2020	Program Guideline Public Comment Period Closed
November 9, 2020	Open of application intake (60 days)
January 15, 2020	Close of application intake
March 1, 2021	Proposed Date for Initiation of Offers
April 2, 2021	Proposed date of Offer Acceptance Deadline
June 30, 2021	Proposed Date of Closing Deadline
July 15, 2021	Proposed Date for Demolition Deadline (45 days from closing)
July 30, 2021	Proposed Date for Housing Incentive Deadlines

## **Property May NOT Be Redeveloped**

Orange County may not redevelop property acquired through the DR-4332 Local Buyout Program. Property will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or floodplain and wetlands management practices, or other purposes allowed by HUD and accepted by the GLO-CDR. No new structure will be erected on property acquired, accepted, or from which a structure was removed under the buyout or relocation program other than:

- a public facility that is open at all sides and functionally related to a designated open space (e.g. a park, campground, or outdoor recreation area)
- a restroom
- a flood control structure, provided that structure does not reduce valley storage, increase erosive velocities, or increase flood heights on the opposite bank, upstream, or downstream and that the local floodplain manager approves, in writing, before the commencement of the construction of the structure.
- A land use restriction covenant will be placed on the land to restrict use to the above eligible activities, to include open space in perpetuity.

## **Voluntary Buyout Program**

### **Definitions**

**Adjusted Gross Income (AGI):** AGI is an individual's total gross income minus specific deductions. The GLO Adjusted Gross Income Methodology may be found at: <http://recovery.texas.gov/>.

**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.

**Applicant/Homeowner/Survivor:** (Used interchangeably) Individuals whose homes or housing units were destroyed, made uninhabitable, needed repairs, or who suffered disaster-related displacement from their primary residences and/or loss of property.

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

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

**Buyout:** Purchase of an eligible property at the fair market value of the land and structures with the intent to reduce risk from future flooding or to reduce risk from future hazard. Buyouts are properties within defined Disaster Reduction Risk Areas (DRRA), determined in consultation with county and local governments such as areas within the 100-year floodplain and/or in the highest risk areas as defined by FEMA flood map “V Zone.” The property acquired will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational use, or floodplain and wetlands management practices. Buyout-only is typically not considered a complete activity in the Program and may be combined with another eligible activity (i.e., relocation assistance and new construction of housing).

**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.

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

**Disabled Household:** Disabled household \*is\* a household composed of:

1. One or more persons at least one of whom is an adult (18 years or older) who has a disability;
2. Two or more persons with disabilities living together, or one or more such persons living with another person who is determined by HUD, based upon a certification from an appropriate professional (e.g., a rehabilitation counselor, social worker, or licensed physician) to be important to their care or wellbeing; or
3. The surviving member or members of any household described in paragraph (1) of this definition who were living in a unit assisted under this part with the deceased member of the household at the time of his or her death. [24 CFR 891.305]

**Disaster Risk Reduction Area:** An area identified as meeting the following conditions as declared by Resolution of the Commissioners Court:

1. An area containing a hazard 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.
4. In carrying out acquisition activities, the subrecipient must ensure they are in compliance with their long-term redevelopment plans.

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

**Duplication of Benefits:** The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of a loss resulting from a major

disaster as to which he/she has already received financial assistance under any other program or from insurance or any other source.

**Elderly Family:**

1. Families of two or more persons, the head of which (or his or her spouse) is 62 years of age or older;
2. The surviving member or members of a family described in paragraph (1) living in a unit assisted under 24 CFR part 891, subpart E (Section 202 loans) with the deceased member of the family at the time of his or her death;
3. A single person who is 62 years of age or older; or
4. Two or more elderly persons living together, or one or more such persons living with another person who is determined by HUD, based upon a licensed physician's certificate provided by the family, to be essential to their care or wellbeing. [24 CFR 891.505]

**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.

**Eligible Properties (EP):** Eligible Properties are those within a floodplain, floodway, or DRRA with documented impacts from Hurricane Harvey.

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

**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.

**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.

**Floodplain:** FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area. • “100-year floodplain” — the geographical area defined by FEMA as having a one percent chance of being inundated by a flooding event in any given year. • “500-year floodplain” — the geographical area defined by FEMA as having a 0.2 percent change of being inundated by a flooding event in any given year.

**Head of Household:** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent. [24 CFR 5.504]

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

**Low-Income Family:** A family whose annual income does not exceed 80 percent of the area median income, as determined by HUD, with adjustments for smaller and larger families. [24 CFR 5.603]

**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.

**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.

**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.

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

**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

**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.

**Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (Title 49 CFR Part 24) (42 U.S.C. 4601 et seq.) (URA):** Applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted program or projects. URA’s objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects. For the purposes of these guidelines, URA mostly applies to residential displacements in involuntary (49 CFR Subpart B) acquisition or multifamily

damaged/occupied activities that require the relocation of the tenants. A displaced person is eligible to receive a rental assistance payment that is calculated to cover a period of 42 months, as waived by the FR.

**Urgent Need National Objective:** An urgent need that exists because conditions pose serious and immediate threat to the health or welfare of the community; the existing conditions are recent or recently became urgent; and the subrecipient cannot finance the activities on its own because other funding sources are not available. Subrecipients or the state must document how each program and/or activity funded under this category responds to a disaster-related impact. See 24 CFR 570.208(c).

## **VOLUNTARY BUYOUT PROGRAM GUIDELINES**

### **National Objective**

Buyout activities under the DR-4332 Orange County Local Buyout Program must meet one of the following National Objectives:

#### **LMB – Low to Moderate Buyout (LMB)**

- LMB is used for a buyout award to acquire housing owned by a qualifying LMI household, where the award amount (including optional relocation assistance) is greater than the pre-disaster fair market value of that property.

#### **LMI - Benefit Low- to Moderate- Income persons;**

- **LMHI –Low to Moderate Housing Incentive-** assisted with a housing incentive tied to the voluntary buyout of housing owned by the qualifying LMI household for the purpose of moving outside of the affected floodplain or to a lower-risk area.

#### **Urgent Need - Meet a need having a particular urgency.**

- Urgent need may only be utilized if within the 30% cap of non-LMI funds allocated to the County as required by the SETRPC Method of Distribution and the DR-4332 State Action Plan.

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.

### **Voluntary Participation Program**

Homes and vacant lots in which a home once stood during the storm purchased by the County

under the DR-4332 Local Buyout Program will be voluntary. There will be no threat or use of eminent domain and the program will meet requirements set forth in 49 CFR 24.101(b). However, the County will require that the homeowner relocate to an area outside of a floodplain or floodway.

The goal of the DR-4332 Orange County Local Buyout Program is not to merely pay homeowners to leave their existing homes. The program is designed to help homeowners relocate to another home in a lower risk area.

Homeowners located in a floodplain, floodway, or DRRA may be assisted:

- If homeowner accepts the pre-storm purchase price offered by the County to relocate outside of the floodplain or floodway to a low-risk area.
- If Homeowner has been previously assisted by HUD due to flooding, homeowner must have maintained flood insurance.

To be considered a Voluntary Buyout the following conditions must be met:

- Transactions with no threat or use of eminent domain and meet requirements set forth in 49 CFR 24.101(b)(1) as follows:
- No specific site or property needs to be acquired, although the County may limit its search for alternative sites to a general geographic area.
- The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.
- The County will not acquire the property if negotiations fail to result in an amicable agreement and the owner is so informed in writing.
- The County will inform the owner in writing of what it believes to be the market value of the property.

### **Buyout Program Process:**

1. Homeowner will complete an application to determine eligibility. Part of this process includes:

- Title Search to be completed by title company.
- If there are any issues with presenting clear title, the homeowner will be given an opportunity to clear these issues at his/her own expense. The homeowner may seek assistance from the title company that completed the search or from legal aid of their choice.
  - 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.
- Survey may be required by title company before closing.
- (2) Orange County will perform the required 24 CFR Part 58 environmental requirements associated with the property which is being submitted by the applicant.

3. Orange County will procure a professional appraiser to complete a real estate analysis based on comparative properties. The final buyout offer will be based on the Sales Comparison Approach using the pre-disaster Fair Market Value as determined by the professional appraiser.

2. The homeowner will have the right to determine the value of the property by hiring an appraiser to conduct their own assessment if they do not agree with the amount offered. If accepted, Orange County will update the offer and submit the offer to the owner. See \*\* Appraisal Process section for guidelines on the appeals process.
3. The participating homeowner will be given a vacate notice and must remove all personal property from the residence prior to the day of closing. The homeowner will also be given

utility disconnection requirements, and be informed as to what will happen to abandoned items.

4. Closing documents – Homeowner must sign the agreement for sale document and a limited subrogation agreement document. If the homeowner receives duplicative funds in the future, (e.g. insurance payments that are currently in litigation) they will be required to pay back funds.
5. If the homeowner qualifies for a Relocation Incentive and/or Down Payment Assistance, the funds are provided once confirmation of relocation is received (closing statement of new home or property) by Orange County. While it is advisable that the homeowner already have a new property lined up to purchase before closing with the County on Buyout Property, it is not required. However, the homeowner must acquire property at the new location within 60 days of the buyout closing.
6. Orange County will ensure that the property title acquired by the County is deed restricted and remains public, open space in perpetuity, as necessary for a buyout program as described herein.

### **Disposal of Storm Damaged Property**

Once the County has purchased a lot or home through the buyout program, the structures on the acquired property will be demolished. The program should complete the demolition of the home within 45 days of vacancy. The cost of the demolition will be a charge to the program.

- The land will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, floodplain or wetlands management practices. There are options for disposing of the property including:
- Orange County can lease the property to adjacent property owners or other parties in return for a maintenance agreement;
- Orange County can convert the land to green space, and this land will be maintained by

the County.

### **Property Eligibility Requirements for Buyout**

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

- 1) Structure must be located within floodway, floodplain or DRRA. If a property owner has received assistance from a past program and is located within a floodplain or floodway, proof of current NFIP flood insurance policy will be required.
- 2) Property owner must be able to provide documented proof of impact/damage or hazard caused by Hurricane Harvey at the property.
- 3) Property owner agrees to voluntarily participate.
- 4) Structure must be a Single-Family Residence or vacant lot in which a structure once stood during the time of Hurricane Harvey.
- 5) Applicant is current on their property tax accounts and child support payments; property tax account files will be verified with the Orange County Appraisal District and child support documentation will be verified with the Texas Department of Health & Human Services to ensure affirmative status.

Applications that meet all of the prerequisites will be ranked and prioritized based on the percentage of household income in relation to area median household income. In the event of a tie, the following criteria will be used in individual determinations as suggested in the GLO's Hurricane Harvey Disaster Recovery Housing Guidelines (updated August 1, 2019):

- 1) Households with members under the age of 18 (minors).
- 2) Female heads of household.
- 3) Elderly & disabled households.
- 4) Military veterans in the household.
- 5) Households participating in the Orange County FEMA Buyout Program for which CDBG-DR funds will be utilized as matching funds.



**NOTE: In the event that voluntary applications and prioritization conflict with Affirmatively Furthering Fair Housing (AFFH), further prioritization and/or advertising may take place.**

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.

A household is considered LMI if their income is less than 80% of the area median income. Income eligibility will be determined using Area Median Income (AMI) based on HUD Section 8 Housing Income Limits, adjusted for family size and verified following the GLO's Adjusted Gross Income Methodology. The methodology uses the previous year's filed tax return or tax return transcript for all household members to verify the household's annual income. Information presented here applies to the Beaumont-Port Arthur, TX HUD Metro FMR Area which Orange County is a part of. 2019 HUD Income Limits:

FY 2019 Income Limit Area	Median Family Income <a href="#">Explanation</a>	FY 2019 Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	8
<b>Beaumont-Port Arthur, TX HUD Metro FMR Area</b>	\$65,200	Very Low (50%) Income Limits (\$) <a href="#">Explanation</a>	22,850	26,100	29,350	<b>32,600</b>	35,250	37,850	40,450	43,050
		Extremely Low Income Limits (\$)* <a href="#">Explanation</a>	13,700	16,910	21,330	<b>25,750</b>	30,170	34,590	39,010	43,050*
		Low (80%) Income Limits (\$) <a href="#">Explanation</a>	36,550	41,750	46,950	<b>52,150</b>	56,350	60,500	64,700	68,850

A committee will be formed comprised of County staff and consultants for the purpose of eligibility determinations and case management. Attention will be placed on uniform and consistent documentation materials and criteria used to make determinations. 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). Orange County will collect household income documentation and will verify the household income using the HUD CDBG-DR income certification calculator found at <https://www.hudexchange.info/incomecalculator/>.

### Unmet Needs Analysis

An Unmet Needs Analysis of HUD/FEMA or other housing demographic disaster victim data may be considered when determining the proportions of funding awarded that must be set aside to benefit each LMI and non-LMI economic group. The use of FEMA claims data (when available) and other applicant demographic data allows for goals to be established to fairly allocate funds across jurisdictions and neighborhoods to serve survivors in proportion to need. The Needs Assessment will determine the activities to be offered, the demographics to receive concentrated attention, and any target areas to be served the disabled, "special needs," vulnerable populations, and target areas to be served.

Applicants applying for disaster assistance must meet certain eligibility standards to qualify for assistance. Eligibility standards are further discussed in the activity-specific Guidelines.

The Needs Assessment will document goals within the income brackets in proportion to the damaged units in the impacted area. Deviations from goals must be approved by the GLO before subrecipients can move forward:

- 0% - 30% AMI
- 31% - 50% AMI
- 51% - 80% AMI

**Allowable Expenditures**

The following expenditures are allowable under the Buyout Program:

- The closing costs associated with processing the transaction, recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property and similar expenses incidental to convey the real property to Orange County.
- Penalty costs and other charges for prepayment of any preexisting recorded mortgage.
- The pro rata portion of any prepaid real property taxes which are allocable to the period after Orange County obtains title to the property or effective possession of it, whichever is earlier.

→ Costs for obtaining clear title to the property are NOT allowed.

**Orange County Buyout Program  
Additional Assistance and Incentives**

Type of Assistance	*Maximum Assistance Available
Relocation Assistance	Up to \$5,000 for temporary housing and relocation costs

Purchase of a lot w/ intent to build new home or newly constructed home	Up to \$35,000
Purchase of an existing home	Up to \$10,000
Down Payment Assistance	Up to 100% of required amount, not to exceed \$35,000
Buyout Incentives	Up to \$35,000

\*Maximum Assistance Available: Additional assistance and incentives are available only to eligible applicants as described herein. Residents accepting additional assistance or incentives will be required to show proof that they have relocated outside of a floodplain or floodway.

### **Additional Recovery Relief**

In addition to buying a homeowner’s primary residence that is prone to disaster, Orange County will offer additional relief to aid in recovery. A buyout program that merely pays homeowners to leave their existing homes is not sufficient. Additional funds have been set aside to assist homeowners with obtaining homes in areas less hazardous. However, it is not a compensation program. This program is designed to help homeowners to recover rather than enrich.

These funds will be available as either Down Payment Assistance, Optional Relocation Assistance and/or Buyout Incentives. Since the replacement home cannot be located in the floodplain, floodway, or Disaster Recovery Area, flood insurance will not be required, but regular homeowner insurance must be maintained. Homeowners may qualify for these funds when they choose to relocate within Orange County. To qualify for assistance, purchased homes must be considered safe, decent, sanitary housing.

## **Down Payment Assistance**

The following items must be met to provide additional funding:

- Purchased a lot or are using a pre-owned lot located outside of a floodplain or to a lower-risk area within the subrecipient's jurisdiction for construction of a new home (a construction date must be provided), or the applicant purchased a newly constructed or existing home located outside of floodplain or a lower-risk area in the subrecipient's jurisdiction.
- Purchased homes must be considered decent, safe, and sanitary.
- The funding must be used within an established timeframe (e.g., sixty (60) days).
- Down Payment Assistance:
  - a) HUD approved a waiver to allow homeownership assistance to be provided to households earning up to 120 percent of the area median income and down payment assistance for up to 100 percent of the amount required. While homeownership assistance may be provided to households with up to 120 percent of the area median income, only those funds used to serve households with up to 80 percent of the area median income may qualify as meeting the low- and moderate-income person benefit National Objective.
  - b) The replacement home is usually more expensive than the buyout home because new homes are built to recently adopted building codes and zoning requirements as opposed to older homes.
  - c) The amount of assistance is based on the determined need of the applicant; however, the amount will not exceed \$35,000.

Eligible properties for down payment assistance include:

- Single family houses
- Condominium
- Cooperative Unit
- Modular home/Manufactures home
- Vacant Land

## **Relocation Assistance**

Relocation Assistance would be other funding needed to purchase a replacement lot or home.

These expenditures would include items such as inspections, appraisals, surveys, insurance, closing costs, etc. The following requirements must be met to qualify for the Relocation Incentive:

- Homeowner purchased or will use a pre-owned lot located outside of the floodplain, floodway, or Disaster Reduction Area for construction of a new home. A construction date must be provided.
- Homeowner purchased an existing home located outside of the floodplain, floodway or DRRRA.
- Purchased homes must be considered decent, safe, and sanitary.
- The funding must be used within an established timeframe (e.g. sixty (60) days).
- Relocation funding must not exceed:
  - \$35,000 – For purchase of a vacant lot with the intent to construct a home (construction date provided).
  - \$35,000 – to construct a new home on a lot that was already owned.
  - \$10,000 – For purchase of an existing home.

Funding provided toward the purchased property must not be used to duplicate benefits already paid by another federal agency such as FEMA and SBA. The DOB Calculation Form will need to include payments for eligible relocation assistance.

### **Buyout Incentives**

The purpose of the incentive is to encourage maximum participation by property owners and remove as many properties as possible from high-risk areas. Incentive payments should assist the household with necessary funds to buy an existing home or construct a home on a newly purchased lot, as applicable. Incentives are allowable when pre-disaster fair market value is used to purchase the home (buyouts) and when post-storm fair market value is used to purchase the home (acquisitions). A buyout incentive is not available for properties that served as second homes. A second home is not the primary residence of the owner, a tenant, or any occupant at the time of the storm. Subrecipients and the state may provide relocation assistance outside of buyout activities, as necessary. Subrecipients and the state must

document how the assistance will be determined and issued to applicants when determining final eligibility assistance costs. The vacant land limit is set at \$35,000. Although this is the cap, it is not the floor; the actual lot cost should not exceed the standard single lot size in the community.

#### **\*\*Appraisal Process**

Orange 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.

**\*\*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.

### **Displacement of Persons and/or Entities**

Displaced people, regardless of income, can receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("URA" or "Uniform Relocation Act"). URA applies to both temporary (during construction) and permanent displacement (one year or greater).

Section 104(d) requires relocation assistance for lower-income individuals displaced as a result of the demolition or conversion of a lower-income dwelling and requires one-for-one replacement of lower income units demolished or converted to other uses.

Orange County will provide the following benefits to households that they displace:

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

The relocation assistance requirements at Section 104(d)(2)(A) of the Housing and Community Development 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 the notice for activities related to disaster recovery. Without this waiver, disparities exist in relocation assistance associated with activities typically funded by HUD and FEMA (e.g., buyouts and relocation). Both FEMA and CDBG funds are subject to the requirements of the URA; however, CDBG funds are subject to Section 104(d), while FEMA funds are not. The URA provides that a displaced person is eligible to receive a rental assistance payment that covers a period of 42 months. By contrast, Section 104(d) allows a lower-income displaced person to choose between the URA rental assistance payment and a rental assistance payment calculated



over a period of 60 months. This waiver of the Section 104(d) requirements assures uniform and equitable treatment by setting the URA and its implementing regulations as the sole standard for relocation assistance under the federal register notice.

# ***Local Buyout Program Requirements***

## **National Objective**

Housing activities under the DR-4332 Orange County Buyout Program must meet one of the following National Objectives:

**LMI** - Benefit Low- to Moderate- Income persons;

- **LMHI** –Low to Moderate Housing Incentive- assisted with a housing incentive tied to the voluntary buyout of housing owned by the qualifying LMI household for the purpose of moving outside of the affected floodplain or to a lower-risk area.

**Urgent Need** - Meet a need having a particular urgency.

- Urgent need may only be utilized if within the 30% cap of non-LMI funds allocated to the County as required by the SETRPC Method of Distribution and the DR-4332 State Action Plan.

## **Environmental Review**

All sites must undergo a complete environmental review prior to any commitment of funds. Properties located where federal assistance is not permitted are ineligible for assistance. The environmental review should document compliance with 24 CFR Part 58 and all related laws and authorities. Properties with adverse environmental conditions will not be permitted to proceed under housing activities unless the adverse conditions are corrected. No work can start on a site until the environmental evaluation is complete. 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.

### **Proof of Event Damage**

For buyout activities, the homeowner must demonstrate that damage or destruction to the home occurred or a hazard currently exists as the result of the DR-4332 Hurricane Harvey disaster event. All verification methods are subject to Orange County approval and must be consistent to demonstrate occupancy at the time of the storm. 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.*

### **Method of Verification**

To comply with the federal requirement, Orange 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.

### **Alternate Method of Verification**

- If the above-referenced documentation is not available and/or if a homeowner was denied assistance by FEMA, assistance through the DR-4332 Buyout Program may still be available. Homeowners are not solely ineligible based on a denial by FEMA. Time stamped photos provided by homeowners, neighborhood level media reports, or documentation done by

disaster relief organizations may be utilized to determine that the damage was caused by the event. As a last resort, a Damage Assessment complete with photos of the damage and a written assessment of the damage by each photo taken must be performed and conducted by a certified or licensed inspector (HQS, TREC, or similar license). This inspection must be completed in accordance with CDR-GLO's Damage Assessment Guidelines and must be supplied by Orange County as the CDR-GLO subrecipient that certifies the damage occurred as a result of the event.

- If proof of event damage is inconclusive, Orange County must provide alternative evidence to CDR-GLO prior to approval of any assistance.

### **Affirmative Fair Housing Marketing Plan**

Orange County is committed to affirmatively furthering Fair Housing. The goal of the affirmatively furthering Fair Housing 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 the County during a GLO AFFH review of the intended Buyout program was:

*Orange 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, 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 floodways and floodplains or provide certification that every property owner in the service area has been contacted at a personal level 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.

The goal of Orange County 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. Emphasis will be focused on successful outreach to LMI areas and those communities with minority concentrations that were affected by the disaster. Outreach efforts may 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).
- 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;
- Flyers in utility and tax bills advertising the Program;
- Reach out to public or non-profit organizations and hold/attend community meetings;
- Other forms of outreach tailored to reaching the eligible population, including door-to-door outreach, 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.
- Subrecipients and the state will be required to use the Fair Housing logo in Program advertising, post Fair Housing posters and related information and, in general, inform the public of its rights under Fair Housing regulations law.
- The County will coordinate with HUD-certified housing counseling organizations to ensure that information and services are made available to both renters and homeowners. Additional information for each grantee is available here: <https://apps.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?weblistaction=summary>

## **Applications**

Upon approval of these guidelines by the General Land office, Orange County will accept applications for a period of sixty (60) days by the following methods:

In person:

Orange County Convention and Expo  
 11475 FM 1442  
 Orange, TX  
 Monday - Friday, 8:30 am – 4:30 pm

Via mail:

Orange County Convention and Expo  
 Attn: Morgan Taylor  
 11475 FM 1442 Box E  
 Orange, TX 77631

Special arrangements can be made for persons with special needs, language interpretation or for persons needing alternate times and locations by calling Morgan Taylor, Grants Coordinator, or Joel Ardoin, Emergency Management Coordinator at (409) 882-7070.



\*This location is accessible under the American for Disabilities Act Accessibility Guidelines.

Should the initial application period not yield enough applications to expend all allocated funding, the County will re-advertise the program and conduct another sixty (60) day application period.

### **Timeliness of Homeowner Application Status**

Orange County will ensure timely communication of application status to homeowners who have applied for disaster recovery assistance. Timeliness includes—multiple methods of communication, such as Orange County and Traylor & Associates websites, phone, email, letters, site visits, and case managers to provide homeowners for recovery assistance with timely information regarding the status of their application for recovery assistance at all phases. Orange County will ensure the accessibility and privacy of individualized information for all homeowners, frequency of homeowner status updates and personnel responsible for informing homeowners of the status of recovery applications. Questions regarding status of an application may be directed to:

**Melinda Smith, Project Manager**  
**Beth Eddings, Project Manager**  
**Traylor & Associates, Inc.**  
**P.O Box 7035**  
**Tyler, TX 75711**  
**903-581-0500 ext. 219 or ext. 231**

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

All projects must undergo an AFFH review by the GLO prior to any commitment of funds. Such review will include assessment of a proposed project's area demography, socio economic characteristics, housing configuration and need, educational, transportation, health care

opportunities, environmental hazards or concerns, and all other factors material to the determination. Applications should show that projects are likely to lessen area racial, ethnic, and low-income concentrations, and/or promote affordable housing in low-poverty, non- minority areas in response to natural hazard related impacts.

## **Records Retention**

Compliance will be maintained in accordance with the reporting requirements under the GLO's CDBG-DR Program. This includes providing all information and reports as required under the GLO's contract with Orange County, demographic data and other information acquired from the homeowners, and project documentation from awarded homeowners. This information must be retained at the County for 3 years after GLO closes the DR-4332 flood grant with HUD.

## **Section 3**

The county of Silsbee 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.

#### **Homeowner Data**

The GLO will establish procedures for Orange County to collect and report data relevant to HUD. The reporting requirements will include, but not be limited, to the following for each program activity requiring a direct application by an individual or non-institutional entity:

- Homeowner's household income.
- Household's income as a percentage of area median family income as defined by HUD.
- The race, ethnicity, and gender of the head of household.
- The household's familial status.
- The presence or non-presence of a household member with a disability.
- The presence or non-presence of a household member that is a Veteran.

#### **Procurement Requirements**

Orange County will provide adequate documentation to show that the selection process was carried out in an open, fair, uniform, and thorough manner to ensure that federal (2 CFR 200.318-200.326) and state procurement requirements were met.

It's important to note that failure to maintain proper documentation may result in disallowed costs. These records must include, but are not limited to, the following information:

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

During the procurement process, Orange County will clearly identify any items included in the bid/purchase that are not included in the CDBG-DR contract. Orange County may utilize HUD's CDBG-DR and Procurement guidance<sup>6</sup>.

Orange County will procure goods and services using the federal procurement and contract requirements outlined in 2 CFR 200.318 – 200.326. These procurement requirements must be followed for reimbursement from grant allocations of CDBG-DR funds provided by the U.S. Department of Housing and Urban Development (HUD). Orange County is also required to follow state and local procurement laws and policies as prescribed by 2 CFR 200.318(a) as well as the additional requirements stated in 2 CFR Part 200.

Additionally, Orange County may request that the GLO review draft solicitations or responses prior to award for compliance.

Orange County will execute a contract to document the work to be completed, the agreed price, and contractor or provider's required compliance with all applicable federal, state, and local requirements that Orange County must follow. If there is a conflict between federal, state, and local laws and regulations regarding procurement, the more stringent law or regulation will apply.

### **Conflict of Interest**

The conflict of interest regulations contained in the contract between Orange County and the GLO prohibit local elected officials, Orange County employees, 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 is able to consider granting an exception to the conflict of interest provision should it be determined by the GLO that Orange 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. Orange County should not enter into a conflict of

interest until justification has been received and approved by the GLO in accordance with applicable procurement laws.

## **Complaint/Appeal Process**

### **General Policy**

The GLO and Orange County are responsible for responding to complaints and appeals in a timely and professional manner. The County will keep a record of each complaint or appeal that it receives to include all communications and their resolutions.

When a complaint or appeal is received, a representative will respond to the complainant or appellant within fifteen (15) business days where practicable. For expediency, Orange County will utilize telephone communication as the primary method of contact. However, email and postmarked letters will be used as necessary. The following procedures as well as contact information will be provided in the homeowner's application packet.

### **Responsibilities**

Orange County has tasked an independent consultant, Traylor & Associates, Inc., to handle all homeowner inquiries regarding DR-4332 Buyouts. Traylor & Associates will:

- 1) Determine whether or not complaints and appeals relate to the business or authority of the County.
- 2) Ensure that a response to all complaints and appeals are within the appropriate time frame.
  - Response must be provided within 15 working days of the receipt of the complaint.
- 3) Usher all complaints and appeals through to a resolution.

Orange County has developed an internal procedure for handling incoming complaints, including a complaint escalation process in order to ensure that complaints are handled at the earliest stage in the process.

To file a complaint or appeal regarding the DR-4332 Buyout Program, please contact:

Joel Ardoin  
Office of Emergency Management  
11475 FM 1442 Box E  
Orange, TX 77631  
(409) 882-7895

### **Documentation**

Documentation for each complaint or appeal must be maintained. Each file must include the following:

- Contact information for homeowner
- Initial complaint
- Address and GLO assigned project number (if applicable)
- Any communications to and from homeowner
- Results of the investigation, together with any notes, letters, or other investigative documentation
- The date the complaint or appeal was closed
- Any other action taken.

### **Audit Requirements**

If Orange County receives funds which exceed the thresholds set in 2 CFR § 200.501, Audit Requirements the County will have a single or program specific audit conducted in accordance with the applicable federal requirements.

## **Changes, Waivers, and/or Conflicts**

Orange County has the right to change, modify, waive, or revoke all or any part of these guidelines, with the prior written approval of the GLO. Waivers to the requirements in these Guidelines can only be approved by the GLO and must be provided in writing. The GLO will provide the option for a waiver, only after the posting of the waiver request on the County's website for a public comment period of at least seven (7) days. The waiver request must demonstrate why the housing guidelines are not practicable for Orange County.

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

# ***Homeowner Eligibility Requirements***

## **Case Management**

Homeowners are likely to need support throughout the process. Homeowners may have suffered significant losses and emotional hardships. Undertaking the process to claim insurance is often burdensome and confusing. The simple mechanics of applying to the program may be difficult for a homeowner to complete. As a GLO subrecipient, we will work to cultivate partnerships with local and community liaisons such as banks, counseling agencies, legal services, title companies, etc.

Orange County Case Managers will work to assist homeowners from inception to close out under the Orange County Buyout Program. A single point of contact will be assigned to each homeowner to ensure that homeowners have the immediate contact information to be successful in their long-term recovery efforts. As applications are being accepted and reviewed for determinations of eligibility to participate in the Program, each homeowner will be counseled and made aware of their application status.

## **Application Intake and Counseling**

Included in this program design is the mechanism to prevent any pre-screening of homeowners without a written application being taken therefore anyone who makes an inquiry about the program is provided Orange County application package to complete. All such inquiries will be reported in a format to be provided by GLO. All documentation submitted by the homeowner must 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 homeowner to criminal, civil or administrative penalties. Program documents 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.”



Case Managers or Interpreters must be able to communicate with the homeowners in their primary language and should be assigned to the clients as appropriate. 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 the Americans with Disabilities Act). Case Managers will be trained to be well versed in all aspects of the 2017 Buyout Program.

### **Assisted Homeowner Priority and Eligibility Requirements**

The following are threshold requirements, which must be met for a homeowner to be eligible for assistance. Eligibility does not assure assistance since a prioritization strategy within LMI economic subgroups is required that is consistent with GLO Program Design requirements and it is expected that there will be more eligible homeowners than can be served with available funds. Orange County is establishing the following priorities for applicant selection:

- Priority 1:** Low-to-moderate income 30 percent and below
- Priority 2:** Low-to-moderate income 50 percent and below
- Priority 3:** Low-to-moderate income 80 percent and below
- Priority 4:** Non-Low-to-moderate income

### **Income Eligibility**

Income levels will be established for all homeowners. Although low income homeowners will be given priority, it is not necessary to be low income to qualify for this program. At least 70 percent of expended program funds must be used to support activities benefitting low- and moderate-income persons. Property owners with income over 80% AMFI will be placed on a waiting list until low-to-moderate income property owners have been served, so that total expenditures can be determined. HUD publishes these AMFI levels annually, and eligibility will be based on the most recently published HUD income limits. This program will verify income received by all household members using the Internal Revenue Service (IRS) Form 1040 series method.

Documents used in verifying household income must be current as of the date the application is signed.

Income sources include but are not limited to the following:

- Tax Return
- Wages
- Benefits (Social Security, Pension or Retirement, Annuity)
- Self Employed/Business Income
- Rental Income
- Unemployment
- Alimony/Spousal Support/Maintenance
- Other potentially taxable income
- Lump sum or on time potentially taxable receipts (capital gains, lottery winnings etc.)

## **Method of Verification**

### **IRS Criteria and Definition**

Taxable income is the gross income of an individual or corporation, less any allowable tax deductions. Your taxable income is the amount of your income that is subject to income tax, as defined in the Internal Revenue Code Section 63. Jan 23, 2012.

### **Determining Household Composition**

All persons living in the household are part of the household unless they are specifically excluded.

#### **Included persons:**

- Head of household, spouse, or co-head of household
- Dependents
- A dependent is never the head, spouse, or co-head. A dependent is a family member who is under 18 years of age, disabled or a full-time student.
- Prison inmates, if scheduled to be released within 12 months
- Children in joint custody, if in home at least 50% of the time or more

- Military personnel, but only if head, spouse, or co-head. Combat/Hazard pay should not be counted as income
- Temporarily absent family members. Gross income and income from assets of temporarily absent family member must be counted in household income, regardless of the amount of income the absent member contributes to the household.
- If a homeowner is separated from their spouse, the homeowner's application will be used as proof that the estranged spouse is permanently absent from the household.

**Excluded persons:**

- Live-in aides
- Children of live-in aides
- Foster Children
- Foster Adults

**Proof of Ownership**

The homeowner must be an individual who owns the home to be demolished or the adjacent vacant lot(s) that are to be purchased by Orange County. Ownership can be documented as follows:

- A valid deed of trust or warranty deed that is recorded in Orange County
- Statement of Ownership and Location (for Mobile Home Units)

Lien's on MHU properties – If a homeowner owns a mobile home and there is a lien on the property, your Orange County case manager will work with the property owner to ensure that the lien is transferred properly (if one is in place with the mortgage company). The MHU needs to be “perfected” and made a real property showing that is fixed to the lot. The wheels and axel need to be removed, and a statement of location needs to be in place from TDHCA. Once this is done, the lender can transfer the lien from the mobile home to the new property.

## **Property Taxes**

Homeowner must furnish evidence that property taxes are current, have an approved payment plan, or qualify for an exemption under current laws. Homeowner must prove that property taxes have been paid or that one of the following alternatives have been met:

- The homeowner qualified for and received a tax deferral as allowed under Section 33.06 of the Texas Property Tax Code;
- The homeowner entered into a payment plan with the applicable taxing authority.
- Support documentation verifying the tax deferral or tax exemption must be provided by the homeowner. Any homeowner that enters into a payment plan must supply a signed copy of the payment plan from the applicable taxing entity along with documentation that they are current on their payment plan.

## **Duplication of Benefit (DOB) Review**

Each homeowner's application will be reviewed to determine if previous funding was appropriately used on the home. The homeowner must have an unmet need to move forward in the program. Orange County will determine the homeowner's unmet needs first prior to calculating the homeowner's DOB. Homeowner must provide insurance, FEMA, SBA, and any other type of funding documentation for funds that were received. Additionally, the County/Grant Administrator will verify that the submitted data is accurate to the best of their abilities (e.g. validate against FEMA data).

Using the GLO's DOB Calculation Form, if the prior assistance received exceeds the documented repairs, this calculated amount becomes the DOB amount. The Case Manager will identify any possible Duplication of Benefits and discuss with homeowner.

As part of the buyout process, homeowners will be required to sign a subrogation agreement. The subrogation agreement will require that the homeowner pay back funds if he/she receives any future disaster assistance for the same reason. Future assistance could include funds from an insurance company if the homeowner is in current litigation and later receives funds from the claim.

### **Child Support**

All homeowners and other members of their household must be current on payments for child support. If any member of the household is not current on child support, that member will be required to enter into a payment plan which 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 they are current on their payment plan must be supplied. Each homeowner will be asked to sign an affidavit regarding child support.

### **Damage assessment**

All homes must be assessed to verify that it was damaged, or a hazard is presently caused from the event. A damage assessment report along with pictures will be required for each application. Please refer to the GLO's Damage Assessment Guidelines.

### **Flood Insurance Verification/Requirements**

Flood Disaster Protection Act of 1973 as amended and Sec. 582(a) of the National Flood Insurance Reform Act of 1994 – compliance with the legal requirements of Section 582(a) mandates that HUD flood disaster assistance that is made available in an Special Flood Hazard Areas (SFHAs) may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for flood damage to any personal, residential or commercial property if: (1) the person had previously received Federal flood disaster assistance conditioned

on obtaining and maintaining flood insurance; and (2) that person failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

### **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.

### **Project Closeout/Affordability Monitoring Requirements**

#### **Closing Activities**

Once all eligibility requirements have been met and final approval has been received from GLO, the title company will schedule a meeting between the homeowner and a representative from Orange County to sign closing paperwork on the buyout property. The Case Manager from Gary R. Traylor & Associates will also be present to help with any questions that the County or homeowner may have. Homeowners will be required to sign all closing documents provided by the title company. If the homeowner chooses to accept relocation assistance, a separate closing may need to be scheduled for the purchase of the replacement property.

#### **File Closeout**

Following completion of buyout activities, including the disbursement of any post-closing resettlement incentives, Orange 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.

## **Homeowner Eligibility Requirements Summary**

- Income Eligibility
- Proof of Ownership
- Principle Residency
- Property Taxes
- Duplication of Benefits
- Child Support
- Damage Assessment
- Environmental Review
- Flood Insurance Verification
- Project Closeout/Monitoring

**Public Comments Received**