



# **TYLER COUNTY**

# **2017 BUYOUT ASSISTANCE GUIDELINES**

# **HURRICANE HARVEY DISASTER RECOVERY**

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## INTRODUCTION

On August 25, 2017, Tyler County experienced over 50 inches in heavy rains within 5 days, downed trees, and flooding of homes which posed a threat to public health and safety of its residents. Hurricane Harvey's high winds and extreme rainfall caused electrical failure and required residents to boil water for consumption usage as unsafe levels of bacterial were detected within the drinking water. Tyler County was determined to be a Presidentially Declared Disaster County.

For this reason, Tyler County intends to voluntarily buyout approximately up to thirty-eight (38) homes.

In response to the damage caused by Hurricane Harvey, Congress appropriated \$28 billion in Federal Fiscal Year 2018 funds for the HUD Community Development Block Grant-Disaster Recovery (CDBG-DR) program through Public Law 113-2. HUD allocated \$5.024 billion of the appropriation to the State of Texas in Federal Register Volume 82 Number 28.

The Texas General Land Office's (GLO) Community Development and Revitalization division oversees the administration of Community Development Block Grant Disaster Recovery (CDBG-DR) funds allocated to the state of Texas by the U.S. Department of Housing and Urban Development (HUD) following a disaster. These funds support states and municipalities

working to build stronger and more resilient communities. Through the Method of Distribution, the Texas General Land Office (GLO) allocated \$3,486,382.00 to Tyler County for a Local Buyout or Acquisition Program.

HUD has authorized the use of Buyout and Acquisition programs to (1) reduce the risk to homeowners from the effects of subsequent disasters, (2) assist in the recovery of low- and moderate-income households, and (3) protect taxpayer resources that might otherwise be needed after a disaster in the same area (80 FR 72102).

The purpose of the program is to aid in the long-term recovery efforts following Hurricane Harvey; specifically, to assist in moving eligible homeowners out of harm's way and into higher ground through fair market value voluntary housing buyouts. The Buyout program will support hazard mitigation, floodplain management goals, and resiliency by removing homeowners from the floodplain to minimize the possibility of future flooding to the home. After homes are purchased, the structures will be demolished. The Local Buyout Program will serve multiple objectives and provides a resiliency option versus rebuilding within a floodplain. The Buyouts will help prevent repetitive loss and extreme risk to human health and safety.

Buyout services are limited to actual costs for services used to complete a buyout of a home in a floodplain or floodway and the intent is to relocate the homeowner and their family to a low-risk area outside of the floodplain/floodway. Housing Incentives may be offered in addition to other programs or funding (such as insurance), to encourage households to relocate in a suitable housing development or an area promoted by the community's comprehensive recovery plan and should include higher opportunity areas. Incentive payments are ineligible for households that move to disaster-impacted floodplains.

Per federal regulations, 70% (\$2,440,467.40) of these funds are required to be used to assist LMI individuals in the project service area. The other 30% of available funding may be used for residents classified under the urgent need national objective.

**Tyler County Local Buyout Program includes the following activities:**

- Buyouts
- Relocation assistance with buyout activity
- Down payment assistance
- Demolition
- Housing incentives to relocate families outside of floodplains

Eligible housing activities supported by these funds will be administered by Tyler County under the guidelines and oversight of the GLO. Questions regarding these Guidelines or requests for more information should be directed to Tyler County Judge, Jacques L. Blanchette who can be contacted at 409-283-2141.

**A) DEFINITIONS**

**Affirmatively Furthering Fair Housing (AFFH):** 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.

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

**Disaster Risk Reduction Area (DRRA):** A geographic area outside of a floodplain and/or floodway that a grantee or subrecipient can target for post-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.

**Duplication of Benefits (DOB):** 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.

**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 (FMV):** 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.

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

**Flood Insurance:** The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). In order to be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

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

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

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

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

**Housing Incentives:** Incentive payments are generally offered in addition to other programs (e.g., buyout) to encourage households to relocate in a suitable housing development or an area promoted by the community’s comprehensive recovery plan. The housing incentive may be offered to improve a residential structure that upon completion will be occupied by a low- to moderate- income household. An incentive may be offered in addition to a buyout payment for households that volunteer to relocate outside of the floodplain or to a lower-risk area. **A buyout incentive is not available for properties that served as second homes at the time of the disaster or following the disaster.**

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

**Low to Moderate Buyout (LMB) National Objectives:** 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 post-disaster (current) fair market value of that property.

**Low to Moderate Housing Incentive (LMHI) National Objectives:** LMHI benefits are used for a housing incentive award, tied to the voluntary buyout of housing owned by a qualifying LMI household, for the purpose of moving outside of the affected floodplain or to a lower- risk area; or when the housing incentive is for the purpose of providing or improving residential structures that, upon completion, will be occupied by an LMI household.

**Low to Moderate Income National Objective:** Activities which benefit persons of income that does not exceed 80 percent of the area median income:

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

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

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

**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.

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

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

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

**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 Tyler County cannot finance the activities on its own because other funding sources are not available Tyler County must document how each program and/or activity funded under this category responds to a disaster-related impact. See 24 CFR 570.208(c).

## **B) PROGRAM OBJECTIVES**

The primary focus of the local buyout program is to provide relief for individuals affected by Hurricane Harvey while complying with all CDBG-DR requirements and addressing recognized impediments to fair housing choice as required under the Fair Housing Act. All housing activities will consider the following objectives:

- Prioritize income-qualified households and properties located in flood hazard areas while affirmatively furthering fair housing. Applications will be evaluated for priority status based on the following criteria:
- Assist low-to-moderate income (LMI) households as top priority. LMI households will be prioritized over urgent need households.
- Assist properties located in a flood hazard area. Homes located in the floodway will be prioritized over homes located in the 100-year floodplain. This program is allowing for the possibility to add a DRRA. Pending the receipt of Severe repetitive Loss data, these guidelines will be amended and reposted for a 30-day public comment period. After that time, applicant intake will be opened up to individuals living within that designated DRRA. The DRRA is not be located in a FEMA designated flood area would receive lowest priority.
- Assist in moving eligible homeowners out of harm’s way. Only land that contained a structure at the time of the disaster will qualify to participate in the Buyout.
- Assist and prioritize homeowners with additional social characteristics that may qualify the household as historically vulnerable to recovery barriers such as: households with members that are age-dependent meaning 5 years or under or 65 years or over, individuals under the age of 18, disabled, and/or Veteran households.

TYLER COUNTY APPLICANT PRIORITY MATRIX				
	HOUSEHOLD AREA MEDIAN INCOME (AMI)			
	Extremely Low 30% AMI or Below	Very Low 31% - 50% AMI	Low 51% to 80% AMI	Non-LMI Above 80%
<i>Property must demonstrate:</i>				
• Property is located within a floodway	1 <sup>st</sup> priority	2 <sup>nd</sup> priority	3 <sup>rd</sup> priority	10 <sup>th</sup> priority
• Property is located in the 100-year floodplain	4 <sup>th</sup> priority	5 <sup>th</sup> priority	6 <sup>th</sup> priority	11 <sup>th</sup> priority
One or more of the following characteristics: • Date Intake Application was received • Age-dependent ( <i>over 65 or under 5</i> ) • Disabled • Veteran • Female Head of Household • 1 or more household members under the age of 18	7 <sup>th</sup> priority	8 <sup>th</sup> priority	9 <sup>th</sup> priority	12 <sup>th</sup> priority

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

**Unsecured Forgivable Promissory Note:** If the applicant qualifies for disaster recovery assistance and has been awarded funding, there are conditions placed on the applicant receiving the assistance. The conditions are outlined in an Unsecured Forgivable Promissory Note (the Note) between the assisted beneficiary and Tyler County that requires applicants to comply with several terms during a set affordability period. Once the homeowner complies with all the terms of the Note and the affordability period ends, the terms are forgiven.

## C) PROGRAM DESIGN

### A. Program Design Requirements

#### (1) National Objectives

**Recovery projects using CDBG-DR funds must meet one of the following HUD-designated National Objectives to be an eligible housing activity:**

- **Benefiting Low- to Moderate-Income Persons (LMI)**
  - **Low to Moderate Buyout (LMB):** Benefiting low- to moderate-income persons where the award amount is greater than their post-disaster fair market value of the property; and
  - **Low to Moderate Housing Incentive (LMHI):** Benefiting low- to moderate-income persons participating in the voluntary buyout or other voluntary acquisition of housing to move outside of the affected floodplain or to a lower-risk area; or when the housing incentive is for the purpose of providing or improving residential structures that, upon completion, will be occupied by an LMI household.
- **Meeting an Urgent Need (UN)** by providing housing assistance to applicants making more than 80 percent of the area median income (AMI)

The Tyler County Local Buyout Program will principally aid 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.

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.

## **(2) Needs Assessment Methodology**

The CDBG-DR program requires that a Needs Assessment Methodology be used to determine the unmet needs of the community and establish the program design.

This Buyout program uses FEMA flood maps and may use FEMA IA data from the current disaster event and repetitive loss (National Flood Insurance Program) data (pending receipt) provided by the local flood plain administrator for current and previous events to identify areas of the community that have unmet needs for targeted buyout activities.

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 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:

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

## **(3) Unmet Needs Analysis**

HUD guidance stipulates that CDBG funds should be last in the hierarchy of recovery funds made available to beneficiaries. 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. The remaining total need after the deductions represent the unmet need. The intent of Tyler 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) Environmental Review**

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.

Tyler County will ensure that all sites undergo a complete environmental review prior to any commitment of funds. The environmental review shall 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 review is complete.

### **(5) Proof of Event Damage**

For assistance activities, the unit must demonstrate that the damage or destruction to unit occurred from 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 have 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.

**If an applicant was denied assistance by FEMA, assistance through the CDBG-DR Program may still be available. Applicants are not solely ineligible based on a denial by FEMA.**

### **(6) Timeliness of Application Status**

Tyler County will ensure timely communication of application status to applicants who have applied for disaster recovery assistance. Timeliness means multiple methods of communication with the case manager, such as, email, websites, and telephone numbers, will be provided to the applicants with a guarantee communication turnaround time of no more than seven business days. Tyler County will ensure the accessibility and privacy of individualized information for all applicants, frequency of applicant status updates, and personnel or unit responsible for applicant's information on the status of recovery applications.

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

Tyler 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 Tyler County during a GLO AFFH review of the intended Buyout program was:

*Tyler 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.*

Tyler County will utilize HUD data, local data, and local knowledge to affirmatively further fair housing opportunities in the County's jurisdiction. In accordance with GLO guidelines, Tyler County will complete an AFFH analysis. 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.

## **B. Program Design**

### **(1) Voluntary Buyout Program**

This is a voluntary buyout program. Therefore, transactions must not use 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.
- 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.
- Tyler County will not acquire the property if negotiations fail to result in an amicable agreement and the owner is so informed in writing.

- Tyler County will inform the owner in writing of what it believes to be the market value of the property.

## **(2) Buyout Target Areas**

Only properties located in Buyout Target Areas are eligible for the Local Buyout Program. Buyout Target areas include Tyler County floodway, 100-year floodplain, and, pending receipt of repetitive loss data, possible Disaster Risk Reduction Areas.

- **Disaster Risk Reduction Area:** To conduct a buyout in a Disaster Risk Reduction Area, Tyler County has established criteria in its policies and procedures to designate the area subject to the buyout. To designate an area, Tyler County demonstrated that: (1) the hazard must have been caused or exacerbated by the Presidentially declared disaster; (2) the hazard must be a predictable environmental threat to the safety and well-being of inhabitants as evidenced by the best available data and science; and the Disaster Risk Reduction Area must be clearly delineated so that HUD and the public may easily determine which properties are located within the designated area.
- Applicants located in a floodway, floodplain, or areas designated as Disaster Risk Reduction Areas (DRRA) by Tyler County may be assisted if:
  - The applicant is offered/accepts a fair market value offer or incentive to relocate outside of the floodplain or to a low-risk area, e.g., moving costs, down payment assistance, (incentive costs must be for a specific purpose and must be properly defined for award).
  - The applicant was required to maintain flood insurance at the time of the event and still has unmet recovery needs.
- Exhibits A, B, C, D and E are floodplain maps that detail eligible floodway and floodplain areas. Exhibit F details the FEMA IA data collected. Pending the receipt of Severe Repetitive Loss data, an exhibit G will be generated which will overlay the FEMA IA data with the SRL data and outline a DRRA area.

Exhibit A – City of Chester Flood Map, Tyler County

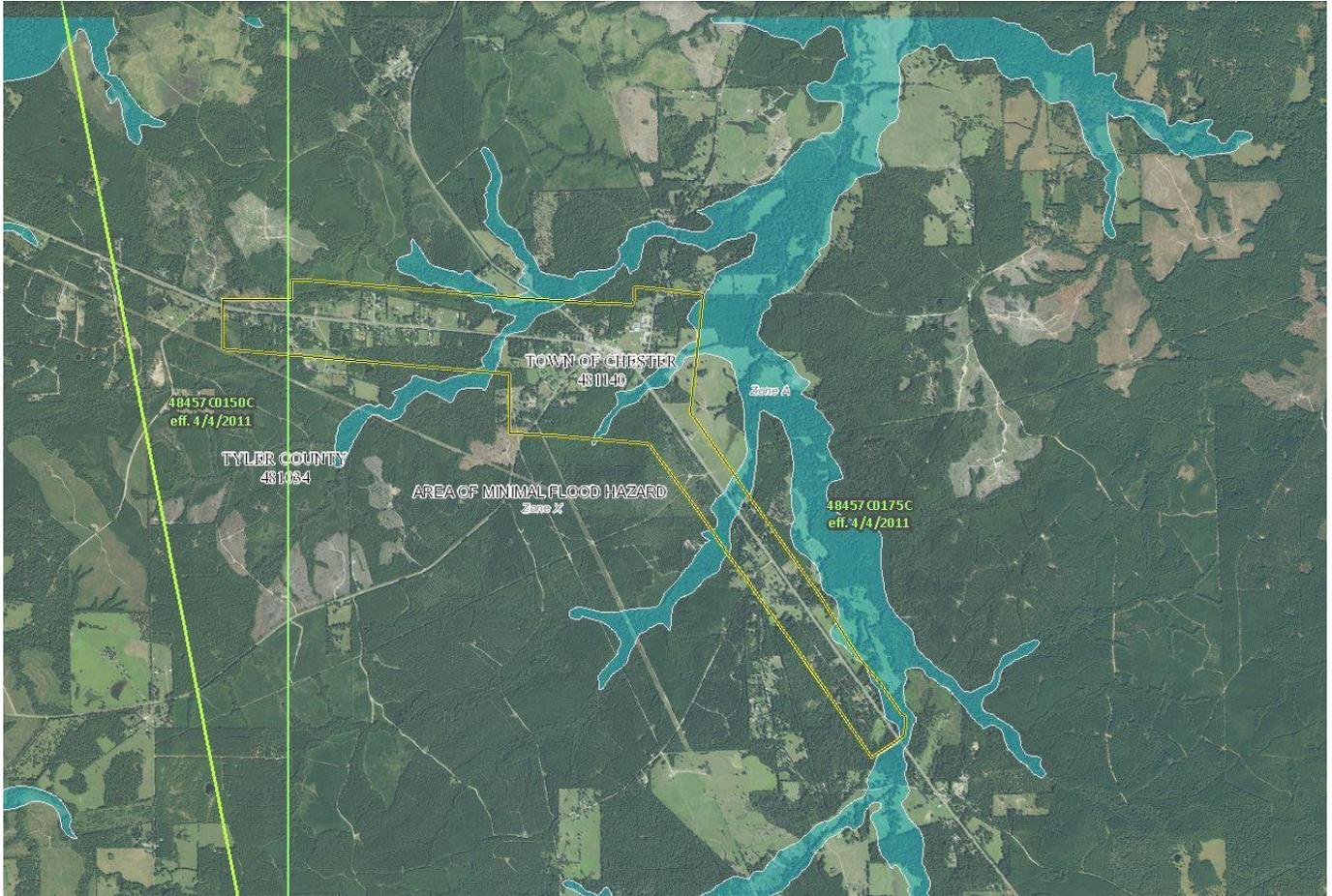


Exhibit B – Tyler County Flood Map

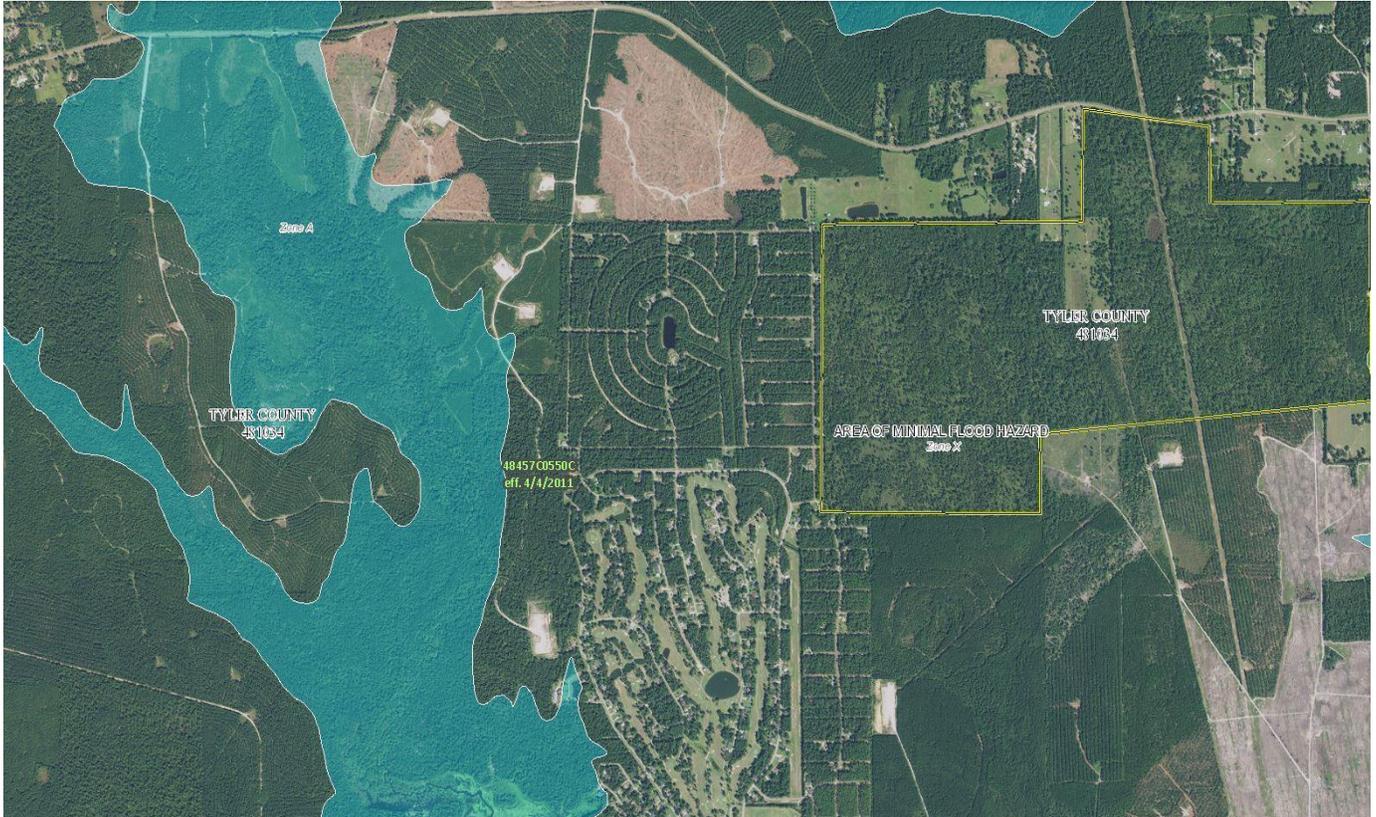


Exhibit C – City of Ivanhoe, Tyler County Flood Map



Exhibit D – City of Woodville, Tyler County Flood Map

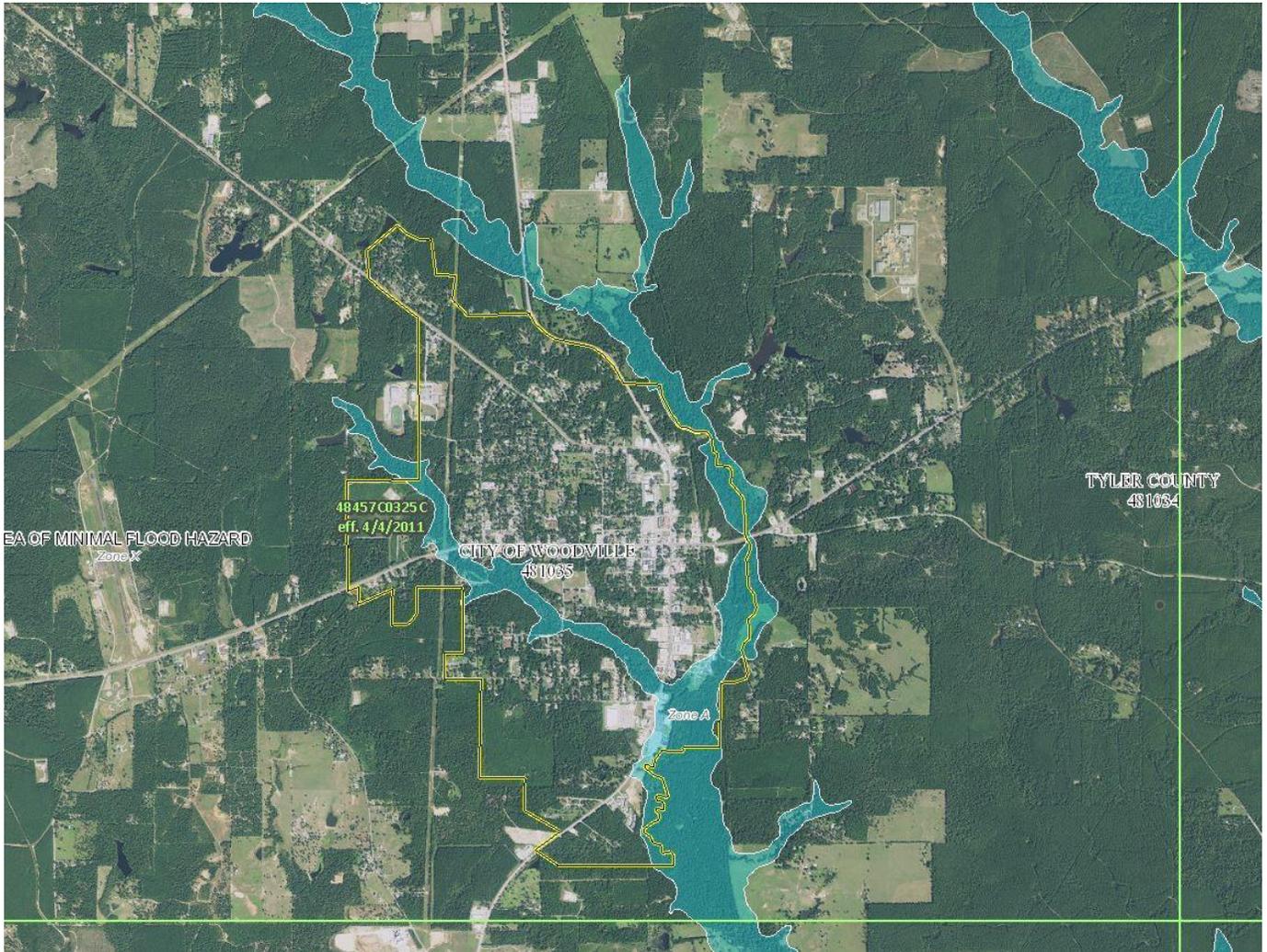


Exhibit E – City of Colmesneil, Tyler County Flood Map



Exhibit F- FEMA IA Data Map

Exhibit G- as yet to be determined, pending receipt of SRL data

**(3) Eligible Property Types**

- Single family residences, which can include single family homes and MHUs.
- Vacant land with the following caveat: if at the time of the disaster, a structure was located on land parcel (to prevent further residential development in the designated area).

**(4) Valuation Method**

Tyler County has the discretion to determine the appropriate valuation method, including paying either pre-disaster or post-disaster fair market value (FMV). Based on comparative information taken from the valuations off Tyler County’s Central Appraisal District 2017 & 2018 Annual Reports, Tyler County has decided to offer post-disaster FMV. See Page 2 of the 2017 report here:

[http://www.tylercad.net/data/\\_uploaded/file/PDF/TylerCADAnnualReport-2017.pdf](http://www.tylercad.net/data/_uploaded/file/PDF/TylerCADAnnualReport-2017.pdf) and See page 3 of the

2018 report here: [http://www.tylercad.net/data/\\_uploaded/file/PDF/TylerCAD-AnnualReport-2018.pdf](http://www.tylercad.net/data/_uploaded/file/PDF/TylerCAD-AnnualReport-2018.pdf)

2017 Parcel Count	46,557	Market Value	\$2,684,002,051	Average Parcel Cost:	\$57,649.81
2018 Parcel Count	42,193	Market Value	\$2,660,598,816	Average Parcel Cost:	\$63,057.83

**(5) Housing Incentives**

Tyler County will use the Low to Moderate Housing Incentive (LMHI) to resettle LMI households who were affected. Tyler County will ensure that the intent of the housing incentive is satisfied at award.

Types of eligible properties for housing/buyout incentives that may reside within the jurisdiction of the subrecipient include:

- Single family property (detached)
- Modular home/manufactured home
- Vacant land with the following caveat: if at the time of the disaster, a structure was located on land parcel

Incentive payments are eligible within the State of Texas. Incentive payments are ineligible for households that move to disaster-impacted floodplains. There are three types of housing assistance: relocation assistance, down payment assistance, and buyout incentives. Housing Incentives are offered in addition to buyout funding as many times, homeowners who are looking to purchase a new home outside of the floodway/floodplain need

additional financial assistance to purchase that new home because prices for homes outside the floodway/floodplain are higher than the FMV of the buyout property. Without housing incentives, the individual would otherwise be unable to purchase a new home using only funds received from the buyout of their current property.

**(a) Relocation Assistance**

Relocation assistance will be offered for qualifying LMI individuals; however, the assistance may not exceed \$35,000 for purchase of a lot or newly constructed home, or \$10,000 for an existing home.

Temporary relocation assistance will be offered by Tyler County; however, the assistance will not exceed \$5,000 per household. It is anticipated that the assistance will be provided when the closing occurs for the new or existing home purchase. In the case of tenant displacement, Tyler County will comply with Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (49 CFR part 24).

**(b) Down Payment Assistance**

The following items must be met to provide down payment assistance:

- (i) 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~~State of Texas 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.
- (ii) Purchased homes must be considered decent, safe, and sanitary.
- (iii) The funding must be used within an established timeframe (e.g., sixty (60) days).
- (iv) Down Payment Assistance:
  1. 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.
  2. 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.
  3. The amount of assistance is based on the determined need of the applicant; however, the amount will not exceed \$35,000.

**(c) 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. 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. Buyout incentives may not exceed \$35,000.

**(6) Amount of Assistance**

Tyler County may offer up to 100 percent amount of assistance provided and should only include the amount needed by the applicant to achieve homeownership. The amount of assistance would be based on the FMV minus DOB, plus any program incentives offered (if applicable).

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. The remaining total need after the deductions represent the unmet need. The intent of Tyler 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.

A statement of the amount offered as compensation, description and location of the real property, and a list of buildings, structures, or other improvements must be provided to the applicant. The final settlement (buyout offer) must be properly documented and assistance calculations must show how the subrecipient determined the final offer. Assistance calculations will be determined by considering FMV and DOB as well as if any incentives being offered (RA, DPA, BI).

The applicant will have the right to determine the value of the property by hiring an appraiser to conduct their own assessment. If accepted, Tyler County will update the offer and submit it to the owner.

**(7) Housing Assistance Caps**

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.

Unit Costs must be necessary, reasonable, allowable, and allocable. The following table charts monetary caps for assistance:

Project Type	Acquisition/ Buyout**
<b>Base Unit</b>	Fair Market Value (Post-Disaster)
	Up to \$5,000 for temporary housing and relocation costs \$35,000 for a lot or newly constructed home**

<b>Relocation Assistance</b>	Up to \$10,000 for an existing home**
<b>Down Payment</b>	Up to 100% of the Required Amount; Not to Exceed \$35,000
<b>Buyout Incentives</b>	Up to \$35,000**

**\*\*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. 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. Tyler County may provide relocation assistance outside of buyout activities, as necessary. The vacant land limit is set at \$35,000. Although this is the cap, the actual lot cost should not exceed the standard single lot size in the community.

**(8) Disposal of Storm Damaged Property**

Once the applicant has completed closing activities within the Buyout Program, the applicant’s storm damaged property will be demolished. Tyler County will complete the demolition of the home within 45 days of vacancy. The cost of the demolition can be charged to the program.

**(9) End Use**

All buyout activities are a type of acquisition of real property (as permitted by section 105(a)(1) of the HCD Act). However, only acquisitions that meet the definition of a “buyout” are subject to the post-acquisition land use restrictions discussed further below. To determine whether the acquisition is a buyout activity, it must be ascertained whether the intent of the purchase is to reduce risk from future flooding or to reduce the risk from the hazard that lead to the property’s Disaster Risk Reduction Area designation.(if applicable)

Tyler County will use buyouts strategically as a means of acquiring contiguous parcels of land, whenever possible, for uses compatible with open space, recreational, natural floodplain functions, other ecosystem restoration, or wetlands management practices. All structures on the properties will be demolished. No new structure will be erected on property acquired, accepted, or from which a structure was removed under the buyout program other than: (1) 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); (2) a rest room; or (3) 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.

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:

- Tyler County can lease the property to adjacent property owners or other parties in return for a maintenance agreement;
- The Tyler County can convert the land to green space; or
- Tyler County can opt to sell the acquired property at a fair market value; however, the proceeds will be classified as Program Income and must be returned to the state. Additionally, if the subrecipient acquired the property as part of a buyout, the subrecipient will be required to place a deed restriction or covenant dedicating the property to be maintained for compatible uses in perpetuity as discussed above.

Tyler County must send the funds to:

Attention:  
Texas General Land Office  
Agency Cashier  
PO Box 12873  
Austin, TX 78711-2873

In the accompanying check, Tyler County will need to include the grant number, contract number, activity number(s), identify it as Program Income, and the reason for return.

Tyler County will ensure the property title is deed restricted and remains public open space in perpetuity, as necessary (buyout program) as described above.

After receipt of the assistance, with respect to any property acquired, accepted, or from which a structure was removed under the buyout program, no subsequent application for additional disaster assistance for any purpose or to repair damage or make improvements of any sort will be made by the subrecipient to any federal entity in perpetuity.

In order to take part in this Voluntary Buyout Program, the applicant must forfeit any and all mineral rights associated with the purchase of the land parcel to be bought out through this program.

#### **(10) Additional Allowable Expenditures**

The following expenditures are allowable under the Buyout Program:

- a) The closing costs associated with processing the transaction;
- b) 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 the subrecipient. Costs associated with perfecting the property are not allowed;
- c) Penalty costs and other charges for prepayment of any pre-existing recorded mortgage; and

- d) The pro rata portion of any prepaid real property taxes which are allocable to the period after the subrecipient obtains the title to the property or effective possession of it, whichever is earlier.
  - 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.

## **D) PROGRAM IMPLEMENTATION**

### **A. Affirmative Marketing Outreach Plan**

Tyler County is committed to affirmatively furthering fair housing through established affirmative marketing policies. Affirmative marketing efforts for the disaster funding will include the following:

- An Affirmative Fair Housing Marketing Plan, based on HUD regulations, is to be followed by Tyler County. The plan must include items on the GLO's checklist to affirmatively market units financed through the Program.

The goal is to ensure that outreach and communication efforts reach eligible applicants from all racial, ethnic, national origin, religious, familial status, the disabled, "special needs," and gender groups. For each project or program, notification to these populations should include:

- Fully informed of vacant units available for sale and/or rent;
- Given the opportunity to buy and/or rent the unit 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.

In addition to marketing through widely available media outlets, 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.

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, if requested, 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), 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 applicants who may qualify for 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.

Tyler County is required to use the Fair Housing logo in Program advertising, post Fair Housing posters and related information and, in general, inform the public of its rights under Fair Housing regulations law.

Evaluation of outreach activities and applications received will be necessary to determine if outreach is successful and applications that are being received accurately reflect the socioeconomic and other forms of demographic diversity. Evaluation should be an ongoing process.

Tyler County is also required to coordinate with HUD-certified housing counseling organizations to ensure that information and services are made available to both renters and homeowners.

## **B. Application Intake and Counseling**

Anyone who makes an inquiry about the Program will be provided with a Tyler County Buyout Program application package to complete.

All documentation submitted by the applicant 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 applicant to criminal, civil or administrative penalties.

All documentation will include the following notice: “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 and/or interpreters will be able to communicate with the applicant in their primary language. Additionally, 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).

### **C. Applicant Prioritization**

Applicants will be prioritized using the following ordered criteria:

- (1) Income classification (extremely low, very low, low, or non LMI)
- (2) If the property is located in a floodway
- (3) If property is located in a floodplain
- (4) Date intake application was received
- (5) Defining characteristics (age dependent, over 65 or under 5; disabled, veteran, female head of household, or one or more household members under the age of 18)

### **D. Applicant Eligibility Requirements**

The following are threshold requirements, which must be met for an applicant to be eligible for assistance. Eligibility does not guarantee assistance since a prioritization strategy within LMI economic subgroups has been established. It is expected that there will be more eligible applicants than can be served with available funds.

#### **(1) Buyout Target Area**

Only properties located in Buyout Target Areas are eligible for the Local Buyout Program. Buyout Target areas include Tyler County floodway, floodplain, and Disaster Risk Reduction Areas.

#### **(2) Income Determination**

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.

The most current income limits, published annually by HUD, shall be used by Tyler County to verify the income eligibility of each household applying for assistance at the time assistance is provided. Tyler County must always use the most recent income limits and will be monitored to ensure compliance.

## FY 2020 Income Limits Summary

Selecting any of the buttons labeled "Explanation" will display detailed calculation steps for each of the various parameters.

FY 2020 Income Limit Area	Median Family Income <a href="#">Explanation</a>	FY 2020 Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	8
Tyler County, TX	\$63,800	Very Low (50%) Income Limits (\$) <a href="#">Explanation</a>	22,350	25,550	28,750	<b>31,900</b>	34,500	37,050	39,600	42,150
		Extremely Low Income Limits (\$)* <a href="#">Explanation</a>	13,450	17,240	21,720	<b>26,200</b>	30,680	35,160	39,600*	42,150*
		Low (80%) Income Limits (\$) <a href="#">Explanation</a>	35,750	40,850	45,950	<b>51,050</b>	55,150	59,250	63,350	67,400

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 and will verify the household income using the HUD CDBG-DR income certification calculator found at <https://www.hudexchange.info/incomecalculator/>.

### (3) Unmet Needs

Only applicants with an unmet need related to the Hurricane Harvey event will be eligible. Documentation evidencing impact from the event will be required as part of the unmet needs determination.

### (4) Damage Assessment

Each applicant's home must be assessed to verify that it was damaged from the event. A licensed (HQS or TREC) home inspector will perform a damage assessment report along with pictures to document event related damage via photographic evidence and detailed narratives if the survivor did not receive FEMA or SBA funds for the repair or replacement of a home damage from Hurricane Harvey. It will be the responsibility of The County to hire the inspector and schedule a time for the inspection based on the convenience and availability of the homeowner.

### (5) Proof of Ownership

The applicant must be an individual who owns the property to be bought out due to damage from the event. Ownership can be documented as follows:

- Provide a copy of a valid deed of trust or warranty deed that is recorded in the county records which cites the applicant's name.
- For manufactured housing units (MHU), a Statement of Ownership from the Texas Department of Housing & Community Affairs, Manufactured Housing Division (TDHCA) must be provided. If the Statement of Ownership cannot be provided, GLO may accept alternate forms of ownership as further defined below.
- If an applicant owns a mobile home and there is a lien on the property, Through the purchase of the

property, Tyler County will work to ensure that the lien is paid off to the mortgage company.

For the purposes of federally funded disaster recovery programs, alternative methods to document ownership may be proven in the following manner:

Applicants may prove ownership by providing documentation and completing a notarized affidavit that certifies one of the following circumstances applies:

No other party has the right to claim ownership;

Everyone who has the right to claim ownership has agreed to participate in the program; or

A party who has the right to claim ownership could not be located (after all reasonable attempts have been made).

Subject to approval by the GLO, instead of a copy of the deed, alternative documentation proving ownership may be provided including (in order of preference):

- Tax receipts in the name of the applicant reflecting payment of applicable property taxes on the property for the prior taxable year;
- Home insurance in the name of the applicant reflecting that a current policy was in place at the time Hurricane Harvey made landfall;
- Utility bills reflecting the address of the property and the name of the applicant and/or co-applicants; or
- Other documentation deemed to be acceptable by the GLO.

The documentation must show that the applicant was the person responsible for paying for these items at the time of the disaster.

The above-referenced alternatives are not optional, must be incorporated into the Program Design, and allowed to prove ownership for all CDBG-DR Programs in the state of Texas.

## **(6) 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). Homeowners can use this link as a reference for free and low cost legal services.: <https://www.usa.gov/legal-aid#:~:text=Find%20Free%20and%20Low%2DCost,low%2Dincome%20individuals%20and%20families.&text=Free%20Legal%20Answers%20%2D%20If%20you,will%20provide%20answers%20for%20free.>

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.

### **(7) Principal Residency and Second Homes**

The unit to be purchased through the Buyout Program must have been the **applicant's principal residence during the time of the event**. Principal residency for applicants can be demonstrated through property tax homestead exemptions. If a homestead exemption was not in place at the time of the disaster, an Affidavit of Principal Residency may be utilized as an alternative method of verification of principal residency. The affidavit must be supported by documentation such as asset verification (income tax returns, credit check, etc.) or utility bills specific to the property address and name of the applicant, which were active as of the date of the event.

Under state of Texas Property Tax Code, a homeowner may only claim one homestead exemption on one property. GLO may request additional documentation or information if the GLO identifies that the applicant has more than one property with a homestead exemption.

To help accomplish the overall goals of the buyout program, Tyler County wishes to provide buyout assistance to as many volunteers as possible within the Buyout Area. However, owners who volunteer for buyout on homes that qualified as their second home at the time of the disaster, or following the disaster, are often not eligible to participate in the buyout program and are not eligible for residential incentives.

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 demonstratable hardship (health, job loss, death, divorce, disability, business failure, etc.) are not considered to be second homes, and are eligible for post-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.

### **(8) Property Taxes**

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

- The property owner qualified for and received a tax deferral as allowed under Section 33.06 of the Texas Property Tax Code;
- The property owner qualified for and received a tax exemption pursuant to Section 11.182 of the Texas Property Tax Code; or

- The applicant entered into a payment plan with the applicable taxing authority and is current on payments.

Support documentation verifying the tax deferral or tax exemption must be provided by the applicant. Any applicant that enters into a payment plan must supply a signed copy of the payment plan from the applicable taxing entity along with documentation that they are current on their payment plan.

### **(9) Duplication of Benefits (DOB) Review**

Each application will be reviewed to determine if previous funding awarded to the applicant was appropriately used on the home and if any funds were received for the same purpose. The applicant must have an unmet need to move forward in the program. Tyler County must determine the applicant's total need first and then calculate the applicant's DOB. To determine the applicants total need Tyler County will determine the post-storm fair market value of the property.

Then to determine potentially duplicative assistance, applicants must provide insurance, FEMA, SBA, and any other type of funding documentation for funds that were received. Additionally, Tyler County must verify that the submitted data is accurate and current at the time of the award, to the best of their abilities (e.g., validate against FEMA data). Tyler County will also determine if insurance was required under the terms of the applicant's mortgage as part of the application review. Regardless of unmet needs and prior funds received, applicant awards cannot exceed program limits.

The DOB is the amount of assistance received (minus expenditures) in excess of the total need. The *GLO's DOB Calculation Form* will be used to determine the DOB amount and reduce it from the total need to determine the total award amount. If the total awarded assistance is greater than or equal to the total need, then a positive dollar amount will indicate a DOB. To reconcile the DOB amount owed, the CDBG-DR award offered will be reduced by the DOB amount.

At the time of application, Tyler County will require all assisted applicants to sign and execute a Subrogation Agreement authorizing the County to collect future claims or funds paid to the applicant for 2017 Buyout Assistance. If an applicant is suing or currently in litigation with private insurance or FEMA, the applicant will be required to sign a duplication of benefit repayment agreement in the event that additional financial assistance is granted to the homeowner after litigation is complete. Monitoring procedures to include priorities and frequency to comply with an executed Subrogation Agreement.

### **(10) Child Support <sup>4</sup>**

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.

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Family Code, Title 5, Section 231.006

**(11) Environmental Review**

An environmental review must be performed on the property prior to federal funds being committed by Tyler County (24 CFR Parts 50, 58, 574, 582, 583, and 970). No commitment or disbursement of funds will occur prior to the completion of this review. The environmental review shall document compliance with 24 CFR Part 58 and all related laws, authorities, and executive orders.

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.

**(12) 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.

This will be verified by requesting copies of all flood insurance policies at the time of application intake.

**(13) Inspection Requirements**

Each project will require inspections during the lifecycle of the project. The required inspections are for the Buyout Program Only. The program will only pay for one inspection per activity per phase outlined below. Any additional inspection costs will be the responsibility of the designated contractor demolishing the home.

<b>Inspection Requirements</b>		
<b>Application Type</b>	<b>Demolition Confirmation</b>	<b>TREC</b>
Down Payment Assistance		Yes ***
Buyout and Acquisition	Yes	
Demolition	Yes	
***Not performed on mobile homes.		

**E. Closing/Affordability Requirements**

**(1) Closing documents**

The applicant must sign the agreement for sale document and a limited Subrogation Agreement document. If a buyout incentive is part of the final buyout offer, e.g., the family will agree to relocate outside the floodplain or to a lower-risk area, the incentive award is provided once confirmation is received (closing statement of new home) by the subrecipient. Approximately 30 days prior to the closing activities, a pre-closing meeting will be held where the applicant will receive a packet from the County outlining the expected vacancy date, the utility disconnect requirements and other steps required to close on the buyout.

## **(2) Vacate Property**

The owner must remove all personal property from the residence prior to the day of closing. This includes clearing of abandoned items and the cancellation of all utilities. The Buyout process will not be completed until all abandoned items have been removed. Relocation incentives will be offered to homeowners to aid in the relocation to a safe location outside the DRRRA.

## **F. Demolition**

Demolition activities are eligible for the LMI National Objective if the County Satisfies the required 70/30 split of grant funds applying to LMI individuals.

The cost for demolition will be based upon an unmet needs assessment to include necessary environmental mitigation costs not to exceed the composite price determined by the subrecipient or the state. If the total costs for demolition and the environmental mitigation costs exceed the composite price, the applicant will be required to provide the gap funding. The cost for demolition may include additional expenses related to municipal requirements and/or health or safety related conditions specific to building site or location (asbestos or lead removal)

## **(1) Program Requirements**

- Demolition shall be defined as the demolition, removal, and disposal of an existing structure or structures including the foundation(s).
- Demolition oversight services include up to 2 inspections per demolition project. Demolition agreements will be 3 party contracts between Tyler County, the contractor, and the applicant/owner.
- The demolition process includes the initial inspection, contractor selection, and a final inspection following demolition.
- Structure shall be defined as buildings and/or partial buildings.
- The project must comply with all applicable federal and state requirement.

## **G. Files & Records**

Tyler County will maintain accurate Buyout Program files and records for general administration activities, for each applicant, and for each assisted homeowner as required by the GLO in the GLO's system of record. Such files will be open for inspection as to qualifications, bids, and awards. Record keeping procedures must be developed for monitoring/audit by the GLO.

## **H. Project 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.

At project closeout, Tyler County will now own the purchased properties. Tyler County will be responsible for Land Use Restriction Agreement monitoring and maintenance of these properties.

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 Tyler County demographic data and other information acquired from the applicants, and project documentation from awarded applicants.

### **(1) Section 3**

Tyler 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;

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

### **(2) 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 Retention Policy (see below).

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.

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:

- Applicant's household income at the time of assistance;
- Household income as a percentage of AMI at the time of assistance, 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; and
- The presence or non-presence of a household member that is a veteran.

### **(3) Records Retention**

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

#### **I. Procurement Requirements**

Tyler County shall 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 is 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:

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

During the procurement process, Tyler County will clearly identify any items included in the bid/purchase that are not included in the CDBG-DR agreement with GLO.

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

Regardless of the type of procurement used, Tyler County must execute a contract to document the period of performance, the work to be completed, the agreed price, and contractor or provider's required compliance with all applicable federal, state, and local requirements that Tyler 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.

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

#### **J. URA REQUIREMENTS DISPLACEMENT OF PERSONS AND/OR ENTITIES**

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.*

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.

- For purposes of establishing the payment limit, comparable replacement dwellings shall, to the extent feasible, be selected within the County.
- 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.
- 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. Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

- The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or
- 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:

- 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);
- 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 down payment 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 down-payment 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 down-payment, 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 down payment 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:

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

- The availability of comparable replacement housing in the program or project area;
- The resources available to provide comparable replacement housing; and
- The individual circumstances of the displaced person, or

(2) By a determination that:

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

Time for filing.

- All claims for a relocation payment shall be filed with the County no later than 18 months after:
  - For tenants, the date of displacement.
  - For owners, the date of displacement or the date of the final payment for the buyout of the real property, whichever is later.

- 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 of the floodplain. Tyler 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.

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

**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:

- The person occupied the mobile home on the displacement site for at least 180 days immediately before:
  - The initiation of negotiations to acquire the mobile home, if the person owned the mobile home and the mobile home is real property;
  - 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
  - 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.
- The person meets the other basic eligibility requirements at § 24.401(a)(2); and
- 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:
  - Is not, and cannot economically be made decent, safe, and sanitary;
  - Cannot be relocated without substantial damage or unreasonable cost;
  - Cannot be relocated because there is no available comparable replacement site; or

- Cannot be relocated because it does not meet mobile home park entrance requirements.
- **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:
  - 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.
  - 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.
  - If a comparable replacement mobile home site is not available, the price differential payment shall be computed based on the reasonable cost of a conventional comparable replacement dwelling.

**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.

- **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.

## **K. Conflict of Interest**

Tyler County certifies it has no conflict of interest with the GLO that would in any way prohibit the County or its staff from implementing recovery activities for the 2017 Hurricane Harvey funding.

The conflict of interest regulations contained in the contract between Tyler 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.

NOTE: GLO can consider granting an exception to the conflict of interest provision should it be determined by the GLO that the Tyler 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. Tyler 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.

## **L. Audit Requirements**

Tyler County will comply with all Audit Requirements, each fiscal year. Vendors and contractors employed by the state and Tyler County will be required to comply with the executed contract. 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.

## **E) COMPLAINT/APPEAL PROCESS**

### **A. General Policy**

Tyler County and the state are responsible for responding to complaints and appeals in a timely and professional manner. Tyler 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 three (3) business days where practicable. For expediency, Tyler County shall utilize telephone communication as the primary method of contact; however, email and postmarked letters will be used, as necessary.

To file a Complaint or Appeal, please contact the office of Tyler County Judge, Jacques L. Blanchette at the Tyler County Courthouse, 100 West Bluff St. Woodville, TX 75979, or by calling 409-283-2141.

## **B. Responsibilities**

Tyler County and the GLO will identify customer service specialists within their program that will be tasked with handling all homeowner inquiries.

Customer service specialists are responsible for (1) determining if complaints and appeals relate to the business or authority of Tyler County or GLO, (2) ensuring that a response to all complaints and appeals are within the appropriate time frame (a final response must be provided within 15 business days of receipt, although an extension may be granted if additional documents or review are required), and (3) ushering all complaints and appeals through to a resolution where possible.

Tyler County will have an internal procedure for handling incoming complaints, including a complaint escalation process to ensure that complaints are handled at the earliest stage, as Tyler County is the first line of communication for program beneficiaries.

## **C. Documentation**

Tyler County will maintain the following documentation for each complaint or appeal. Each file must include the following:

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

## **F) CHANGES, WAIVERS, AND/OR CONFLICTS**

Tyler 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 waiver request has been posted on Tyler County's website for a public comment period of at least 7 days. The waiver request must demonstrate why the housing guidelines are not practicable for the subrecipient.

## **G) SURVIVOR CASE MANAGEMENT**

Tyler County has a dedicated case management team to provide consistent services to program applicants. Impacted residents can contact this team at between 8-5 Monday thru Friday at the following number: 1-888-710-5255 or 512-452-0432.

Applicants are likely to need support throughout the process. Tyler County will work to cultivate partnerships with local and community liaisons such as banks, counseling agencies, legal services, title companies, etc. to support these individuals.

Tyler County case managers will work to assist applicants from inception to close-out of their Program. There will be a single point of contact for each applicant to ensure that applicants have the immediate contact information to be successful in completing the requirements of their Buyout Program. As applications are being accepted and reviewed for determinations of eligibility to participate in the Program, each applicant will be counseled and made aware of their application status.

If applicable, referrals to local HUD approved Housing Counselors may be made.