



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-7000

ASSISTANT SECRETARY FOR  
COMMUNITY PLANNING AND DEVELOPMENT

JUN 25 2010

The Honorable Rick Perry  
Governor of Texas  
PO Box 12428  
Austin, TX 78711-2428

Dear Governor Perry:

I am pleased to inform you that HUD is extending a conditional acceptance of Action Plan Amendment (APA) #1 for the State of Texas, which programs \$1,743,001,247 in Community Development Block Grant (CDBG) funds for disaster recovery appropriated under Public Law (P.L.) 110-329. The State of Texas has previously been awarded \$1,314,990,193 as an initial allocation under this appropriation, which now creates a total disaster recovery grant amount of \$3,057,991,440.

The State acknowledges that APA #1 lacks a local method of distribution (MOD) for allocations to four regional Councils of Government (COGs). The Department is accepting APA #1, with the condition that access to funding for the four COGs lacking local MODs will be restricted and will not be made available to the State until local MODs are submitted and accepted by the Department. Citizen participation requirements at the local level must be completed in a manner consistent with the State's certifications. This approach is consistent with HUD's acceptance of the State's Action Plan for the initial \$1.3 billion allocation.

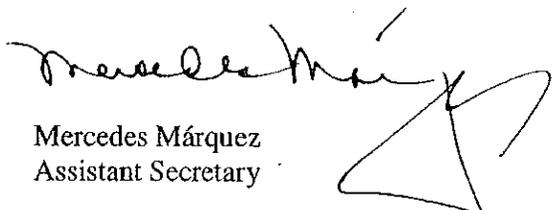
Of the \$1,743,001,247, HUD is making available \$287,185,458 for programs and activities for which a method of distribution has been defined (e.g., state-administered, competitive application process) plus planning and administration. The four activities for which funding will be made available are the following:

- \$174,299,853 Affordable Rental Housing (statewide)
- \$19,872,998 Competitive funds for the multi-county pool outside of the four COGs.
- \$64,150,060 Administration
- \$28,862,547 Planning

This award is part of President Obama's commitment to help the many states struggling to recover from the effects of hurricanes and disasters in 2008. HUD looks forward to continuing to work with you and your staff in partnership to address the critical redevelopment of the State of Texas. If you or your staff have any questions, please contact Ms. Yolanda Chávez, Deputy Assistant Secretary for Grant Programs, at (202) 708-2111.

Thank you for your commitment to the recovery of citizens and communities throughout the State of Texas.

Sincerely,

  
Mercedes Márquez  
Assistant Secretary

# STATE OF TEXAS



AP Photo by Tony Gutierrez

## PLAN FOR DISASTER RECOVERY - REVISED AMENDMENT NO. 1 U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Consolidated Security, Disaster Assistance, and Continuing Appropriations Act,  
Public Law 110-329

*May 19, 2010*

*Revised June 1, 2010*

Prepared by  
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## EXECUTIVE SUMMARY

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This document constitutes the First Amendment to the *State of Texas Plan for Disaster Recovery* (Action Plan) dated February 18, 2009 for CDBG disaster recovery funds related to Hurricanes Dolly and Ike and governs the receipt and use of the second allocation of such funds, totaling \$1,743,001,247 (sometimes referred to as “Round 2” or “Hurricane Recovery Funds.”

The 2008 hurricane season was the most destructive weather season Texans have ever seen and marked the first time in Texas history that all Texas coastal counties were presidentially declared disaster areas at the same time. Within a 52-day period, we were slammed by a major tropical storm and three hurricanes, the worst of which were Hurricane Ike and Hurricane Dolly. Hurricane Dolly struck the south Texas coastline on July 21, 2008, and was the most destructive storm to hit the Rio Grande valley in 41 years.

Then, on September 13, came Ike. Gigantic and powerful, 900 miles wide, and the size of West Virginia, Ike rolled across the Gulf of Mexico. The massive storm produced a 20-foot storm surge that swallowed Galveston Island and other coastal areas just before Ike made landfall with 110 mph winds. Damage was not limited to just coastal areas. As Ike rolled inland, it destroyed forestry, farmlands, crops, housing and infrastructure.

The 2008 storms left more than \$29.4 billion in unreimbursed damages.<sup>1</sup> Availability of the initial round of CDBG Disaster Recovery funding and designation of the affected area (see Appendix D) for these two events was published in the *Federal Register* on February 13, 2009, and August 14, 2009.

Initial damage estimates provided by FEMA, as of December 1, 2008, were the basis for allocation of an initial round (\$1,314,990,193) of CDBG Supplemental funds to Texas. HUD granted conditional approval of the State’s Action Plan on March 19, 2009. HUD released funds on May 14, 2009, July 2, 2009, and July 24, 2009, after regional- and county- level Methods of Distribution were finalized by the local officials, accepted by the State and approved by HUD.

With Round 1 funding, the State allocated the vast majority of funds to the hardest hit and most populous communities, as shown in Table 1:

**Table 1:  
Round 1 Funding Distribution by COG**

Region	Percentage
Houston-Galveston Area Council (H-GAC)	70.56%
South East Texas Regional Planning Commission (SETRPC)	16.47%
Lower Rio Grande Valley Development Council (LRGVDC)	4.77%
Deep East Texas Council of Governments (DETCOG)	6.07%
Seven COG Competitive Pool <sup>2</sup>	2.14%
Total	100%

A second round (\$1,743,001,247) of funding was announced in the *Federal Register* August 14, 2009, requiring the submission of an amendment to the State’s Action Plan. HUD declined to approve the first proposed amendment dated September 30, 2009, and asked the State to take

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<sup>1</sup> Texas Rebounds Report, November 10, 2008

<sup>2</sup> The Seven COG Competitive Pool contains eligible entities within seven lesser impacted regions being: ATCOG, ETCOG, BVCOG, CTCOG, STDC, GCRPC, and CBCOG.

corrective action based on guidance in a November 10, 2009 letter. After the guidance from HUD but prior to a new plan submission, a Fair Housing Complaint against the State of Texas was filed with the U. S. Department of Housing and Urban Development (“HUD”) by Texas Low Income Housing Information Service and Texas Appleseed, (initially filed on December 1, 2009, and amended and refilled on April 22, 2010), sought to have HUD investigate and make certain findings which would have resulted in likely delay in making available of these Hurricane Recovery Funds. The State of Texas, in an attempt to expedite the Hurricane Recovery Funds available to Texans as rapidly as possible, determined that, although it denied any failure to comply fully with fair housing laws, began negotiations with the Complainants to reach a conciliation agreement to end an investigation and resolve the issues raised in a manner acceptable to HUD. Accordingly, programmatic offerings that the State has agreed, by way of conciliation, to incorporate into its Action Plan for Hurricane Recovery Funds are included herein. As described below in greater detail, these programs will be delivered utilizing the second allocation of Hurricane Recovery Funds, which constitute the primary focus of this Action Plan Amendment, and the initial allocation of Hurricane Recovery Funds will continue to be administered in accordance with the initial HUD-approved Action Plan.

The State has been working with both senior HUD officials and with the parties that had filed a fair housing complaint against the State to identify a way to move forward that would meet HUD’s requirements and more quickly process the Fair Housing Complaint. The State is submitting this revised Action Plan Amendment No. 1, which is consistent with existing HUD direction regarding the allocation of funding with the addition that, as supported by a funding allocation model developed by the State of Texas, directing approximately 13% of the Round 2 funds to the area impacted by Hurricane Dolly, generally in the Lower Rio Grande Valley. Also with direction from HUD, the State is incorporating various key provisions that have been part of the negotiations with the Fair Housing Complainants.

Upon receipt of the Round 2 appropriation, the State began preparing an Amendment to the Action Plan. This Amendment was developed in three stages, or iterations. The first iteration was sent to HUD in September 2009. In working with HUD guidance, the State and local jurisdictions spent significant time to develop a second submission and submitted it in draft form. No formal acceptance of the second submission was received but HUD responded with several suggested changes and that brings us to this third iteration of the Action Plan Amendment for submission. This current Amendment No. 1 to the Action Plan contains key elements from all versions of the Amendment, including:

- Adjusted allocations to the four most impacted regions and the Seven COG Competitive Pool as directed by HUD;
- Inclusion of key program components from the conciliation agreement negotiated with Complainants;
- Strengthened language to address fair housing issues raised in the Complaint;
- A modification providing a minimum of 55 percent allocation for housing and not more than 45 percent allocation for non-housing activities that require funds be used for their designated purposes. In other words, grantees may not use funds designated as housing funds for non-housing projects;
- Prioritization of projects that meet the U.S. Department of Housing and Urban Development’s low to moderate income (LMI) national objective, and increase funds

allocated to it from the initial submission to 55 percent, an increase of 5% over HUD's published requirements;

- Allocations and set-asides for targeted activities, including the disaster recovery enhancement program, affordable rental housing, innovative housing approaches, and title clearance and legal assistance. These activities will allow for a broader approach to recovery and greater flexibility for local officials;
- A competitive funding pool will be utilized for the 32 eligible counties least impacted by the storms to assure access to funding and maximize the use of funds for high priority needs within the designated disaster areas; and
- Program criteria that encourage long-term strategies for reducing the risk of damage from future natural disasters in housing and non-housing programs.

From the outset, the state has relied on local officials as best suited to assess the storms' impact on their communities and develop recovery plans. The state conducted a total of 11 public hearings on previous plans, plus a public hearing to be held on May 21, 2010, to get local officials' and public input in the preparation of this Amendment. Local officials, through their Councils of Governments, conducted another 13 hearings in developing their Methods of Distribution (MODs) on previously submitted plans and additional hearings are planned for updated Methods of Distribution resulting from this revised amendment once approved by HUD.

With this Amendment, the state allocates the greatest portion of the funding to those communities identified by HUD's assessment as having suffered the greatest losses, especially Harris, Galveston and Orange counties. With more than \$29.4 billion in unmet needs and only \$3.1 billion in federal assistance though, Texas communities will continue to struggle with recovery. If approved, this amendment will result in the following Round 2 funding as shown in Table 2:

**Table 2  
Round 2 Funding by COG**

Region	Percentage
Houston-Galveston Area Council (H-GAC)	62.57%
South East Texas Regional Planning Commission (SETRPC)	19.24%
Lower Rio Grande Valley Development Council (LRGVDC)	11.24%
Deep East Texas Council of Governments (DETCOG)	5.74%
Seven COG Pool	1.20%
Total	100.00%

All aspects of the state's final Action Plan dated March 4, 2009, remain in force for the Round 2 funding unless specifically modified by this Amendment.

## Roles and Responsibilities

### **Entity Designated to Administer Funds**

The Texas Department of Rural Affairs (TDRA), formerly the Office of Rural Community Affairs, was designated to coordinate the CDBG disaster recovery funding for Hurricanes Dolly and Ike. In this capacity, TDRA will continue to be responsible for:

- Execution of the CDBG grant award;

- Development of Action Plan amendments;
- Completion of quarterly reports;
- Management of the associated letter of credit;
- Preparation of the end of the award report; and
- Administration of CDBG funds for non-housing activities.

The Texas Department of Housing and Community Affairs (TDHCA) is responsible for overseeing housing activities and will administer disaster recovery funding for those activities.

While the responsibility for CDBG program administration resides with the state, Texas is strongly committed to local decision making and allowing local officials in the impacted communities to determine how funds can best be used to meet recovery needs. As in past disasters, the State relied on COGs in the impacted areas to determine local priorities and allocate funds accordingly. This approach is an important foundation of the State of Texas Plan for Disaster Recovery (Action Plan) and subsequent amendment and encourages public participation, especially local participation, in the decision-making and prioritization processes. Under Texas law, COGs are units of local government, led by locally elected officials who coordinate the interests of cities and counties through a regional approach. Given the large size of the affected regions (63,000 square miles) and the magnitude of the hurricanes, local officials have the most direct and immediate understanding of local needs and can use this understanding to determine the projects that will best aid in recovery while meeting all HUD criteria.

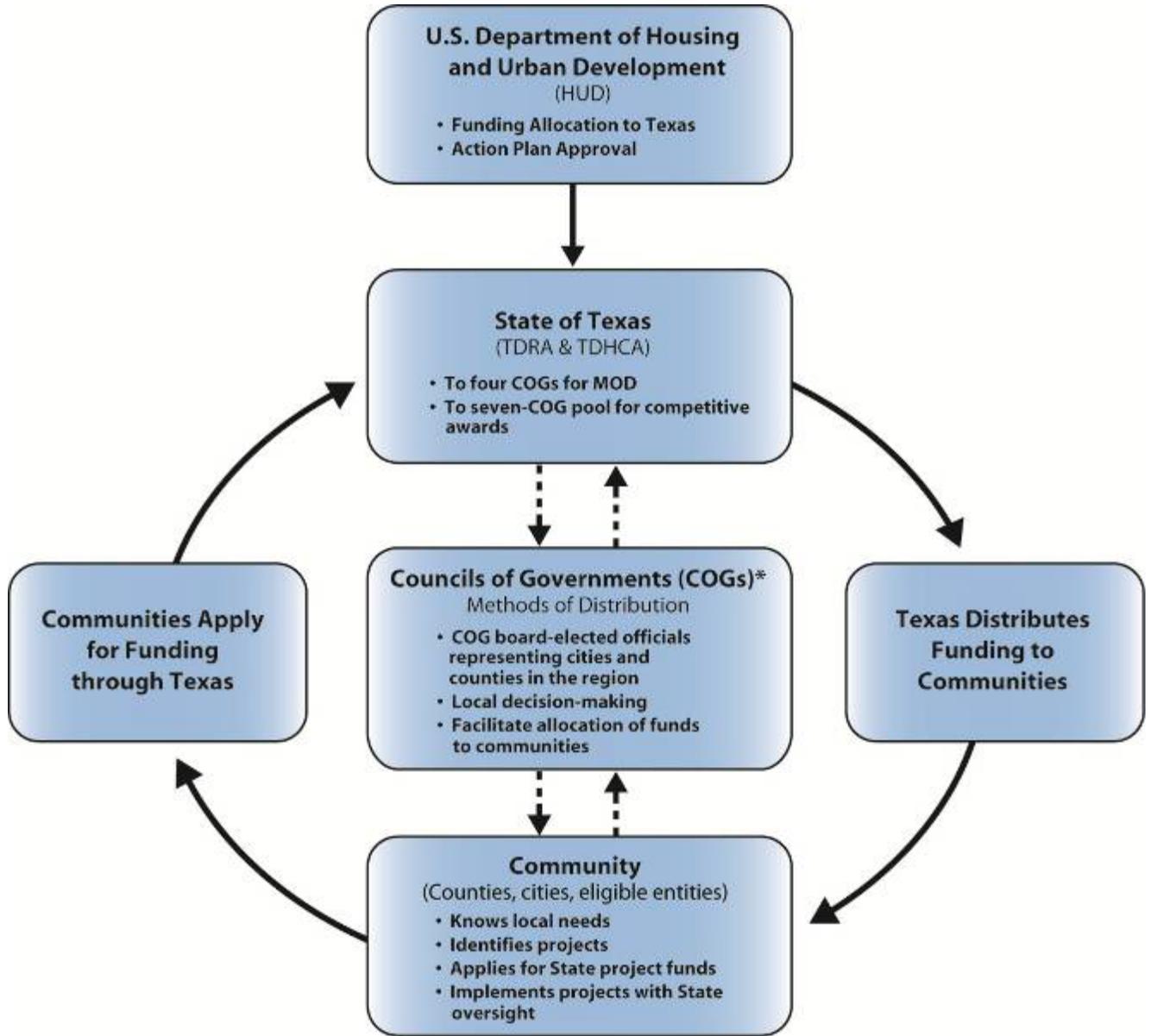
Once the allocation of recovery funds is made to the State by HUD, the State determined the allocation for each of the 11 regional COGs included in the disaster recovery area (Figure 2), using the process described in Figure 1.

HUD provided guidance on the new allocations based on their model relying on FEMA data and SBA information, but acknowledged the inadequacy of the FEMA damage assessment process in the Lower Rio Grande Valley Development Council region and allowed the State to maintain the allocation to the region developed using the Texas Allocation Model.

The State funding allocation levels for the COGs developed through this Amendment, will be subject to further distribution to units of local government (or other eligible entities for housing), as determined by the applicable COGs, by either competitive process or through locally developed regional Methods of Distribution. All MODs submitted by COGs must be approved by TDRA (for non-housing projects) and TDHCA (for housing projects).

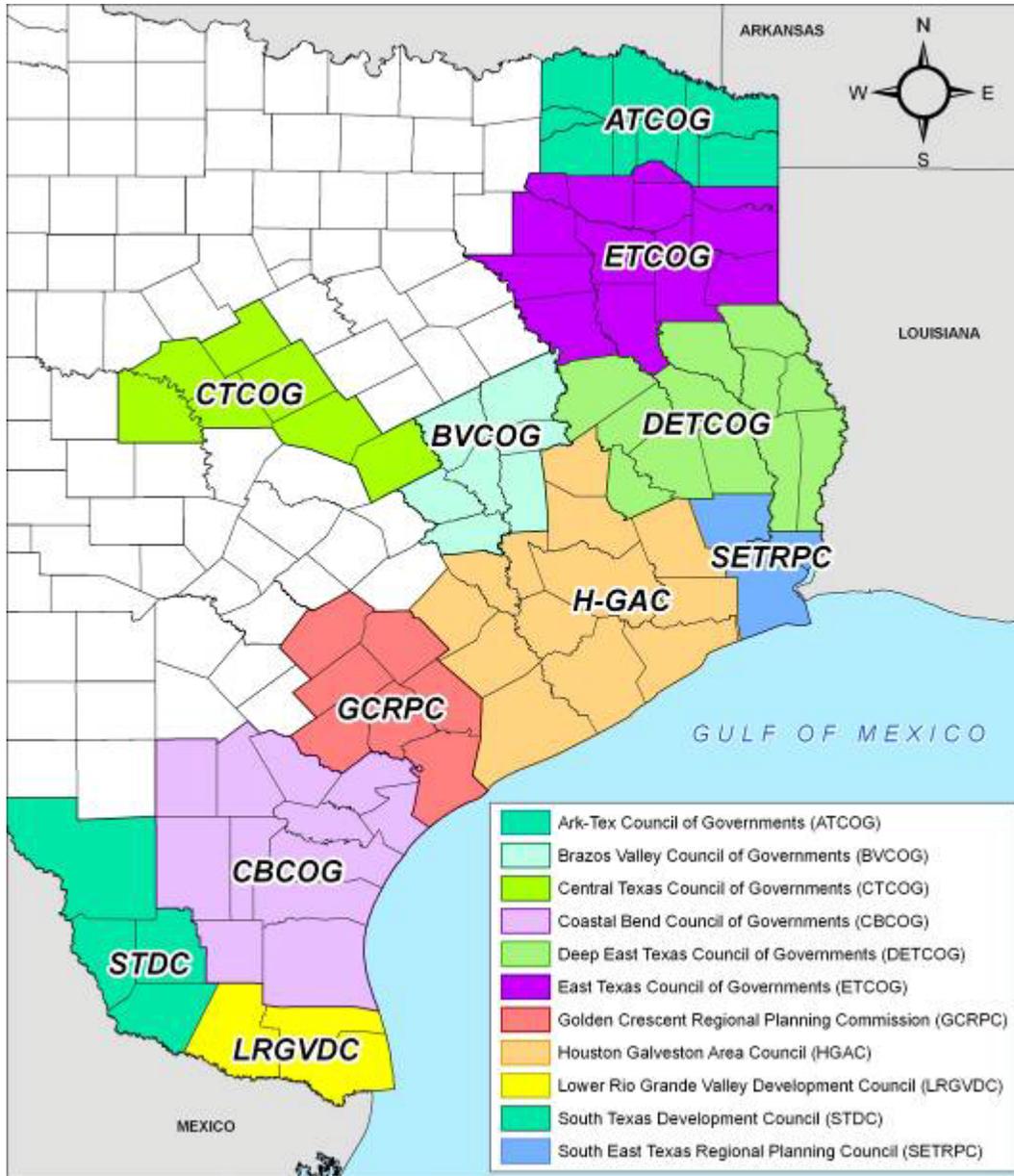
With Round 2 funding, the State will allow the four highest-impacted COGs; H-GAC, SETRPC, LRGVDC, and DETCOG to determine how best to allocate funding for housing and non-housing activities not designated as categorical competitive set-asides (i.e., affordable rental housing, innovative housing approaches, and legal assistance). These four high-impact COGs will also develop their own MODs. The remaining COGs will be combined into a competitive “pooled” group that is discussed in detail in this amendment.

**Figure 1  
Texas Allocation and Distribution Process**



*\* COGs created by: Chapter 391 Texas LGC Legal Authority*

**Figure 2  
Eleven Regional Councils of Governments (COGs) Impacted by  
Hurricanes Dolly and Ike**



These funds are the principal federal response to the recovery needs of more than 9 million people in 62 counties, spread across an enormous 63,000 square mile area of the State<sup>3</sup>. These communities have identified needs that exceed the limits of available funding and are already developing critical projects that are eligible for CDBG funding. Allocation and distribution of the remaining funds is essential to helping these devastated communities recover.

<sup>3</sup> According to 2009 U.S. Census Bureau estimates.

# 1. INTRODUCTION: IMPACT OF THE STORMS AND RECOVERY NEEDS

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Hurricane Dolly hit the Texas coast on July 23, 2008 and Hurricane Ike hit the upper Texas coast on September 13, 2008, impacting over 9 million Texans, 62 Texas counties and 300 communities<sup>4</sup>. These counties cover over 22 percent of the land area of Texas, or 63,000 square miles. The land area of these counties is comparable to the total area of the six states of Rhode Island, Connecticut, Massachusetts, New Hampshire, Vermont, and Maine combined. Managing such a large program requires coordination with these communities to provide vital recovery funding to all eligible areas and the capability for regional prioritization.

This disaster recovery process for Hurricanes Dolly and Ike involves many challenges related to the enormity of the area, severity of the storms, short period of time between the two disasters, and limited resources available to assess the breadth of the impacts to Texas and its communities. In an effort to ensure the needed assistance is received by all of these communities, the State of Texas has carefully considered an approach that evaluates the unmet needs for both hurricanes while allowing regional decision-making and control at a local level, where communities have the best understanding of their own priorities and needs.

## Action Plan Amendment No. 1

HUD allocated a total of \$3 billion to Texas for Hurricanes Ike and Dolly in two rounds: \$1.3 billion in February 2009 and \$1.7 billion in August 2009. This document comprises an amendment to the official Action Plan for Disaster Recovery. The State of Texas was required to publish an Action Plan for Disaster Recovery that describes the proposed use of U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funding associated with the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, (Public Law 110-329), enacted on September 30, 2008. The Action Plan for Disaster Recovery was approved March 19, 2009 for the first round of funding.

The Amendment describes the following activities related to disaster relief, long-term recovery, and restoration of infrastructure, housing and economic revitalization in areas affected by hurricanes, floods, and other natural disasters occurring during 2008:

- Citizen participation process used to develop Amendment No. 1;
- Eligible affected areas and applicants, and the methodology used to distribute funds to those applicants;
- Activities for which funding may be used; and
- Grant procedures that will be applicable to ensure program requirements are met, including non-duplication of benefits.

The Action Plan Amendment for recovery continues to encourage a ***triangular approach to disaster recovery - public infrastructure, economic development, and housing*** - with each piece critical to the recovery effort. The development of the Action Plan Amendment includes

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<sup>4</sup> Bexar County was included in the FEMA Disaster Declaration area and constitutes the 63<sup>rd</sup> impacted county when considered. However, Bexar County has chosen not to participate in the program therefore reducing our number of affected counties to 62.

considerable input from the affected regions, and will allow local officials and experts to determine those priorities that most need to be addressed in their community.

## Ongoing Elements of the Action Plan

The initial Action Plan included significant discussions of programmatic requirements and restrictions on the use of funds. These are carried forward into Round 2 of disaster recovery funding. The Action Plan included modifications of certain HUD regulations and alternative compliance standards. Since acceptance of that plan by HUD, additional waivers have been granted for the affected areas and will remain in force through subsequent funding cycles. The waivers are described in further detail in the *Federal Register* dated August 14, 2009. Certain waivers, granted in order to provide flexibility and expedite delivery of services, are being superseded by the Conciliation Agreement associated with HUD Case Numbers 06-10-0410-8 and 06-10-0410-9 to settle a fair housing complaint. Examples include increasing the LMI National Objective requirement to 55 percent from the 50 percent waiver, one-for-one replacement of housing, and additional citizen participation requirements above those granted through waivers.

## 2. FEDERAL APPROPRIATION

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The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Pub. Law 110-329), enacted on September 30, 2008, appropriates \$6.5 billion through the Community Development Block Grant (CDBG) program for “necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster...”.

The U. S. Department of Housing and Urban Development (HUD) was designated by Congress as the administering agency. In October 2008, HUD reduced the amount of funding to \$6.1 billion in response to a budget rescission requirement from Congress. On February 13, 2009, HUD made an initial one-third allocation that granted Texas \$1,314,990,193.

The legislation specifically prohibited the use of funds for activities reimbursable by, or for which funds are made available by the Federal Emergency Management Agency or the Army Corps of Engineers” and it provided that “none of the funds...may be used...as a matching requirement, share, or contribution for any other Federal program.” The original Action Plan and Round 1 applications reflected this requirement. Subsequent to the *Federal Register* notice for Round 2 funding, the U.S. Congress, in passing the Consolidated Appropriations Act, 2010 (P.L. 111-117) has now reversed the policy on use of CDBG funds as match for other federal funding. TDRA will manage implementation of this policy change.

The *Federal Register* also states, “not less than \$650,000,000 from funds made available on a pro-rata basis according to the allocation made to each State” shall be used for affordable rental housing. Thus, Texas must ensure a minimum of \$139,743,911 is used for this purpose in accordance with the legislation.

A second allocation of \$1,743,001,247 was announced on August 14, 2009 and this amendment will apply to that second allocation, also referred to as Round 2 funding. All restrictions and requirements stated in the original Action Plan are proposed to remain in effect for the Round 2 funding, unless stated otherwise. All activities shall be necessary expenses

related to disaster relief, long-term recovery and restoration of infrastructure, housing, and economic revitalization in the areas included in the Presidential disaster declarations.

In addition, HUD has established the Disaster Recovery Enhancement Fund (DREF) as a matching grant to encourage states to undertake long-term disaster strategies that focus on reducing the risk of damage from future natural disasters. Based upon information provided in the *Federal Register* on August 14, 2009, Round 2 funds expended on specified activities that promote planning, harden facilities to better withstand future hurricane events, and encourage sustainable development practices could be leveraged to secure additional recovery funds under this initiative. TDRA will be responsible for coordinating Disaster Recovery Enhancement Funds. To the extent any funds are received, funds expended on activities related to housing will be administered by TDHCA. TDRA will administer all non-housing activities.

The DREF projects may include but are not limited to:

- Buyout payments for homeowners living in high-risk areas;
- Optional relocation payments to encourage residents to move to safer locations;
- Home improvement grants to reduce damage risks (property elevation, reinforced garage doors and windows, etc.);
- Improving and enforcing building codes;
- Developing forward-thinking land-use plans that reduce development in high-risk areas; and
- Public facility and other projects that meet HUD's criteria.

Policy on this program will be further refined by the State upon receipt of final guidance from HUD.

### **3. ELIGIBLE GRANTEES AND SUBRECIPIENTS**

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For the purposes of the *Plan for Disaster Recovery*, entities receiving housing funds are referred to as subrecipients, while entities receiving non-housing funds are referred to as grantees. A grantee differs from a subrecipient in that a subrecipient may use portions of the 5 percent administration activities cap.

Eligible grantees consist of entities located within, or performing activities within the counties declared disaster areas with major disaster declarations in 2008 as of December 1, 2008. (Hurricane Dolly: FEMA-1780-DR and Hurricane Ike: FEMA-1791-DR). Program specific grantees are further described in regional MODs and criteria for competitive programs.

Entities eligible to benefit from funding include city and county governments and other entities such as non-profit and for-profit organizations, individuals and municipal utility districts that are identified in the Method of Distribution process established by the COGs (see the section regarding Method of Distribution and Regional Allocation) and those identified in the Housing section. Eligible status is established without regard to a local government's or Indian Tribe's status under any other CDBG program. For non-housing funds, entities other than city or

county governments must be sponsored by a city or county as specified in the application guidance.

Bexar County is eligible but not participating. See Appendix D for the FEMA Disaster Declaration map for Hurricane Dolly, Hurricane Ike, and the eligible counties by storm.

## Eligible Counties: Hurricane Dolly and Hurricane Ike

Anderson	Hidalgo	Polk
Angelina	Houston	Refugio
Aransas	Jasper	Robertson
Austin	Jefferson	Rusk
Bowie	Jim Hogg	Sabine
Brazoria	Jim Wells	San Augustine
Brazos	Kenedy	San Jacinto
Brooks	Kleberg	San Patricio
Burleson	Leon	Shelby
Calhoun	Liberty	Smith
Cameron	Madison	Starr
Cass	Marion	Trinity
Chambers	Matagorda	Tyler
Cherokee	Milam	Upshur
Fort Bend	Montgomery	Victoria
Galveston	Morris	Walker
Gregg	Nacogdoches	Waller
Grimes	Newton	Washington
Hardin	Nueces	Wharton
Harris	Orange	Willacy
Harrison	Panola	

## 4. NATIONAL OBJECTIVES

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The primary objective of Title I of the Housing and Community Development Act, and of the funding program of each grantee under the CDBG program, is the “development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low to moderate income.” While preference is given to persons of low- and moderate-income, the statute also allows activities to meet at least one of the other two national objectives.

All proposed activities will meet at least one of the following three National Program Objectives:

1. Principally benefit low- and moderate-income persons; or
2. Aid in the elimination of slums or blight; or
3. Meet other community development needs of particular urgency which represent an immediate threat to the health and safety of residents of the community.

This statute goes on to set the standard of performance for the primary benefit to low- and moderate-income persons objective by requiring 70 percent of the aggregate of funds under the annual State CDBG program to be used for support of activities producing benefit to low- and moderate-income persons.

The CDBG disaster recovery funding described by this Action Plan must also be used to meet one of the three National Program Objectives. *However*, since extensive damage to community infrastructure and housing affected those with varying incomes, and income-producing jobs are often lost for a period of time following a disaster, HUD is waiving the 70 percent overall benefit requirement for low- and moderate-income persons, and replacing it with a 50 percent requirement to give grantees greater flexibility to carry out recovery activities within the confines of the CDBG program national objectives. Pursuant to explicit authority in the appropriations act, HUD is *also* granting an overall benefit waiver that allows for up to 50 percent of the grant to assist activities under the urgent need or elimination of slums and blight national objectives, rather than the 30 percent allowed under the annual State CDBG program. In response to the Conciliation Agreement associated with HUD Case Number 06-0410-8, the State of Texas will require at least 55 percent of the grant-assisted activities principally benefiting low- and moderate-income persons, exceeding the minimum required by HUD's waiver. This will change the allocation total for LMI National Objective from \$1,528,995,720 to \$1,681,895,292, an increase of \$152,899,572.

### **LMI Objective: Non-Housing Activities**

Round 1 obligations to date indicate that well over 40% of the projects benefit low- to moderate-income individuals. In order to assure non-housing activities shall be undertaken in accordance with TDRA requirements, with priority given to the projects meeting the LMI national objective, the following are incorporated into the regional MOD process, the policy for the administration of awards, and application guidelines for competitions:

- LMI was included as a required criteria for regions developing local MODs and were included as scoring criteria in competitive processes;
- To ensure compliance with the LMI requirement, TDRA will hold two separate non-housing application cycles for grantees receiving direct allocations utilizing the results of the MODs. The first application cycle will only consider projects that meet the LMI national objective. Once complete, if the LMI national objective aggregate of 55 percent for the State has been met, TDRA will accept a second application cycle for all other eligible non-housing projects;
- No awards will be made by TDRA to grantees for Non-LMI competitive process until the national objective has been met; and
- All allocations made by the regional COG MODs will be conditional until the State of Texas reaches the 55 percent LMI requirement for the entire allocation. If the requirement of \$1,681,895,292 for LMI activities has not been met, TDRA will require the COGs not meeting the 55 percent LMI requirement to amend their MODs to ensure the requirement is achieved.

## **5. PROGRAM OBJECTIVE AND SHORT- AND LONG-TERM RECOVERY PLANNING**

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The objective of this Action Plan is to achieve short- and long-term recovery and restoration in areas of Texas affected by Hurricanes Dolly and Ike during 2008. The Action Plan Amendment continues the triangular approach to disaster recovery, including public infrastructure, economic development and housing, with each piece critical to the recovery effort.

The State of Texas promotes sound short- and long-term planning for both the state and local levels through various mechanisms. The State of Texas and stakeholder groups are working to reduce the impact natural disasters have on Texas communities. These plans identify the vulnerabilities and risks faced by the regions from natural disasters and present recommended action items which can be taken to reduce the risks.

## Housing

All types of housing stock were severely impacted by the two hurricanes. The State has determined much of this damage was the result of buildings being constructed prior to adoption of modern building codes and floodplain management codes, or using earlier, less accurate versions of Flood Insurance Rate Maps identifying flood plains.

Actions such as adopting the International Residential Code, which prescribes higher quality construction and mitigation against environmental forces and standards which employ effective wind resistant construction methods as well as elevation when a home is located in a flood plain, help to strengthen buildings to make them more wind resistant. By promoting effective building codes, communities are helping to protect property from flooding and wind damage. As these homes are replaced with assistance from the CDBG disaster recovery program, they are replaced with new, sound homes, constructed according to building standards that require compliance with the International Residential Code. Further disaster resilience is possible at the local levels, but local codes vary between jurisdictions. It is anticipated that the new homes will be of greater quality and far more resistant to reasonably foreseeable damage than prior homes. TDHCA is also administering a pilot program to identify and demonstrate alternative approaches to rebuilding housing following a natural disaster, developing a robust affordable rental housing program, enabling an impacted-area buyout program through the Councils of Governments, establishing a moving-to-opportunity relocation program and launching a program to rebuild subsidized housing.

The State has found a number of Texans suffering damage to their homes often lack clear title, with low- and moderate-income populations seeming particularly affected and lacking resources to rectify the situation. TDHCA has responded with a title clearance program that will help foster short-term recovery and open other recovery resources to families.

Further discussion of the housing programs and recovery may be found in Section 8: Eligible and Ineligible Activities, Housing Activities Subsection.

## Non-Housing and Infrastructure

The State of Texas found that infrastructure damage and failures-to-function created or exacerbated the hurricanes' impact on housing and commerce. Water and sewer system failures resulted from extended power losses. In addition, drainage facilities often failed to function as designed, as both storms re-wrote records for the 25-, 100- and 500-year storm events, which serve as the basis for drainage system designs.

TDRA has responded with several programs designed to expedite projects and achieve efficient use of limited funds. TDRA has implemented a program for emergency back-up generators for water, sewer, drainage, sheltering and fire protection facilities that allows grantees to expedite procurement using existing State contracts and achieve improved economies of scale. In addition, TDRA hired HNTB, a nationally-recognized engineering and project management firm, shortly after the disaster to assist small communities with limited resources in identifying

infrastructure damages and failures potentially eligible for funding, maximizing CDBG disaster recovery funding and providing cost estimates to speed application preparation. Also, TDRA has hired HNTB as a project management company, which will allow greater abilities to build capacity in affected entities while improving efficient project completion in a timely manner within budget. Consistent with the HNTB efforts, TDRA has also changed its business processes to keep projects on schedule and assure timely expenditure of funds. TDRA negotiated agreements with the Texas Historical Commission (THC) and Texas Commission on Environmental Quality (TCEQ) to improve project quality and expedite review. The two agreements will streamline environmental review, shortening the project schedule. Finally, the Texas legislature passed laws establishing new design standards related to water and sewer infrastructure hardening to make them more resilient in future natural disasters.

## **Economic Development**

The State believes economic development to create and retain jobs is essential to a sustainable long-term recovery in the disaster-affected areas so affected families have jobs to return to and local governments can stabilize their revenue streams. To that end, the State responded by successfully receiving a waiver to simplify documentation requirements for job retention and creation programs.

The economies of the disaster-declared area vary widely from region to region, requiring the state to rely heavily on local economic development programs and planning. Texas has provided guidance and technical assistance to regional and local governments to help establish programs, such as revolving loan funds with a maximum six-year return of program income to the state, façade improvement programs, deferred forgivable loan programs and job training programs, and regional and local recovery planning.

## **Regional and Local Efforts Promoting Short- and Long-Term Recovery**

The development of the Action Plan Amendment includes considerable input from the affected regions, and it will allow local officials and experts to determine those priorities that most need to be addressed in their community. Each local government entity is empowered to construct comprehensive plans, which include long-range development in local jurisdictions. These elements include land use planning with regard to population location and economic development. Therefore, counties and municipalities have comprehensive plans in place which encourage responsible land-use decisions that reflect prudent flood plain management, removal of regulatory barriers to reconstruction, and coordination of individual planning requirements (transportation, water, sewer, housing, etc.) of other state and federal programs and entities. In addition, many entities adopt local water, sewer, drainage and hazard mitigation master plans to promote a coordinated effort to achieve a sustainable built environment.

Regional and local recovery planning is critical to achieving a successful state-wide recovery program. The State will require the regional Councils of Governments, in preparing the regional methods of distribution, to discuss how their methods and resulting distribution foster long-term recovery that is forward-looking and focused on permanent restoration of infrastructure, housing and the local economy. In doing so, the Councils of Government must identify how their efforts will affirmatively further fair housing. The Councils of Governments will reference a number of regional efforts to achieve short- and long-term recovery, which will be discussed in further detail in Section 6: Method of Distribution, Overview of Regional Methods of Distribution Subsection; and Appendix G once completed. The regional methods of distribution will consider short- and long-term needs, particularly in selecting approaches to allocate funding within the

region and selection and weighting of distribution factors. In addition, individual eligible entities, in their non-housing applications for funding, are required to give similar justification for how their projects will promote long-term recovery.

### Continuing Unmet Needs

The State of Texas, following the extraordinarily difficult 2008 hurricane season, prepared the *Texas Rebounds* report to estimate the financial impact of Hurricanes Dolly and Ike. This report broke the financial needs to achieve complete recovery into several categories. The report indicates a total of \$29.4 billion is needed to meet the needs presented by Hurricanes Dolly and Ike. To date, the State of Texas has been allocated only \$3.1 billion in CDBG disaster recovery funds and in combination with FEMA funds, SBA efforts, and other assistance, still does not fulfill the financial needs to achieve long-term sustainable and resilient recovery. The findings of this are summarized in Table 3.

**Table 3**  
**Texas Rebounds Summary of Recovery Needs**

State of Texas Recovery Needs	
Housing Assistance	\$3.4 Billion
Critical Infrastructure	\$1.9 Billion
Economic Development	\$0.5 Billion
Economic Development - Gulf Opportunity Zone	\$14.3 Billion
Forestry, Agriculture and Fisheries	\$1.1 Billion
Social Services & Facilities	\$1.4 Billion
Transportation Facilities	\$0.5 Billion
Workforce Services & Facilities	\$0.6 Billion
Educational Services & Facilities	\$0.7 Billion
Navigation and Waterway Facilities	\$3.2 Billion
Health Care and Mental Health Services & Facilities	\$0.2 Billion
Utility Infrastructure	\$1.6 Billion
<b>Total</b>	<b>\$29.4 Billion</b>

The Texas Rebounds report is available through the following website:  
<http://governor.state.tx.us/files/press-office/Texas-Rebounds-report.pdf>

## 6. METHOD OF DISTRIBUTION

As discussed, the storms impacting Texas in 2008 have significantly affected peoples' lives in the communities, leaving significant unmet needs. The Action Plan, which was prepared soon after the disasters, relied upon FEMA damage assessments as the best data available at that time, as a framework for allocation of funds to the various regions. In order to address widespread concerns over FEMA data, regions were encouraged to utilize analytical standards, in particular those connected with the physical impacts of the storms, in developing their first methods of distribution within their respective areas.

Immediately after Hurricane Dolly made landfall, FEMA deployed personnel and assets to the impacted communities and began reviewing damage to public infrastructure and housing, and

began assembling project worksheets with cost estimates. Unfortunately, less than eight weeks after Hurricane Dolly made landfall, Hurricane Ike struck the upper Texas coast. FEMA immediately responded to this hurricane, the third most damaging storm in national history. With limited resources available, focus shifted to the areas impacted by Hurricane Ike. In the Hurricane Ike area alone, FEMA estimated there would be about 15,000 project worksheets to be completed. This effort is still ongoing as of May, 2010.

By the end of May 2009, TDRA, with the assistance of HNTB (an engineering, architecture, and planning firm), had identified 2,751 infrastructure projects valued at over \$2.8 billion in recovery needs for non-entitlement communities within the 29-county area hardest hit by Hurricane Ike. In response to stakeholder feedback regarding the validity of FEMA damage assessments and concurrent with development of the MODs, TDRA engaged HNTB to identify and assess potential projects and provide documentation of damage, scoping and cost estimating services in 29 counties most affected by Hurricane Ike. HNTB's technical assistance was targeted to the hardest hit non-entitlement communities during the immediate aftermath of the storm to provide independent analysis of damage and preliminary screening and specifications for selected projects. This formed the basis for additional opportunities for requests for FEMA funding, documentation of urgent need, and project descriptions for grant applications. The 2,751 individual projects assessed by HNTB formed a database of needs and overall non-housing damage for the regions and these communities. After including housing for this area and the total needs of entitlement communities such as the City of Galveston, Houston, Harris County, Brazoria County, Fort Bend County, Montgomery County, Beaumont, and other areas, the FEMA estimated recovery need of \$2.5 billion for Ike is greatly exceeded. This underscores the tremendous level of unmet need in Texas.

A summary of Round 1 and 2 allocations are included in Appendix E.

## **Agency Roles and Responsibilities**

Round 2 disaster recovery funds are distributed between housing and non-housing activities for the entire allocation, to achieve a cumulative split between the two rounds of funding of 55 percent allocated to housing and 45 percent allocated to non-housing. TDRA and TDHCA will be responsible for administration and project delivery costs to manage their respective grants awarded in accordance with this amendment and adopted MODs. Both agencies have developed and refined their approaches to project delivery services. TDRA is using a project management firm and separate environmental review contracts for non-housing activities. TDHCA may use outside legal services for the provision of title clearance and legal assistance for housing activities and to assist local subrecipients with other requirements as needed. TDRA and TDHCA will ensure program compliance with requirements as needed, including but not limited to environmental review, Davis-Bacon and Related Acts (DBRA) compliance, Section 3 and local opportunity, affirmatively furthering fair housing, and the addressing of historic preservation requirements.

Both agencies will directly administer special purpose funding projects. TDRA will administer the set-aside competitive allocations for the non-housing competitions for the pooled funds. TDHCA will manage affordable rental housing to comply with the requirement, as identified in the disaster recovery appropriation, to spend approximately 10.6% of total funding on this activity, including \$40 million for single family rental housing stock, \$50 million for projects with project-based rental assistance, and \$84 million for multifamily rental stock. Additionally, there will be specific housing set-asides including set-asides for:

- one-for-one replacement of damaged or destroyed public housing in Galveston,
- legal assistance with obtaining clear title,
- a pilot program for rapid housing recovery, as contemplated by HB 2450 (81st Legislature, regular session),
- an impacted area buyout program, and
- a moving to opportunity program.

## The Texas Allocation Model

Due to the need to help communities recover from two major disasters and FEMA damage assessments that were incomplete across the 63,000-square mile disaster area, Texas investigated various approaches to determine how funds should be most fairly allocated. The State of Texas began by developing a model to estimate the relative damage associated with each storm. This model was based on the widely recognized and widely accepted physical damage factors associated with a hurricane: storm surge, wind speed, and rainfall. These factors directly correlate to the damage created by a hurricane. The model was then revised to consider additional information including low to moderate income (LMI) population, feedback from communities during public hearings, damage assessments of public infrastructure conducted by TDRA and FEMA data.

This Allocation Model was used to distribute the affordable rental set-aside funds for H-GAC, SETRPC and LRGVDC. Any allocated funds from the affordable rental set-aside not used by the region that received the allocation were to be made available for use by other regions for affordable rental projects utilizing the Reallocation Method.

## Allocation of Funds

This Action Plan amendment proposes to build on the successful aspects of the initial Action Plan and establish new mechanisms to meet CDBG requirements and better serve the unmet needs of the impacted disaster area. This amendment takes steps to achieve the following goals for Round 2 funding:

- Prioritize projects benefiting LMI beneficiaries.
- Allocate absolute amounts for housing and non-housing activities program-wide.
- Adhere to Texas' commitment to local decision making.
- Target activities including eligible DREF projects, affordable rental housing, innovative housing approaches and title clearance and legal assistance, to provide for a broader approach to recovery.
- Continue to meet the State's obligation to affirmatively further fair housing in its use of these funds.
- Promote a systematic and comprehensive approach to community recovery.

The Texas Allocation Model found that four regions (H-GAC, SETRPC, LRGVDC and DETCOG) experienced the vast majority (over 87%) of storm impact. Public feedback confirmed this finding. TDRA directed each of these COGs to develop methods of distribution (MODs) making direct allocations, with a minimum project award of \$500,000 and a maximum award of no more than the Round 2 allocation per region, to grantees for non-housing funds. One MOD

will be accepted per region receiving a direct allocation (H-GAC, SETRPC, LRGVDC and DETCOG). No local competitions or county level MODs will be allowed or accepted for Round 2 funding in the development of the regional MODs. Each of the four regions will also have a set-aside of funds for the Affordable Rental Housing specific activity, which will be competitively administered by TDHCA. The first iteration of the Action Plan Amendment dated September 30, 2009 and second iteration published in January 2010 included a set-aside program for healthcare facilities administered by TDRA. The healthcare facilities set-aside program was removed to meet allocations requested by HUD as part of the allocation adjustments discussed below.

### Directed Allocations

HUD further acknowledged the inadequacy of the FEMA damage assessment process in the Lower Rio Grande Valley Development Council region and supported the State in maintaining the allocation to the region developed using the Texas Allocation Model. HUD directed transfers of funds between regions to specific counties outside of the State's uniform policy and procedures for allocations laid out in this document. These transfers are noted where they occur in Table 5 and Table 6.

**Table 5  
Regional Allocation of Round 2 Disaster Recovery Funds**

HUD-Adjusted Regional Allocation of Round 2 Funds						
Regions	Housing Allocations			Non-Housing Allocations	Total Allocations	Net Increase or Decrease***
	General Housing	Program Specific Activities: Affordable Rental Program*	Total Housing			
H-GAC**	\$521,261,621	\$126,095,018	\$647,356,639	\$384,970,743	\$1,032,327,382	\$188,489,548
SETRPC**	\$157,007,878	\$33,096,235	\$190,104,113	\$127,387,946	\$317,492,059	\$20,193,701
LRGVDC	\$106,925,787	\$15,108,600	\$122,034,387	\$63,481,528	\$185,515,915	\$595,755
DETCOG	\$20,000,000	-	\$20,000,000	\$74,780,284	\$94,780,284	(\$114,071,219)
POOL	-	-	-	\$19,872,998	\$19,872,998	(\$59,207,785)
<b>TOTAL</b>	<b>\$805,195,286</b>	<b>\$174,299,853</b>	<b>\$979,495,139</b>	<b>\$670,493,499</b>	<b>\$1,649,988,638</b>	<b>\$36,000,000</b>
			<b>59.36%</b>	<b>40.64%</b>		

\* Administered through a competition by the State.

\*\* H-GAC and SETRPC have HUD-required set-aside allocation amounts to Harris, Galveston, and Orange Counties over and above the allocations established through the regional MODs.

\*\*\* Net Increase or Decrease over Action Plan Amendment published January 2010

**Table 6  
Set-Aside, Administration and Planning Funds for Round 2**

<b>Set-aside, Administration and Planning Round 2 Funds Resulting from HUD-Directed Allocation</b>		
	<b>Total Allocation</b>	<b>Net Decrease</b>
Texas Rapid Recovery Housing Pilot Program	-	(\$6,000,000)*
Administration	\$64,150,060	(\$23,000,000)
Planning	\$28,862,547	(\$7,000,000)
<b>TOTAL</b>	<b>\$93,012,607</b>	<b>(\$36,000,000)</b>

\* \$2 million set-aside for H-GAC, SETRPC and LRGVDC

### Re-Allocation of Funds

If a region is not able to use either the housing or non-housing allocation requirements of that region, then the unused funds will be returned back to the State for re-allocation so the statewide goal can be met. Prior to returning funds to the State, the region will be allowed the opportunity to redistribute funds between communities to address other eligible activities, but funds must remain in housing or non-housing to maintain the 55/45 percent split. These available funds will be reallocated by the State to regions that have the greatest level of documented unmet needs.

### Disaster Recovery Enhancement Fund Program

The State of Texas projects an initial allocation of approximately \$78 million in Disaster Recovery Enhancement Funds (DREF) through HUD. The State of Texas has requested the H-GAC, SETRPC and LRGVDC regions identify specific projects within their total allocation that appear to qualify for the Disaster Recovery Enhancement Fund Program in their respective regional methods of distribution, pending HUD's issuance of eligibility guidelines expected on or about May 18, 2010. Individual DREF projects will begin within one year of Action Plan Amendment No. 1 approval and will be completed within four years of start date. Based on the expected DREF allocation, the minimum set-aside amounts for each COG are calculated by multiplying the \$78 million by the pro-rata portion of the total allocation for the three COGs. The results of this calculation are shown in Table 7. Qualifying DREF projects shall come from Round 2 funds to the extent possible from the three regions identified above, and be identified in the Regional MODs. Pursuant to HUD approval, Round 1 projects may be used to meet the DREF match requirement. Eligible projects outside of the three regions identified above may also be considered to meet the match requirement.

**Table 7  
Disaster Recovery Enhancement Fund Program Set-Aside Requirements**

<b>DREF Set-Asides</b>	
<b>COG Region</b>	<b>Amount</b>
H-GAC	\$52,000,000
SETRPC	\$16,000,000
LRGVDC	\$10,000,000
<b>Total</b>	<b>\$78,000,000</b>

At least 50 percent of the funds awarded as the result of a DREF project identified in a COG's regional method of distribution will be allocated to that COG on a pro rata basis. The remainder will be placed in a competitive process administered by TDRA and TDHCA. This competitive process will award the DREF funds received to other projects. DREF funds awarded as a result of non-housing projects will retain their non-housing identity, while those awarded for housing activities shall retain their housing identity. For the respective DREF non-housing and housing allocations, the 50 percent of funds shall be awarded by the State competitive process and will be allocated on a pro rata basis between housing and non-housing.

Qualifying projects are expected to include, but may not be limited to:

- Buyout payments for homeowners living in high-risk areas;
- Optional relocation payments to encourage residents to move to safer locations;
- Home improvement grants to reduce damage risks (property elevation, reinforced garage doors and windows, etc.);
- Improving and enforcing building codes;
- Actions resulting in a community beginning participation in FEMA's Community Rating System (CRS) or increasing the level of participation in CRS;
- Developing forward-thinking land-use plans that reduce development in high-risk areas, including development and adoption of updated Flood Insurance Rate Maps; and
- Public facility and other projects that meet HUD's criteria. Examples include:
  - Projects that result in removal of homes and other facilities from the 100-year floodplain through project design to reduce base flood elevations, or buyout and/or relocation resulting from acquisition for the project (including buyouts converting to greenspace in the floodplain).
  - Grants to reduce damage risks to public facilities and other projects, such as elevation & storm-hardening of critical equipment and reinforcement of critical structures

## **Regional Method of Distribution**

Specific distribution of funds for general non-housing and housing activities will be determined by the four locally adopted regional MODs (H-GAC, SETRPC, LRGVDC and DETCOG). Regions participating in the funding pool will submit applications for general non-housing projects to TDRA and housing projects to TDHCA based upon application guidelines developed by the agencies.

## **Guidelines for Development of Regional Methods of Distribution**

1. TDRA will direct the COGs to use a direct allocation technique based on objective, verifiable data to distribute housing and non-housing funds consistent with HUD data.

2. TDRA will implement a requirement that LMI percentage for each entity be considered in the distribution. All allocations made by the regional COG MODs will be conditional until the State of Texas reaches the 55 percent LMI requirement for the entire allocation. If the requirement of \$1,681,895,292 for LMI activities has not been met, TDRA will require the COGs not meeting the 55 percent LMI requirement to amend their MODs to ensure the requirement is achieved.
3. Allocations to any entity selected by the COG must meet or exceed a floor of \$75,000 for non-housing and \$500,000 for housing.
4. The COG may not transfer responsibility for developing a method of distribution to a unit of general local government. The COG must make all final allocations. TDRA will only accept one method of distribution for each region.
5. Recognizing the regional impact of the storms may lead to identification of forward-thinking recovery strategies and activities affecting multiple entities, TDRA will encourage the Councils of Governments to make direct allocations to specific regional projects. TDRA is particularly interested in specific enhanced disaster recovery activities that reduce the risk of damage from a future disaster.
6. The COG may choose to limit the types of projects entities receiving allocations may pursue by prioritizing projects. The COG may select whether it wishes to limit grantees to specific project priorities, or maintain all eligible activities.
7. The COG must identify a method to redistribute funds within the region.
8. TDRA will require specific set-asides for Harris, Galveston and Orange counties over and above the allocations established for each in their respective regional method of distribution.
9. The COG may not serve as grantee for non-housing activities other than economic development. The COG may serve as grantee/subrecipient for housing activities.
10. The MOD shall describe how the program will affirmatively furthering fair housing.
11. In H-GAC, SETRPC and LRGVDC, each MOD must identify at least the amount specified in Table 7 for projects that qualify for the Disaster Recovery Enhancement Fund Program.

## Overview of Regional Methods of Distribution

The COGs will prepare their methods of distribution to achieve the following results:

- For non-housing, COGs will allocate funds to units of general local government based on the non-housing formulaic distribution model and/or project-specific set-asides to develop regional approaches to disaster recovery. COGs may choose to administer economic development programs at the regional level.

- For housing, COGs may choose to administer housing programs at the regional level or allocate housing funds at the regional level using a formulaic distribution model to units of general local government.

COGs prepared initial regional MODs in December 2009 under a prior draft plan amendment. Table 8 provides a description of that process.

**Table 8  
Previous Round 2 COG Participation Process**

COG Participation Process					
Date	Event				
On or before 12/2/2009	Each COG submitted a Citizen Participation Plan identifying hearing and notification dates, and a description of outreach efforts.				
Prior to 12/15/2009	Each COG posted public hearing notifications on individual COG websites and the Secretary of State website, sent personal notifications, and published legal notices and articles in regional newspapers as described in each COG's Citizen Participation Plan. In addition, each COG posted a draft method of distribution for public comment a minimum of seven days, receiving written feedback and allowing interested parties to review the document prior to the hearings.				
The COGs conducted hearings as follows:					
	<b>COG</b>	<b>Draft MOD Posted</b>	<b>1<sup>st</sup> Public Hearing</b>		<b>2<sup>nd</sup> Public Hearing</b>
			<b>Date</b>	<b>Location</b>	<b>Date</b>
	H-GAC	12/4/09	12/8/09	Houston	12/9/09
	DETCOG	12/4/09	12/11/09	Lufkin	12/11/09
	SETRPC	12/10/09	12/9/09	Beaumont	12/15/09
	LRGVDC*	12/4/09	12/9/09	Weslaco	12/11/09
	* LRGVDC held two additional hearings on 11/19/09 and 11/24/2009				
On or before 12/17/2009	Each COG Board approved its Method of Distribution and submits it to TDRA.				

Submission of MODs will use essentially the same process as the original Action Plan. That is, the regional methods of distribution will not be included with submission of Amendment No. 1, but instead will be sent separately to HUD for review and release. This approach allows the State to proceed quickly while still permitting HUD to maintain effective oversight by releasing funds only upon submission of a satisfactory regional MOD. Table 9 summarizes the anticipated Round 2 COG participation process.

**Table 9  
Current Round 2 COG Participation Process**

COG Participation Process						
Date	Event					
To Be Determined (TBD)	Each COG will submit a Citizen Participation Plan identifying hearing and notification dates, and a description of outreach efforts.					
TBD	Each COG will post public hearing notifications on individual COG websites and the Secretary of State website, send personal notifications, and publish legal notices and articles in regional newspapers as described in each COG's Citizen Participation Plan. In addition, each COG will post a draft method of distribution for public comment a minimum of fifteen days, receiving written feedback and allowing interested parties to review the document prior to the hearings.					
The COGs will conduct hearings as follows:						
	<b>COG</b>	<b>Draft MOD Posted</b>	<b>1<sup>st</sup> Public Hearing</b>		<b>2<sup>nd</sup> Public Hearing</b>	
			<b>Date</b>	<b>Location</b>	<b>Date</b>	<b>Location</b>
	H-GAC	TBD	TBD	TBD	TBD	TBD
	DETCOG	TBD	TBD	TBD	TBD	TBD
	SETRPC	TBD	TBD	TBD	TBD	TBD
	LRGVDC	TBD	TBD	TBD	TBD	TBD
TBD	Each COG Board approved its Method of Distribution and submits it to TDRA.					

### Seven COG Competitive Pool Funds

The remaining seven regions (mostly inland) received significantly less severe storm damage. A competitive funding pool is proposed for these COG regions (ATCOG, CBCOG, CTCOG, BVCOG, ETCOG, GCRPC and STDC) at a constant funding level of available funds. Eligible entities in these COGs are able to apply for non-housing funding from this pool. Awards for pool activities will not be less than \$75,000 and will not exceed \$1 million per grantee. Any funds remaining in the pool will be returned to the State for re-allocation. Unused funds will remain in the non-housing activity category for re-allocation to regions with unmet needs in a manner consistent with “re-allocation of funds” discussed in Section 6 Method of Distribution. This approach removes the limitations of small distributions and allows the projects with greatest need to be funded despite locale or size, while giving preference to projects with higher storm impact. Appendix G-1 provides additional information on these criteria.

### Impacts of the Conciliation Agreement

The conciliation agreement has set forth that a new state Analysis of Impediments (AI) will be performed. The first phase will cover areas included in the disaster declaration. The term Program refers to projects in the following requirements of the Conciliation Agreement that will be in effect until HUD has approved the new AI.

Except as explicitly provided for elsewhere in the Conciliation Agreement, neither TDHCA nor TDRA shall commit or expend any Hurricane Recovery Funds prior to HUD's acceptance of phase 1 of the updated AI, or January 1, 2011, whichever is earlier, except in cases of locally identified priority Programs that cannot be carried out without Hurricane Recovery Funds. With respect to a non-housing Program that is subject to Section II.A.3.5 of the Conciliation Agreement, TDRA will, using an independent consultant acceptable to the Complainants, notify Complainants of the Program in question, describe the Program in detail and state explicitly how

the Program is consistent with HUD's current Fair Housing Guidance. This notification shall contain the consultant's assessment of how the Program in question will be consistent with the State's and each Recipient's obligation to AFFH. For each housing Program that is subject to Section II.A.3.5 of the Conciliation Agreement, TDHCA will notify Complainants of the Program in question, describe the Program in detail and state explicitly how the Program is consistent with HUD's current Fair Housing Guidance or the Conciliation Agreement. From the date of notification, Complainants will have ten business days within which to lodge an objection stating how the Program does not comply with HUD's current Fair Housing Guidance or the Conciliation Agreement. Upon mutual consent of the applicable agency and the Complainants, the period may be extended. The applicable agency and the Complainants commit to work together in good faith to resolve and address differences or concerns about such Programs. The Complainants may, while deciding whether to object or not, ask questions to and request clarifications directly from the consultant. In the event of an objection, TDHCA or TDRA will not expend Hurricane Recovery Funds until Complainants withdraw their objection, phase 1 of the updated AI is accepted by HUD or January 1, 2011, whichever is earlier. Complainants are bound by a covenant of good faith and fair dealing with respect to any objection. If Complainants do not timely object, they will be deemed to have waived any objection to the Program. With respect to each allocated area, the amount of money that may be spent under Section II.A.3.5 of the Conciliation Agreement is capped at the lesser of 33% the area's total allocation under the Revised Action Plan Amendment or \$258 million.

## **7. PROPOSED USE OF DISASTER RECOVERY FUNDS**

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### **Anticipated Accomplishments**

The anticipated accomplishments will include: repairs and improvements to public infrastructure; assistance with reversing the negative economic impact caused by the disasters; and long-term recovery and restoration of housing in the affected areas.

Applicants for the funds are required to specify activities, proposed units of accomplishment, and proposed beneficiaries in applications that have and will be submitted to TDRA and TDHCA. These anticipated accomplishments will be reported to HUD using the on-line Disaster Recovery Grant Reporting System (DRGR).

Disaster recovery funds have been allocated at the regional level to the four most impacted regions: H-GAC, SETRPC, LRVGDC, and DETCOG. The remaining less impacted COG regions will compete for funding under the Pool Fund. Round 2 funds have been allocated to result in a 55/45 percent Round 1 and Round 2 cumulative split between housing and non-housing for applicable program funds overall as identified in Appendix E. Funds not used for eligible projects for housing or non-housing within the allocated region will be returned to the State and redistributed to the applicable most impacted regions that demonstrate a continued unmet need and the program-wide cumulative 55/45 percent split will be maintained at this level.

### **Activities**

The activities to be undertaken with this Action Plan Amendment may include:

## **Housing Activities**

Housing activities allowed under CDBG, (Rental and Non-Rental) including but not limited to:

- Single-family and multifamily repair; rehabilitation; and/or new construction;
- Repair and replacement of manufactured housing units;
- Hazard mitigation;
- Elevation; and
- Other activities associated with the recovery of housing stock in the regions impacted by Hurricanes Dolly and Ike.

Criteria for housing activities are included in Section 8: Eligible and Ineligible Activities, Housing Activities.

In accordance with the Conciliation Agreement, the program guidelines—benefit and eligibility criteria—will be reviewed by a committee appointed by TDHCA for general consistency, allowing for true regional difference such as cost variables.

## **Non-Housing Activities**

All activities allowed under CDBG, including but not limited to:

- Restoration of infrastructure (such as water and sewer facilities, streets, provision of generators, removal of debris, drainage, bridges, etc.);
- Real property activities (such as buy-out of properties in the flood zone, clearance and demolition, rehabilitation of publicly or privately owned commercial or industrial buildings, and code enforcement);
- Economic development (such as revolving loan funds that return program income to the State within 6 years or less, deferred forgivable loan programs, façade improvement programs, and job training programs. No other economic development activities are eligible for these funds);
- Public services (such as job training and employment services, healthcare, child care and crime prevention); and
- Public facilities (includes neighborhood/community and medical facilities/shelters, and facilities for persons with special needs).

All activities must have documented proof of an impact by a major natural disaster declaration in 2008. (FEMA-1780-DR and FEMA-1791-DR).

All activities will be reviewed and must be eligible for CDBG disaster recovery funding,

Criteria for non-housing activities for the pool are included in Appendix G-1a and housing are in Appendix G-1b.

## Primary Beneficiaries

The primary beneficiaries of the Supplemental Disaster Recovery Funding are low- and moderate-income persons as defined under program requirements. Low income families are defined as those earning less than 50 percent of the area median family income. Moderate income families are defined as those earning less than 80 percent of the area median family income. The area median family income can be based on a metropolitan statistical area or a non-metropolitan county median family income figure.

## Thresholds

Thresholds related to other CDBG programs and not mandated by law or regulation will not apply to applicants seeking disaster recovery funds. The following thresholds will be applicable to entities applying for these funds:

- There must be a clear and compelling need related directly to a major natural disaster declaration, hurricane disaster relief, long-term recovery and/or restoration of infrastructure;
- An activity underway prior to a Presidential disaster declaration will not qualify unless the disaster directly impacted the project.

## Required Certifications

The State will provide a fully executed copy of HUD required certifications for state governments. (See Appendix B.)

## 8. ELIGIBLE AND INELIGIBLE ACTIVITIES

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All CDBG eligible activities will be allowable so long as the activity is directly related to a major natural disaster declaration in 2008 (FEMA-1780-DR and FEMA-1791-DR) through actual damage or a failure to function and is allowed under the applicable regulations, unless expressly waived by HUD in the *Federal Register*, with particular exceptions for special economic development. On a limited basis, homeownership activities may be pursued where they are part of an overall strategy of bringing back people to an area that received substantial damage. Ineligible activities will include any activity not directly impacted by a major natural disaster declaration in 2008 and those prohibited, unless expressly waived by the *Federal Register*, under the applicable regulations.

Eligibility of specific project types may be further delineated in regional methods of distribution and criteria established for competitive processes. As flooding was one of the key elements experienced in both disasters, it is a critical area being addressed through this program. Compliance with the National Flood Insurance Program, including structure construction and best floodplain management practices, is required of all grantees for projects funded through this program.

## Non-Housing Activities

Non-housing specific set-asides are further described in this section document and the detailed criteria found in Appendix G-1a.

## **Non-Housing Pool**

Funds will be distributed to lesser-impacted regions through a competitive process. Eligible Applicants are cities and counties that are eligible to be grantees for 2008 Supplemental Disaster Recovery funding and are located in the ATCOG, CBCOG, CTCOG, BVCOG, ETCOG, GCRPC, and STDC Councils of Governments regions. All other eligible entities must be sponsored under the appropriate city or county application for their service area. A detailed description of the competitive process is found in Appendix H-1a. Additional guidance and further details, including information regarding multi-jurisdiction applications, may be provided in the Application and Application Guide for the Pool fund.

## **Housing Activities**

Housing activities shall be administered by TDHCA in accordance with their regulations, terms of the Conciliation Agreement associated with HUD Case Numbers 06-10-0410-8 and 06-10-0410-9, and as follows.

### **Housing Program Guidelines Task Force**

TDHCA shall create a task force comprised of representatives of TDHCA and the COGs, that will in one or more posted public meetings, develop criteria governing all housing programs to be carried out with Hurricane Recovery Funds. Such recommendations, upon adoption by TDHCA, will direct the available scope of housing activities subrecipients may carry out and will be reflected in an amendment. TDHCA must consider these recommendations and approve guidelines which shall include and address, but not be limited to:

- A list of housing program activities (including appropriate relocation and buyout activities resulting in housing) from which subrecipients may select housing programs they will offer;
- The cost and benefit criteria for each housing program;
- The program participant eligibility and qualification criteria for each housing program;
- Housing quality standards for housing funded with Hurricane Recovery Funds;
- The priority factors subrecipients must consider in administering their overall housing program, including prioritization for persons at various income levels, persons with special needs, and relocation programs;
- An evaluation of the income levels of disaster recovery survivors and the establishment of reasonable guidelines to ensure the housing needs of low-, very low- and extremely low-income households are assisted with housing in no less than the proportion to their relative percentages of the overall populations which suffered housing damage within the community being served by the program;
- Appropriate outreach and public awareness measures for housing programs; and
- The recommendations will provide and allow for objectively determined regional adjustments for these criteria to reflect differences in the costs of delivery for benefits and the economic profile of local target populations.

- Determine the amount of funding allocated to each county and local government subrecipient designated by the COG; and

### **Removing Barriers to Access Funds**

TDHCA has identified four key issues that often impair citizens' ability to access disaster recovery housing funds, including tax issues, ownership clarity, ability of disabled persons to use housing, and use of FEMA data as a basis for eligibility.

TDHCA shall prohibit the denial of assistance to applicants who are elderly or disabled based upon an election to defer property tax payments as permitted under Texas law, or to applicants who have property tax debt so long as the applicant has entered or agrees to enter into a plan with appropriate local taxing authorities to pay such taxes. TDHCA shall require contracts for the State, COGs, and subrecipients being paid from Hurricane Recovery Funds to properly state these criteria in all public notices and media communications regarding their programs, and to use a TDHCA-approved disclosure form to inform potential beneficiaries and applicants of their right to enter into a payment plan or defer taxes as provided in Texas law. This disclosure will be in clear language, understandable to a layperson. TDHCA will publish the proposed disclosure for a 15-day public comment period prior to adoption.

TDHCA shall provide subrecipients with clear instructions concerning the standards that must be used to establish property ownership as provided under Texas Government Code Section 2306.188, and prohibit subrecipients' use of standards that are more onerous than those in Texas Government Code Section 2306.188. TDHCA will publish the proposed instructions for a 15-day public comment period prior to adoption.

TDHCA shall establish clear standards under which all housing constructed or rehabilitated with Hurricane Recovery Funds shall be designed to be visitable by people with disabilities. In doing so, TDHCA shall create a task force, appointed in consultation with the Conciliation Agreement Complainants associated with HUD Case Numbers 06-10-0410-8 and 06-10-0410-9, to develop a practical policy for the waiver of requirements allowed under Texas Government Code Section 2306.514(b) related to new construction and rehabilitation of properties using Hurricane Recovery Funds. No such waiver would be granted where the property being constructed was being built specifically for an applicant with special needs. TDHCA will provide full consideration to Hurricane Recovery Funds applications for LMI households with special needs and will give such applications funding priority. Applications for LMI households with special needs and will give such applicants funding priority. Visitability standards set forth in Texas Government Code Section 2306.514(b) shall apply to all housing constructed with Hurricane Recovery Funds, except if a waiver is granted. TDHCA and TDRA, as applicable, shall establish rules, procedures and funding guidelines requiring their contractors and subrecipients to adequately assess the needs of survivors with disabilities for funding to be carried out with Hurricane Recovery Funds, and assign the highest funding priority to programs serving low and moderate income households within this population.

In the administration of hurricane recovery funds, TDHCA shall prohibit COGs and subrecipients from refusing housing assistance to applicants solely on the basis that the applicants were denied assistance by FEMA. TDHCA shall include in each hurricane recovery contract, provisions to require the subrecipient to accept reasonable alternative proof of damage from the hurricanes in the event a homeowner has been denied FEMA assistance. TDHCA will promulgate clear standards to be used for establishing whether an applicant's home is eligible for housing benefits out of hurricane recovery funds because of damage related to the

hurricanes and shall require all COGs and subrecipients to adhere to these standards. TDHCA will publish the proposed instructions for compliance with this provision for a 15-day public comment period prior to adoption.

### **Local Control**

Local COGs and, as applicable, local subrecipients, based on public input and supported by appropriate supporting analysis and data, shall determine the funding distribution, priorities and housing activities reflecting the needs of the communities for and within H-GAC, SETRPC, LRGVDC, and DETCOG, within the terms of the Conciliation Agreement associated with HUD Case Numbers 06-10-0410-8 and 06-10-0410-9, including:

- Whether to expand, contract, or leave unchanged the network of subrecipients within the COG area utilized during the first allocation of Hurricanes Dolly and Ike Disaster Recovery Funds;
- Determine the amount of funding allocated to each county and local government subrecipient designated by the COG; and
- Establish specific housing programs to be administered by each subrecipient, along with:
  - Recommended assistance caps for each housing program and
  - Eligibility criteria for each housing program

Appendix G2-b reflects criteria that TDHCA, based on the administration of similar programs, believes to be reasonable, but will be reviewed to be consistent with the conciliation agreement. In general, imposing assistance caps supports a balanced allocation of the housing funds to the largest possible number of beneficiaries. In addition, these recommended criteria will support the statutory requirement that at least 55 percent of the overall grant serve persons of low and moderate income, while still providing sufficient funding to ensure high quality, safe, decent housing responses. Once COGs submit housing program proposals, the TDHCA's Governing Board will approve the applications that will finalize the proposals, caps and eligibility criteria. Public comment on these caps and criteria is specifically solicited. Any request to substantially deviate from the criteria and limits ultimately approved will require approval from TDHCA's Governing Board and require explicit justification and supporting data.

TDHCA does not seek to establish a state-run program; however where there are no local governments or COGs for an impacted area that have the capacity and willingness to operate the necessary housing program for the area and acceptable alternatives cannot be identified, TDHCA has provided for the ability to establish a limited state-run program.

There will be several targeted programs, which exceed established minimum requirements set forth by HUD, including:

1. \$174 million (minimum) for an Affordable Rental Housing Recovery Program: This program will meet the HUD affordable rental housing requirement of \$342,521,992 between Rounds 1 and 2, and will address:
  - Restoration of single family rental housing stock (\$40 million);

- Restoration of projects with project-based rental assistance including public housing rental stock (\$50 million); and,
- Restoration of multifamily rental stock of (approximately \$84 million),
- One for one replacement of all family and elderly public housing units in the City of Galveston damaged or destroyed in Hurricane Ike (\$50 million);
- Of the remaining funds, no less than \$25 million for the construction, reconstruction, replacement or rehabilitation of family and elderly public housing units damaged or destroyed by the hurricanes, with priority being given to activities which include one-for-one replacement of family and elderly public housing units within a Public Housing Authority jurisdiction, or federally funded farm labor housing.

The \$174 million has been allocated to HGAC, SETRPC, and LRGVDC, as shown in Table 10. Details as to how any allocated but unused funds will be reallocated within the impacted regions will be defined in a notice of funds availability to be issued by TDHCA.

**Table 10**  
**Affordable Rental Housing**

Affordable Rental Housing			
COG	Round 1 Expected Awards	Round 2 Allocations	Total Funds
SETRPC	-	\$33,096,235	\$33,096,235
H-GAC	-	\$126,095,018	\$126,095,018
LRGVDC	-	\$15,108,600	\$15,108,600
DETCOG	-	-	-
POOL	-	-	-
<b>TOTAL</b>	<b>\$ 188,136,997</b>	<b>\$174,299,853</b>	<b>\$362,436,850</b>

2. \$500,000 to establish the Texas Title Clearance and Legal Assistance Program: This program will help low-income Texans to overcome Title clearance and legal obstacles and fully realize the benefits of hurricane recovery programs and homeownership.
3. \$6 million for the Texas Rapid Housing Recovery Pilot Program: This State of Texas statutorily required pilot program will identify and demonstrate alternative approaches to rebuilding housing following a natural disaster. The pilot is projected to build 60 homes. Funds will be offered on a competitive basis in Harris and Galveston counties and the LRGVDC region, with \$2 million available for each for pilot programs. Competition criteria is provided in appendix H1-b and may be further defined in an application guide or Notice of Funds Availability (NOFA).
4. \$100 million for the Subsidized Housing Rebuilding Program: In furtherance of the objective of restoration of subsidized housing damaged or destroyed by the

hurricanes and to ensure funds are available to address affirmative furthering of fair housing, TDHCA will create a program, to be administered by the appropriate COG, for the sole benefit of low- and moderate-income persons with unmet housing needs resulting from the hurricanes, with priority given to addressing issued identified with public housing and affordable rental housing damaged or destroyed by the hurricanes.

The program will require one-for-one replacement or rehabilitation of all family and elderly public housing units damaged or destroyed as a result of the hurricanes within the local jurisdictions in a manner that affirmatively furthers fair housing. A portion of the amount reserved by H-GAC will specifically support the one-for-one replacement of family and elderly public housing damaged or destroyed by the hurricanes in the City of Galveston. Once all public housing units damaged or destroyed by the hurricanes in Galveston have been addressed the reservation shall be released for other rental housing activities under this section.

The program will require the rehabilitation, reconstruction or construction of single-family and multi-family rental housing units damaged or destroyed by the hurricanes within the jurisdictions or surrounding regions. This will be done in a manner that affirmatively furthers fair housing in sufficient numbers and at appropriate rents to affordably house an equal number of Housing Choice Voucher holders as were living within each jurisdiction at the time of the hurricanes.

TDHCA will work with units of local government in the areas where applicable Hurricane Recovery Funds are to be administered requiring that zoning and permitting in connection with the use of Hurricane Recovery Funds are addressed in a manner which is consistent with efforts to affirmatively further fair housing and other applicable laws.

TDHCA shall require all subrecipients for multifamily and owners of 20 or more units of single family or duplex private rental housing to accept Housing Choice Voucher holders under the same substantive provisions as those in place in the Texas Low Income Housing Tax Credit program established by Internal Revenue Code Section 42, Texas Government Code Chapter 2306, and rules and guidelines promulgated by TDHCA, for a period deemed appropriate by TDHCA. Such provisions shall be evidenced by duly recorded Land Use Restriction Agreements (LURAs). Such housing will also be subject to the same use restrictions as those described for the Affordable Rental Housing Recovery Program.

5. \$18 million for the Impacted Area Buyout Program: TDHCA shall fund relocation and buyout assistance for low and moderate income victims of the hurricanes living in FEMA designated "High Risk Areas" and areas of high minority and poverty concentration as approved by TDHCA. These activities will be administered by the COGs under policies developed by TDHCA, and will use relocation counselors and licensed real-estate professionals.
6. Moving-to-Opportunity Program: TDHCA will work with stakeholders to prepare a request to HUD for an allocation of additional Housing Choice Vouchers, or assistance in developing alternative tenant-based rental assistance for eligible households. Contingent on securing federal appropriations to fully fund Housing Choice Vouchers or equivalent tenant-based rental assistance to assist up to 2,500

eligible households, TDHCA shall propose to establish a Moving-to-Opportunity Program operated by Public Housing Authorities. The program will permit eligible renter households in areas affected by the hurricanes to locate alternative rental housing in higher opportunity areas. Such funds shall be expended to provide relocation counseling, security and utility deposits, moving expenses, and reasonable program administrative expenses under criteria developed by TDHCA.

## **Program Proposals for Round 2**

For all aspects of this Action Plan Amendment, local control shall be emphasized, and the COGs shall have the right, subject to compliance with CDBG program requirements, the terms of the Conciliation Agreement associated with HUD Case Numbers 06-10-0410-8 and 06-10-0410-9, and agency approval, to make determinations as to the allocation of funds within their regions among housing, infrastructure, and economic development programs, except as provided by the requirements of the pooled competitions.

The State's Hurricane Rita Housing Recovery Program served a broad range of LMI Texans. The housing responses to Hurricanes Ike and Dolly require a similar response. Successful restoration of the housing infrastructure of Texas coastal communities will require the full range of housing needs to be addressed, including housing that serves those with moderate income, low income, and very low income. Such a comprehensive approach is a characteristic for a successful economic recovery, ensuring local housing for the workforce.

COGs, or subrecipients designated by the COGs, will be required to provide documented, updated needs assessments to earlier Round 1 FEMA damage assessments. These more fully developed damage and needs assessments will be used to develop an array of housing programs that address local needs in an appropriate and proportional manner to ensure that all income levels impacted are served, and to meet federal and state fair housing laws, and HUD requirements. Decisions on program development must demonstrate a correlation to the needs and other assessments, as well as data collected on damage from the storms. TDHCA shall approve all eligibility criteria to ensure programmatic consistency and that the needs of impacted persons are being met. Round 2 funds shall be required to address needs for populations not served or not sufficiently served with Round 1 funds. This process of taking into account the nature of Round 1 and Round 2 together is essential to ensure that overall administration of these two rounds meets the statutory requirements and provides impacted areas with a disaster response that is comprehensive and balanced.

Once final allocation decisions are made, the COGs and other eligible subrecipients identified by the COGs shall have the opportunity to designate housing programs to be administered locally or by TDHCA. Subrecipients will be expected to provide TDHCA with detailed and transparent information to the public regarding programs, including eligibility criteria, populations to be served, and timetables to take public comment and address public comment in any submission of their proposals to TDHCA.

## **Locally-Run Programs**

Jurisdictions shall develop housing programs that have the same basic program elements as offered under Round 1, unless unique facts and circumstances are documented to support a variance. The combined Round 1 and Round 2 housing programs must appropriately and proportionally address the identified housing needs of owners and renters and lower-income households. These include but are not limited to:

- Homeowner repair, rehabilitation, and replacement;
- Rental repairs, rehabilitation, and replacement, including new construction to replace damaged or destroyed multifamily housing stock;
- Down payment assistance;
- Activities designed to relocate families outside of floodplains;
- Activities that address slum and blighted areas designated as such by the local jurisdiction; and
- Activities designed to address environmental hazards including local code compliance, storm mitigation activities, and elevation assistance.

COGs and subrecipients are encouraged to work with the public and disaster recovery organizations, including the faith-based community organizations, to develop additional programs, provided they conform to HUD's CDBG disaster program requirements.

Locally-run programs shall be required to present detailed information to the public regarding individual projects, including eligibility criteria, populations to be served, and timetables to take public comment and address that public comment in any submission of their proposals to TDHCA.

Locally-run programs which do not meet TDHCA's established benchmarks for performance or other contract terms may be terminated, with program funds redirected back to the COG for reallocation within the region where housing need remains underserved. If it is determined the unused housing funds cannot be utilized within the region, the funds may be transferred to remaining regions for housing activities.

Eligibility criteria for locally run housing programs are included in Appendix H-2b.

### **Affordable Rental Housing Recovery Program**

The *Federal Register* dated August 14, 2009 and Public Law 110-329 appropriating these funds requires no less than \$342,521,992 of the state's total allocation be used for the replacement of affordable rental housing stock. Accordingly, TDHCA will utilize not less than \$174 million from the total housing funds available from Round 2 funds to restore multifamily and single family affordable rental housing. (Round 1 allocated \$188,136,997 for this purpose.) The funds, including the rental set asides, will be administrated by TDHCA. All funds shall be awarded through a competitive notice of funds availability within regional allocations. Such funds relating to affordable multifamily rental housing and owners of 20 or more single family or duplex private rental housing units constructed, repaired, or reconstructed using Hurricane Recovery Funds will be governed by appropriate use restrictions, to be evidenced by duly-recorded LURAs having terms of ten years. TDHCA shall require all owners of affordable multifamily rental housing units and owners of 20 or more single family or duplex private rental housing units receiving assistance under this program to accept Housing Choice Voucher holders under the same substantive provisions as those in place in the Texas Low Income Housing Tax Credit program established by Internal Revenue Code Section 42, Texas Government Code Chapter 2306, and rules and guidelines promulgated by TDHCA related thereto.

If, and only if, prior to the execution of the first such LURA applicable to an affordable multifamily property or owner of 20 or more single family or duplex private rental properties constructed, repaired, or reconstructed using Hurricane Recovery Funds, HUD has provided TDHCA written confirmation, in form and substance reasonably acceptable to TDHCA, that TDHCA shall have no responsibility to monitor or enforce any such LURA or the ownership and operation of the property to which it relates after ten (10) years from the date such LURA is executed and recorded, a subsequent ten (10) year period shall be included in the LURA, which shall expressly provide that such additional ten (10) year period shall be enforceable under the same substantive provisions as those in place in the Texas Low Income Housing Tax Credit program established by Internal Revenue Code Section 42, Texas Government Code Chapter 2306, and rules and guidelines promulgated by TDHCA relating thereto.

In populated coastal areas, single family rental stock was especially damaged, displacing lower-income persons and weakening the local workforce. TDHCA proposes to dedicate at least \$40,000,000 in this program to address affordable single-family rental stock recovery. TDHCA also proposes to provide no less than \$50,000,000 for developments with project based rental assistance including public housing or Housing Choice Voucher eligible units. The balance of the funds shall be used for multifamily rehabilitation and new construction, potentially in conjunction with other housing finance tools available through TDHCA or local Housing Finance Agencies.

Detailed description of Affordable Rental Housing Program can be found in Appendix G-2a.

## 9. CITIZEN PARTICIPATION

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In the preparation of this Action Plan Amendment, the Office of the Governor, local communities, Councils of Governments, and the general public were consulted. As part of early recovery efforts, the FEMA ESF-14 focus groups<sup>5</sup> met and provided feedback related to long-term recovery. The House Select Committee for Hurricane Ike has held several public hearings to receive testimony and listen to concerns from federal, state, and local officials. In addition, the Governor's Commission for Disaster Recovery and Renewal was charged with recommending approaches that will help Texas recover from future storms by proactively strengthening areas such as critical infrastructure. The findings of these groups were considered in developing the original Action Plan and this amendment.

A summary of the comments received during the public comment period and the responses and actions is provided in Appendix C.

In addition to complying with the public participation and comment requirements of the *Federal Register*, the State consulted with interested parties, such as local elected officials and COGs to aid in establishing regional prioritization of available funding that is consistent with locally identified needs.

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<sup>5</sup> FEMA ESF-14 (Emergency Support Function #14 Long-Term Community Recovery) is one of the 15 emergency support functions under the National Response Framework (NRF). ESF-14 is responsible for providing interagency coordination and technical assistance

## Public Participation and Public Comment

Considerable public involvement has occurred with implementation of the disaster recovery efforts. The original Action Plan, submitted to HUD in March of 2009, received comments from attendees of five public meetings. HNTB, consultant to TDRA, provided technical assistance by meeting with 149 non-entitlement communities during their assessment process and holding an additional 14 regional meetings within the 29-county Hurricane Ike impact area to discuss outcomes of their efforts. The regionally developed MODs also involved a minimum of two public hearings. Additionally, many counties and municipalities either held hearings or addressed selection of recovery projects in public meetings.

The first iteration Action Plan Amendment, submitted to HUD in September 2009, was drafted and made available to the public for comment for 30 days. Invitations to public hearings were mailed to all mayors, county judges, and tribal leaders in the declared areas. TDHCA, through its list serve, notified over 3,000 parties that the draft Action Plan Amendment was available for public comment. Recipients of the notice included low income housing advocates and community organizations representing homeless and special needs populations. The Action Plan Amendment was translated into Spanish and Vietnamese and was available from the State and the COGs and placed on the TDRA and TDHCA websites on August 7, 2009 for public review and comment. Provisions were made available for people with disabilities on a request basis. The second iteration, submitted to HUD for review and comment in February 2010 followed an identical outreach process and accessibility standard.

As with the prior iterations, this *revised* Action Plan Amendment No. 1 was translated into Spanish and Vietnamese and will be available from the State and the COGs and placed on the TDRA and TDHCA websites on May 19, 2010 for public review and comment. TDHCA, through its list serve, notified over 3,000 parties that the draft Action Plan Amendment was available for public comment. Recipients of the notice included low income housing advocates and community organizations representing homeless and special needs populations. TDRA notified all mayors, county judges, and tribal leaders in the declared areas of the *revised* Action Plan Amendment No. 1 availability and of the public hearing dates. Public hearings were held May 21, 2010 and May 26, 2010.

## Public Hearings

During the first iteration, five initial public hearings were held throughout the affected regions to obtain local input regarding the overall revitalization needs of the impacted communities. The public comment period was open from August 3, 2009 to September 14, 2009. After the public comments were assessed from the first five public hearings, revisions to Action Plan Amendment Number 1 were proposed. Proposed revisions were posted on the website on September 10, 2009 and presented during three additional public hearings held in Houston, Livingston, and Weslaco between September 17 and 18, 2009. The public comment period was open from September 10, 2009 to September 24, 2009. TDRA considered all comments received. Revisions approved by TDRA and TDHCA were incorporated into the proposed Action Plan Amendment No. 1 that was submitted to HUD on September 30, 2009.

Written public comments were also encouraged and were accepted by mail, fax and e-mail. Comments were received at TDRA, Disaster Recovery Division, P.O. Box 12877, Austin, Texas 78711, fax at (512) 936-6776, and via e-mail. Announcement of its availability was made at weekly TDRA webinars held for stakeholders during this process, as well as on TDRA's "Dashboard" website available to applicants. Public hearings for regional MODs and State-run

programs were held in accordance with standards laid out in the original Action Plan. These hearings were advertised locally and held as listed in the table below.

Upon notification that the September submittal had not been accepted, the State pressed forward in preparing a second iteration that included the four regional methods of distribution and criteria for State-administered programs. In addition to the Regional public hearing and MOD adoption process, between November 19 and December 17, 2009, several meetings occurred with representatives of housing advocacy groups. Upon integration of the MODs and program descriptions, a series of public hearings associated with the revised amendment were held January 28 and 29, 2010. The January 2010 hearings were scheduled following a January 8 meeting between representatives of HUD, the Texas Governor's office, TDRA, and TDHCA to discuss the subsequent modifications to the September 30 submittal of the Action Plan Amendment.

After receiving directives from HUD, the State embarked upon this third iteration. A series of meetings have occurred with affected COG leaders during the negotiation process with HUD and the Housing Advocates pursuing the conciliation agreement during the spring of 2010. A series of leadership briefings were held in the affected regions as recently as early May.

Public hearings on the *revised* Action Plan Amendment No. 1 were conducted on May 21, 2010 and May 26, 2010 in Austin, Texas. Provisions were made available for people with disabilities on a request basis, and a webcast of the hearing was available to enable individuals to view, hear, and participate in the public hearing remotely. TDHCA, through its list serve, notified over 3,000 parties of the hearing dates. Recipients included low income housing advocates and community organizations representing homeless and special needs populations. TDRA notified all mayors, county judges, and tribal leaders in the declared areas of the *revised* Action Plan Amendment No. 1 availability and of the public hearing dates.

A summary of the meeting dates, locations, and public notices is listed in Table 11.

**Table 11**  
**Round 2 Public Hearing Dates, Locations, Public Notices**

**First Iteration Action Plan Amendment No. 1 Hearings**

DATE	LOCATION	FIRST PUBLIC NOTICE
August 13, 2009	Texas AgriLife Research Center Auditorium, Weslaco	August 3, 2009
August 18, 2009	Galveston County Commissioners Courtroom, Galveston	August 7, 2009
August 19, 2009	Houston City Hall Annex Public Level Chamber, Houston	August 7, 2009
August 31, 2009	Southeast Texas Regional Planning Commission, Beaumont	August 7, 2009
September 1, 2009	Trinity County Commissioners Courtroom, Groveton	August 7, 2009

**Revised First Iteration Action Plan Amendment No. 1 Hearings**

DATE	LOCATION	FIRST PUBLIC NOTICE
September 17, 2009	Houston Hobby Airport Marriott Hotel, Houston	September 10, 2009
September 17, 2009	Holiday Inn Express, Livingston	September 10, 2009
September 18, 2009	Texas AgriLife Research Center Auditorium, Weslaco	September 10, 2009

**Second Iteration Regional Methods of Distribution Pool and Activity Specific Hearings**

DATE	LOCATION	FIRST PUBLIC NOTICE
November 19, 2009	Weslaco (LRGVDC)	November 3, 2009
November 24, 2009	Harlingen (LRGVDC)	November 3, 2009
December 8, 2009	Houston (H-GAC)	December 2, 2009
December 9, 2009	Houston (H-GAC)	December 2, 2009
December 9, 2009	Weslaco (LRGVDC)	November 3, 2009
December 9, 2009	Beaumont (SETRPC)	December 4, 2009
December 11, 2009	Lufkin (DETCOG)	December 4, 2000
December 11, 2009	Livingston (DETCOG)	December 4, 2009
December 12, 2009	Harlingen (LRGVDC)	November 3, 2009
December 15, 2009	Beaumont (SETRPC)	December 4, 2009
December 15, 2009	Austin (7- Region Funding Pool)	December 9, 2009
December 17, 2009	Austin (Healthcare Facility)	December 9, 2009
December 17, 2009	Austin (Affordable Rental Housing)	December 9, 2009

**Second Iteration State Action Plan Amendment No. 1 Hearings**

DATE	LOCATION	FIRST PUBLIC NOTICE
January 28, 2010	Trinity County Commissioners Courtroom, Groveton	January 21, 2010
January 28, 2010	Houston Hobby Airport Marriott Hotel, Houston	January 21, 2010.
January 29, 2010	Texas State Technical College, Harlingen	January 21, 2010

**Third Iteration Action Plan Amendment No. 1 Hearings**

DATE	LOCATION	FIRST PUBLIC NOTICE
May 21, 2010	Austin	May 14, 2010
May 26, 2010	Austin	

From April 21, 2010 through April 30, 2010, TDRA and TDHCA held joint leadership briefings throughout the affected regions and Austin to discuss changes to the Action Plan Amendment resulting from the Conciliation Agreement associated with HUD Case Numbers 06-10-0410-8 and 06-10-0410-9. These events took place in Beaumont, Harlingen, Lufkin, Houston and Austin (which included a webinar broadcast). The COGs were responsible for inviting appropriate stakeholders and individuals, which included elected officials, consultants, advocacy organizations and other community organizations.

### **Citizen Participation COG Methods of Distribution**

(Applicable to H-GAC, SETRPC, LRGVDC, DETCOG)

The four Councils of Government (COGs) completed methods of distribution for their respective regional allocations under the second iteration of the Amendment. The four COGs will redraft their methods of distribution under the revised Action Plan Amendment No. 1. The formulation of the regional MODs will be done in accordance with a detailed citizen participation process with the minimum parameters:

- Conduct at least two public hearings in each region;
- Post the draft method of distribution for at least 15 days to allow public comment;
- Post notifications of hearings on the COG website and Texas Secretary of State website;
- Post notice or publish articles in regional newspapers providing specific information about the public hearings; and
- Distribute personal notice to the community, including, but not limited to, elected officials, community organizations, faith-based organizations, housing advocacy groups, cultural groups representing citizens with limited English proficiency, business organizations, housing authorities, and media (multi-language).

## **10. GENERAL INFORMATION**

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### **Application Requirements**

1. Eligible applicants will include cities, counties, and other eligible entities located in the FEMA DR 1780 and FEMA DR 1791, defined areas.
2. TDRA and TDHCA will utilize similar application processes for eligible applicants to complete. The application guides will describe the financial and program requirements necessary to receive funding.
3. Each application, at a minimum, will require applicant name, amount of supplemental funding requested, proposed project activities, relation to Hurricanes Dolly or Ike, projected number of beneficiaries, evidence of local need, national objective, and applicant certifications.
4. Applicants will be allowed to submit to TDRA or TDHCA multifaceted requests for public service, public facility, infrastructure, and economic development or housing activities up to the amount of the established allocation set by the COGs MOD or program maximums.

5. After all applications are determined to be in compliance with the disaster recovery program requirements TDRA and TDHCA will announce grant awards and execute contracts as appropriate for each agency.
6. TDRA and TDHCA will continue oversight of all contract and program requirements and ensure the parameters of the Action Plan Amendment or COG MOD, as appropriate, are followed.

## Match Requirement

The legislation specifically prohibited the use of funds for activities reimbursable by, or for which funds are made available by the Federal Emergency Management Agency or the Army Corps of Engineers” and it provided that “none of the funds...may be used...as a matching requirement, share, or contribution for any other Federal program.” The original Action Plan and Round 1 applications reflected this requirement. Subsequent to the *Federal Register* notice for Round 2 funding, the U.S. Congress, in passing the Consolidated Appropriations Act, 2010 (P.L. 111-117) has now reversed the policy on use of CDBG funds as match for other federal funding. The State will manage transition and implementation of this revised policy.

## 11. GRANT ADMINISTRATION

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### Administrative Costs

Administrative costs will not exceed 5% for State administrative costs or overall limit of 20% for planning and administrative costs. The provisions at 42 U.S.C. 5306(d) and 24 CFR 570.489(a)(1)(i) and (iii) will not apply to the extent that they cap State administration expenditures and require a dollar for dollar match of State funds for administrative costs exceeding \$100,000. Pursuant to 24 CFR 58.34(a)(3), except for applicable requirements of 24 CFR 58.6, administrative and management activities are exempt activities under this Action Plan.

### Action Plan Amendments

If a substantial amendment to the Action Plan is considered, then reasonable notice will be given to citizens and units of general local government to comment on the proposed changes. Consistent with the desire to allocate these funds as quickly as possible, the public comment period will be established as needed. The State’s public comment notification, receipt, and response processes are established as needed to comply with applicable requirements, and may include notice posted on TDRA and TDHCA’s websites. Action Plan amendments that are technical in nature will not require public comment and the Action Plan as revised will be posted on the TDRA and TDHCA websites. For this Amendment reasonable notice was given for each substantive iteration and a comment period was provided and communication paths were maximized (website, public hearings, etc.). The following events would require a substantial amendment to the plan:

- Addition or deletion of any allowable activity described in the plan;
- Change in the allowable beneficiaries; or
- If funds are transferred between regions.

## Contract Term and Amendments

In the interest of expediting the expenditure, utilization, and, where provided for, recovery of program funds, contract terms with entities receiving grant awards will generally be two years or less. Understanding that events beyond the control of the contractor may occur throughout the term of the contract, TDRA and TDHCA will have the ability to grant contract term extensions when a specific circumstance warrants and the applicable program requirements can still be met. Contract amendments within other contract terms and conditions will be considered on a case-by-case basis with consideration of all relevant factors, including the original eligibility requirements of the award and the stated goals and timelines.

In instances where large-scale damage necessitates a massive or multi-faceted recovery process with a long recovery period, such as the devastation of an identified area, the immediate need of safe and sanitary housing on a significant scale, the decimation of an industry, medical facilities, or the destruction of a major public infrastructure system, the complexity and scope of such a scenario shall be considered in the contract term and/or amendment process requested by the grantee.

## Anti-Displacement and Relocation

Grantees must certify that they will minimize displacement of persons or entities and assist any persons or entities displaced in accordance with the Uniform Anti-Displacement and Relocation Act as amended for this appropriation and consistent with law and local policy.

## Citizen Complaints

All grantees must have adopted procedures for dealing with citizen complaints under the Texas Small Cities Non-entitlement CDBG Program or Entitlement programs. Grantees will be required to provide a written response to every citizen complaint within 15 working days of the complaint, subject to extension for good cause. Any such request for extension must be made in writing within such 15 day period.

## Definitions

The definitions set forth in applicable federal law and previously published regulations associated with the CDBG program apply to this funding, except as specifically detailed in a waiver published in the *Federal Register* on August 14, 2009. A glossary of key terms and acronyms can be found in Appendix A.

## Regulatory Requirements

TDRA, TDHCA, grantees and subrecipients must comply with all CDBG program regulations to include but not be limited to fair housing, nondiscrimination, labor standards, and environmental requirements applicable to the CDBG Program.

## Fair Housing

Each grantee/subrecipient will be required to take steps to affirmatively further fair housing. When gathering public input, planning, and implementing housing related activities, grantees will include participation by neighborhood organizations, community development organizations, social service organizations, community housing development organizations, and members of each distinct affected community or neighborhood which might fall into the assistance category of low to moderate income communities. TDRA and TDHCA will require that special emphasis be placed on those communities who both geographically and categorically consist of

individuals who comprise “protected classes” under the Civil Rights Act of 1964 and the Fair Housing Act of 1978 as amended. The efforts will be recorded in an “Affirmative Marketing Plan”. At all times, “Housing Choice” will be an emphasis of program implementation and outreach will be conducted in the predominate language of the region where funds will be spent.

### **Nondiscrimination**

Each grantee/subrecipient will be required to adhere to established policies which ensure that no person be excluded, denied benefits or subjected to discrimination on the basis of race, color, national origin, religion, sex, familial status, and/or physical and mental disability under any program funded in whole or in part by Federal CDBG funds. Grantees will be required to document compliance with all nondiscrimination laws, executive orders, and regulations.

### **Labor Standards**

Each grantee/subrecipient will be required to oversee compliance with Davis-Bacon Labor Standards and related laws and regulations. Regulations require all laborers and mechanics employed by contractors or subcontractors on CDBG funded or CDBG assisted public works construction contracts in excess of \$2,000, or residential construction or rehabilitation projects involving eight or more units be paid wages no less than those prescribed by the Department of Labor and in accordance with Davis Bacon Related Acts.

### **Environmental Review**

Grantees/subrecipients must comply with the 24 CFR Part 58. Specific instructions concerning this process will be made available to all grantees. All grantees will be required to submit the Request for Release of Funds and Certification in the appropriate format regardless of classification. Funds will not be released for expenditure until the State is satisfied the appropriate environmental review has been conducted and acceptable provision has been made for the mitigation of all identified environmental risks.

### **Flood Buyouts**

Disaster recovery grantees/subrecipients have the discretion to pay pre-flood or post-flood values for the acquisition of properties located in a flood way or floodplain. In using CDBG disaster recovery funds for such acquisitions, the grantee must uniformly apply the valuation method it chooses. Flood insurance is mandated for any assistance involving repair or construction within a floodplain. The federal requirements set out for this funding provide further guidance on activities that are to be conducted in a floodplain. The State will provide further guidance regarding work in the floodplain upon request.

### **Homelessness Prevention and Action Steps**

TDHCA’s mission is “to help Texans achieve an improved quality of life through the development of better communities.” TDHCA accomplishes this mission by administering all of its housing and community affairs programs for low to moderate income households. TDHCA programs its funding based on a continuum of housing need – beginning at one end of the spectrum with those who have no home and progressing through rental assistance into homeownership and ultimately homeowner rehabilitation and weatherization activities. Across those programs, a variety of target populations are served including homeless and special needs populations.

## **Actions to Address Emergency Shelter and Transitional Needs of Homeless Individuals and Families**

TDHCA has determined that the CDBG funds it receives specifically for disaster recovery will be used solely to help communities recover from Hurricanes Dolly and Ike and support the State of Texas' long-term disaster recovery. While these funds do not exclude eligibility to homeless individuals or other special needs populations, they are not set-aside specifically for such. TDHCA's other programs address the housing needs of these populations and are outlined below.

One of these programs is the Emergency Shelter Grants Program (ESGP) which directs all of its funds specifically for homeless shelter development or preservation, and emergency rental assistance. ESGP is the primary program used specifically to provide shelter to homeless Texans or those faced with homelessness. Activities eligible for ESGP funding include: the rehabilitation or conversion of buildings for use as emergency shelters for the homeless; providing essential services to the homeless to help with the transition to permanent housing; including costs to provide homeless prevention activities; medical and psychological counseling; assistance obtaining permanent housing; and costs related to maintenance, operation administration, rent, repairs, security, fuel, equipment, insurance, utilities, food and furnishings.

### **Homeless Transition to Permanent Housing and Independent Living**

Another program administered by TDHCA that offers assistance to the homeless and special needs populations is the Section 8 Program. TDHCA acts as the Public Housing Agency (PHA) for specific areas in the state without a local administrator for Section 8 assistance. Section 8 funds provide rental assistance payments on behalf of low-income individuals and families, including special need populations such as the homeless, elderly and persons with disabilities. TDHCA administers approximately 1,000 housing choice vouchers in 31 counties.

For those low-income Texans who have housing, subsidizing or reducing the energy costs may help keep that housing affordable and prevent homelessness. The Comprehensive Energy Assistance Program (CEAP) and Weatherization Assistance Programs are administered by TDHCA and prioritize funds specifically to the elderly, disabled and families with young children.

In addition, other programs not specifically created for homelessness prevention or special needs nevertheless include several activities to address these populations. For instance, the Housing Tax Credit (HTC) Program, the HOME program and the Housing Trust Fund program can all be used to address homeless populations and/or have set-asides for special needs or persons with disabilities. While the HTC Program is well-known and primarily used for the construction, acquisition and/or rehabilitation of new, existing, at-risk and rural housing, the HTC Program can also be used to develop transitional housing and permanent supportive housing for homeless populations. Housing created with credits, bonds or Housing Trust Fund often provides for set asides for persons with special needs, such as persons with disabilities and/or who are homeless. The Housing Trust Fund Program may develop or rehabilitate transitional housing and permanent supportive housing for homeless populations.

In addition, TDHCA works in conjunction with the Texas Interagency Council for the Homeless. The Texas Interagency Council for the Homeless (TICH) was created in 1989 to coordinate the State's homeless resources and services. TICH consists of representatives from all state agencies that serve the homeless. The council receives no funding and has no full-time staff, but receives clerical and advisory support from TDHCA. The TICH gathers information useful to its members in administering programs for the homeless.

TDHCA encourages developers to provide adaptive design or universal access housing, which promotes basic, uniform standards in the design, construction and alteration of structures that include accessibility or simple modification for disabled individuals. Rehabilitation funds provided with HOME or Housing Trust funds may perform minor physical modifications such as extra handrails, grab bars, wheelchair-accessible bathrooms and ramps, thus making existing units livable and providing a cost-effective opportunity for the elderly and people with disabilities. The CEAP, WAP, HOME Program, Housing Trust Fund Program, HTC Program, Multifamily Bond Program and Section 8 Program all have specific measures to address the needs of people with disabilities. Furthermore, the Integrated Housing Rule, as implemented by TDHCA, works to meet the needs of people with disabilities.

It is anticipated that the CDBG Disaster Recovery funds may address the needs of people with disabilities, and homeless, under the programs developed and administered by the Councils of Governments, counties and cities. Programs may also be offered such as those offered in Sabine Pass under the Sabine Pass Restoration Program. The Sabine Pass Program offered homeowners whose households included a person with a disability or an elderly person the opportunity to apply for an additional \$15,000 in assistance for accessibility-related costs associated with elevating the dwelling, replacement or retrofit of inefficient heating and cooling appliances.

## **12. MONITORING TO PREVENT FRAUD, ABUSE OF FUNDS AND DUPLICATION OF BENEFITS**

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TDRA and TDHCA will put into place procedures and use established monitoring processes to ensure compliance with restrictions against duplication of benefits. Grantees and subrecipients are required to certify and put into place procedures to ensure that disaster recovery funds are not supplanting or replacing funds available to the grantee/ subrecipient through FEMA, flood insurance, private insurance, SBA funds, or any other funds, as applicable. Satisfactory fulfillment of this certification is required before an applicant may receive funds for disaster recovery activities. The TDRA 2008 Non-Housing Activities Application Guide and Disaster Recovery Project Implementation Manual contain explicit statements on duplication of benefit restrictions. Applicants for non-housing funds are required to sign a restriction on duplication of benefits checklist for project-specific activities related to direct damage. Applicants received training through application workshops conducted throughout the affected region before applications for Round 1 were accepted and will receive training for Round 2 application submissions. Grantees will receive training on the Implementation Manual as projects continue through their grant cycle. These procedures will ensure there is no duplication of benefits according to the Stafford Act.

The State follows monitoring and audit standards set forth by the CDBG program, OMB and GAO Yellow Book, which will be used for monitoring and oversight of the disaster recovery funds. This includes monitoring compliance with fair housing regulations and LURAs associated with the housing programs further described in Section 8: Eligible and Ineligible Activities. The State will provide technical assistance to recipients from the application stage through the completion of the projects to ensure funds are appropriately used for the intended eligible activities and meet the national objectives. TDRA established standards and procedures for continual quality assurance, including staff and resources to conduct quality assurance activities.

TDRA and TDHCA will monitor all contract expenditures for quality assurance to prevent, detect, and eliminate fraud, waste and abuse as mandated by Executive Order RP 36, signed July 12, 2004, by the Governor. TDRA and TDHCA will particularly emphasize mitigation of fraud, abuse and mismanagement related to accounting, procurement, and accountability which may also be investigated by the State Auditor's Office. In addition, TDRA and TDHCA and the grantees are subject to the Single Audit Act. A "Single Audit" encompasses the review of compliance with program requirements and the proper expenditure of funds by an independent Certified Public Accountant or by the State Auditor's Office. Reports from the State Auditor's Office and Internal Auditors will be sent to the Office of the Governor, the Legislative Audit Committee and to the respective boards of TDRA and TDHCA.

In 2004, Texas Governor Rick Perry issued Executive Order 36. This Order directed State agencies to detect and fight fraud in government. Based on this order, State agencies were to comply with a set of initiatives and directives to prevent, detect, and eliminate fraud, waste and abuse in state government. The directives to the agencies included:

- Designate a contact person for fraud prevention and elimination activities;
- Develop a fraud prevention program based on guidelines issued by the Governor's Office; and
- Review existing rules, policies, organizational structure and statutes to identify changes needed to better detect and fight fraud.

TDRA is cognizant of the need to ensure policies and procedures are in place to help detect and eliminate fraud, waste and abuse in its programs.

The Quality Assurance Program for the Disaster Recovery Division of TDRA will develop and incorporate procedures, work plans and other tools to utilize throughout its monitoring efforts that will assist in reviewing for fraud, waste and abuse as related to the Supplemental Disaster Recovery funding.

The Quality Assurance work plans for review of fraud, waste and abuse will include procedures directed at grantees and vendors, including evaluations of their policies and procedures relating to preventing and detecting fraud, waste and abuse.

Quality Assurance will take into account the guidance on auditing fraud that is provided in the following authoritative publications:

- Statement on Auditing Standards No. 99, Consideration of Fraud
- Government Auditing Standards (The Yellow Book)

TDRA and TDHCA have Internal Audit functions that perform independent internal audits of programs and can perform such audits of these programs and grantees. The TDHCA Internal Auditor reports directly to the TDHCA Governing Board. Similarly, the TDRA Internal Auditor reports directly to the TDRA Governing Board.

TDRA and TDHCA will use an established monitoring process. These procedures will ensure there is no duplication of benefits according to the Stafford Act.

TDRA and TDHCA will monitor the compliance of grantees and vendors, and HUD will monitor TDRA and TDHCA compliance with this requirement. Expenditures may be disallowed if the use of the funds is not an eligible CDBG activity, does not address disaster-related needs directly related Hurricanes Dolly or Ike, or does not meet at least one of the three national CDBG objectives. In such case, the grantee would be required to refund the amount of the grant that was disallowed. In addition and in order to ensure funds are spent promptly, contracts may be terminated if identified timetables/milestones are not met.

These monitoring efforts include:

1. Identifying and tracking program and project activities and ensuring the activities were the result of damage or failure to function as designed from Hurricanes Dolly and Ike.
2. Documenting compliance with Program rules and contractual requirements.
3. Preventing fraud and abuse.
4. Ensuring timely expenditure and reporting of CDBG funds.
5. Ensuring quality workmanship in CDBG funded projects.
6. Identifying technical assistance needs of grantees.
7. Identifying innovative tools and techniques that help satisfy established goals.

The Quality Assurance Plan includes a risk assessment of all disaster recovery projects. The results of the assessment will determine the level of oversight and monitoring of the grant. Other factors include prior CDBG grant administration, audit findings, as well as complexity of the project. TDRA and TDHCA will determine the areas to be monitored, the number of monitoring visits, and their frequency. Monitoring will address compliance with program and contract provisions, including national objectives, financial management, and the requirements of 24 CFR Part 58 ("Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities") or 50 ("Protection and Enforcement of Environmental Quality"). TDRA and TDHCA will utilize checklists similar to those used in monitoring regular CDBG program activities.

TDRA or TDHCA, as applicable, will contract with each grantee as independent contractors who will be required to hold TDRA and TDHCA harmless and indemnify them from any acts of omissions of the contractor. Section 321.022(a) of the Texas Government Code requires that if the administrative head of a department or entity that is subject to audit by the State Auditor has reasonable cause to believe that money received from the State by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity, the administrative head shall report the reason and basis for the belief to the State Auditor. TDRA and TDHCA are responsible for referring suspected fraudulent activities to the State Auditor's Office as soon as is administratively feasible. The State Auditor reports directly to the Texas Legislature.

## **13. PROCUREMENT**

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The State will follow applicable state and federal statutes and regulations for the procurement of goods and services. Any deviations from normal procurement practices will be in compliance with state and federal policies and procedures and will be appropriately documented.

## 14. PROGRAM INCOME

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Any program income earned as a result of activities funded under this grant will be subject to 24 CFR 570.489(e), which defines program income. For all activities, program income generated under individual contracts will be returned to TDRA.

## 15. TIMEFRAME FOR COMPLETION

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TDHCA and TDRA will follow the requirements established by HUD regarding timelines for expenditure of funds. All grants will be in the form of a contract that adheres to the State program time limitations.

## 16. TECHNICAL ASSISTANCE AND CAPACITY BUILDING

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The State will provide technical assistance to grantees requesting assistance in developing applications for funding under this Action Plan. At a minimum, this technical assistance will provide information on: the eligible uses of funds; the application or method of fund distribution; and an explanation of rules and regulations governing the grants funded under the Disaster Recovery Initiative. Technical assistance may take the form of workshops, telecommunication, on-site assistance, written correspondence, or manuals and guidebooks. This will provide for increasing the capacity for implementation and compliance of local government grant recipients, subrecipients, grantees, contractor and other reasonable entities. TDRA has established four field offices with TDRA staff, project management staff, and HNTB staff in Kountze, Weslaco, La Marque, and Nacogdoches.

As it deems necessary, the State may provide for increasing the capacity for implementation and compliance of local governments, subrecipients, contractors and any other entity responsible for administering activities under this grant by providing resources for training in specific skills needed for the program.

## 17. REPORTING FOR PUBLIC PURPOSES

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TDHCA and TDRA shall increase the accountability and transparency for Hurricane Recovery Funds beyond mandatory State and Federal law requirements by posting on their respective websites, or linking to a single website: the *Plan for Disaster Recovery* and all associated amendments; the Statewide Analysis of Impediments to Fair Housing; all final regional methods of distribution; all final program designs; all final program applications; all project status and fund expenditure reports provided to HUD; and reporting data required elsewhere in *Plan for Disaster Recovery* and all associated amendments. For the purposes of this Section, the term "Requestor" refers to parties to the Conciliation Agreement associated with HUD Case Numbers 06-10-0410-8 and 06-10-0410-9.

TDHCA and TDRA shall require each subrecipient/grantee to submit to TDHCA or TDRA, as applicable, all notices of any public hearings or requests for public comment the subrecipient/grantee may have that relates to the administration of Hurricane Recovery Funds that are provided to such subrecipient/grantee. TDHCA and TDRA agree to post on their respective websites, or link to a single website, all such notices that TDRA or TDHCA, as applicable, receives from any such subrecipient/grantee. Such postings will not fulfill the subrecipients'/grantees' public notice responsibilities under Chapter 551 of the Texas Local Government Code.

If TDHCA or TDRA receives a request for information under the Public Information Act that the agency does not possess, then in response to the request for information, the applicable agency will, within ten business days, provide the Requestor with a list of governmental bodies that the agency, reasonably and in good faith, believes may have the information.

In the event of noncompliance by a subrecipient/grantee with the applicable reporting standards of this Amendment or with federal law or regulation governing the administration of Hurricane Recovery Funds, TDHCA and TDRA shall by rule provide for the imposition of progressive sanctions, consistent with the requirements of applicable state and federal law, up to and including a termination of funds to that non-compliant subrecipient/grantee.

## **Reporting on Affirmatively Furthering Fair Housing**

TDHCA and TDRA, by rule, shall establish procedures to collect data relevant to actions to affirmatively further fair housing for any programs and shall require each subrecipient/grantee to collect and report to TDHCA or TDRA, as applicable, on a quarterly basis, data relevant to actions to affirmatively further fair housing and ensure compliance with civil rights certifications. Upon written request of the parties to the Conciliation Agreement associated with HUD Case Numbers 06-10-0410-8 and 06-10-0410-9, and within ten business days, data including but not limited to the following (unless such data cannot be produced within such ten business days, in which case the applicable agency shall certify that fact in writing to the Requestor, and set a date within a reasonable time when the data will be available):

1. For each program activity requirement a direct application by an individual or a non-institutional entity: the applicant a household's income, the household's income as a percentage of area median family income as defined by HUD, the race and ethnicity of the head of the household, the household's familial status, and the presence or non-presence of a household member with a disability.
2. For each non-housing program activity directly linked to an individual beneficiary: the beneficiary household's income and that household's income as a percentage of area median family income as defined by HUD, the race and ethnicity of the beneficiaries using census or survey data.
3. For each activity providing housing or housing assistance that is not directly linked to a specific beneficiary: the cost of the housing unit to the applicant and to the occupant, the maximum qualifying household income as a percentage of area median family income as defined by HUD, restrictions regarding the age or familial status of occupants, the presence or non-presence of design or services that make the housing unit accessible to an individual with a disability, and the number of fully accessible units.
4. For each non-housing activity that is identified as principally benefitting low- and moderate-income persons, a description detailing the methodology used for the determination of the LMI benefit that permits an independent evaluation of that determination, including a detailed geographic description of the households benefited with the census geographies used to make the determination or, if other methodology was utilized to make the determination, a clear and complete description of the methodology and data. This description shall include surveys, survey tabulations, correspondence, sampling methodology, and other material documentation on which TDHCA or TDRA, as applicable, has relied in making its LMI certification.

5. TDHCA and TDRA, as applicable, shall collect and maintain all documents referenced under this Reporting on Affirmatively Furthering Fair Housing subsection until expiration of the Conciliation Agreement associated with HUD Case Numbers 06-10-0410-8 and 06-10-0410-9.
6. Final program applications shall be posted on TDHCA's or TDRA's website, or linked to a single website, as appropriate, from the time of award through a period of six months following the applicable program's closeout.
7. For the purposes of monitoring compliance with this section and applicable law, TDHCA and TDRA agree to provide information to the Requestor as follows:
  - a. TDHCA and TDRA are each state agencies subject to the Texas Public Information Act, Texas Government Code, Chapter 552. Except as provided herein, nothing in this section shall obligate TDHCA or TDRA to provide any information which it may not lawfully provide or is not requirement by law to provide. If any information is requested by that TDHCA or TDRA believes may be excepted from disclosure under the Act, the information may not be withheld unless the procedures and requirements of the Act are followed.
  - b. The Act does not require TDRA or TDHCA to create new documents, information or reports to respond to information requests under the Act. Should such documents, information or reports be requested, TDRA and TDHCA agree to so notify the Requestor within the timeframes established under the Act.
  - c. TDHCA and TDRA shall provide public information requested within ten business days of request, unless the applicable agency seeks an opinion from the Attorney General in good faith under the Act, or unless the information cannot be produced within such ten business days, in which case the applicable agency shall certify that fact in writing to the Requestor, and set a date within a reasonable time when the information will be available.
  - d. To the extent requested information is available in electronic form, TDHCA and TDRA shall provide such information without charge or other fee. TDHCA and TDRA agree to provide such information in the electronic format used by TDHCA and TDRA. TDHCA and TDRA shall, without charge to the parties of the Conciliation Agreement associated with HUD Case Numbers 06-10-0410-8 and 06-10-0410-9, collectively provide up to 10,000 pages of information that is available only in paper form. When information is kept electronically and in paper form, the Requestor may elect the form in which the information is to be provided.
  - e. Within 30 days of the effective date of the Conciliation Agreement associated with HUD Case Numbers 06-10-0410-8 and 06-10-0410-9, TDHCA and TDRA shall provide reports containing all data reported in the HUD Disaster Recovery Grant Reporting System with respect to Hurricanes Ike, Dolly and Rita.

## **18. ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING**

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*Federal Register* Volume 74, Number 29, issued February 13, 2009 requires that the State of Texas has or will conduct an analysis to identify impediments to fair housing choice within the state, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard. The most recent Statewide Analysis of Impediments to Fair Housing (AI) was performed in 2003. TDHCA has been preparing to update this document since 2009. HUD has been in the process of issuing new guidance on the preparation of AIs during the past year and once complete, will allow the State of Texas to complete a new Statewide AI.

Entitlement communities have been responsible for preparing their AIs and submitting them directly to HUD. The Statewide Analysis of Impediments to Fair Housing will better inform the State of short- and long-term community development needs as they relate to fair housing in non-entitlement areas, the findings of which will be integrated into new and existing programs. In addition, the AI will inform future disaster funding allocations and provide the State of Texas (and other states) useful data on how major disaster events can affect fair housing issues.

TDHCA is currently procuring a consultant to develop the Statewide AI. In their interim, TDRA is examining revisions to their standard operating procedures to better document efforts to comply with the requirement to affirmatively further fair housing during this second round of disaster recovery supplemental funding.

## **19. CONSIDERATION OF REQUIREMENTS IMPOSED BY CONCILIATION AGREEMENT**

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A complaint was filed with HUD against the State of Texas on December 1, 2009 alleging violations of the Fair Housing Act (HUD Case No. 06-10-0410-8). The complaint has since been amended to allege discrimination under the CDBG statute (HUD Case No. 06-10-0410-9). In negotiations related to settling the complaint, the complainants require modification of the State's Action Plan Amendment as part of a conciliation agreement. Recently, HUD has clarified that the conciliation agreement and the Action Plan Amendment are independent processes and may follow separate tracts.

The State has included terms of the Conciliation Agreement into this Action Plan Amendment. These are reflected in the body of this document.

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# Texas Plan

## Appendix A – Key Definitions

### KEY DEFINITIONS AND GLOSSARY

Annual State CDBG Program	Direct allocation of CDBG funds to the State of Texas for use in non-entitlement communities statewide. The State of Texas' annual CDBG program is administered by the Office of Rural Community Affairs.
ATCOG	Ark-Tex Council of Governments
BVCOG	Brazos Valley Council of Governments
CBCOG	Coastal Bend Council of Governments
CDBG	Community Development Block Grant program: A flexible program that provides communities with resources to address a wide range of unique community development needs. Beginning in 1974, the CDBG program is one of the longest continuously run programs at HUD. The use of supplemental CDBG funds under this Texas Plan for Disaster Recovery is limited to the counties included in the federal Disaster Declarations (FEMA-1780-DR and FEMA-1791-DR).
CFR	Code of Federal Regulations: The codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject of Federal regulations. Each volume of the CFR is updated once each calendar year and is issued on a quarterly basis.
COG	Council of Government: Texas has 24 designated regional councils of governments (i.e. state planning regions). The regional councils of governments join local governments, as well as state, federal, and private partners to provide cost-effective, better planned, and more accountable public services in each region of Texas. COGs are voluntary associations of local government formed under Texas law.
CTCOG	Central Texas Council of Governments
DBRA	Davis-Bacon and Related Acts (DBRA)
DETCOG	Deep East Texas Council of Governments
DRGR	Disaster Recovery Grant Reporting System: DRGR is a web-based system that is maintained by the HUD Office of Community Planning and Development. DRGR is used by the states to manage and report on Grant, Grantee and Disaster information.
Entitlement Communities	Central cities of Metropolitan Statistical Areas (MSAs) with populations of at least 50,000; and qualified urban counties with a population of 200,000 or more (excluding the populations of entitlement communities) that receive an annual allocation of CDBG funds directly from HUD under the CDBG Entitlement Program.
ESF	Emergency Support Functions: Coordinated by FEMA; under the National Response Framework (NRF), Federal departments and agencies and the American Red Cross are grouped by capabilities and types of expertise, into Emergency Support Functions (ESF) to provide the planning, support, resources, program implementation, and emergency management services that are most likely to be needed during a disaster.
ESF -14	Emergency Support Function #14 Long-term Community Recovery (LTCR): One of the 15 emergency support functions under the National Response Framework (NRF). Responsible for providing interagency coordination and technical assistance support to States and local communities in long-term recovery efforts following large-scale disasters.
ETCOG	East Texas Council of Governments
FEMA	Federal Emergency Management Agency: Agency of the U.S. government tasked with Disaster Mitigation, Preparedness, Response and Recovery planning.
GCRPC	Golden Crescent Regional Planning Commission
Grantee	An eligible community (entitlement or non-entitlement) or entity that is approved to receive and/or administer an allocation of CDBG funds, pursuant to this Action Plan.
H-GAC	Houston-Galveston Area Council (Council of Governments)
HNTB	An engineering, architecture, and planning firm that was hired by TDRA to assist with disaster recovery efforts, initially to work with non-entitlement communities within the 29-



# Texas Plan

## Appendix A – Key Definitions

	county area hardest hit by Hurricane Ike; currently, to manage the non-housing portion of the TDRA disaster recovery effort.
HUD	U.S. Department of Housing and Urban Development: Established the regulations and requirements for the CDBG program and has oversight responsibilities for the use of CDBG funds.
LMI	Low- and Moderate-Income: Family or household earning less than 80 percent of the area median family income. The area median family income can be based on a metropolitan statistical area or a non-metropolitan county median family income figure.
LRGVDC	Lower Rio Grande Valley Development Council (Council of Governments)
MOD	Method of Distribution: A description of the process used in determining the distribution of funds between activities to ensure that the needs to principal recovery activities have been fully considered.
NOFA	Notice of Funding Availability: Notices published by TDHCA that include important information on program priorities, general requirements including eligible applicants, funding levels, and contacts for each federal program.
Non-Entitlement Communities	Small, rural cities with populations generally less than 50,000, and counties that have a non-metropolitan population under 200,000 and are not eligible for direct funding from HUD. Non-entitlement communities apply for CDBG funds from the State CDBG program.
ORCA	The State of Texas Office of Rural Community Affairs. Texas State agency created in 2001 by the 77 <sup>th</sup> Legislature to ensure a continuing focus on rural issues, monitor governmental actions affecting rural Texas, research problems and recommend solutions, and to coordinate rural programs among state agencies. Name was changed to Texas Department of Rural Affairs (TDRA) in 2009.
POOL	Disaster recovery resource money which is put into a fund from which eligible entities compete for available money according to pre-determined competition criteria. The pool was established for this program for the second round of CDBG funding on a competitive basis to the regions that experienced the least amount of damage to allow substantive projects to be executed.
SETRPC	South East Texas Regional Planning Commission (Council of Governments)
STDC	South Texas Development Council
Subrecipient	Cities, Counties, Indian Tribes, local governmental agencies (including COGs), private non-profits (including faith-based organizations), or a for-profit entity authorized under Second. 570.201(o). The definition of Subrecipient does not include procured contractors providing supplies, equipment, construction, or services, and may be further restricted by program rules.
TDHCA	Texas Department of Housing and Community Affairs: Texas state agency acts as a conduit for federal grant funds for housing and community services, ensures compliance with laws that govern housing programs, and a financial and administrative resource that helps provide essential services and affordable housing opportunities to Texans. TDHCA is the agency responsible for housing disaster recovery activities.
TDRA	The Texas Department of Rural Affairs. TDRA is the agency responsible for disaster recovery program administration and non-housing disaster recovery activities. Prior to 2009, TDRA was known as the Office of Rural Community Affairs (ORCA).
Urgent Need	Every CDBG-funded activity must qualify as <i>meeting one of three national objectives</i> . “Urgent Need” is a national objective wherein an activity must be designed to alleviate existing conditions which the local government certifies and state determines: 1) Poses a serious and immediate threat to the health or welfare of the community; 2) Is of recent origin or recently became urgent; 3) The state grant recipient is unable to finance the activity on its own; 4) Other sources of funding are not available to carry out.
U.S.C.	United States Code: A compilation and codification of the general and permanent federal law of the United States.

## ***Appendix B – Certifications***

Certifications for state governments, waiver, and alternative requirement. Section 91.325 of title 24 of the Code of Federal Regulations is waived. Each state must make the following certifications prior to receiving a CDBG disaster recovery grant:

- a. The state certifies that it will affirmatively further fair housing, which means that it has or will conduct an analysis to identify impediments to fair housing choice within the state, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard. (See 24 CFR 570.487(b)(2).)
- b. The state certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan in connection with any activity assisted with funding under the CDBG program.
- c. The state certifies its compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by part 87.
- d. The state certifies that the Action Plan for Disaster Recovery is authorized under state law and that the state, and any entity or entities designated by the state, possess(es) the legal authority to carry out the program for which it is seeking funding, in accordance with applicable HUD regulations and this Notice.
- e. The state certifies that it will comply with the acquisition and relocation requirements of the URA, as amended, and implementing regulations at 49 CFR part 24, except where waivers or alternative requirements are provided for this grant.
- f. The state certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.
- g. The state certifies that it is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 (except as provided for in notices providing waivers and alternative requirements for this grant), and that each unit of general local government that is receiving assistance from the state is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486 (except as provided for in notices providing waivers and alternative requirements for this grant).
- h. The state certifies that it has consulted with affected units of local government in counties designated in covered major disaster declarations in the nonentitlement, entitlement, and tribal areas of the state in determining the method of distribution of funding.
- i. The state certifies that it is complying with each of the following criteria:
  - (1) Funds will be used solely for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in areas covered by a declaration of major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of natural disasters that occurred and were declared in 2008.
  - (2) With respect to activities expected to be assisted with CDBG disaster recovery funds, the Action Plan has been developed so as to give the maximum feasible priority to activities that will benefit low- and moderate-income families.
  - (3) The aggregate use of CDBG disaster recovery funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 50 percent of the amount is expended for activities that benefit such persons during the designated period.
  - (4) The state will not attempt to recover any capital costs of public improvements assisted with CDBG disaster recovery grant funds, by assessing any amount against properties owned and

## ***Appendix B – Certifications***

occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless: (A) disaster recovery grant funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or (B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient CDBG funds (in any form) to comply with the requirements of clause (A).

- j. The state certifies that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the Fair Housing Act (42 U.S.C. 3601-3619) and implementing regulations.
- k. The state certifies that it has and that it will require units of general local government that receive grant funds to certify that they have adopted and are enforcing:
  - (1) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and
  - (2) A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.
- l. The state certifies that each state grant recipient or administering entity has the capacity to carry out disaster recovery activities in a timely manner, or the state has a plan to increase the capacity of any state grant recipient or administering entity who lacks such capacity.
- m. The state certifies that it will not use CDBG disaster recovery funds for any activity in an area delineated as a special flood hazard area in FEMA's most current flood advisory maps, unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain, in accordance with Executive Order 11988 and 24 CFR part 55.
- n. The state certifies that it will comply with applicable laws.

## Appendix C-1 – Public Comment: Notifications

**TO:** All Interested Parties  
**FROM:** Oralia Cardenas, Disaster Recovery Programs Director  
**DATE:** September 10, 2009  
**SUBJECT:** Hurricanes Dolly/Ike Action Plan Amendment for Additional Disaster Funding – Second Comment Period

The Texas Department of Rural Affairs (TDRA), formerly the Office of Rural Community Affairs in cooperation with the Texas Department of Housing and Community Affairs (TDHCA), invites you to an upcoming public hearing (**listed below**) for comments on a **revised** draft amendment for the administration of over \$1.7 billion to the current Action Plan for Disaster Recovery related to the issuance of Community Development Block Grant Funding for Dolly/Ike disaster relief efforts.

These additional public hearings are being held in response to public comments received during our previous hearings. As a result of this feedback, TDRA has revised the proposed Dolly/Ike Action Plan amendment. We again ask that you consider attending one of these meetings and we look forward to gathering additional comments based upon these latest changes to the revised Dolly/Ike Action Plan amendment.

LOCATIONS	HOUSTON	LIVINGSTON	WESLACO
Facility/ Address	Houston Hobby Airport Marriott Hotel 9100 Gulf Freeway (I-45) Houston, Texas 77017	Holiday Inn Express 120 South Point Lane Livingston, Texas 77351	Texas AgriLife Research Center Auditorium Room 102 2415 East Hwy 83 Weslaco, TX 78596
Hearing Date Time	September 17, 2009 9:30 a.m. – 11:30 a.m.	September 17, 2009 4:00 p.m. – 6:00 p.m.	September 18, 2009 10:00 a.m. – 12:00 p.m.

Under the proposed Action Plan amendment TDRA will request HUD's approval of an amendment to the CDBG Dolly/Ike Action Plan disaster relief efforts. TDRA encourages your comments and participation either through attendance at an upcoming public hearing or in writing.

Written comments for the second comment period should be submitted by mail, e-mail, or fax by September 24, 2009 to: Disaster Recovery Division, P.O. Box 17900, Austin, TX 78760-7900  
Fax: 512/936-0356 E-Mail: [dractionplan2comments@tdra.state.tx.us](mailto:dractionplan2comments@tdra.state.tx.us).

Additional information regarding TDRA and a copy of the revised proposed amendment to the Dolly/Ike Action Plan (available after Noon on September 17, 2009) can be found on the web by visiting TDRA's webpage: [www.tdra.state.tx.us](http://www.tdra.state.tx.us).

For more information, please call the Disaster Recovery Division at 512/936-0934 or Toll Free at 888/693-2236.

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[www.tdra.state.tx.us](http://www.tdra.state.tx.us)

Charles S. (Charlie) Stone  
TDRA Executive Director

1700 N. Congress Avenue, Suite 220  
Austin, Texas 78701  
P.O. Box 12877  
Austin, Texas 78711

Agency: 512-936-6701  
Toll Free: 800-544-2042  
Fax: 512-936-6776  
Email: [tdra@tdra.state.tx.us](mailto:tdra@tdra.state.tx.us)

***Appendix C-1 – Public Comment: Notifications***

**Newspaper Public Notices for  
TRDA Hurricanes Dolly/Ike Action Plan Amendment for  
Additional Disaster Funding – Second Comment Period  
Public Hearings on September 17 – 18, 2009**

Placed Public Notice information in the following newspapers on September 15, 2009.  
Beaumont Enterprise, Longview News, Lufkin Daily, Orange Leader, Port Author  
News, Panola Watchman-Cathage\*, The Bryan-College Station Eagle, Trinity,  
Groveton, Polk, Pennysaver, Tyler Morning Telegraph, Texarkana Gazette,  
Brownsville Herald, The McAllen Monitor, Valley Morning Star, Houston Chronicle,  
and Galveston Daily.

NOTE: \*The Panola Watchman-Carthage Public Notice ran on September 16,  
2009.

## **Appendix C-1 – Public Comment: Notifications**

### **REVISED NOTICE**

**TO:** All Interested Parties  
**FROM:** Oralia Cardenas, Director of Disaster Recovery Programs  
**DATE:** December 9, 2009  
**SUBJECT:** Hurricanes Dolly/Ike Action Plan Amendment for Additional Disaster Funding – Regional Pool Competitive Process Criteria Distribution

The Texas Department of Rural Affairs (TDRA), in cooperation with the Texas Department of Housing and Community Affairs (TDHCA), invites you to attend an upcoming public hearing to receive comments on the *Regional Pool Competitive Process Criteria Distribution* for approximately \$24,591,584 in Community Development Block Grant Supplemental Disaster Recovery Funds under the U.S. Department of Housing and Urban Development (HUD), Consolidated Security, Disaster Assistance, and Continuing Appropriation Act of 2009, Public Law 110-329.

Written and oral comments regarding the criteria will be taken at a public hearing scheduled for Tuesday, December 15, 2009 at 10:00 a.m. at the TDRA South Austin Office located at 1340 Airport Commerce Drive, Bldg. 4, Suite 490, Austin, Texas 78741.

A webcast of this event will be available to enable individuals to view and hear this public hearing. Instructions on how to access this webcast can be found on our website at [www.tdra.state.tx.us](http://www.tdra.state.tx.us) (please click on the “Calendar” section on the right side of the home page).

Additional written comments may be submitted to TDRA by mail, fax or email, and must be received by 5:00 p.m. on Tuesday, December 15, 2009. Please send comments to: Chance Sparks, AICP, Senior Program Analyst, at P.O. Box 17900, Austin, TX 78760-7900, via Fax to 512-936-0356 or via e-mail to [chance.sparks@tdra.state.tx.us](mailto:chance.sparks@tdra.state.tx.us).

The draft criteria will be posted on Friday, December 11, 2009 on the agency website [www.tdra.state.tx.us](http://www.tdra.state.tx.us) and will be available for review at the TDRA South Austin Office.

TDRA will provide reasonable accommodations for persons with special needs attending the public hearing. Requests from persons needing special accommodations should be received by TDRA staff 24 hours prior to the function. The public hearing will be conducted in English and requests for interpreters or other special communication needs should be made at least 48 hours prior to the hearing.

For assistance, please contact Chance Sparks at 1-888-693-2236 or [chance.sparks@tdra.state.tx.us](mailto:chance.sparks@tdra.state.tx.us).

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[www.tdra.state.tx.us](http://www.tdra.state.tx.us)

Charles S. (Charlie) Stone  
TDRA Executive Director

1700 N. Congress Avenue, Suite 220  
Austin, Texas 78701  
P.O. Box 12877  
Austin, Texas 78711

Agency: 512-936-6701  
Toll Free: 800-544-2042  
Fax: 512-936-6776  
Email: [tdra@tdra.state.tx.us](mailto:tdra@tdra.state.tx.us)

***Appendix C-1 – Public Comment: Notifications***

**Newspaper Public Notices for  
TRDA Regional Pool Competitive Process Criteria Public  
Hearing on December 15, 2010**

Placed Public Notice information in the following newspapers on the dates detailed.  
Temple Daily (11/10/09), Victoria Advocate (12/09/09), Corpus Christ Caller  
(12/09/09), Texarkana Gazette (12/10/09), The Bryan-College Station Eagle  
(12/10/09), Tyler Morning Telegraph (12/10/09), and Starr County Crier 12/09/09)

**Newspaper Public Notices for  
TRDA Health Care Public Hearing on  
December 17, 2010**

Placed Public Notice information in the following newspapers on December 14, 2009.  
Beaumont Enterprise, Longview News, Lufkin Daily, Orange Leader, Port Author  
News, The Bryan-College Station Eagle, Tyler Morning Telegraph, Texarkana Gazette,  
Brownsville Herald, The McAllen Monitor, Valley Morning Star, Houston Chronicle,  
Temple Telegram, Corpus Christi Caller, Victoria Advocate, Staff County Crier and  
Galveston Daily.

## ***Appendix C-1 – Public Comment: Notifications***

### **December 17, 2009 Public Hearing Notice**

The Texas Department of Rural Affairs (TDRA) and the Texas Department of Housing and Community Affairs (TDHCA) invites you to attend an upcoming public hearing to receive comments on the Criteria for the Affordable Rental Housing Program related to Round 2 Funding for Hurricane Ike Activities.

#### **English Version**

The Texas Department of Rural Affairs (TDRA) and the Texas Department of Housing and Community Affairs (TDHCA) invites you to attend an upcoming public hearing to receive comments on the Criteria for the Affordable Rental Housing Program related to Round 2 Funding for Hurricane Ike Activities for no less than \$174,00,000 in Community Development Block Grant Supplemental Disaster Recovery Funds under the U.S. Department of Housing and Urban Development (HUD), Consolidated Security, Disaster Assistance, and Continuing Appropriation Act of 2009, Public Law 110-329.

Written and oral comments regarding the criteria will be taken at a public hearing scheduled for Thursday, December 17, 2009 at 10:00 a.m. at the TDRA South Austin Office located at 1340 Airport Commerce Drive, Bldg. 4, Suite 490, Austin, Texas 78741.

A webcast of this event will be available to enable individuals to view and hear this public hearing. Instructions on how to access this webcast can be found on TDRA's website at [www.tdra.state.tx.us](http://www.tdra.state.tx.us) (please click on the "Calendar" section on the right side of the home page).

Additional written comments may be submitted to TDRA by mail, fax or email, and must be received by 5:00 p.m. on Monday, December 21, 2009. Please send comments to: Chance Sparks, AICP, Senior Program Analyst, at P.O. Box 17900, Austin, TX 78760-7900, via Fax to 512-936-0356 or via e-mail to [chance.sparks@tdra.state.tx.us](mailto:chance.sparks@tdra.state.tx.us).

The draft criteria will be posted today, December 14, 2009 on [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) and will also be available for review at the TDRA South Austin Office.

TDRA will provide reasonable accommodations for persons with special needs attending the public hearing. Requests from persons needing special accommodations should be received by TDRA staff 24 hours prior to the function. The public hearing will be conducted in English and requests for interpreters or other special communication needs should be made at least 48 hours prior to the hearing.

For assistance, please contact Chance Sparks at 1-888-693-2236 or [chance.sparks@tdra.state.tx.us](mailto:chance.sparks@tdra.state.tx.us).

#### **Spanish Version**

El Departamento de Asuntos Rurales de Texas (TDRA) y el Departamento de Vivienda y Asuntos Comunitarios de Texas (TDHCA) lo invitan a participar de la próxima audiencia pública con el propósito de recibir sus comentarios acerca de los Criterios del Programa de Alquiler Accesible en relación con la Segunda Ronda de Financiación por las Actividades del Huracán Ike por no menos de \$174,00 en Subsidios Complementarios para la Recuperación en caso de Desastre para el Desarrollo Comunitario de

## **Appendix C-1 – Public Comment: Notifications**

acuerdo con el Departamento de Vivienda y Desarrollo Urbano (HUD), la Ley de Seguridad consolidada, asistencia en caso de desastres y asignación continuada del año 2009, Ley de Derecho Público 110-329.

Se recibirán comentarios escritos y verbales respecto de estos criterios en una audiencia pública programada para el día jueves 17 de diciembre de 2009, a las 10 a.m., en la Oficina de South Austin del TDRA, cuyo domicilio es 1340 Airport Commerce Drive, Bldg. 4, Suite 490, Austin, Texas 78741.

Una transmisión vía Internet de este evento estará disponible para que todos puedan ver y escuchar esta audiencia pública. Las instrucciones sobre cómo acceder a esta retransmisión vía Internet se encuentran en el sitio en Internet de TDRA [www.tdra.state.tx.us](http://www.tdra.state.tx.us) (haga clic en la sección “Calendar” (calendario) del lado derecho de la página principal).

Puede presentar comentarios adicionales por correo postal, fax o e-mail en TDRA hasta las 5 p.m. del lunes, 21 de diciembre de 2009. Envíe sus comentarios a: Chance Sparks, AICP, Senior Program Analyst, P.O. Box 17900, Austin, TX 78760-7900, Fax (512-936-0356) o e-mail [chance.sparks@tdra.state.tx.us](mailto:chance.sparks@tdra.state.tx.us).

El borrador de los criterios se publicarán hoy, 14 de diciembre de 2009 en [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) y también estarán disponibles para su revisión en la Oficina de South Austin del TDRA.

TDRA ofrecerá facilidades razonables para personas con necesidades especiales que asistan a la audiencia pública. El personal de TDRA recibirá solicitudes de personas que necesiten facilidades especiales 24 horas antes de la audiencia. La audiencia pública se llevará a cabo en idioma inglés y las solicitudes de intérpretes y de otras necesidades especiales de comunicación deberán presentarse al menos 48 horas antes de la misma.

Para recibir ayuda, comuníquese con Chance Sparks al 1-888-693-2236 o [chance.sparks@tdra.state.tx.us](mailto:chance.sparks@tdra.state.tx.us).

### **Vietnamese Version**

Phòng Giao dịch Cộng đồng Nông thôn (TDRA) và Sở Giao dịch Nhà ở & Cộng đồng Texas (TDHCA) mời bạn tham dự buổi chất vấn công khai sắp tới để thu thập các nhận xét về Tiêu chuẩn cho Chương trình Nhà cho thuê giá rẻ liên quan đến việc Phân bổ đợt 2 về các Hoạt động bão Ike cho không dưới 174.000.000 đô la từ Quỹ Khắc phục Thiên tai Bổ sung thuộc Trợ cấp Gói Phát triển Cộng đồng dưới sự quản lý của Bộ Nhà ở & Phát triển Đô thị (HUD) Hoa Kỳ căn cứ vào Bộ Luật An sinh thống nhất, Hỗ trợ thiên tai & Tiếp tục phân bổ ngân sách năm 2009, Luật công 110-329.

Các nhận xét bằng miệng và bằng văn bản về các tiêu chuẩn sẽ được đưa ra tại buổi chất vấn công khai dự kiến diễn ra lúc 10 giờ sáng Thứ Năm, ngày 12/17/2009 tại Văn phòng TDRA Nam Austin ở số 1340 Airport Commerce Drive, Bldg. 4, Suite 490, Austin, Texas 78741.

Sự kiện này sẽ được truyền trực tiếp trên web để mọi người đều có thể xem và nghe được buổi chất vấn công khai. Các hướng dẫn về cách truy cập sự kiện web này có ở trang web của TDRA tại địa chỉ [www.tdra.state.tx.us](http://www.tdra.state.tx.us) (vui lòng click mục “Calendar” ở bên phải trang chủ).

Bạn có thể gửi các nhận xét bổ sung bằng văn bản cho TDRA qua đường bưu điện, email hoặc fax và chúng tôi phải nhận được trước 5 giờ chiều Thứ Hai, ngày 12/21/2009. Các nhận xét xin gửi về: Chance

## **Appendix C-1 – Public Comment: Notifications**

Sparks, AICP, Chuyên gia phân tích chương trình cấp cao, qua P.O. Box 17900, Austin, TX 78760-7900, qua fax đến số 512-936-0356 hoặc qua email đến địa chỉ [chance.sparks@tdra.state.tx.us](mailto:chance.sparks@tdra.state.tx.us).

Các tiêu chuẩn dự thảo sẽ được đăng tải vào hôm nay, ngày 12/14/2009 trên trang web [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) và cũng có sẵn để bạn xem xét tại Văn phòng TDRA Nam Austin.

TDRA sẽ sắp xếp chỗ ngồi phù hợp cho những ai có nhu cầu đặc biệt đến tham dự buổi chất vấn. Những người muốn sắp xếp chỗ ngồi đặc biệt phải gửi yêu cầu cho nhân viên của TDRA 24 tiếng trước khi diễn ra buổi chất vấn. Buổi chất vấn công khai sẽ sử dụng tiếng Anh và yêu cầu về thông dịch viên hoặc các yêu cầu giao tiếp đặc biệt khác phải được gửi cho chúng tôi 48 tiếng trước khi diễn ra buổi chất vấn.

Để được hỗ trợ, vui lòng liên hệ với Chance Sparks qua số điện thoại 1-888-693-2236 hoặc email [chance.sparks@tdra.state.tx.us](mailto:chance.sparks@tdra.state.tx.us).

## **Appendix C-1 – Public Comment: Notifications**

### **REVISED NOTICE**

**TO:** All Interested Parties  
**FROM:** Oralia Cardenas, Director of Disaster Recovery Programs  
**DATE:** December 9, 2009  
**SUBJECT:** Hurricanes Dolly/Ike Action Plan Amendment for Additional Disaster Funding – Healthcare Recovery Competitive Process Criteria Distribution

The Texas Department of Rural Affairs (TDRA), in cooperation with the Texas Department of Housing and Community Affairs (TDHCA), invites you to attend an upcoming public hearing to receive comments on the *Healthcare Recovery Competitive Process Criteria Distribution* for approximately \$17,430,012 in Community Development Block Grant Supplemental Disaster Recovery Funds under the U.S. Department of Housing and Urban Development (HUD), Consolidated Security, Disaster Assistance, and Continuing Appropriation Act of 2009, Public Law 110-329.

Written and oral comments regarding the criteria will be taken at a public hearing scheduled for Thursday, December 17, 2009 at 10:00 a.m. at the TDRA South Austin Office located at 1340 Airport Commerce Drive, Bldg. 4, Suite 490, Austin, Texas 78741.

A webcast of this event will be available to enable individuals to view and hear this public hearing. Instructions on how to access this webcast can be found on our website at [www.tdra.state.tx.us](http://www.tdra.state.tx.us) (please click on the “Calendar” section on the right side of the home page).

Additional written comments may be submitted to TDRA by mail, fax or email, and must be received by 5:00 p.m. on Monday, December 21, 2009. Please send comments to: Chance Sparks, AICP, Senior Program Analyst, at P.O. Box 17900, Austin, TX 78760-7900, via Fax to 512-936-0356 or via e-mail to [chance.sparks@tdra.state.tx.us](mailto:chance.sparks@tdra.state.tx.us).

The draft criteria will be posted on or before Monday, December 14, 2009 on the agency website [www.tdra.state.tx.us](http://www.tdra.state.tx.us) and will be available for review at the TDRA South Austin Office.

TDRA will provide reasonable accommodations for persons with special needs attending the public hearing. Requests from persons needing special accommodations should be received by TDRA staff 24 hours prior to the function. The public hearing will be conducted in English and requests for interpreters or other special communication needs should be made at least 48 hours prior to the hearing.

For assistance, please contact Chance Sparks at 1-888-693-2236 or [chance.sparks@tdra.state.tx.us](mailto:chance.sparks@tdra.state.tx.us)

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[www.tdra.state.tx.us](http://www.tdra.state.tx.us)

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## ***Appendix C-2 – Public Comment: Initial Five Hearings***

### **DEPARTMENTS' RESPONSE TO PUBLIC COMMENT**

#### **First five public hearings – Outline for Initial Action Plan Amendment**

The hurricane season of 2008 severely impacted the Texas Gulf Coast with three hurricanes and a tropical storm. The most serious of these were Hurricane Dolly hitting South Texas in July and Hurricane Ike striking the upper coast in September.

Initial damage estimates, as of December 1, 2008, provided by the Federal Emergency Management Agency (FEMA) became the basis for allocation of an initial round of Community Development Block Grant (CDBG) Disaster Recovery Supplemental funds in the amount of \$1,314,990,193. Availability of that initial round of CDBG Disaster Recovery funding (Round 1) and designation of the affected area (see Appendix- A-2) for these two events was published in the *Federal Register* on February 13, 2009.

Those funds were released by the U.S. Department of Housing and Urban Development (HUD) with approval of the *State of Texas Plan for Disaster Recovery* (referred to as the Action Plan) on May 14, 2009, July 2, 2009 and July 24, 2009 as the regional and county level Methods of Distribution (MODs) were finalized by local officials.

The announcement of a second round (\$1,743,001,247) of CDBG Disaster Recovery Supplemental funding (Round 2) on June 10, 2009 required the submission of an amendment to the initial Action Plan. As promised in the initial Action Plan, the amendment allowed for “mid course adjustments”. The amendment utilized the latest information available about the event, addressed unmet needs and complimented the more locally driven first round of funding, which was designed to accommodate the more immediate needs of communities.

New elements key to the Round 2 allocation of funds include:

- Making 50% of the funds available for housing needs;
- Prioritizing projects that meet the low to moderate income (LMI) national objective;
- Inclusion of allocations for targeted activities including generators, medical facilities and economic development to provide for a broader approach to recovery;
- Creation of a Recovery Enhancement Pilot Project Program to promote sustainable planned recovery efforts in accordance with HUD priorities;
- Utilization of a competitive funding pool for areas less impacted by the storms to maximize the use of funds for high priority need in the areas most impacted by the disaster; and,

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- Development of program criteria that encourages long-term strategies for reducing the risk of damage from future natural disasters.

These features will complement and enhance the locally determined allocation process first used in Round 1 and incorporated in this proposal for infrastructure and housing funds in the most severely impacted regions.

Availability of the Round 2 funding was published in the Federal Register /Vol. 74, No. 156 on Friday, August 14, 2009.

On August 7, 2009, an announcement describing the public comment period and the schedule for five public hearings was electronically mailed to over 790 addresses on ORCA's notification list, which included County Commissioners, County Judges, Mayors, City Managers, City Council members, Council of Government (COG) Directors, consultants and engineers from the affected areas and other interested parties. Comments and participation were encouraged either through attendance at one of the public hearings or in writing. Hearing notices, in English, Spanish and Vietnamese were published on the Departments' websites. The public comment period for the amended document ran from August 7, 2009 through September 14, 2009.

On September 1, 2009, during the comment period, the Office of Rural Community Affairs (ORCA) officially incurred a name change. The agency became the Texas Department of Rural Affairs (TDRA) and will hereinafter be referred to as such.

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The locations, addresses, dates, and number of attendees at the public hearings are listed below:

<b>LOCATIONS</b>	<b>WESLACO</b>	<b>GALVESTON</b>	<b>HOUSTON</b>	<b>BEAUMONT</b>	<b>TRINITY COUNTY</b>
<b>Facility/ Address</b>	Texas AgriLife Research Center Auditorium Room 102 2415 East Hwy 83, Weslaco, TX 78596	Galveston County Commissioners Courtroom 722 Moody (1 <sup>st</sup> floor) Galveston, TX 77550	Houston City Hall Annex Public Level Chamber 900 Bagby Houston, Texas 77002	Southeast Texas Regional Planning Commission 900 Bagby Homer E. Nagel Meeting Room 2210 Eastex Fwy Beaumont, Texas 77002	Trinity County Commissioners Courtroom 219 West First Street, Groveton, TX 75845
<b>Hearing Date Time</b>	August 13, 2009 9:00 a.m. – 11:00 a.m.	August 18, 2009 6:00 p.m. – 8:00 p.m.	August 19, 2009 10:00 a.m. – 12:00 p.m.	August 31, 2009 2:00 p.m. – 4:00 p.m.	September 1, 2009 10:00 a.m. – 12:00 p.m.
<b>Number of Attendees</b>	59	68	46	104	52

All hearing locations were fully accessible to persons with disabilities. The hearing announcements included information on accessibility requests for individuals requiring an interpreter, auxiliary aids, or other services. Additionally, staff attending the hearings spoke both English and Spanish.

During the comment period, TDRA, in cooperation with the Texas Department of Housing and Community Affairs (TDHCA), accepted comment on the administration of the distribution of funding. All restrictions and requirements stated in the original Action Plan are proposed to remain in effect over the second round of funding unless required to be modified to comply with guidance for Round 2 funding and/or otherwise specifically modified by the Action Plan Amendment.

In addition, the public hearings and comment period provided an opportunity to obtain local input regarding HUD's establishment of the "*Disaster Recovery Enhancement Fund*" as a matching grant to encourage States to undertake long-term disaster strategies that focus on reducing the risk of damage from future natural disasters. Based upon HUD press releases, second round funds expended on specified activities that promote planning and hardening facilities to withstand future hurricane events and encourage sustainable development practices could be leveraged to secure additional recovery funds under this initiative. These projects may include:

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- Buyout payments for homeowners living in high-risk areas;
- Optional relocation payments to encourage residents to move to safer locations;
- Home improvement grants to reduce damage risks (property elevation, reinforced garage doors and windows, etc.);
- Improving and enforcing building codes; and,
- Developing forward-thinking land-use plans that reduce development in high-risk areas;

As with the initial funding, Round 2 funding will include communities impacted by Hurricanes Dolly and Ike (see Appendix- A-2).

The following is a summary of the comments received as well as the Departments' response. Comments are arranged and answered by subject, and each comment is individually numbered. At the end of this section, there is a table that includes information for each individual making comment. In general, housing-related comments were addressed by TDHCA and non-housing comments were addressed by TDRA. The primary responding Department is also listed with the comment responses.

For more information on the public comments received on this document, or for copies of the original comments, please contact Dan Robertson, TDRA Disaster Recovery Information Officer, at (512) 936-0433.

## **Appendix C-2 – Public Comment: Initial Five Hearings**

### **Comment #1: Use of Round 1 Competitive Data**

Commenter inquired if competitive data compiled for the Round 1 allocation could be used for Round 2. Another commenter stated that many projects identified, but not funded, in Round 1 could be quickly selected for Round 2.

#### **Staff Response:**

*TDRA*

*No local competitions or county level MODs will be allowed in the development of regional MODs and there may be LMI requirements in the MOD development guidance.*

### **Comment #2: Construction procurement for housing funds**

Commenter inquired about how to obtain construction funding for housing.

#### **Staff Response:**

*TDHCA*

*Under the Round 1 allocation, the COG, the city or the county are administering the housing program and will have procurement processes established for builders and contractors. Builders and contractors should contact the local municipality, the local government, the city or the county that is administering the housing funds locally for their procurement rules and procedures.*

### **Comment #3: Recommended use of unutilized housing allocation for Round 2**

Commenter recommended that funds not utilized by the housing component go directly into the non-housing allocation, and not into pilot programs or competitive funds.

#### **Staff Response:**

*TDRA*

*The Action Plan Amendment has been changed to only provide recommended housing and non-housing allocations, but regions will be allowed to move funds between housing and non-housing interchangeably in the development of MODs using objective criteria that indicate such a need. Unutilized funds will remain in the region until all eligible activities are complete.*

### **Comment #4: Recommended use of pilot project funds**

Commenter recommended that the four regional councils that received the most damage each receive at least one grant application funded through the pilot program in order to ensure equity in the distribution of

## ***Appendix C-2 – Public Comment: Initial Five Hearings***

those funds. Another commenter suggested that the state substantially reduce the state-level set-aside for recovery enhancement pilot projects in order to minimize the impact of revising the draft action on the regions.

**Staff Response:**

***TDRA***

*The Recovery Enhancement Pilot Project Program state set-aside has been removed from the amendment.*

**Comment #5: Importance of local determinations for funding**

Commenters stated that final allocations should be based on information provided through local input as was the case with the Round 1 funding. One commenter stated that the governor has expressed support for local determination of need for disaster funding on several occasions and suggested that TDRA and TDHCA should follow that guidance.

**Staff Response:**

***TDRA***

*Allocations in Round 1 were allocated at the State level using FEMA damage assessments as of 12/1/08. TDRA has revised the amended plan to provide for local determination and has provided more local control to the impacted regions.*

***TDHCA***

*TDHCA agrees and looks forward to assisting in the building of its relationships with its subrecipients.*

**Comment #6: Need for more detail relating to the pilot project and competitive processes**

Commenter indicated a need for more detail on eligible projects for both the pilot project and the competitive categories to ensure that good, effective projects and applications are selected.

**Staff Response:**

***TDRA***

*The State's Recovery Enhancement Pilot Project Program has been removed from the amendment. Competitive program categories will be further defined in program application guidance.*

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### **Comment #7: Recommendation that Pilot Project Funds not come only from non-housing**

Commenter recommended that Pilot Project Funds should be divided between housing and non-housing, citing that many housing damage issues arose from drainage failures and flooding.

#### **Staff Response:**

*TDRA*

*The Recovery Enhancement Pilot Project Program has been removed from the amendment.*

### **Comment #8: Method of Distribution availability**

Commenter inquired as to when the Method of Distribution would be prepared and available.

#### **Staff Response:**

*TDRA*

*MOD guidance will be provided to the COGs following submission of the Action Plan Amendment to HUD for approval.*

### **Comment #9: 50-50 Housing/Non-Housing Split**

Commenter asked if the 50-50 Housing/Non-Housing split was a HUD requirement or a State decision. A second commenter urged the State to reconsider the split percentage citing that repairs to flood damaged homes would be fruitless if the cause for flooding is not addressed. Other commenters indicated that discussions with local officials suggest that the need for non-housing is far greater than the need for housing. Other commenters stressed the need for housing for those who lost their homes and supported the 50-50 split.

#### **Staff Response:**

*TDRA*

*The Action Plan Amendment has been changed to only provide recommended housing and non-housing allocations, but regions will be allowed to move funds between housing and non-housing interchangeably in the development of MODs using objective criteria that indicated such a need.*

### **Comment #10: Housing benefits involving non-U.S. citizens**

Commenter inquired if the State would make an exception or request a waiver from HUD in instances where potential housing beneficiaries were not U.S. citizens.

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### **Staff Response:**

#### ***TDHCA***

*TDHCA will ensure that subrecipients operating and administering these programs conform to applicable federal and state laws and other legal and regulatory requirements in accordance with guidance received from HUD. At present, HUD has not released guidance that requires a denial of benefits based solely on citizenship.*

### **Comment #11: Portable generators**

Commenters cited instances where fixed generators would be destroyed or incapacitated by surge or salt water and requested that the State consider portable generators as an eligible expense or request such a waiver from HUD.

### **Staff Response:**

#### ***TDRA***

*Guidance from HUD says that portable generators are equipment which is ineligible for CDBG funding. However, permanent hookups for portable generators would be eligible with the requirement that the community provide evidence that they own or have funding available to purchase the corresponding equipment.*

### **Comment #12: Rental housing stock for the Valley**

Commenter requested that Valley communities be allowed to develop rental housing stock.

### **Staff Response:**

#### ***TDHCA***

*There is a statutory requirement that at least \$342,521,992 of the total grant amount be used for the rehabilitation or replacement of affordable rental housing stock that was damaged by the disaster event. TDHCA will set-aside funding for a state administered affordable rental housing program and local jurisdictions may also set-aside funds for rental activities to be administered locally. To the extent that the local method of distribution identifies expanded need and the identified subrecipient wishes to provide additional stock, TDHCA is willing to cooperate with the COG, the subrecipient, and TDRA to seek any necessary waivers to facilitate that local request should they be needed. It is important to note that affordable rental stock includes not only multifamily rental but single family rental as well. Consequently, the amount of affordable housing stock in need of replacement may be appreciable.*

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### **Comment #13: Flooding on Expressway 83 in the Valley**

Commenter stated that, during Hurricane Dolly, Expressway 83 connecting east and west was flooded leaving many citizens stranded. Commenter continued that, unless action is taken to resolve the issue, similar problems will recur in future flooding events.

#### **Staff Response:**

*TDRA*

*The failure to function of Expressway 83 during the Hurricane Dolly event likely represents an eligible expense for the current funding subject to the regional MODs.*

### **Comment #14: Street and drainage problems in Rio Hondo**

Commenter stated that due to extensive rains and drainage problems during Hurricane Dolly, the street sub-base in Rio Hondo was damaged. Because the community was unaware of the problem, they did not apply for FEMA funding.

#### **Staff Response:**

*TDRA*

*Hurricane Dolly related street sub-base damage is likely an eligible expense for the CDBG funding subject to the regional MODs. As for the community's application for FEMA funding, there are specific criteria related to FEMA funding including eligibility, identification of damages within a specific time period, and proving that damages are a direct result of a specific disaster. A community should apply for assistance and at least get an official denial or acceptance. CDBG funds cannot be used for projects that FEMA would have funded. Failure to apply for FEMA funding does not make a project eligible for CDBG.*

### **Comment #15: Generator issues in Rio Hondo**

Commenter indicated that Rio Hondo is currently in noncompliance with Texas Commission on Environmental Quality (TCEQ) due to generator needs in the city. Commenter inquired if a generator already ordered would be eligible for funding.

#### **Staff Response:**

*TDRA*

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*All CDBG compliance requirements, including environmental release of funds, and approved procurement method, would have had to have been satisfied in order for the referenced generator to be eligible for reimbursement as an allowed pre-agreement cost. This generator would also need to be eligible for funding by the MOD that will be adopted by the region. All eligibility must meet the damage or failure to function requirements as a result of Hurricanes Dolly or Ike.*

### **Comment #16: Eligibility questions for non-housing**

Commenters urged that funding eligibility be offered to water districts, river authorities, non-profit utilities and other services providers. Another commenter inquired if non-profit hospitals would be eligible.

Another commenter recommended that private utility infrastructure applicants be made eligible and that allocations for these applicants be selected via competitive process and made directly to the utility. Commenter further urged that TDRA request any necessary waivers in order to ensure eligibility of such applicants.

#### **Staff Response:**

*TDRA*

*A city or county must apply on behalf of the particular project unless it is specifically identified in the appropriate MOD.*

### **Comment #17: Administration of Round 2 housing funds**

Commenters recommended that TDHCA allow all Round 1 recipients to administer Round 2 housing funds in order to avoid having separate organizations providing services in the same jurisdiction and causing confusion among recipients.

#### **Staff Response:**

*TDHCA*

*TDHCA agrees and looks forward to assisting in the building of its relationships with these subrecipients.*

### **Comment #18: Elimination or reduction of the set aside program funding/projects**

Commenter urged the elimination or reduction of the set aside program funding and projects stating that local governments are highly experienced in purchasing generators and do not require a separate generator program.

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### **Staff Response:**

#### ***TDRA***

*The State’s Recovery Enhancement Pilot Project Program has been removed from the amendment. The generator and economic development specific non-housing activities have been rolled into the regional general non-housing allocations. The Quick Start Generator Program is a voluntary program that communities can participate in if they meet minimum requirements. It is designed to focus on communities that need the types and sizes of generators that might allow for bulk purchasing. Communities that do not participate in the Quick Start Generator Program by choice or by eligibility are still capable of using grant funds for generator projects. The generator program set asides have been “rolled” into the General Non-housing allocation for distribution by the COGs in their MOD process.*

### **Comment #19: Recommendations for economic development funding**

Commenters recommended that the economic development set-asides include program options such as public infrastructure for existing economic zones, business districts and industrial areas, property acquisition and redevelopment, including Brownfield redevelopment, business retention incentives, infrastructure improvements and targeted job training for impacted communities. Regarding revolving loan funds, a commenter asked if those funds would remain with the COG once the loan is repaid.

### **Staff Response:**

#### ***TDRA***

*Eligible economic development activities for Round 2 funding will include revolving loan funds that return program income to the state within six years or less, deferred forgivable loan programs, façade improvement programs and job training programs. No other economic development activities are eligible from these funds, such as but not limited to incentive programs and relocation payments.*

### **Comment #20: Concerns about the use of physical impact data for allocation decisions**

Commenters suggested that the use of an allocation model that considers people, buildings, businesses, and economic impacts to communities would be more appropriate than an allocation model that considers wind speed, storm surge and rainfall. Commenters further noted that the scoring factors used in the model

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do not correlate to any established scale, such as the Saffir-Simpson Wind Scale. Another commenter indicated that more emphasis should be placed on the surge damage.

### **Staff Response:**

#### ***TDRA***

*The allocation model has been changed to weight surge highest in the model and add a factor for LMI population by county.*

### **Comment #21: Low and moderate income requirement comments**

Commenters pointed out that projects that benefit an entire community, such as water or sewer system improvements, may not be able to specify LMI beneficiaries, but may well benefit many LMI citizens by default.

Another commenter indicated that, based on many of the projects already approved for certain east Texas communities in Round 1, the LMI requirement may not be difficult to achieve.

Another commenter stated that the community of League City had received a waiver from HUD reducing the LMI requirement to 37% and inquired if that community would be eligible under those criteria to apply for Round 2 funds.

Another commenter stressed that many of the affected areas rely on the petrochemical industry and, as such, experience economic fluctuations that may change the LMI statistics at any given time. Commenter continued that many citizens in the area have lost their jobs since the hurricane event, also changing the LMI statistics.

Another commenter requested final LMI data from the Round 1 funding.

Another commenter stated that 2000 census data was viewed by many to be flawed at the time it was created and that the demographics of the state have changed considerably since that time. Commenter continued that use of 2000 census data to determine LMI is especially dated nine years later.

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### **Staff Response:**

#### ***TDRA***

*HUD has granted the State a waiver that reduces the LMI aggregate requirement from 70% in the regular program to 50% for the Supplemental CDBG allocation in this Action Plan. The State must meet this aggregate requirement for the entire allocation or return funds to HUD. TDRA and TDHCA are designing the Round 2 programs to ensure the State meets the 50% LMI requirement.*

*Round 1 LMI data is still being calculated as the non-housing awards are being made. A program can meet the LMI national objective by either using census data or, where census data is not reflective of current beneficiaries, a survey can be done using TDRA approved procedures.*

### **Comment #22: Grant Administrator requirements**

Commenter inquired if a community could self-administer or if they are required to use an outside source.

### **Staff Response:**

#### ***TDRA***

*All communities are eligible to self-administer their non-housing projects. TDRA will provide any technical assistance the community needs.*

#### ***TDHCA***

*For housing activities, subrecipients will have the option of self-administering or procuring a grant administrator firm.*

### **Comment #23: Concerns about funding for unincorporated areas**

Commenter indicated that funding for unincorporated areas is often delayed to the point where citizens of those communities feel forgotten and neglected. Commenter urged that funding be handled expediently so that such communities receive benefit and are able to harden their systems and prepare for future storm events.

### **Staff Response:**

#### ***TDRA***

*While allocation of these types of funds might seem cumbersome and slow to those needing assistance, every effort is being made to expedite the funding by the most efficient, effective and beneficial means possible. TDRA urges all unincorporated areas to maintain constant*

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*communication with their local county government to insure that their concerns are being addressed.*

### **Comment #24: Need for simple applications for housing funding**

Commenter stated that long, intricate applications are difficult and cause frustration for potential recipients and suggested that simple applications, like the Housing Jumpstart Program used in Iowa, Mississippi and Alabama can be just as effective. Another commenter expressed confusion with the TDHCA forms and requested clarification.

#### **Staff Response:**

##### ***TDHCA***

*TDHCA remains fully open and receptive to input to simplify any and all forms and processes in a manner that ensures program compliance and facilitates and expedites recovery. A public workgroup with subrecipients should be held to pursue this very worthwhile objective.*

### **Comment #25: Need for a more rapid response with TDHCA housing guidelines**

Commenter indicated that six months have passed since the money was approved at the COG level for TDHCA assistance and citizens are still waiting for clarification on eligibility guidelines and how to qualify.

#### **Staff Response:**

##### ***TDHCA***

*The State's Action Plan for Round 1 placed responsibility for developing these criteria chiefly with the local subrecipients. TDHCA is working as closely as possible to help local subrecipients expedite assistance. Under Round 2, the draft Action Plan seeks the establishment of basic eligibility criteria and processes that will allow individual subrecipients to provide funding with greater uniformity and speed.*

### **Comment #26: Infrastructure needs in the City of Galveston**

Commenter stated that latent defects caused by Hurricane Ike damage continue to plague Galveston and cited an example wherein there was a recent water system failure that affected two-thirds of the island. The commenter continued that until critical infrastructure is available, repairing homes will not be useful.

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### **Staff Response:**

#### ***TDRA***

*While allocation of these types of funds might seem cumbersome and slow to those needing assistance, every effort is being made to expedite the funding by the most efficient, effective and beneficial means possible.*

#### ***TDHCA***

*TDHCA fully agrees that a new or repaired home must be fully and lawfully functional, including connectivity to required water, waste, and utility sources.*

### **Comment #27: Requests for Liberty, Chambers and Matagorda Counties**

Commenter reported that, despite the great need in Liberty, Chambers and Matagorda Counties, in the Round 1 funding, these communities stepped aside while Harris County, Houston, Galveston County and Galveston received greater funding. Commenter urged that Liberty, Chambers and Matagorda Counties receive in Round 2 the funding necessary to repair the damages caused by Hurricane Ike.

### **Staff Response:**

#### ***TDRA***

*Allocations have been made through allocation to regions. Allocations beyond the regional level will be made through MOD processes at HGAC, LRGVDC, SETRPC and DETCOG and through State-run competition for all other eligible counties. Liberty, Chambers and Matagorda Counties should make their needs known to HGAC as that region's MOD is being developed.*

### **Comment #28: Opt-Out provision for housing**

Commenters supported the opt-out provision for housing proposed by TDHCA, but indicated that the \$10 million floor was too high. Another commenter inquired about the requirements for a community to opt out, when hearings would need to occur, if there would be future rounds and if housing would be re-allocated.

### **Staff Response:**

#### ***TDHCA***

*The revised draft Action Plan Amendment does not reflect a state-run program, and it is envisioned that existing subrecipients will continue administering housing recovery efforts.*

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### **Comment #29: Title clearing concerns for housing**

Commenter urged that TDHCA put more than \$500,000 toward legal services for clearing titles. Another commenter applauded the title clearing program, stating that in the past many people had been declined assistance because they were unable to obtain clear title to their property.

#### **Staff Response:**

##### ***TDHCA***

*Legislation enacted in the 81<sup>st</sup> Legislature greatly simplifies and streamlines the process for compliance with the title requirements to receive benefits. TDHCA believes that this set-aside should be adequate in light of these changes but is going to monitor this closely and take the necessary steps to ensure that title issues do not lead to the unacceptable delays encountered in the past.*

### **Comment #30: Need for administrative assistance in the City of Quintana**

Commenter stated that as a small non-entitlement community, the City of Quintana does not have the capacity, expertise or funding to hire an outside firm to assist with administrative tasks needed to request funding.

#### **Staff Response:**

##### ***TDRA***

*Communities that receive an allocation are able to utilize a portion of their funds for administrative costs associated with the grant, and with the use of a pre-agreement waiver, may be able to utilize those services prior to the execution of an official contract. However, pre-agreement does not waive any of the federal requirements associated with spending CDBG funds.*

##### ***TDHCA***

*The Action Plan Amendment allows for the COG to administer to housing activities or to provide local communities funds. The COG would administer the funds when the local community lacks capacity or willingness to administer programs.*

### **Comment #31: Quick Start Generator Program**

Commenter expressed that some communities that lie in flood zones are also interested in participating in the Quick Start Generator Program. Another commenter suggested that communities should be allowed to purchase generators locally to ensure stable fuel supplies based on local access and to ensure that local

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service people are able to maintain the brand of generator selected. Another commenter stated that a set-aside for generators is unnecessary in the HGAC region. Another commenter urged that generators be fueled by natural gas.

### **Staff Response:**

#### ***TDRA***

*The Quick Start Generator Program is a voluntary program that communities can participate in if they meet minimum requirements. It is designed to focus on communities that need the types and sizes of generators that might allow for bulk purchasing. Communities that do not participate in the Quick Start Generator Program by choice or by eligibility are still capable of using grant funds for generator projects. The generator program set asides have been “rolled” into the General Non-housing allocation for distribution by the COGs in their MOD process.*

### **Comment #32: Round 2 funding should not be adjusted based on allocations given in Round 1**

Commenters suggested that the allocation methods for Round 2 funding should be based on its own merits and should not be adjusted based on allocations given in Round 1 and that Round 2 allocations should be revised to reflect the substantially greater impact of Hurricane Ike on housing, public infrastructure and businesses in the HGAC area.

### **Staff Response:**

#### ***TDRA***

*Round 1 allocations were based on preliminary FEMA damage assessments, which was the best data available at the time. As stated in the Action Plan, as other data became available, future allocations would reflect such data. The initial Action Plan provided for a great deal of local input to insure that the needs that communities identified as priorities could be addressed with expediency. The proposed amendment builds on the successful aspects of the initial Action Plan and establishes new mechanisms to meet needs that went unmet in the first round.*

### **Comment #33: Recommendation that the same method of distribution be used in Round 2 as was used in Round 1**

Commenters recommended that using the same methods of distribution in Round 2 as were used for the Round 1 allocations would be more effective, consistent and would avoid confusion.

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### **Staff Response:**

#### ***TDRA***

*Round 1 allocations were based on preliminary FEMA damage assessments, which was the best data available at the time. As stated in the Action Plan, as other data become available, future allocations would reflect such data. The initial Action Plan provided for a great deal of local input to insure that the needs that communities identified as priorities could be addressed with expediency. The proposed amendment builds on the successful aspects of the initial Action Plan and establishes new mechanisms to meet needs that went unmet in the first round.*

### **Comment #34: FEMA damage assessments**

Commenter applauded HGAC's use of FEMA damage assessments and suggested that TDRA also use those assessments for Round 2 funding, particularly in the Hurricane Ike areas. Another commenter claimed that both FEMA and State mitigation funds were "grossly inadequate." Another commenter indicated that FEMA data should be used to check TDRA's allocation and as an indicator of unmet needs and requested that a comparison be provided that expresses how the proposed allocation corresponds to FEMA data on housing claims and unmet needs. A commenter indicated that the public needs to understand what is and is not reimbursable by FEMA so that CDBG funds are not used where FEMA funds were available.

### **Staff Response:**

#### ***TDRA***

*The initial Action Plan relied upon incomplete FEMA damage assessments available at that time as a frame work for allocation of funds to the various regions. FEMA data was found to be incomplete as of July 24, 2009 and other data had to be obtained.*

### **Comment #35: Reimbursable funding for housing**

Commenter stressed a need to make reimbursable funding available to persons who used their own monies to repair their homes and make them inhabitable.

### **Staff Response:**

#### ***TDHCA***

*TDHCA does not support a reimbursement program. Homes completed with CDBG funds must meet certain construction standards. A reimbursement program would require all repairs to meet these standards. Establishing standards and requirements after the repairs have been completed could cause increased construction cost or denial of repairs. A reimbursement program would also*

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*require increased TDHCA oversight to determine accuracy and reasonableness of the reimbursements. TDHCA will, as in the past, coordinate the seeking of any lawful and appropriate waivers with subrecipients and TDRA.*

### **Comment #36: Waiver for general conduct of government**

Commenter inquired if city halls and such would be eligible for funding. Other commenters stressed the need for Emergency Operations Centers and Points of Distribution and requested that a waiver be requested from HUD and that such facilities be made eligible.

#### **Staff Response:**

*TDRA*

*HUD has verified that the limited waiver offered for projects involving general conduct of government are strictly for those communities who, due to direct damage from one of the two hurricane events were literally left with no location to conduct their governmental procedures. The waiver is for very limited use. Projects involving Emergency Operations Centers, fueling stations, communication systems, repairs to usable governmental facilities (city halls) and such activities will not be eligible for funding.*

### **Comment #37: Multiply HNTB's GIS model by the appraised value on the ground**

Commenter stated that rain, surge and wind were not equally divided across the board and suggested that a model that multiplies HNTB's GIS data by the appraised value on the ground in the particular area would be a more fair assessment.

#### **Staff Response:**

*TDRA*

*This data is not available in a usable manner for all areas.*

### **Comment #38: Additional funds for rental rehab for the City of Houston**

Commenter indicated that the City of Houston received more requests for rental rehab funding than was available and requested that more funds be made available in order to address the unmet need.

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### **Staff Response:**

*TDHCA*

*The amount made available to any subrecipient will be a result of two primary processes, application of the allocation formula devised by TDRA to the affected COGs and the development of MODs by those COGs.*

### **Comment #39: Low and Moderate income requirement in the City of Houston**

Commenter stated that every recipient of housing funds in the City of Houston is in the low and moderate income category, including those receiving home repair assistance and those receiving down payment assistance.

### **Staff Response:**

*TDHCA*

*We are pleased to hear that so many of these program funds are being utilized to address this clear national objective of serving the low and moderate income sector of the population.*

### **Comment #40: Healthcare issues**

Commenter expressed the difficulty of meeting LMI with healthcare issues and stated that the set-asides for healthcare are insufficient to provide any meaningful projects.

### **Staff Response:**

**TDRA**

The program guidelines will be provided in the application guide and application.

### **Comment #41: Slum and Blight vs. LMI for housing**

Commenter pointed out that LMI in Round 1 funding for housing was 90-95% due to Slum and Blight figures. Commenter inquired if Slum and Blight numbers could count toward LMI figures.

### **Staff Response:**

**TDRA**

Projects meeting the national objective through Slum and Blight do not count toward the LMI national objective requirement.

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### **Comment #42: Affordable rental housing criteria**

Commenter inquired about the affordable rental housing criteria for meeting LMI, asked for a point system for LMI benefit and wanted to know if other funds could be leveraged for points or criteria.

#### **Staff Response:**

*TDHCA*

*Previous rounds of multifamily disaster funds have been allocated with a minimum threshold criteria and an allocation that ensured not more funds than necessary are provided. While it is possible to create a priority point system for LMI benefit it would likely slow down the allocation process and thus the delivery timeline for units would be elongated. Alternatively a minimum requirement or additional LMI units could be required though doing so would ensure that fewer units would be redeveloped.*

### **Comment #43: Funding Allocation Model discrepancies for the mid and lower Texas coast**

Commenter suggested that TDRA develop and include storm surge data in the Funding Allocation Model for the mid and lower Texas coast for both Hurricanes Ike and Dolly in order to provide a more accurate picture of the relative impact of the storms on the coastal areas as compared with inland areas which mainly experienced wind and rain. The resulting calculations could be used in both the funding allocation and in scoring under the multi-region pooled fund competition. Commenter further suggested that, if re-working the model is not possible, additional scoring consideration should be given to coastal communities competing for the pooled funds.

#### **Staff Response:**

*TDRA*

*The allocation model has been changed to weight surge highest in the model and add a factor for LMI population by county.*

### **Comment #44: Pooled funding competition**

Commenter suggested that TDRA institute a requirement in its scoring system for the competitive pool funding that result in a model-derived estimate of relative need in each region and allows for a minimum project size (e.g. \$500,000) and a minimum amount available to each impacted region. Another commenter recommended that either the LMI requirement be relaxed or separate pooled funds be established for Hurricane Ike affected counties and Hurricane Dolly affected counties.

## ***Appendix C-2 – Public Comment: Initial Five Hearings***

Another commenter stated that many projects identified, but not funded, in Round 1 could be quickly selected for Round 2. Commenter continued with the recommendation that COG regions be given the opportunity to opt in or out of the pooled funds depending on what projects they already have ready to go.

### **Staff Response:**

#### **TDRA**

*The pooled fund was established to prioritize projects in the most impacted areas. Criteria to be developed will have factors established from public feedback and the COGs. Holding two separate competitions becomes problematic for counties that had declarations in each storm.*

### **Comment #45: *Use of Round 2 funding to complete Round 1 projects***

Commenter inquired if Round 2 funding could be used to complete projects that communities were unable to complete with Round 1 funding.

### **Staff Response:**

#### **TDRA**

*Round 2 funding cannot be used to complete Round 1 projects. Projects funded under each round must produce beneficiaries individually.*

### **Comment #46: *Relocation assistance and compensation for homeowners***

Commenter spoke of surge damaged homes that, because they were built below the required FEMA flood plain level, could not be replaced, fixed or sold. As such, these homeowners participated in the FEMA buyout program at 75% of appraised value and those homes were demolished. Commenter quoted the Federal Registry, “The state may provide relocation assistance to former residential occupant whose former dwelling is acquired, rehabilitated, or demolished for a covered program,” and “The state may provide compensation to certain homeowners whose homes were affected during the covered disasters and the state may also provide housing incentives to encourage housing resettlement consistent with the recovery plans” and requested that the state find a way to compensate those effected despite the inability to provide FEMA match.

### **Staff Response:**

#### **TDHCA**

*Local program parameters will be defined by COGs and local subrecipients. TDHCA is willing to work with local subrecipients for whom this is an issue to devise locally driven lawful solutions.*

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### **Comment #47: COG participation**

Commenters requested that COG representatives be allowed to participate in discussions between the state and HUD. Another commenter requested that COGs be allowed to have input before final determinations are made regarding state set-asides and administrative costs.

#### **Staff Response:**

**TDRA**

Discussions with HUD are the responsibility of the State.

### **Comment #48: Additional FEMA housing data coming available**

Commenter indicated that there are currently 50 FEMA case managers in the east Texas area who are assessing actual housing damages. Commenter offered to provide this data to TDHCA in order to provide the most updated information possible.

#### **Staff Response:**

**TDHCA**

*TDHCA would greatly appreciate any additional data of this sort. Although TDRA's methodology will determine the basis for initial allocation, this sort of data will be invaluable in evaluating damage to establish and support local program decisions.*

### **Comment #49: Specific and realistic timelines**

Commenter requested that specific and realistic timelines for business such as grant award announcement, public hearings, methods of distribution, acceptance or decline of award, reallocation of funds within eligible categories, application deadlines, etc. be set to ensure that all funds allocated to the regions are spent.

#### **Staff Response:**

**TDRA**

*While allocation of these types of funds might seem cumbersome and slow to those needing assistance, every effort is being made to expedite the funding by the most efficient, effective and beneficial means possible. TDRA urges all unincorporated areas to maintain constant communication with their local county government to insure that their concerns are being addressed.*

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### **Comment #50: *Consideration for Coastal Bend area damages***

Commenter stated that, while the Coastal Bend area did not suffer massive damage similar to those areas that were struck directly by these two particular hurricanes, they were still affected by high tidal surges. Commenter continued that the smaller projects requested by the Coastal Bend area are just as critical to defense against future storm events and urged that the state strive to ensure that all coastal areas receive substantial and sufficient allocations.

#### **Staff Response:**

##### **TDRA**

The allocation model has been changed to weight surge highest in the model and add a factor for LMI population by county.

### **Comment #51: *Unmet needs for the Alabama-Coushatta Tribe***

Commenter stated that the Alabama-Coushatta has needs that went unmet with the Round 1 funding and would contact DETCOG to express those needs.

#### **Staff Response:**

##### **TDRA**

*All entities in the eligible areas should maintain regular communication with their local council of governments in order to ensure that their needs are recognized and considered.*

### **Comment #52: *Long-term strategies***

Commenter urged the development of program criteria that encourage long-term strategies for reducing the risk of damage from future natural disasters and complement and enhance locally determined priorities. Another commenter suggested that consideration should be given to increasing “stimulus funds” to include long-term recovery to prevent continuous future damage to properties, accessibility to isolated areas during severe weather and protecting lives that are frequently threatened by disasters.

#### **Staff Response:**

##### **TDRA**

*HUD is currently working toward a sustainable communities initiative in conjunction with the Department of Transportation and the Environmental Protection Agency that will encourage states to expend their funds on projects that harden and improve sustainability through future events.*

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### **Comment #53: *Housing funds for Galveston County***

Commenter expressed displeasure with the disbursement of Round 1 housing funds in Galveston County and inquired as to what could be done to ensure appropriate disbursement of Round 2 funds.

#### **Staff Response:**

##### ***TDHCA***

*TDHCA will work closely with Galveston, as it would any subrecipient, to provide technical assistance and to provide monitoring and oversight to ensure proper disbursement and use of these funds.*

### **Comment #54: *Community accountability***

Commenter indicated that counties and other municipalities should be required to provide evidence of their recovery efforts beyond the minimum newspaper notices and public postings in order to keep recipients accountable.

#### **Staff Response:**

##### ***TDRA***

*Guidelines for citizen participation plans provided in the Code of Federal Regulations, Title 24, Part 91, Subpart B state that each “jurisdiction is required to adopt a citizen participation plan that sets forth the jurisdiction’s policies and procedures for citizen participation”. Among these requirements are specifications for Performance Reports which states that “The citizen participation plan must provide citizens with reasonable notice and an opportunity to comment on performance reports. The citizen participation plan must state how reasonable notice and an opportunity to comment will be given. The citizen participation plan must provide a period, not less than 15 days, to receive comments on the performance report that is to be submitted to HUD before its submission.” Citizens are encouraged to obtain a copy of their local jurisdiction’s citizen participation plan for details pertinent to them.*

#### **TOPICS**

1	Use of Round 1 Competitive Data
2	Construction procurement for housing funds
3	Recommended use of unutilized housing allocation for Round 2
4	Recommended use of pilot project funds
5	Importance of local determinations for funding
6	Need for more detail relating to the pilot project and competitive processes

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7	Recommendation that Pilot Project Funds not come only from non-housing
8	Method of Distribution availability
9	50-50 Housing/Non-housing Split
10	Housing benefits involving non-U.S. citizens
11	Portable generators
12	Rental housing stock for the Valley
13	Flooding on Expressway 83 in the Valley
14	Street and drainage problems in Rio Hondo
15	Generator issues in Rio Hondo
16	Eligibility questions for non-housing
17	Administration of second round housing funds
18	Elimination or reduction of the set aside program funding/projects
19	Recommendations for economic development funding
20	Concerns about the use of physical impact data for allocation decisions
21	Low and Moderate income requirement comments
22	Grant Administrator requirements
23	Concerns about funding for unincorporated areas
24	Need for simple applications for housing funds
25	Need for a more rapid response with TDHCA housing guidelines
26	Infrastructure needs in the City of Galveston
27	Requests for Liberty, Chambers and Matagorda Counties
28	Opt-Out provision for housing
29	Title clearing concerns for housing
30	Need for administrative assistance in the City of Quintana
31	Quick Start Generator program
32	Round two funding should not be adjusted based on allocations given in round one
33	Recommendation that the same method of distribution be used in round two as was used in round one
34	FEMA damage assessments
35	Reimbursable funding for housing
36	Waiver for general conduct of government
37	Multiply HNTB's GIS model by the appraised value on the ground
38	Additional funds for rental rehab for the City of Houston
39	Low and Moderate income requirement in the City of Houston as regards housing
40	Healthcare issues
41	Slum and Blight vs. LMI for housing
42	Affordable rental housing criteria
43	Funding Allocation Model discrepancies for the mid and lower Texas coast

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44	Pooled funding competition
45	Use of Round 2 funding to complete Round 1 projects
46	Relocation assistance and compensation for homeowners
47	COG participation
48	Additional FEMA housing data coming available
49	Specific and realistic timelines
50	Consideration for Coastal Bend area damages
51	Unmet needs for the Alabama-Coushatta Tribe
52	Long-term strategies
53	Housing funds for Galveston County
54	Community accountability

Commenter	Commenter Information	Source	Comments Made by Topic #
Raul Garcia	Cameron County Planning Department	Weslaco Hearing	1
Antonio Carisalez	Construction Contractor	Weslaco Hearing	2
Ken Jones	Executive Director, Lower Rio Grande Valley Development Council	Weslaco Hearing, Written Testimony	3, 4, 5, 6, 7, 52
Richard Hinojosa	Grants Coordinator, City of Edinburg	Weslaco Hearing	8, 9
Diana Serna	Hidalgo Urban County Program	Weslaco Hearing	9, 10
Tony Pena	Emergency Management Coordinator, Hidalgo County	Weslaco Hearing	11
Sunny K. Philip	City Manager, City of La Feria	Weslaco Hearing	12, 13
Gerald Hertzog	Mayor Pro Tem, City of Rio Hondo	Weslaco Hearing	14, 15
Brandy Garza	Compliance Coordinator, City of Harlingen	Weslaco Hearing	5, 9
Agustin Torres	Director, Amigos del Valle, Inc.	Weslaco Hearing	8
Barbara Crews	HGAC Ike Recovery Committee, Co-Chair of Galveston County Restore and Rebuild, and member of Gulf Coast Interfaith	Galveston Hearing	5, 9, 17, 18, 19, 20
Chuck Wemple	Economic Development Manager, HGAC	Galveston Hearing, Houston Hearing	5, 9, 17, 19, 20, 32, 33, 34
Julia Germany	Grant Specialist, City of League City	Galveston Hearing	21, 22
Joe Manchaca	Director, San Leon MUD	Galveston Hearing	23

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Joe Compian	Gulf Coast Interfaith	Galveston Hearing, Houston Hearing	19, 20, 24, 29
Joe Higgs	Gulf Coast Interfaith	Galveston Hearing, Beaumont Hearing	20, 34
Patrick Doyle	County Commissioner, Precinct 1, Galveston County	Galveston Hearing	5, 8, 20, 33
Betty Ketchum	Executive Director, ARC of the Gulf Coast	Galveston Hearing	24, 25, 33
Carolyn Rose	Director, Administrative Services for the Gulf Coast	Galveston Hearing	24, 25
Mark Davis	Co-Chairman, GCR Squared	Galveston Hearing	24, 25, 35
Steve LeBlanc	City Manager, City of Galveston	Galveston Hearing	5, 8, 9, 20
Brandon Wade	Deputy City Manager, City of Galveston	Galveston Hearing	5, 20, 21, 26, 34
Sterling Patrick	Director of Grants and Housing, City of Galveston	Galveston Hearing	5, 20, 26
Harish Krishnarad	Executive Director, Galveston Housing Authority	Galveston Hearing	5, 20, 26
Jeff Sjostrom	President, Galveston Economic Development Partnership	Galveston Hearing	5, 19
David Baker	Public Management	Galveston Hearing, Beaumont Hearing	28, 29, 41
Mark Seegers	Public Information, Harris County, Precinct 2	Galveston Hearing	20
Harold Doty	City Councilman, City of Quintana	Galveston Hearing	30, 31
Rita Anderson	Freese and Nichols	Galveston Hearing	16, 36
Will C. Fisher	President, Wyebrook Capital	Galveston Hearing	9, 20
Sylvia R. Garcia	County Commissioner, Precinct 2, Harris County	Houston Hearing	20, 34, 37
Nate McDonald	County Judge, Matagorda County	Houston Hearing, Written Testimony	5, 9, 43, 44
Bill White	Mayor, City of Houston	Houston Hearing, Written Testimony	5, 9, 20, 32, 34
Phillip Hopkins	Mayor, City of Tiki Island	Houston Hearing	5, 9, 20
Richard Celli	Director, Housing Department, City of Houston	Houston Hearing	38, 39
Harold Fattig	Southern Regional Director, Catholic Charities	Houston Hearing	9, 20
Unknown webinar participant		Houston Hearing	16
Phil Fitzgerald	County Judge, Liberty County	Beaumont Hearing, Written Testimony	5, 27, 28

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Ben Bythewood	Mayor, City of Woodville	Beaumont Hearing	5, 9
Bob Pascasio	Administrator/CEO, Chambers County Public Hospital District #1	Beaumont Hearing	40
Jimmy Sylvia	County Judge, Chambers County	Beaumont Hearing, Written Testimony	5, 9, 20
William Vola	Emergency Management Coordinator, City of Baytown	Beaumont Hearing	5, 20
Guy Goodson	Attorney, Jefferson County HFC	Beaumont Hearing	28
Robert L. Reyna	Executive Director, Beaumont Housing Authority	Beaumont Hearing	5, 41
Jeff Fulenchek	Director of Affordable Housing, Carleton Development	Beaumont Hearing	41, 42
Hilton Kelley	Executive Director, Community In-power and Development Association Inc.	Beaumont Hearing	39
Jeanie Turk	Hardin County WCID #1	Beaumont Hearing, Written Testimony	5, 16, 52
David J. Waxman	David J. Waxman, Inc.	Beaumont Hearing, Groveton Hearing	5, 9, 19, 21, 31, 45
Ray Vann	Raymond K. Vann & Assoc.	Beaumont Hearing	5, 20
Caroline Miller	Homeowner in Country Road Estates	Beaumont Hearing, Written Testimony with photographs	46
Mattie Lofton	Homeowner in Country Road Estates	Beaumont Hearing	46
Barry Bates	Homeowner in Orange County	Beaumont Hearing	21, 24
Cindy Rashall	Homeowner in Country Road Estates	Beaumont Hearing	46
Mark Evans	County Judge, Trinity County	Groveton Hearing, Written Testimony	5, 9, 21, 31
Charles Watson	County Judge, Sabine County	Groveton Hearing, Written Testimony	5, 9, 21, 31
Jacques L. Blanchette	County Judge, Tyler County	Groveton Hearing, Written Testimony	4, 5, 9, 19, 21, 31, 36, 47
Lonnie Hunt	County Judge, Houston County and 1st Vice President of DETCOG	Groveton Hearing, Written Testimony	4, 5, 19, 21, 47
Mark W. Allen	County Judge, Jasper County	Groveton Hearing, Written Testimony	4, 5, 9, 19, 21, 31, 36, 47

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John Thompson	County Judge, Polk County	Groveton Hearing, Written Testimony	5, 9, 21, 47
Walter G. Diggles, Jr.	Executive Director, DETCOG	Groveton Hearing	5, 9, 21, 48
Keith Wright	Deputy City Manager, City of Lufkin	Groveton Hearing	5, 9, 21, 31
Duke Lyons	City Manager, City of San Augustine	Groveton Hearing	11
Wes Suiter	County Judge, Angelina County	Groveton Hearing	5, 9
Larry D. Morgan	City Manager, City of Bullard	Groveton Hearing	11
Don Iles	City Manager, City of Hemphill	Groveton Hearing	5, 9, 20
Gary Traylor	Traylor & Associates	Groveton Hearing	21, 29, 44
Steve Kerbow	Kerbow and Associated Consulting	Groveton Hearing, Written Testimony	1, 4, 5, 16, 19, 21, 44
Byron Ryder	County Judge, Leon County	Written Testimony	5
Orlando A. Correa	Mayor, City of Raymondville	Written Testimony	4, 6, 9, 49
Eric Hartzell, AICP	Executive Vice President, GrantWorks	Written Testimony	43, 44
Kathleen Longrigg	Citizen of Texas	Written Testimony	20, 44
Rene Mascorro	County Judge, Refugio County	Written Testimony	20, 43, 50
Billy P. Fricks	Mayor, Town of Bayside	Written Testimony	50
Tommy Knight	Mayor, City of Aransas Pass	Written Testimony	50
Russell Cole	Mayor, Town of Fulton	Written Testimony	50
Jack Steele	Executive Director, HGAC	Written Testimony	4, 5, 9, 17, 19, 20, 28, 31, 32, 33, 34
Floyd H. Myers	Mayor, City of Webster	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
Richard Knapik	Mayor, City of Bay City	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
Ed Flanagan	Mayor, City of Bayou Vista	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
Robert C. Wall	Mayor, City of Iowa Colony	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
Alan B. Sadler	County Judge, Montgomery County	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34

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Tina Battise	Deputy Tribal Administrator, Alabama-Coushatta Tribe	Written Testimony	51
Stephen H. Doncarlos	Mayor, City of Baytown	Written Testimony	5, 20, 33
John Wood	Cameron County Commissioner, Precinct 2	Written Testimony	5, 9
Carl Pickett	Mayor, City of Liberty	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
Garry B. Watts, CMO	Mayor, City of Shenandoah	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
Jill Kirkonis	Mayor, City of Cleveland	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
Truman Dougharty	County Judge, Newton County	Written Testimony	4, 5, 19, 21, 47
Jonathan Ward	Citizen of Dickinson	Written Testimony	20
Anne McLaughlin	Citizen of Galveston County	Written Testimony	20
Jeanette Taylor	Executive Director, Gulf Coast Interfaith	Written Testimony	20
Bernard Scrogin	Citizen of Brazoria County	Written Testimony	20
Vivian Pinard	Citizen of Galveston County	Written Testimony	20
Elizabeth Godbehere	Citizen of Galveston County	Written Testimony	20
Gary Hoffman	Citizen of Galveston County	Written Testimony	20
Margaret Gay	Citizen of Harris County	Written Testimony	20
Larua Murrell	Citizen of Galveston	Written Testimony	20
Rita Rodriguez	Winc, An Engineering Service Corporation	Written Testimony	20
Carolyn and Eddie Karbowski	Citizens of Santa Fe	Written Testimony	20
Betty Conner	Citizen of Galveston	Written Testimony	20
Mark Davis	Executive Director, Gleanings From The Harvest	Written Testimony	20
Anne Rubio	Citizen of Galveston County	Written Testimony	20
Barbara Sasser	Citizen of Galveston	Written Testimony	20
Sue Reed	Citizen of Galveston County	Written Testimony	20
Sara Barber	Citizen of Texas City	Written Testimony	53
Daniel J. Shea	Citizen of Galveston County	Written Testimony	20
Karen Shea	Citizen of Galveston County	Written Testimony	20

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Anne Moon	Citizen of Galveston County	Written Testimony	20
Jeri Kinnear	Citizen of Galveston	Written Testimony	20
<a href="mailto:alt.panda-law@juno.com">alt.panda-law@juno.com</a>	Citizen of Galveston County	Written Testimony	20
Lam Tai Nguyen	Citizen of Galveston County	Written Testimony	20
Dian Groh	Citizen of Galveston County	Written Testimony	20
Frank and Sue Emmite	Citizen of Galveston County	Written Testimony	20
Katherine Martel	Citizen of Galveston County	Written Testimony	20
Brett Kirkpatrick	Citizen of Galveston County	Written Testimony	20
Denise Dittrich	Citizen of Galveston County	Written Testimony	20
Noel Escobar	Mayor, City of Escobares	Written Testimony	52
Leonard Reed	Mayor, City of Willis	Written Testimony	5, 9, 17, 19, 20, 28, 32, 33, 34
Barbara J. Collum	Mayor, Town of Indian Lake	Written Testimony	4, 6, 9, 49
Steve Stephens	Mayor, City of Dayton	Written Testimony	5, 9, 17, 19, 20, 28, 32, 33, 34
Calvin Shiflet	Mayor, City of Clute	Written Testimony	5, 9, 17, 19, 20, 28, 32, 33, 34
David N. Winstead, Sr.	Mayor, City of Los Fresnos	Written Testimony	4, 6, 9, 49
Kevin Pagan	City Attorney/Emergency Management Coordinator, City of McAllen	Written Testimony	4, 6, 9, 49
Kenneth Corley	Mayor, City of Brazoria	Written Testimony	5, 9, 17, 19, 20, 28, 32, 33, 34
Sylvester Turner	State Representative, House of Representatives	Written Testimony	5, 9, 17, 19, 20, 28, 32, 33, 34
Robert W. Jackson	CenterPoint Energy	Written Testimony	16, 20, 31
Sr. Maria T. Sanchez, MCDP	Executive Co-Chair, Valley Interfaith	Written Testimony	54
Ron Paul	U.S. House of Representatives, 14th District, Texas	Written Testimony	17, 20, 34
Pete Olson	U.S. House of Representatives, 22nd District, Texas	Written Testimony	17, 20, 34
Aurelio Guerra	Interim County Judge, Willacy County	Written Testimony	4, 6, 9, 49

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Alonzo Garza	Mayor, City of Rio Hondo	Written Testimony	4, 6, 9, 49
Mel McKey	Superintendent, Velasco Drainage District	Written Testimony	5, 9, 17, 19, 20, 28, 32, 33, 34
Leon A. Deason	Mayor, City of Bayview	Written Testimony	4, 6, 9, 49
Delores M. Martin	Mayor, City of Manvel	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
Bill Baine	City Manager, City of Huntsville	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
Julie Masters	Mayor, City of Dickinson	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
Fred Williamson	Mayor, City of Danbury	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
James D. Yarbrough	County Judge, Galveston County	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
Randy Williams	County Judge, San Augustine County	Written Testimony	4, 5, 9, 19, 21, 31, 36, 47
Fritz Faulkner	County Judge, San Jacinto County	Written Testimony	4, 5, 9, 19, 21, 31, 36, 47
David B. Turkel	Director, Harris County Community Services Department	Written Testimony	5, 19, 20, 32
Ed Emmett	County Judge, Harris County	Written Testimony	5, 19, 20, 32
Donnie Henson	President, Deep East Texas Council of Governments	Written Testimony	19
Laurie B. Kincannon	Mayor, City of West Columbia	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
Clifford Louis Guidry	Mayor, City of Oyster Creek	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
Bob Sipple	Mayor, City of Lake Jackson	Written Testimony	5, 9, 17, 19, 20, 32, 33, 34
Rudy Garza Jr.	Mayor, City of Primera	Written Testimony	4, 6, 9, 49

## **Appendix C-3 – Public Comment: Three Hearings on Revised Action Plan**

### **DEPARTMENTS’ RESPONSE TO PUBLIC COMMENT**

#### **Three subsequent public hearings – Revised Action Plan Amendment**

TDRA and TDHCA made revisions to the proposed Action Plan Amendment in response to comments received from the first five public hearings. The revisions included a reallocation of funds to each Council of Government from State run programs and funds set aside for planning project delivery and administration. The following chart shows the revised allocations and the increase in funds that each COG would receive from TDRA’s initial plan for allocation of Round 2 funding.

<b>Direct Allocations to COGs</b>	<b>Round 1</b>	<b>%</b>	<b>Round 2</b>	<b>%</b>	<b>Total Allocations to COGs</b>	<b>%</b>	<b>Increase from initial Round 2 plan</b>
SETRPC	\$190,000,000	16.47%	\$297,298,360	18.42%	\$487,298,360	17.61%	\$36,705,843
HGAC	\$814,133,493	70.56%	\$843,837,833	52.28%	\$1,657,971,326	59.90%	\$224,538,994
LRGVDC	\$55,000,000	4.77%	\$184,920,160	11.46%	\$239,920,160	8.67%	\$44,154,641
DETCOG	\$70,000,000	6.07%	\$208,851,503	12.94%	\$278,851,503	10.07%	\$21,893,943
POOL	\$24,713,036	2.14%	\$79,080,783	4.90%	\$103,793,819	3.75%	\$7,731,798
<b>TOTAL</b>	<b>\$1,153,846,529</b>	<b>100%</b>	<b>\$1,613,988,639</b>	<b>100%</b>	<b>\$2,767,835,168</b>	<b>100%</b>	<b>\$335,025,219</b>

Other key points of the proposed changes are as follows:

- Each region would receive an increase in locally-controlled funds.
- The revised model weighed surge more heavily than the previous proposal, and prominently factored in the Low to Moderate Income (LMI) population as this population tends to have lower property values and less capacity to absorb rising utility rate and tax increases to cover damage repairs.

<b>Factor</b>	<b>Weight</b>
Surge	27%
Wind	26%
Rainfall	24%
LMI Population	<u>23%</u>
	<b>100%</b>

- More than \$335 million in set asides were reallocated to the regions for local administration in order to address the extensive feedback received requesting more local control. This amount included \$30 million from State administration and planning funds, \$174 million from the Affordable Rental Program, and \$130 million from the Recovery Enhancement Pilot Project Program. Also, the proposed Generator and Economic Development Programs were rolled into the regional general non-housing allocations.

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- The revised proposal provides recommended housing and non-housing allocations by region, but allows regions to move funds between housing and non-housing interchangeably using objective criteria. All decisions for housing and non-housing splits would be made at the submission of the Method of Distribution (MOD) by each COG.
- To ensure compliance with the HUD LMI requirement, TDRA would hold two separate non-housing application cycles utilizing the results of the MODs. The first application cycle would only consider eligible non-housing projects meeting the low to moderate income national objective. Only when the LMI national objective aggregate of 50% for the State is met will TDRA accept a second application round for all other eligible non-housing projects.
- Eligible economic development activities include revolving loan funds that return program income to the state within six (6) years or less, deferred forgivable loan programs, façade improvement programs, and job training programs. No other economic development activities would be eligible from these funds.
- The proposal eliminated the state-run housing program, but allows TDHCA the option to re-establish one in areas without capacity or entities willing to operate housing programs.
- Locally run housing programs have eligibility criteria and suggested elements for inclusion. Local input and participation is necessary to establish maximum benefit caps for reconstruction, rehabilitation and replacement housing.
- The \$50 million set aside for Public Housing under the Affordable Housing Rental Recovery Program was changed to allow developments with project based rental assistance.

On September 10, 2009, an announcement describing a second public comment period and the schedule for three public hearings was posted on the TDRA and TDHCA websites, and was sent to recipients on TDRA's notification list, which included County Commissioners, County Judges, Mayors, City Managers, City Council members, Council of Government (COG) Directors, consultants and engineers from the affected areas and other interested parties. Comments and participation were encouraged either through attendance at one of the public hearings or in writing. Hearing notices, in English, Spanish and Vietnamese were published on the Departments' websites. The public comment period for the amended document ran from September 10, 2009 through September 24, 2009.

## **Appendix C-3 – Public Comment: Three Hearings on Revised Action Plan**

The locations, addresses, dates, and number of attendees at the public hearings are listed below:

<b>LOCATIONS</b>	<b>HOUSTON</b>	<b>LIVINGSTON</b>	<b>WESLACO</b>
<b>Facility/ Address</b>	Houston Hobby Airport Marriott Hotel 9100 Gulf Fwy (I-45) Houston, TX 77017	Holiday Inn Express 120 South Point Lane Livingston, TX 77351	Texas AgriLife Research Center Auditorium Room 102 2415 East Hwy 83 Weslaco, TX 78596
<b>Hearing Date Time</b>	September 17, 2009 9:30 a.m. – 11:30 a.m.	September 17, 2009 4:00 p.m. – 6:00 p.m.	September 18, 2009 10:00 a.m. – 12:00 p.m.
<b>Number of Attendees</b>	76	21	38

All hearing locations were fully accessible to persons with disabilities. The hearing announcements included information on accessibility requests for individuals requiring an interpreter, auxiliary aids, or other services. Additionally, staff attending the hearings spoke both English and Spanish.

During the comment period, TDRA, in cooperation with the TDHCA, accepted comment on the revised Action Plan Amendment.

The following is a summary of the comments received as well as the Departments' response. Comments are arranged and answered by subject, and each comment is individually numbered. At the end of this section, there is a table that includes information for each individual making comment. In general, housing-related comments were addressed by TDHCA and non-housing comments were addressed by TDRA. The primary responding Department is also listed with their responses.

For more information on the public comments included in this document, or for copies of the original comments, please contact Dan Robertson, TDRA Disaster Recovery Information Officer, at (512) 936-0433.

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### **Comment #1: FEMA assessments**

Commenter urged the continued use of FEMA assessments indicating that the data is verifiable. Another commenter stressed that updated FEMA data is available and should be used. Other commenters said that FEMA data is incorrect and needs assessments from various organizations should be considered. Another commenter stated that instead of finding ways to adjust for flaws in the FEMA data, TDRA chose not to use damage data at all, instead basing allocations on wind speed, rainfall, and storm surge.

#### ***Staff Response:***

##### ***TDRA***

*FEMA data obtained by TDRA was found to be incomplete both on December 1, 2008 when the Round 1 allocation was developed and on September 30, 2009 when Round 2 allocations were approved. As of July 24, 2009; 5,553 FEMA Project Worksheets (PW's) were identified and 1,501 were reviewed and completed by FEMA in the 29 hardest hit counties in the Ike disaster area. TDRA understands there are 15,492 PW's for the total event. Based on the figures above this constitutes a 28% completion rate. As a result, TDRA turned to other data sources that were complete for all regions to develop the second round allocations. The other factor that compensates for the concerns is that local control is vested in the COG's who as an entity determine the distribution within each COG. TDRA expects that the COG's will distribute the resources based on local needs. The needs assessments conducted by various organizations could be utilized by the COG's if deemed appropriate by the COG to distribute funding within the region.*

### **Comment #2: Errors in model for Matagorda County**

Commenter stated that data used in the TDRA allocation model for Matagorda County were not accurate and needed to be corrected and re-evaluated. Commenter provided a map from the National Oceanographic and Atmospheric Administration (NOAA) with which to discern the presence of storm surge in Matagorda County.

#### ***Staff Response:***

##### ***TDRA***

*TDRA used FEMA surge data because it constitutes a consistent data set across the region. The FEMA surge data was validated and used by Harris County Flood Control for the surge*

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*mapping in the entire Ike coastal impact area. TDRA is researching the data points provided by Matagorda County. To date, TDRA has not been able to verify the data with NOAA.*

### **Comment #3: Low to moderate income requirements**

Commenter agreed that funds should be used to benefit the low to moderate income population and suggested that the LMI factor should be raised in order to meet the required goals. Other commenters stated that LMI is difficult to determine as regards infrastructure and difficult to achieve as regards county-wide projects and healthcare projects. Another commenter suggested that, as the City of Galveston has a high LMI population, more funding should be distributed there in order to meet the requirements. Another commenter indicated that funding to the City of Woodville could help with the LMI requirements. Other commenters stated that, if the 51 percent rule is applied to each individual project, many projects in the DETCOG area will not qualify. Other commenters stated that some accountability for meeting LMI be required at the regional level and that regions unable to meet the requirements not impose a burden on other regions to make up the shortfall. Other commenters urged that, with regard to low-to-moderate beneficiaries, the same rules used in the Round 1 allocation be used in Round 2. Another commenter stated that the revised formula allocated funds based on counties with LMI data even if there was no storm impact to that county. Another commenter stated that the revised plan fails to prioritize activities serving low and moderate income disaster victims in violation of federal law and regulations. Commenter continued that the Action Plan fails to give maximum feasible priority to activities benefiting disaster victims with low and moderate incomes. Other commenters stated that Federal statutes require that more than one-half of the funds be used to principally benefit low and moderate income persons and furthermore the State is required to demonstrate that it has given maximum feasible priority to activities benefiting low- and moderate income persons.

### **Staff Response:**

#### ***TDRA***

*HUD waived the 70% LMI requirement as stated in the CDBG regulations for the annual allocation to 50%. This amended regulation required that at least 50% of the total allocation received (\$1,528,995,720) be expended for LMI activities. This regulation does not require that every project funded meet the LMI national objective. The State has made allocations to the four regions and the Pool. Allocations to individual communities will be made through MODs in the four regions receiving funding and through a competitive process. Both the*

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*MODs and competitions will consider LMI as a factor for allocation. TDRA will provide written materials, workshops and technical assistance to help communities document their beneficiaries and achieve the LMI national objective wherever possible. Further, TDRA has provided in the Amendment to the Action Plan that we will take actions ensuring that the benefit to low and moderate income beneficiaries is met. We are committed to satisfying this national objective. Regarding the comment that the Action Plan fails to give maximum feasible priority to activities benefiting disaster victims with low and moderate income, if after the funds are expended TDRA has not met this requirement, then the criticism will be valid.*

### **Comment #4: Methods of distribution**

Commenter stated that Round 1 methods of distribution were working and should be used for the Round 2 allocations. Another commenter inquired as to how funding determinations will be made if no local competitions or county level MODs are utilized. Another commenter stated that Round 1 and Round 2 funding should be kept separate. Another commenter inquired if there were any changes to the MODs and if a housing component was required. Another commenter recommended that TDRA allow at least 60 days for development and submission of COG MODs. Another commenter stated that instead of delegating the responsibility of the development of a MOD to the regional Councils of Government who are self elected and self selected bodies not accountable to the hurricane survivors or to the citizens of Texas, the State should produce a plan as required by statute.

### **Staff Response:**

#### ***TDRA***

*The regional planning commissions are legally established state entities composed of locally elected officials and others, that coordinate the interests of cities and counties through a regional approach in various areas, including planning, housing, economic development, and public facilities. The Action Plan amendment uses the same method (which includes the COGs in the allocation process) approved by HUD for the first round of funding for Hurricanes Ike and Dolly and the similar process used for distributing Hurricane Rita Round 1 funding (COG participation in the Rita Round 1 process). The revised Action Plan amendment establishes the method by which the State plans to allocate funding; in this case the State has identified the COGs as the bodies that will be responsible for allocating funding using objective criteria. TDRA and TDHCA will provide Method of Distribution*

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*Guidelines that will be used to prepare each COG's MOD. The COGs will be given sufficient time to prepare their MODs. However, the COGs have been given ample notice of some of the expectations that will be required in Round 2. TDRA and TDHCA are responsible for approving the regional COG Methods of Distribution and ensuring that the MODs comply with HUD and program guidelines. Each COG will be responsible for providing opportunities for public comment in developing the MODs.*

### ***TDHCA***

*Because both Round 1 and Round 2 were established under a single CDBG supplemental funding at the federal level, there are fundamental aspects of the rounds that are inseparable. The rounds, taken as a whole, must meet the low and moderate income requirements and the affordable rental housing set-aside. Although the overall assessment is that Round 2 funding will be used for housing and non-housing uses more or less equally, the allocation at the local level will be driven by actual damage and need, and an area that did not receive housing damage should not be expected to allocate its planned funding to housing activities.*

### **Comment #5: Importance of local determinations for funding**

Commenters urged that decisions regarding funding allocations and project selections should be made at the local level. One commenter stated that TDRA should adopt a plan at the community level to design program assistance and administer funds to affirmatively further fair housing and should not delegate responsibility to regional Councils of Government that are self-elected and self-selected bodies who are not accountable to hurricane survivors or to the citizens of Texas.

### **Staff Response:**

#### ***TDRA***

*The regional planning commissions are legally established state entities composed of locally elected officials and others, that coordinate the interests of cities and counties through a regional approach in various areas, including planning, housing, economic development, and public facilities. Because the impacted area is so large, it is infeasible to set allocations for such a diverse set of needs at the state level. TDRA recognizes the value of local knowledge to set local priorities at the regional level through a locally controlled process.*

### **Comment #6: Housing/Non-Housing split**

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Commenter stated that the housing and non-housing split should consider actual needs and Round 1 uses. Another commenter expressed dissatisfaction with the reduction of state oversight of how much funding will be used restoring housing versus infrastructure. Another commenter requested specificity in the Action Plan stating the ability to move money between housing and non-housing activities until all the allocated funds have been expended on eligible activities. Another commenter stated that the total amount of CDBG funding directed at housing recovery in Round 1 was inadequate with only 48% of the funding distributed to the COGs being allocated for housing recovery. Commenter continued that the proposed Amendment “recommends” that Round 2 funds be split equally between housing and non-housing activities, but imposes no requirement that COGs meet this goal. Commenter continued that the failure to prioritize unmet housing needs is exacerbated by TDRA’s provision of extensive technical assistance only to certain jurisdictions, and only for infrastructure projects.

### **Staff Response:**

#### ***TDRA***

*The COGs, through the local MODs, made the decision to allocate funding according to the regions needs and priorities. The need for housing assistance was a variable factor based on the relative impacts of the storms within a specific geographic area.*

*The proposed 50%/50% split provides an opportunity for local governments to address any unmet needs in areas of both housing and non-housing. This approach acknowledges that both needs are important for the recovery of communities and that needs will vary across the diverse geographical and socio-economic areas impacted by the storms in 2008.*

*To reach the greatest number of beneficiaries in a short timeline and optimize available funds, assessments for non-housing projects were undertaken. This enabled project assessments to be completed for the 29 most impacted counties affected by Hurricane Ike and provided a tool to be used for application preparation for non-housing funds.*

#### ***TDHCA***

*TDHCA has been able to receive accurate information regarding housing damage from a variety of sources, including FEMA assistance reports, the Governor’s Division of Emergency Management, damage assessments from regional Councils of Government, county and city*

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*governments, and others. Accordingly, we did not feel it was necessary or appropriate to provide technical assistance in the manner provided by HNTB.*

### **Comment #7: Concerns about the use of physical impact data for allocation decisions**

Commenters stressed that the physical impact model is incorrect as it does not include damages caused by the hurricane eye wall or other actual damages. Another commenter noted that surge data from Hurricane Ike had changed and wanted to know how Saffir-Simpson data was used. Another commenter suggested that the allocation model include flooding with a measure of elevation at 23%. Other commenters stated that the revised model that replaces “Impact Zone Factors” with “LMI population factors” caused a shift in funding within HGAC that resulted in three coastal counties losing funding while one county obtained a dramatic increase. Other commenters indicate that the use of a weather-based model misallocates funds between disaster-affected areas and contravenes the purpose of the CDBG disaster recovery program. Another commenter indicated that the proposed Amendment, using the weather-based model, results in allocations to counties which sustained no housing damage. Commenter continued that TDRA’s determination to use a weather based model that has no validity as a model, let alone as an appropriate basis for the distribution of CDBG disaster recovery funds, is deeply troubling.

#### ***Staff Response:***

##### ***TDRA***

*Refer to response for comment #1. Also the model was intended to provide guidance on a COG level fund allocation, consistent with the Action Plan approved by HUD dated December 1, 2008. The State of Texas’ approach to allocating funds is based on a goal of providing local control. TDRA expects that the COG’s will distribute the resources based on local needs. Based on public comment, population was considered and LMI was introduced as a factor and surge was increased which compensated for the removal of the “eye wall factor”.*

*The four regions and the competitive pool contain counties with documented housing damage and the potential for using the affordable rental housing funds. Funds set aside for affordable rental housing must be used to meet this need and will be distributed to other regions if affordable rental housing projects are not identified locally.*

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### **Comment #8: Help for individuals without insurance**

Commenter indicated that assistance should be provided to individuals without insurance.

#### **Staff Response:**

##### ***TDHCA***

*Housing assistance is provided to both individuals that had hazard insurance on their damaged or destroyed home and those who did not. The process of determining any duplication of benefits is part of the process to determine amount of assistance and proceeds received as a result of insurance claims reduces assistance. Criteria for availability of benefits will be established, subject to legal compliance, at the local level. TDHCA will scrutinize any deviations with unusual criteria to ensure that there is no awarding of benefits without appropriate supporting justification.*

### **Comment #9: Housing concerns**

Commenter stated that home funding from previous storms (Hurricane Rita) never reached the people who needed it and urged that Round 2 funding reach those in need. Another commenter recommended that affordable housing funds be subject to the regional method of distribution process and that funds be allocated according to rental housing damage data and other objective measures. Other commenters stated that the proposed model results in disparities in funding per damaged home to each region. Another commenter stated that, despite clear evidence through FEMA damage reports that overwhelmingly the damages caused by the two hurricanes were to housing, only 48% of Round 1 funding distributed to COGs was allocated for housing recovery. Commenter continued that many local governments failed to provide rehabilitation assistance, electing instead for far more costly but easier to administer new construction programs and that almost all failed to address the specific housing needs of very low income households. Commenter further stated that the use of ongoing housing rehabilitation and reconstruction programs administered by the State and established under the Round 2 Hurricane Rita Disaster Recovery Program should be adopted for the Hurricanes Dolly and Ike housing funds. Other commenters stress that the proposed Action Plan underfunds housing recovery. Another commenter stated that CDBG is proposing to disburse disaster recovery funds using a model inconsistent with both HUD's

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allocation model and the purpose of the CDBG program, failing to adequately fund unmet housing recovery needs. Commenter continued that the proposed Amendment does not give sufficient structure and guidelines for communities to follow to ensure that priority is given to rebuilding affordable housing. Another commenter stated that almost all local governments failed to address the specific housing needs of very low income households in their programs and prepared no analysis of impediments to fair housing.

### **Staff Response:**

#### ***TDRA***

*The proposed 50%/50% split provides an opportunity for local governments to address any unmet needs in areas of both housing and non-housing. This approach acknowledges that both needs are important for the recovery of communities and that needs will vary across the diverse geographical and socio-economic areas impacted by the storms in 2008. Further, TDRA has provided in the Amendment to the Action Plan that we will take actions ensuring that the benefit to low and moderate income beneficiaries is met. We are committed to satisfying this national objective.*

*The method of distribution is the same method (COG participation in the allocation process) used in the initial Action Plan which was approved by HUD. We continue to rely on local governments to determine their needs.*

#### ***TDHCA***

*TDHCA strongly endorses targeting lower income beneficiaries in the design of programs. Under Round 1 funding, the subrecipients targeted approximately 70% of the funds to the low to moderate income national objective.*

*Further, TDHCA is committed to full compliance with state and federal fair housing laws and regulations. TDHCA's most recent Analysis of Impediments to Fair Housing, posted on our website, addresses the requirements of the CDBG regulations related to fair housing.*

*TDHCA notifies subrecipients of CDBG Disaster Recovery funding of their fair housing responsibilities during the application phase and department staff provide both technical assistance and monitoring throughout the contract term to ensure that civil rights and fair housing requirements of the contract are being met.*

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*Documentation related to fair housing compliance will primarily be kept locally and reviewed by TDHCA and other entities that audit these programs, including HUD and the State Auditor's Office. TDHCA also tracks fair housing through a centralized system.*

### **Comment #10: Rental housing program**

Commenter urged that more public input be allowed as regards the rental housing program.

#### **Staff Response:**

*TDHCA*

*The requirement that 10.6% of the overall grant funds be used for affordable rental housing is statutory. The amount of funds allocated between housing and non-housing activities, as well as the types of housing programs to be offered, is determined at the local level which should be driven by the needs of communities including actual damage.*

### **Comment #11: More rapid disbursement of funds**

Commenter inquired as to where the Round 1 funding was and urged that all projects be accelerated.

#### **Staff Response:**

*TDRA*

*While allocation of these types of funds might seem cumbersome and slow to those needing assistance, every effort is being made to expedite the funding by the most efficient, effective and beneficial means possible.*

*TDHCA*

*All awards for local subrecipient agreements have been made under Ike Round 1. Applications for the affordable rental housing set-aside, administered by TDHCA, are under review and recommendations to the TDHCA governing board should be complete in November.*

### **Comment #12: Two application cycles**

Commenter stated that having two application cycles wastes time and recommended that TDRA accept all applications at one time and sort out and fund the applications that serve the LMI requirement first.

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### **Staff Response:**

*TDRA*

*To ensure that the State meets the LMI requirement of at least 50% of the \$1,528,995,720, TDRA will hold two separate application rounds. The first will be for LMI projects and when the LMI requirement is met, the second round will allow for other projects meeting the other national objectives. All allocations made through the regional MODs will be conditional until the LMI requirement is achieved. If the LMI requirement is not met in the first application round, adjustments may be made to the MODs and allocations will be changed.*

### **Comment #13: Title clearing concerns for housing**

Commenter stated that the criteria for proof of home ownership was too limiting and inquired if those criteria would be established by the state or by local government.

### **Staff Response:**

*TDHCA*

*Recent amendments to state law expanded the ability of putative homeowners who lack clear title to access program assistance which should expedite the distribution of assistance.*

### **Comment #14: Private insurance concerns for housing**

Commenter stated that private insurance should not be considered a duplication of benefits as it represents a personal investment.

### **Staff Response:**

*TDHCA*

*Under federal law disaster assistance applicants cannot receive duplicative benefits which may have otherwise been covered by FEMA, private insurance, or any other federal assistance. Therefore private insurance claims may be considered as duplication of benefit, depending on the purpose of the funding received.*

### **Comment #15: Funding for housing in Deer Park**

Commenter stated that housing funds were needed in the community of Deer Park.

### **Staff Response:**

*TDHCA*

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*The need is acknowledged. Decisions as to distribution of allocated funds will be made at the local level.*

### **Comment #16: Round 1 applications and allocations**

Commenter suggested that TDRA consider a process by which amendments be made to Round 1 fund grant agreements to provide for additional funding and the designation of additional projects allocated in Round 2.

#### **Staff Response:**

*TDRA*

*Every project funded by Round 1 funding must individually meet a national objective and have beneficiaries.*

### **Comment #17: Portable generators**

Commenter urged that trailer mounted generators should be allowed.

#### **Staff Response:**

*TDRA*

*TDRA has received guidance from HUD that trailer mounted generators are ineligible.*

### **Comment #18: Needs in Deep East Texas**

Commenters thanked TDRA for funding to Deep East Texas communities and stressed that these communities are the ones evacuees rely on and without improvements, those evacuees would not have shelters, power, running water or sewer facilities.

#### **Staff Response:**

*TDRA*

*TDRA appreciates this comment and agrees with this assessment. All counties declared under FEMA 1780-DR and FEMA 1791-DR are eligible applicants for supplemental disaster funding.*

### **Comment #19: Buy-outs**

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Commenter inquired if the benefit cost analysis for buy-outs had been received and if the state will develop a model or use FEMA's model.

### **Staff Response:**

#### ***TDRA***

*HUD regulations do not require benefit cost analysis for buy-out projects.*

#### ***TDHCA***

*Disaster recovery subrecipients have the discretion to pay pre-flood or post-flood values for the acquisition of properties located in a flood way or floodplain. In using CDBG disaster recovery funds for such acquisitions, the subrecipient must uniformly apply the valuation method it chooses. TDHCA will offer technical assistance to subrecipients in the development of housing assistance programs that may offer buy outs.*

### **Comment #20: Economic development**

Commenter requested that deferred forgivable loans be offered.

### **Staff Response:**

#### ***TDRA***

*Eligible economic development activities will include Revolving Loan Funds that return program income to the State within six years or less, deferred forgivable loan programs, façade improvement programs and job training programs. No other economic development activities will be eligible from these funds.*

### **Comment #21: Pooled funds**

Commenter inquired as to what applies to the pooled funds competition and noted that the pooled areas have little or no demand for housing. Other commenters stated that pooled counties generate more in "estimated damages" than they have in actual damages with some counties having zero Hurricane Ike damage still generating disaster funds.

### **Staff Response:**

#### ***TDRA***

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*Guidance related to the competition for the pooled funds is currently being developed for communities in the counties within the pooled areas. All counties declared under FEMA 1780-DR and FEMA 1791-DR are eligible applicants for supplemental disaster funding so long as they have eligible projects.*

### **Comment #22: Housing benefits involving undocumented persons**

Commenter requested clarification regarding housing benefit availability for undocumented persons.

#### **Staff Response:**

##### ***TDHCA***

*TDHCA will ensure that subrecipients operating and administering these programs confirm to applicable federal and state laws and other legal and regulatory requirements in accordance with guidance received from HUD. At present, HUD has not released guidance that requires a denial of benefits based solely on citizenship.*

### **Comment #23: Allocations for the City of Galveston**

Commenter stated that the City of Galveston should only receive funds to repair public infrastructure and be built to resist another Hurricane Ike. The commenter continued that citizens choosing to build homes and businesses on low lying beach islands in hurricane zones should build to appropriate codes and have private insurance.

Another commenter expressed dissatisfaction about “how little funds” were being distributed to the City of Galveston and suggested that more funds are needed.

#### **Staff Response:**

##### ***TDRA***

*The State has made allocations to the four regions and the Pool. Allocations to individual communities will be made through MODs in the four regions receiving funding and through a competitive process.*

### **Comment #24: Request for Qualifications for engineering firms**

Commenter asked if there will be a new Request for Qualifications for additional engineering firms to be added to the approved list of firms established in Round 1.

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### **Staff Response:**

*TDRA*

*At this time, TDRA does not plan to issue another Request for Qualifications to add additional firms to the non-housing master list.*

### **Comment #25: Insured losses**

Commenter forwarded correspondence sent to President Obama requesting information and assistance for insurance policyholders providing access to fundamental rights and information as regards disaster losses.

### **Staff Response:**

*TDRA*

*TDRA agrees with the assessment that insurance policyholders need to be fully aware of the rights and privileges provided to them by their individual policies and can only recommend that these persons seek information and details from the insurance providers.*

### **Comment #26: Funding Allocation Model discrepancies for the mid and lower Texas coast**

Commenter suggested that TDRA develop and include storm surge data in the Funding Allocation Model for the mid and lower Texas coast for both Hurricanes Ike and Dolly in order to provide a more accurate picture of the relative impact of the storms on the coastal areas as compared with inland areas which mainly experienced wind and rain. The resulting calculations could be used in both the funding allocation and in scoring under the multi-region pooled fund competition. Commenter further suggested that, if re-working the model is not possible, additional scoring consideration should be given to coastal communities competing for the pooled funds.

### **Staff Response:**

*TDRA*

*FEMA surge data did not reflect any measured surge in the mid and lower Texas coast for Hurricane Dolly. Guidance for competition within the pooled funds is currently being developed for communities with the pooled areas.*

### **Comment #27: Consideration for Coastal Bend area damages**

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Commenter stated that, while the Coastal Bend area did not suffer massive damage similar to those areas that were struck directly by these two particular hurricanes, they were still affected by high tidal surges. Commenter continued that the smaller projects requested by the Coastal Bend area are just as critical to defense against future storm events and urged that the state strive to ensure that all coastal areas receive substantial and sufficient allocations.

### ***Staff Response:***

#### ***TDRA***

*All counties declared under FEMA 1780-DR and FEMA 1791-DR are eligible applicants for supplemental disaster funding.*

### ***Comment #28: Long-term strategies***

Commenter urged the development of program criteria that encourage long-term strategies for reducing the risk of damage from future natural disasters and complement and enhance locally determined priorities.

### ***Staff Response:***

#### ***TDRA***

*Guidance related to preparation of the MODs is currently being developed for the COGs.*

### ***Comment #29: Specific and realistic timelines***

Commenter requested that specific and realistic timelines for business such as grant award announcement, public hearings, methods of distribution, acceptance or decline of award, reallocation of funds within eligible categories, application deadlines, etc. be set to ensure that all funds allocated to the regions are spent.

### ***Staff Response:***

#### ***TDRA***

*TDRA will estimate timelines that will include MOD due dates, application due dates and contract maturity dates.*

### ***Comment #30: COG participation***

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Commenters requested that COG representatives be allowed to participate in discussions between the state and HUD.

### ***Staff Response:***

#### ***TDRA***

*TDRA is open to discuss any program issues needing HUD guidance. However, discussions with HUD are the responsibility of the State. Any determinations by HUD will be forwarded to the appropriate parties. In many cases, written communication with HUD is preferable.*

### **Comment #31: *HUD approval and citizen participation***

Commenter stated that the State of Texas Amended Plan for Disaster Recovery fails to comply with the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act that requires that “each State shall submit a plan to the Secretary (of HUD) detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure”. Commenter continued that submission of the MODs by the COGs as to how the funds will be used will occur after the citizen participation process is concluded and after the Secretary of HUD is asked to approve the plan, rendering both citizen participation and federal oversight meaningless.

### ***Staff Response:***

#### ***TDRA***

*The Action Plan amendment uses the same method (COG participation in the allocation process) approved by HUD for the first round of funding for Hurricanes Ike and Dolly and the similar process used for distributing Hurricane Rita Round 1 funding. We continue to rely on local governments to determine their needs and establish priorities.*

*TDRA held a total of eight public hearings across the impacted area for Round 2 funding – five for the first draft and three for the revision. The public was notified via the TDRA web site and weekly webinars, TDHCA web site, newspaper advertisements, correspondence to legislators, and emails. The proposed amendment to the Action Plan was revised based on public comments received. Comments for the revised amended plan were accepted through September 24, 2009. TDRA’s Board of Directors will accept public comments during the Board meeting to be held, Wednesday, September 30, 2009. In addition, the COGs are required to hold public hearings and consider comments as a component of developing the regional distribution.*

## **Appendix C-3 – Public Comment: Three Hearings on Revised Action Plan**

### **Comment #32: *Compliance with Federal laws and regulations***

Commenters expressed concern that TDRA and TDHCA are failing to prioritize activities serving low and moderate income disaster victims in violation of federal law and regulations. Another commenter stated that the State of Texas Amended Plan for Disaster Recovery fails to comply with the requirement that “each State shall submit a plan to the Secretary [of HUD] detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure.”

#### ***Staff Response:***

##### ***TDRA***

*TDRA has provided in the Amendment to the Action Plan that we will take actions ensuring that the benefit to low and moderate income beneficiaries is met. We are committed to satisfying this national objective.*

*Further, the standards established in the original Action Plan, which was approved by HUD, were incorporated by reference in the Amendment and further defined in the program specific application guides.*

##### ***TDHCA***

*The Action Plan requires subrecipients to structure housing programs that make assistance predominately available to low income residents in the community including extremely low, very low and low income families and individuals.*

### **Comment #33: Implementation Manual**

Commenter inquired if the Community Development Implementation Manual would be used.

#### **Staff Response:**

##### ***TDRA***

*The Community Development Implementation Manual will be amended for the DR process for use on non-housing contracts.*

### **Comment #34: Addressing public comment**

Commenter indicated that the proposed Amendment fails to address previous comments that the Action Plan does not give sufficient structure and guidelines for communities to follow to ensure that

## **Appendix C-3 – Public Comment: Three Hearings on Revised Action Plan**

priority is given to rebuilding affordable housing, and assisting low-income and moderate-income persons in the recovery process.

### **Staff Response:**

#### ***TDRA***

*The method of distribution is the same method (COG participation in the allocation process) used in the initial Action Plan. We continue to rely on local governments to determine their needs. TDRA and TDHCA will provide Method of Distribution Guidelines that will be used by the COGs to prepare the MODs.*

### **Comment #35: Waivers that detract from LMI beneficiaries**

Commenter indicated concern that the State has already requested and been granted waivers for a number of program requirements related to programs serving low and moderate income families, including an overall waiver of the 70% LMI benefit requirement, one-for-one replacement of lower income housing units, and calculation of the LMI benefit related to economic development programs.

### **Staff Response:**

#### ***TDRA***

*TDRA has provided in the Amendment to the Action Plan that we will take action to ensure that the benefit to low and moderate income beneficiaries is met. It is important to understand that the requirement for 50% of the funds to benefit LMI beneficiaries applies to all disaster recovery funding for Hurricanes Ike and Dolly. Furthermore, the waivers regarding 70% LMI benefit and the one-to-one replacement of lower income housing units were not requested by the state; they were included in the Federal Register. TDRA is committed to ensure that this national objective is satisfied.*

### **Comment #36: Denial of assistance to the Rio Grande Valley**

Commenter claimed that technical assistance had been denied to affected jurisdictions in the Rio Grande Valley and on the Gulf Coast and that the State could not, therefore, certify that it has “given maximum feasible priority to activities that will benefit low-and moderate-income families,” and has demonstrated an inability to ensure that 50% of funds expended benefit low and moderate-income persons.

### **Staff Response:**

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### ***TDRA***

*TDRA has provided in the Amendment to the Action Plan by including low and moderate income as a factor in the distribution formula that further ensures that the benefit to low and moderate income beneficiaries is met. We are committed to satisfying this national objective and will address the issue in criteria for developing MODS and guidance for competitive processes. TDRA did not deny assistance to communities in the Rio Grande Valley or Gulf Coast regions, rather early in the planning stages, when RFQ's were set for assistance, it was not anticipated that Hurricane Dolly would be included in the Federal Register.*

### **Comment #37: Need for a detailed plan**

Commenter stated that the proposed Action Plan Amendment fails to provide essential information regarding final funding allocations, program descriptions, or beneficiary eligibility standards and that the failure to produce a real plan completely frustrates any ability of the public to comment meaningfully upon the proposed uses and beneficiaries because they are not set forth in the Plan.

### **Staff Response:**

#### ***TDRA***

*TDRA held a total of eight public hearings, attended by a total of 464 people, across the impacted area for Round 2 funding – five for the first draft and three for the revision. The public was notified via the TDRA web site and weekly webinars, TDHCA web site, newspaper advertisements, correspondence to legislators, and emails. The proposed amendment to the Action Plan was revised based on public comments received. Comments for the revised amended plan were accepted through September 24, 2009. TDRA's Board of Directors will accept public comments during the Board meeting to be held, Wednesday, September 30, 2009. In addition, each COG will be responsible for providing opportunities for public comment in developing the MODs.*

### **Comment #38: Timely expenditure of funds**

Commenter stated that the State cannot certify that each recipient has the capacity to carry out the proposed activities in a timely manner if it relies on local governments to carry out the host of different recovery programs proposed in this Amended Plan. Commenter continued that the State chooses to rely on a method of distribution of housing assistance that has proven to produce unconscionable delays.

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### **Staff Response:**

#### ***TDRA***

*TDRA has responded in an appropriate time frame given the magnitude and complexity of the program while complying with federal funding requirements. Performance to date either meets or exceeds actions in prior disaster events despite the exceptional magnitude of this recovery effort.*

#### ***TDHCA***

*TDHCA, in consultation with the Governor's Office and local elected officials, determined that locally operated and managed housing recovery programs would be most effective for Hurricanes Ike and Dolly housing recovery. Throughout public input roundtables held by TDHCA, and public hearings conducted jointly by TDRA and TDHCA, there was strong public comment that these funds should be administered locally since the communities know best what works for them and what their needs are. TDHCA will maintain accountability for these funds, and will work with the local communities to ensure expediency. The local communities, however, will be responsible for the program design and implementation of the housing activities ensuring that the funds are expended timely.*

*Building homes following a disaster using Community Development Block Grant funding results in complex program design and implementation requirements. This is especially true when TDHCA determined to fully rebuild homes through its programs, rather than simply issue checks to affected persons, as was done with other programs. It took some time to ramp up TDHCA's housing assistance programs, but all Hurricane Rita programs are moving strongly forward. Approximately 87% of the housing funds under Rita Round I have been expended, providing assistance to repair or replace over 500 homes. About 35% of Rita Round II funds have been expended resulting in nearly 900 multifamily units almost 1000 single family homes competed or under construction.*

*TDHCA and TDRA together have experienced funding delays due to federal environmental and historical preservation requirements, and title clearance and duplication of benefit issues.*

### **Comment #39: Housing reconstruction**

Commenter stated that under the State's Hurricane Rita Recovery Plan Round 2 the state administered a housing reconstruction program that currently builds a new, reconstructed, site built

## **Appendix C-3 – Public Comment: Three Hearings on Revised Action Plan**

home for low-income hurricane survivors at a cost of \$65,000 to \$70,000. This contrasts with the Hurricane Rita Recovery Plan Round 1 program in which COGs administered housing reconstruction resulting in extraordinary delays and producing a small number of site-built homes at costs of over \$100,000 and trailers at \$80,000. The proposals for housing programs submitted by local governments for the Hurricane Ike Recovery Plan Round 1 program are even more expensive with expenditures to build new homes reaching \$125,000 each.

**Staff Response:**

***TDHCA***

*TDHCA anticipates working with COGs to standardize program criteria such as maximum construction costs and encouraging containment of construction costs to assist as many applicants as possible. The costs of the homes proposed by the local communities under Round I Ike/Dolly are program maximums. Due to the status of the economy, it has been easier to obtain contractors and production costs have changed. It is anticipated that the actual average cost to rebuild homes will at least be in line with costs under the Rita programs.*

*The subrecipients under Round I, requested flexibility to address elevation and storm hardening costs, which add to the cost of housing. The subrecipients also expressed the concern that limiting the amount of funds that could go into a home may inadvertently result in large families' inability to participate in the program if the funding wasn't sufficient to build a home that accommodates the size of the family.*

*These are interesting times in the housing construction market, and we have seen great price fluctuations for materials and labor. Given that Hurricanes Ike and Dolly hit more heavily populated areas with a larger number of homebuilders and contractors, greater cost efficiencies may result. TDHCA, however will be working with local housing programs to ensure best value and to stretch limited recovery funds to as many impacted Texans as possible funds in a responsible manner that will address the needs of their population.*

**TOPICS**

1	FEMA assessments
2	Errors in model for Matagorda County
	Low to Moderate Income requirements

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3	
4	Methods of distribution
5	Importance of local determinations for funding
6	Housing/Non-Housing split
7	Concerns about the use of physical impact data for allocation decisions
8	Help for individuals without insurance
9	Housing concerns
10	Rental housing program
11	More rapid disbursement of funds
12	Two application cycles
13	Title clearing concerns for housing
14	Private insurance concerns for housing
15	Funding for housing in Deer Park
16	Round 1 applications and allocations
17	Portable generators
18	Needs in Deep East Texas
19	Buy-outs
20	Economic development
21	Pooled funds
22	Housing benefits involving undocumented persons
23	Allocations for the City of Galveston
24	Request for Qualifications for engineering firms
25	Insured losses
26	Funding Allocation Model discrepancies for the mid and lower Texas coast
27	Consideration for Coastal Bend area damages
28	Long-term strategies
29	Specific and realistic timelines
30	COG participation
31	HUD approval and citizen participation
32	Compliance with Federal laws and regulations
33	Implementation Manual
34	Addressing public comment
35	Waivers that detract from LMI benefit
36	Denial of assistance to the Rio Grande Valley
37	Need for a detailed plan
38	Timely expenditure of funds
39	Housing reconstruction

**Appendix C-3 – Public Comment: Three Hearings on Revised  
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<b>Commenter</b>	<b>Commenter Information</b>	<b>Source</b>	<b>Comments Made by Topic #</b>
Lyda Ann Thomas	Mayor, City of Galveston	Houston Hearing	1
Nate McDonald	County Judge, Matagorda County	Houston Hearing, Written Testimony	2, 6
Richard Celli	Director of Housing, City of Houston	Houston Hearing	3
Julie Johnston	City Manager, Dickinson	Houston Hearing	4, 5
Bruce Spitzengel		Houston Hearing	5, 6
Sheila Lidstone	Galveston County Recreation Fund	Houston Hearing	3, 7, 8
Joe Higgs	Gulf Coast Interfaith	Houston Hearing	1, 3, 7
Barbara Crews	Gulf Coast Interfaith	Houston Hearing	1, 3, 7
Leonard Wiggins	Blessed and Caring Hands	Houston Hearing	9
Andy Rivera	Mayor Pro Tem, City of Friendswood	Houston Hearing	1, 5, 7, 10
William Alcorn	President, Galveston County Municipal Utility District #12	Houston Hearing	7, 11
Phillip Hopkins	Mayor, City of Tiki Island	Houston Hearing	5, 7, 12
Brandon Wade	Deputy City Manager, City of Galveston	Houston Hearing	3, 7
John Simsen	Emergency Management, City of Galveston	Houston Hearing	1, 7
Kerry Neves	City Council, City of Dickinson	Houston Hearing	5, 10
David Baker	Public Management	Houston Hearing	13, 14
Jennifer Posten	Greater Houston Long Term Recreational Commission	Houston Hearing	1, 7

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Laura Murrell	Citizen of Galveston	Houston Hearing, Written Testimony	7
Matt Fuqua		Houston Hearing	15
Julia Germany	League City	Houston Hearing	16
Barbara White	Home Sweet Home Community Redevelopment	Houston Hearing	9
Della Banks		Houston Hearing	1, 9
Tim Cullather	Galveston County Freshwater Supply District #6	Houston Hearing	1, 3, 4, 7
Jacques Blanchette	County Judge, Tyler County	Livingston Hearing, Written Testimony	3, 5, 30
Ben Bythewood	Mayor, City of Woodville	Livingston Hearing	3, 5
Marcia Cook	Polk County	Livingston Hearing	5
Duke Lyons	City Manager, City of San Augustine	Livingston Hearing	17
David Waxman	David J. Waxman, Inc.	Livingston Hearing	5
Raymond Vann	Raymond K. Vann & Associates	Livingston Hearing	18
Jay Rice	Public Management	Livingston Hearing	4, 13, 19, 20, 33
Steve Kerbow	Kerbow & Associates	Livingston Hearing	3, 5, 21
Willo Sylestine	Alabama-Coushatta Tribe	Livingston Hearing	16
Graciella Camarena	Valley Interfaith	Weslaco Hearing, Written Testimony	1
Fatima Santiago	Citizen of Colonia San Benito	Weslaco Hearing	1, 3, 9
Richard Hinojosa	City of Edinburg	Weslaco Hearing	4
Beatriz Farias	MET Inc.	Weslaco Hearing	9
Diana Serna	Hidalgo County Urban County Program	Weslaco Hearing	22
Marina Palacios	Citizen of the Valley	Weslaco Hearing	1, 9
Sunny Philip	City Manager, City of La Feria	Weslaco Hearing	3, 4, 7, 20
Marianne McIntyre	Citizen of Dallas County	Written Testimony	7
Helen L. McIntyre	Citizen of Dallas County	Written Testimony	7

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Sammy C. McIntyre	Citizen of Dallas County	Written Testimony	7
Michael Speegle	Citizen of Galveston County	Written Testimony	7
Kathy Speegle	Citizen of Galveston County	Written Testimony	7
Barbara Sasser	Citizen of Galveston County	Written Testimony	6, 7
Delmira Olivarez	City Manager, City of Edcouch	Written Testimony	7
Gene Strong	Citizen of Conroe	Written Testimony	23
Margo Walters	Citizen of Galveston	Written Testimony	23
Trudy Deen Davis	Administrator, Galveston County Recovery Fund	Written Testimony	6, 7
Sandra Sullivan	Citizen of Galveston County	Written Testimony	7
John P. Thompson	County Judge, Polk County	Written Testimony	3, 5, 6, 16
Jack Gorden, Jr.	Mayor, City of Lufkin	Written Testimony	3, 5, 6, 16
Anne Rubio	Citizen of Galveston County	Written Testimony	7
Gary Hoffman	Unknown	Written Testimony	7
Dian Groh	Galveston County Disaster Recovery Case Manager	Written Testimony	7
Sue Reed	Citizen of Galveston County	Written Testimony	7
Eulalio Ramirez	Quintanilla, Headley & Associates, Inc.	Written Testimony	24
Antone P. Braga	Unknown	Written Testimony	25
Rene Mascorro	County Judge, Refugio County	Written Testimony	7, 26, 27
Bill White	Mayor, City of Houston	Written Testimony	1, 3, 16
Sylvester Turner	State Representative, House of Representatives	Written Testimony	1, 3, 5, 7, 9
Jack Steele	Executive Director, HGAC	Written Testimony	1, 3, 5, 7, 9

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Fred Williamson	Mayor, City of Danbury	Written Testimony	1, 3, 5, 7, 9
Clifford Louis Guidry	Mayor, City of Oyster Creek	Written Testimony	1, 3, 5, 7, 9
David J. H. Smith	Mayor, City of Friendswood	Written Testimony	1, 3, 5, 7, 9
Noel Escobar	Mayor, City of Escobares	Written Testimony	28
Bob Sipple	Mayor, City of Lake Jackson	Written Testimony	1, 3, 5, 7, 9
Armando L. Walle	State Representative, House District 140	Written Testimony	1, 5, 6, 7
Sylvestre Garcia	Mayor, Town of Combes	Written Testimony	7
Ken Legler	State Representative, House District 144	Written Testimony	6, 7
Rudy Garza, Jr.	Mayor, City of Primera	Written Testimony	6, 29
Diamantina Bennett	Mayor, City of Los Indios	Written Testimony	6, 29
Kenneth N. Jones, Jr.	Executive Director, LRGVDC	Written Testimony	4, 6
Anthony Covacevich	Associate, Hollis Rutledge and Associates	Written Testimony	1, 3, 7
Roger Van Horn	Mayor, City of Nacogdoches	Written Testimony	3, 5, 30
Wes Suiter	County Judge, Angelina County	Written Testimony	3, 5, 30
Lonnie Hunt	County Judge, Houston County	Written Testimony	3, 5, 30
Robert Hamilton	Mayor, City of Hemphill	Written Testimony	5
Lew Vail	Mayor, City of Onalaska	Written Testimony	3, 5, 18

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Fritz Faulkner	County Judge, San Jacinto County	Written Testimony	3, 5, 30
Mark Evans	County Judge, Trinity County	Written Testimony	3, 5, 30
Charles E. Watson	County Judge, Sabine County	Written Testimony	3, 5, 30
Rick L. Campbell	County Judge, Shelby County	Written Testimony	3, 5, 30
Mark W. Allen	County Judge, Jasper County	Written Testimony	3, 5, 30
Mel McKey	Superintendent, Velasco Drainage District	Written Testimony	7, 16
David Turkel	Director, Community Services Department, Harris County	Written Testimony	1, 3, 7
Gulf Coast Interfaith	Gulf Coast Interfaith	Written Testimony	7, 9, 21
John Henneberger	Co-Director, Texas Low Income Housing Information Service	Written Testimony	3, 4, 9, 31, 32, 37, 38, 39
James Freeman	City Administrator, City of Hudson	Written Testimony	3, 5, 18
Randy Williams	County Judge, San Augustine County	Written Testimony	3, 5, 30
Madison Sloan	Staff Attorney, Texas Appleseed	Written Testimony	1, 3, 6, 7, 9, 32, 34, 35, 36
Rodney Ellis	Senator, State of Texas, District 13	Written Testimony	7, 10
Charlie Cabler	City Manager, City of Brownsville	Written Testimony	6, 10

## ***Appendix C-4 – Public Comment: Hearing on Competitive Pool***

### ***Regional Pool Competitive Process Criteria Distribution Public Hearing***

On December 9, 2009, an announcement describing a public hearing to receive comments on the *Regional Pool Competitive Process Criteria Distribution* for approximately \$24,591,584 in Community Development Block Grant (CDBG) Supplemental Disaster Recovery Funds under the U.S. Department of Housing and Urban Development (HUD), Consolidated Security, Disaster Assistance, and Continuing Appropriation Act of 2009, Public Law 110-329 was posted on the TDRA website, was sent to recipients on TDRA's notification list, which included County Commissioners, County Judges, Mayors, City Managers, City Council members, Council of Government (COG) Directors, consultants and engineers from the affected areas and other interested parties and was announced in regional newspapers in the affected areas. Comments and participation were encouraged either through attendance at the public hearing in person or via webcast or in writing. Hearing notices, in English, Spanish and Vietnamese were published on the website.

The public hearing was held on Tuesday, December 15, 2009 at 10:00 a.m. at the TDRA South Austin Office located at 1340 Airport Commerce Drive, Bldg. 4, Suite 490, Austin, Texas 78741. A webcast of the event was available to enable individuals to view and hear the public hearing. The public comment period for the amended document ran from December 9, 2009 through December 17, 2009.

#### **Key points of the proposed criteria are as follows:**

The Non-Housing pool applications will be scored and administered by TDRA; therefore the application documents will be produced by, and application submission shall be made to TDRA. The Housing pool applications will be scored and administered by TDHCA; therefore the Housing application documents will be produced by, and application submission shall be made to TDHCA.

Allocations between the non-housing and housing Pool funds will remain constant for the initial competitions, but as competitions are finalized and funds remain in either activity, any funds not allocated for eligible projects for housing or non-housing activities will remain within housing or non-housing at the 50/50 split. Any funds still remaining will be returned to the State for allocation based on the reallocation policy defined in this amendment.

Scoring Criteria Methodology is detailed in the Ike/Dolly Second Round Funding Pool Scoring Criteria (PDF Document) document on the TDRA website and is included as an appendix to this amendment.

## ***Appendix C-4 – Public Comment: Hearing on Competitive Pool***

The location, address, and number of attendees at the public hearing are listed below:

<b>LOCATIONS</b>	<b>AUSTIN Regional Pool Competitive Process Criteria</b>
Facility/ Address  Also available via webcast	TDRA Disaster Recovery Division Office 1340 Airport Commerce Drive, Bldg. 4, Suite 490 Austin, TX 78741
Hearing Date Time	December 15, 2009 10:00 a.m.
Number of In-Person Attendees	8
Number of Attendees via Webinar	44

The hearing location was fully accessible to persons with disabilities. The hearing announcements included information on accessibility requests for individuals requiring an interpreter, auxiliary aids, or other services. Additionally, staff attending the hearings spoke both English and Spanish.

During the comment period, TDRA, in cooperation with the TDHCA, accepted comment on the *Regional Pool Competitive Process Criteria for Housing and Non-Housing*.

The following is a summary of the comments received as well as the TDRA and TDHCA responses. Comments are arranged and answered by subject, and each comment is individually numbered. At the end of this section, there is a table that includes a list of the topics and a second table that includes information for each individual making comment. In general, housing-related comments were addressed by TDHCA and non-housing comments were addressed by TDRA. The primary responding agency is also listed with their responses.

## ***Appendix C-4 – Public Comment: Hearing on Competitive Pool***

For more information on the public comments included in this document, or for copies of the original comments, please contact Dan Robertson, TDRA Disaster Recovery Information Officer, at (512) 936-0433.

### **Comment #1: Unutilized funds**

Commenter requested confirmation that any funds not used for housing or non-housing would go into the pooled healthcare facilities.

#### ***Staff Response:***

***TDRA***

*Allocations between housing and non-housing will remain at a 50/50 split. Funds not used for either housing or non-housing will be reallocated based on the reallocation process described in this amendment.*

### **Comment #2: Interaction between general housing funds and affordable rental housing funds**

Commenter inquired about the interaction between general housing funds and affordable rental housing funds.

#### ***Staff Response:***

***TDHCA***

*The affordable rental set-aside for the pooled funds is not part of the \$47.2 million for the housing pool.*

### **Comment #3: Application process**

Commenter asked when the application process will begin and what the deadline would be.

#### ***Staff Response:***

***TDRA***

*Those timelines cannot be set until final approval for the Action Plan Amendment is received from HUD.*

### **Comment #4: 51% LMI Requirement**

Commenter inquired if the 51% LMI requirement for the first round of funding pertains to the overall application's LMI percentage or to each project/activity within the application if there are

## ***Appendix C-4 – Public Comment: Hearing on Competitive Pool***

multiple projects/activities. Another commenter suggested that LMI income percentage brackets with points assigned be eliminated because (1) projects would be defined by applicants on LMI basis for competitive advantages, rather than local or regional priority, (2) this model ignores the actual number of beneficiaries, which may result in high per capita costs, low numbers of beneficiaries and less effective use of funds, (3) this model would result in city or county-wide projects being at a competitive disadvantage and does not address hurricane impact, and (4) the use of bracketed LMI income percentage scoring factors were abandoned in the past after discovery of substantial abuse and fraud after conducting door-to-door surveys. Another commenter suggested that no less than 65% of the combined Round 1 and Round 2 Disaster Recovery Funds for the repair and reconstruction of owner- and renter-occupied housing. Commenter also suggested that funds be prioritized for the benefit of low- and moderate-income households to the extent that at least 60% of all housing and non-housing CDBG funds are expended on these households.

### ***Staff Response:***

#### ***TDRA***

*The 51% requirement applies to each project based on census and/or surveys, which are reviewed by State staff at the application stage. In order for the application to move forward through the first phase of awards, each project within an application must meet the 51% LMI requirement for the application as a whole to be considered for first phase funding. The State expects to develop a quality assurance process that will incorporate a risk analysis process to test for fraud, abuse and mismanagement of funds. The State expects all instances of fraud and abuse to be reported to TDRA or TDHCA. The scoring factor gives preference to LMI projects benefitting LMI persons impacted by the hurricanes. The State also expects that the 50% aggregate of total funds directed to the LMI benefit will be exceeded.*

#### ***TDHCA***

*The action plan provided the initial split between housing and non-housing. This revision to the Action Plan Amendment No. 1 will require that the housing and non-housing remain at a 50/50 split. Regarding the 60% benefit suggestions, the February 13, 2009 Federal Register provided an overall benefit waiver to allow up to 50% of the funds to assist activities under the urgent need or prevention of slum and blight rather than the 30% allowed under the CDBG program. This waiver allows at least 50% of the funds under the*

## ***Appendix C-4 – Public Comment: Hearing on Competitive Pool***

*LMI national objective. However, the LMI percentage is a minimum not a maximum and local jurisdictions may designate a greater percentage funds to assist LMI.*

### **Comment #5: Competitive process data**

Commenters asked if FEMA Public Assistance and Individual Assistance data is to be used in the non-housing competition, is that information available to the public via their website. Another commenter suggested that hurricane damage data used in the competitive process should be made available from a uniform data source and posted for view and download. Another commenter noted that FEMA data had been deemed inaccurate in previous hearings and inquired as to why it was being used as a scoring factor. Another commenter stated that there is no damage estimate data that justifies the allocation of funds into the proposed regional pool.

#### ***Staff Response:***

##### ***TDRA***

*Applicants that do not have a count of how much FEMA PA and IA damage funds they've received to date or need additional information can contact TDRA for guidance. The proposed method of distribution of funds has been determined as discussed in Action Plan Amendment No. 1 and has gone through the public hearing process.*

### **Comment #6: Long-term recovery**

Commenter inquired as to whether a community with a bridge in need of replacement, but not damaged by Hurricane Ike or Dolly, could apply for funding under long-term recovery to replace the bridge.

#### ***Staff Response:***

##### ***TDRA***

*No. In order to be eligible for funding, there must be direct damage or a failure to function as designed as a result of either Hurricane Ike or Dolly and all other funding criteria must also be met.*

### **Comment #7: Non-Housing regionalization scoring factor**

## ***Appendix C-4 – Public Comment: Hearing on Competitive Pool***

Commenter asked if, for the non-housing competition regionalization scoring factor, where a county is one of the entities participating is the 15% benefit requirement calculated as a percent of the total county population or of the unincorporated population?

***Staff Response:***

***TDRA***

*In this proposal, the 15% benefit requirement is calculated as a percent of the total county population.*

**Comment #8: Low-Mod scoring**

Commenter indicated that the proposal for low-mod scoring discriminates against projects that benefit a larger area, like those that protect a community from large area flooding.

***Staff Response:***

***TDRA***

*The 35 points available related to LMI projects represent 35% of the total points available to reinforce the State goal and HUD requirement that 50% of the aggregate of the funds be used for support of activities producing benefit to LMI persons. The remaining 65% of the points consider all other applicable project factors, such as but not limited to points for regionalization.*

**Comment #9: Scoring criteria**

Commenter suggested that “Hurricane damage per capita” should receive greater overall weight in the Scoring Criteria than is proposed because the Hurricane Dolly area generally has lower damage per capita, but higher LMI rates. Therefore, the Hurricane Ike areas would be at a competitive disadvantage.

***Staff Response:***

***TDRA***

*Points are assigned to LMI projects in order to meet the State goal and HUD requirement that 50% of the aggregate of the funds used for support of activities producing benefit to LMI persons. Points are also assigned to projects on a damage per capita basis in order to balance the weights assigned to areas with high LMI percentages. However, the two factors*

## ***Appendix C-4 – Public Comment: Hearing on Competitive Pool***

*are not mutually exclusive and may both be found in the same beneficiary target area, indicating a confluence of storm impact and low income households.*

### **Comment #10: Allocation amounts**

Commenters inquired as to why the maximum allocations were set at \$1 million, when more grantees could be served using a smaller maximum allocation.

#### ***Staff Response:***

##### ***TDRA***

*The application maximum of \$1 million was established as a part of the Action Plan Amendment and available for public comment during review of the whole document. This amount was established to allow adequate funds for projects that were regional in nature. It is not expected that all applications will be for \$1 million. The minimum allocation is \$75,000.*

### **Comment #11: Unemployment scoring**

Commenters suggested that applicants be required to correlate unemployment increases to storm damage.

#### ***Staff Response:***

##### ***TDRA***

*As with all the scoring criteria being used, the data must be objective and be accompanied by a verifiable data source.*

### **Comment #12: Regional impact scoring clarification**

Commenter requested clarification on the regional impact scoring as regards (1) does “Serves regional connectivity or connectivity between systems” include separate and distinct water systems within a jurisdiction where each separate system has its own TCEQ facility permit, (2) if systems are to be connected where damage or failure to function occurred only in one of the two systems, why would having 15% of each jurisdiction’s population receiving benefit be a scoring consideration, and (3) can “multi-jurisdictional” benefit project-specific agreement be for upgrading an existing facility OR a new facility?

#### ***Staff Response:***

## **Appendix C-4 – Public Comment: Hearing on Competitive Pool**

### ***TDRA***

*The joining of two separate and distinct systems may qualify to receive points under the regional impact criteria if the project also meets at least one other of the four criteria and all other applicable threshold criteria. The 15% jurisdictional benefit is one of four available criteria from which at least two must be met in order to qualify for the regional impact points. Multi-jurisdictional benefit project-specific agreements may apply to both new construction and reconstruction or repair for projects that meet all other applicable thresholds.*

### **Comment #13: Housing benefits tied to damage**

Commenter inquired if housing could be constructed or the family benefited in areas that were not directly and explicitly affected by the hurricane.

#### ***Staff Response:***

#### ***TDHCA***

*CDBG funds may be used to directly restore or replace housing lost or damaged by the storms. For example new construction would be replacing lost housing. However, there is not a requirement to house persons displaced by the storm in these replacement units.*

### **Comment #14: Impediments to Fair Housing**

Commenter inquired as to what is an adequate assessment of the impediments to fair housing at the local level.

#### ***Staff Response:***

#### ***TDHCA***

*The State of Texas and TDHCA acknowledge that there is an obligation, applicable to this program, to affirmatively further fair housing (“AFFH”). A successful AFFH effort is something that requires each subrecipient and the State to conduct an analysis of impediments to fair housing (“AI”). The State has not updated its own AI since 2003, but it is understood that the Department of Housing and Urban Development (“HUD”) will be issuing new guidance on AIs in early 2010. At that time TDHCA will initiate a study and effort to update its own AI.*

*TDHCA will require each unit of local government applying for funds under the CDBG program to provide a narrative describing any known factors that may present fair housing*

## **Appendix C-4 – Public Comment: Hearing on Competitive Pool**

*obstacles that need to be addressed and describe in connection with their application exactly how those factors were taken into account and how they specifically propose to uphold the requirement of AFFH or provide a current AI. These narratives will be scrutinized by TDHCA in reviewing applications. Examples of factors might include such things as damaged housing in a floodplain, an area of urban blight, or an area of high crime. Possible AFFH remedies might include offering individual benefit recipients relocation options or proposing to build replacement housing in more desirable locations. To the extent that such solutions may increase the cost of delivery, a local government applicant should also describe their assessment of those cost factors and the final recommendations for use of these funds.*

### **Comment #15: Using other funding sources with Disaster funds**

Commenter asked if the rental program set-aside is permissible with the use of low-income tax credits.

***Staff Response:***

***TDHCA***

*CDBG rental program disaster funds may be combined with other sources of funds including Low Income Housing Tax Credits.*

### **Comment #16: Affordable housing stock**

Commenter suggested that sufficient funds be provided to rebuild the affordable housing stock within the regions to the pre-hurricane levels and in particular for the one-for-one rebuilding of public housing and other rental housing available to Section 8 Housing Choice Voucher holders.

***Staff Response:***

***TDHCA***

*Disaster funds are limited, however the CDBG rental program set aside \$50 million dollars to provide assistance to rental developments with project based rental assistance or units assisted with Housing Choice Vouchers. If this set aside is oversubscribed, the criteria allows for the transfer of funds from any undersubscribed rental activities within the region.*

### **Comment #17: Housing for persons with disabilities**

Commenter suggested that housing rebuilding programs should specifically take into account and make a priority the housing needs of persons with disabilities and urged that housing rehabilitated or constructed with CDBG disaster recovery funds be "visitable" by persons with disabilities.

## **Appendix C-4 – Public Comment: Hearing on Competitive Pool**

### ***Staff Response:***

#### ***TDHCA***

*State and federal funds awarded by TDHCA to construct affordable single family housing must meet the “visitability” requirements under 2306.514. Major rehabilitation and construction of rental developments with CDBG assistance must comply with the construction requirements under Section 504. The CDBG rental program scoring criteria award points to new construction or reconstruction that exceed the 504 minimums.*

### **Comment #18: Civil rights compliance**

Commenter stressed the importance of compliance with civil rights and fair housing laws with regard to the administration and expenditure of CDBG disaster recovery funds.

### ***Staff Response:***

#### ***TDHCA***

*The State of Texas and TDHCA acknowledge that there is an obligation, applicable to this program, to affirmatively further fair housing (“AFFH”). A successful AFFH effort is something that requires each subrecipient and the State to conduct an analysis of impediments to fair housing (“AI”). The State has not updated its own AI since 2003, but it is understood that the Department of Housing and Urban Development (“HUD”) will be issuing new guidance on AIs in early 2010. At that time TDHCA will initiate a study and effort to update its own AI.*

*TDHCA will require each unit of local government applying for funds under the CDBG program to provide a narrative describing any known factors that may present fair housing obstacles that need to be addressed and describe in connection with their application exactly how those factors were taken into account and how they specifically propose to uphold the requirement of AFFH or provide a current AI. These narratives will be scrutinized by TDHCA in reviewing applications. Examples of factors might include such things as damaged housing in a floodplain, an area of urban blight, or an area of high crime. Possible AFFH remedies might include offering individual benefit recipients relocation options or proposing to build replacement housing in more desirable locations. To the extent that such solutions may increase the cost of delivery, a local government applicant should also describe their assessment of those cost factors and the final recommendations for use of these funds.*

## **Appendix C-4 – Public Comment: Hearing on Competitive Pool**

### TOPICS

1	Unutilized funds
2	General housing vs. affordable rental
3	Application process
4	51% LMI Requirement
5	Competitive process data
6	Long-term recovery
7	Non-Housing regionalization scoring factor
8	Low-Mod scoring
9	Scoring criteria
10	Allocation amounts
11	Unemployment scoring
12	Regional impact scoring clarification
13	Housing benefits tied to damage
14	Impediments to Fair Housing
15	Using other funding sources with Disaster funds
16	Affordable housing stock
17	Housing for persons with disabilities
18	Civil rights compliance

<b>Commenter</b>	<b>Commenter Information</b>	<b>Source</b>	<b>Comments Made by Topic #</b>
Ruth Cedillo	Unknown	Austin Public Hearing	1
John ? (Phone caller)	Unknown	Austin Public Hearing (Teleconference)	2
Melanie Cooper	Nueces County	Austin Public Hearing (Teleconference)	3
Eric Hartzell	GrantWorks	Austin Public Hearing (Teleconference)	4, 5, 7
Mary Kay Thomas	Amazing Grants	Austin Public Hearing (Teleconference)	6
Gary Traylor	Gary Traylor and Associates	Austin Public Hearing (Teleconference)	5, 9, 10
Karen Kibbe	Raymond K. Vann and Associates	Austin Public Hearing (Teleconference)	8

**Appendix C-4 – Public Comment: Hearing on Competitive Pool**

John Henneberger	Texas Low Income Housing	Austin Public Hearing	4, 5, 13, 14, 15, 16, 17, 18
Steve Kerbow	Kerbow and Associates	Written Testimony	5, 10, 11, 12

## **Appendix C-5 – Public Comment: Hearing on Affordable Rental Program**

### ***Public Hearing regarding the Criteria for the Affordable Rental Housing Program***

On December 9, 2009, an announcement describing a public hearing to receive comments on the *Criteria for the Affordable Rental Housing Program* for no less than \$174,000,000 in funding to restore multifamily and single family affordable rental housing from the Community Development Block Grant Supplemental Disaster Recovery Funds under the U.S. Department of Housing and Urban Development (HUD), Consolidated Security, Disaster Assistance, and Continuing Appropriation Act of 2009, Public Law 110-329 was posted on the agency’s website, was sent to recipients on TDRA’s notification list, which included County Commissioners, County Judges, Mayors, City Managers, City Council members, Council of Government (COG) Directors, consultants and engineers from the affected areas and other interested parties and was announced in regional newspapers in the affected areas. Comments and participation were encouraged either through attendance at the public hearing in person or via webcast or in writing. Hearing notices, in English, Spanish and Vietnamese were published on the website. The public comment period for the amended document ran from December 9, 2009 through December 21, 2009.

All housing programs under the State of Texas Action Plan are administered by the Texas Department of Housing and Community Affairs (the “Department”).

The public hearing was held on Thursday, December 17, 2009 at 10:00 a.m. at the TDRA South Austin Office located at 1340 Airport Commerce Drive, Bldg. 4, Suite 490, Austin, Texas 78741. A webcast of the event was available to enable individuals to view and hear the public hearing. The public comment period for the amended document ran from December 9, 2009 through December 21, 2009.

The location, address, and number of attendees at the public hearing are listed below:

<b>LOCATIONS</b>	<b>AUSTIN Regional Pool Competitive Process Criteria</b>
Facility/ Address  Also available via webcast	TDRA Disaster Recovery Division Office 1340 Airport Commerce Drive, Bldg. 4, Suite 490 Austin, TX 78741
Hearing Date Time	December 17, 2009 10:00 a.m.
Number of In- Person Attendees	5
Number of Attendees via Webinar	28

## **Appendix C-5 – Public Comment: Hearing on Affordable Rental Program**

The hearing location was fully accessible to persons with disabilities. The hearing announcements included information on accessibility requests for individuals requiring an interpreter, auxiliary aids, or other services. Additionally, staff attending the hearings spoke both English and Spanish.

During the comment period, TDRA, in cooperation with the TDHCA, accepted comment on the *Criteria for the Affordable Rental Housing Program*.

The following is a summary of the comments received as well as TDHCA's response. Comments are arranged and answered by subject, and each comment is individually numbered. At the end of this section, there is a table that includes information for each individual making comment. In general, housing-related comments were addressed by TDHCA and non-housing comments were addressed by TDRA. The primary responding Department is also listed with their responses.

For more information on the public comments included in this document, or for copies of the original comments, please contact Dan Robertson, TDRA Disaster Recovery Information Officer, at (512) 936-0433. The scoring information for the Affordable Rental Housing Program is further described as an appendix to this amendment.

### **Comment #1: Application deadline**

Commenter inquired as to when applications would be due.

#### ***Staff Response:***

##### ***TDHCA***

*Those timelines cannot be set until final approval for the Action Plan Amendment is received from HUD.*

### **Comment #2: Single family units**

Commenter requested an explanation of how single family units are determined.

#### ***Staff Response:***

##### ***TDHCA***

*Single family units are individual units or duplexes under individual ownership. For the purposes of the CDBG disaster rental program, 9 units or more under common ownership encumbered under a mortgage instrument or deed are scored under the competitive process. Applications containing eight units or less are accepted on a first come first served basis.*

### **Comment #3: For-profit eligibility**

Commenter asked if for-profit entities will be eligible for funding.

## **Appendix C-5 – Public Comment: Hearing on Affordable Rental Program**

***Staff Response:***

***TDHCA***

*For-profit entities are eligible for funding. The category of “Individual Owners” was added to clarify that individuals are eligible entities.*

**Comment #4: Environmental review**

Commenter inquired as to whether or not environmental review will be required.

***Staff Response:***

***TDHCA***

*Each such activity must have an environmental review completed and support documentation prepared complying with the National Environmental Policy Act of 1969 and regulations at 24 CFR Parts 50, 51, 55 and Part 58. No funds may be requested or obligated to an activity before the completion of the environmental review process and written clearance has been provided by the Department unless the activity is an exempt activity under 24 CFR 58.34(a).*

**Comment #5: Pre-Agreement funds**

Commenter inquired as to whether or not pre-agreement funds would be reimbursed.

***Staff Response:***

***TDHCA***

*Reimbursement of certain pre-agreement expenditures are available including reasonable administration costs related to the project, environmental studies, activities to protect, repair, or restoration necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration.*

**Comment #6: Loan vs. grant**

Commenter requested further explanation of the difference between a loan as compared to a grant.

***Staff Response:***

***TDHCA***

## ***Appendix C-5 – Public Comment: Hearing on Affordable Rental Program***

*The funds are available in the form of loans or grants. Loans are available in instances where an applicant receiving an award requires and/or requests the use of a loan structure in order to make the award conform to the Department’s underwriting standards, or the requirements of other financing for the same development.*

### **Comment #7: Repayment terms of loans**

Commenter requested details regarding the repayment terms of the loan process.

#### ***Staff Response:***

***TDHCA***

*Loans may be structured to conform the Department’s underwriting standards or the requirements of other sources of financing.*

### **Comment #8: LMI benefit**

Commenter supported giving more points to proposals that serve a higher than 51% LMI population stating that the purpose of CDBG disaster recovery funds is “to principally benefit low- and moderate-income persons”.

#### ***Staff Response:***

***TDHCA***

*The rental program criteria grants points to rental developments that propose to lease a greater number of units to LMI households.*

### **Comment #9: Public participation**

Commenter indicated that the State has failed to comply with the HUD directive to allow for additional public participation concerning the proposed activities, use of funds for various disaster recovery activities, the proposed division of funds between low- and moderate-income persons and non-low and moderate income persons, program beneficiaries, their income levels, the general rules governing eligibility or even the type of activities.

#### ***Staff Response:***

***TDRA***

## **Appendix C-5 – Public Comment: Hearing on Affordable Rental Program**

*The February 13, 2009 Federal Register offers a citizen participation waiver that permits a more streamlined public process that still provides for reasonable public notice, appraisal, examination and comment on the activities proposed under the action plan. The public participation process offered by the State was not intended to limit public comment or participation; however the process for the plan amendment complied with the requirements offered under the waiver.*

### ***TDHCA***

*On the housing side, applications submitted by the sub-recipients require the local jurisdiction to open the proposed housing activities for public comment. The public has the opportunity to comment on housing programs and activities offered by the sub-recipients comprised of Cities, Counties and COGs located in the 62 county area impacted by Hurricanes Ike and Dolly. TDHCA will not approve the application for housing programs without evidence of public participation.*

### **Comment #10: Affirmatively furthering Fair Housing**

Commenter requested clarification regarding the ways in which the State will fulfill its duty to affirmatively further fair housing.

### ***Staff Response:***

### ***TDHCA***

*The State of Texas and TDHCA acknowledge that there is an obligation, applicable to this program, to affirmatively further fair housing (“AFFH”). A successful AFFH effort is something that requires each subrecipient and the State to conduct an analysis of impediments to fair housing (“AI”). The State has not updated its own AI since 2003, but it is understood that the Department of Housing and Urban Development (“HUD”) will be issuing new guidance on AIs in early 2010. At that time TDHCA will initiate a study and effort to update its own AI.*

*TDHCA will require each unit of local government applying for funds under the CDBG program to provide a narrative describing any known factors that may present fair housing obstacles that need to be addressed and describe in connection with their application exactly how those factors were taken into account and how they specifically propose to uphold the requirement of AFFH or provide a current AI. These narratives will be scrutinized*

## **Appendix C-5 – Public Comment: Hearing on Affordable Rental Program**

*by TDHCA in reviewing applications. Examples of factors might include such things as damaged housing in a floodplain, an area of urban blight, or an area of high crime. Possible AFFH remedies might include offering individual benefit recipients relocation options or proposing to build replacement housing in more desirable locations. To the extent that such solutions may increase the cost of delivery, a local government applicant should also describe their assessment of those cost factors and the final recommendations for use of these funds.*

### **Comment #11: Activity aggregation**

Commenter suggested that the proposed activities to be undertaken should be aggregated by the state administering entities, and the public should be allowed the opportunity to view these activities in their totality and to comment upon the appropriateness of the activities.

#### ***Staff Response:***

#### ***TDHCA***

*There was not sufficient time to provide for an aggregation of activities, but this could be considered in the future.*

#### **TOPICS**

1	Application deadline
2	Single family units
3	For-profit eligibility
4	Environmental review
5	Pre-Agreement funds
6	Loan vs. grant
7	Repayment terms of loans
8	LMI benefit
9	Public participation
10	Affirmatively furthering Fair Housing
11	Activity aggregation

**Appendix C-5 – Public Comment: Hearing on Affordable Rental Program**

Commenter	Commenter Information	Source	Comments Made by Topic #
William Heart	Unknown	Austin Public Hearing (Teleconference)	1
Calvin Parker	Independent Consultant	Austin Public Hearing (Teleconference)	2, 3, 4, 5
Karen Paup	Texas Low Income Housing	Austin Public Hearing	6, 7
John Henneberger	Texas Low Income Housing	Written Testimony	8, 9, 10, 11

## ***Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment***

### **DEPARTMENTS' RESPONSE TO PUBLIC COMMENT**

#### **Two May 2010 public hearings – Revised Action Plan Amendment**

TDRA and TDHCA made revisions to the proposed Action Plan Amendment in response to comments received from 11 public hearings on previous plans and from senior officials from the U.S. Department of Housing and Urban Development (HUD).

After guidance from HUD but prior to a new plan submission, a Fair Housing Complaint against the State of Texas was filed with HUD by Texas Low Income Housing Information Service and Texas Appleseed, (initially filed on December 1, 2009, and amended and re-filed on April 22, 2010), which alleged violations of the fair housing laws and the insufficiency of the current Texas analysis of impediments to fair housing choice as a basis for making required CDBG certifications. HUD investigation of these matters could have resulted in extended delays to the State's accessing additional Hurricane Recovery Funds. The State of Texas, in an attempt to expedite the Hurricane Recovery Funds available to Texans as rapidly as possible, determined that, although it denied any failure to comply fully with fair housing laws, began negotiations with the Complainants to reach a conciliation agreement to end an investigation and resolve the issues raised in a manner acceptable to HUD. Accordingly, programmatic offerings that the State has agreed, by way of conciliation, to incorporate into its Action Plan Amendment for Hurricane Recovery Funds are included herein.

This revised Action Plan Amendment No. 1 is consistent with existing HUD direction regarding the allocation of funding with the addition that, approximately 13% of the Round 2 funds will be directed to the area impacted by Hurricane Dolly, generally in the Lower Rio Grande Valley, as supported by a funding allocation model developed by the State of Texas. Also with direction from HUD, the State is incorporating various key provisions included as a result of the negotiations with the Fair Housing Complainants.

In working with HUD guidance, this current Amendment No. 1 to the Action Plan contains the following key elements:

- Adjusted allocations to the four most impacted regions and the seven COG Competitive Pool regions as directed by HUD;

## ***Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment***

- Inclusion of key program components from the conciliation agreement negotiated with Complainants;
- Strengthened language to address fair housing issues raised in the Complaint;
- A modification providing a minimum of 55 percent allocation for housing and not more than 45 percent allocation for non-housing activities that require funds be used for their designated purposes. In other words, grantees may not use funds designated as housing funds for non-housing projects;
- Prioritization of projects that meet the U.S. Department of Housing and Urban Development's low to moderate income (LMI) national objective, and increase funds allocated to it from the initial submission to 55 percent, an increase of 5% over HUD's published requirements;
- Allocations and set-asides for targeted activities, including the disaster recovery enhancement program, affordable rental housing, innovative housing approaches, and title clearance and legal assistance. These activities will allow for a broader approach to recovery and greater flexibility for local officials;
- A competitive funding pool will be utilized for the 32 eligible counties least impacted by the storms to assure access to funding and maximize the use of funds for high priority needs within the designated disaster areas; and
- Program criteria that encourage long-term strategies for reducing the risk of damage from future natural disasters in housing and non-housing programs.

With this Amendment, the state allocates the greatest portion of the funding to areas directed by HUD and especially to Harris, Galveston and Orange counties. If approved, this amendment will result in the following Round 2 funding as shown in Table 2:

## **Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment**

**Table 2**  
**Round 2 Funding by COG**

Region	Percentage
Houston-Galveston Area Council (H-GAC)	62.57%
South East Texas Regional Planning Commission (SETRPC)	19.24%
Lower Rio Grande Valley Development Council (LRGVDC)	11.24%
Deep East Texas Council of Governments (DETCOG)	5.74%
Seven COG Pool	1.20%
Total	100.00%

On May 14, 2010, an announcement describing a public comment period and the schedule for a public hearing was posted on the TDRA and TDHCA websites, and was sent to recipients on TDRA's notification list, which included County Commissioners, County Judges, Mayors, City Managers, City Council members, Council of Government (COG) Directors, consultants and engineers from the affected areas and other interested parties.

On May 19, 2010, an announcement describing an additional public comment period and the schedule for a second public hearing was posted on the TDRA and TDHCA websites, and was also sent to recipients on TDRA's notification list, which included County Commissioners, County Judges, Mayors, City Managers, City Council members, Council of Government (COG) Directors, consultants and engineers from the affected areas and other interested parties.

Comments and participation were encouraged either through attendance at one of the public hearings in person or via webinar or in writing. Hearing notices and copies of the proposed plan, in English, Spanish and Vietnamese were published on the Departments' websites. The public comment period for the amended document ran from May 14, 2010 through May 28, 2010. A revised document including late additions created by the conciliation agreement were made available to the public on May 21, 2010.

The locations, addresses, dates, and number of attendees at the public hearings are listed below:

**Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment**

<b>LOCATIONS</b>	<b>AUSTIN</b>	<b>AUSTIN</b>
<b>Facility/ Address</b>	Texas Department of Rural Affairs  Stephen F. Austin Building  Conference Room 220S 1700 North Congress Avenue, Austin, TX 78701	Texas Department of Rural Affairs Texas State Capitol Extension—Room E1.004 1100 Congress Avenue, Austin, TX 78701
<b>Hearing Date</b>	May 21, 2010	May 26, 2010
<b>Time</b>	10:00 a.m. – 12:00 p.m.	10:00 a.m. – 12:00 p.m.
<b>Number of Attendees</b>	23	25

All hearing locations were fully accessible to persons with disabilities. The hearing announcements included information on accessibility requests for individuals requiring an interpreter, auxiliary aids, or other services. Additionally, staff attending the hearings spoke both English and Spanish.

During the comment period, TDRA, in cooperation with TDHCA, accepted comment on the revised Action Plan Amendment No. 1. The presentations included descriptions of the revision and summaries of the entire Action Plan Amendment.

The following is a summary of the comments received as well as the Departments' response(s). Comments are arranged and answered by subject, and each comment is individually numbered. At the end of this section, there is a table that includes information for each individual making comment. In general, housing-related comments were addressed by TDHCA and non-housing comments were addressed by TDRA. The primary responding Department is also listed with their responses.

For more information on the public comments included in this document, or for copies of the original comments, please contact Dan Robertson, TDRA Disaster Recovery Information Officer, at (512) 936-0433.

## **Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment**

### **Comment #1: Lack of understanding of program**

Commenter suggested that much of the confusion currently hindering progress for the Disaster Recovery program is due to a general lack of understanding in the populous of how CDBG and the Disaster Recovery program work.

#### ***Staff Response:***

##### ***TDRA***

*The State recognizes the complexity of the CDBG program and makes every attempt to provide technical assistance of all program eligibility and compliance.*

##### ***TDHCA***

*TDHCA understands that the program is complicated and that providing technical assistance to the subrecipients will be essential to ensuring that they are successful and that they will be able to carry out their programs in a manner that complies fully with all applicable requirements. We are working with subrecipients in each region to increase their program knowledge by providing one-on-one technical assistance, phone conferences, training classes and weekly webinars.*

### **Comment #2: Broadening the definition of “Housing”**

Commenter recommended that the Department strike through all references to the word “non-housing” in the Action Plan Amendment to ensure that all activities are considered “housing”. Commenter continued that a house without water or sewer facilities is “just a box”.

#### ***Staff Response:***

##### ***TDRA***

*True, many “non-housing” activities directly support housing. All fully eligible non-housing activities contribute to the quality of life for both low income individuals and members of the community at large.*

##### ***TDHCA***

*As detailed in the Plan Amendment, local choice based on local knowledge of needs will determine the distributions of funds and the types of programs offered. Not less than 55% of the funds distributed will be used for housing.*

## ***Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment***

### **Comment #3: Conciliation agreement**

Commenters noted that the conciliation agreement is referred to over 20 times in the Action Plan Amendment and suggested that the agreement be made open to the public for comment and indicated concern that applications might be declined due to confusion about eligibility. Another commenter inquired as to what else, in addition to those items specified, might be required as a result of the conciliation agreement. (NOTE: This comment was made at the first public hearing prior to the conciliation agreement being signed and available for release.)

#### ***Staff Response:***

##### ***TDRA***

*A copy of the conciliation agreement, signed by both the State and Complainants, has been included in Appendix F of the Action Plan Amendment and made available to the public for comment.*

##### ***TDHCA***

*The executed conciliation agreement was approved by HUD and is posted on the TDHCA website.*

### **Comment #4: Ongoing damage**

Commenter reported that storm surge damage caused by Hurricane Ike continues to worsen as time passes due to continued exposure to weathering and erosion. Commenter urged Departments to consider this factor when distributing future funding.

#### ***Staff Response:***

##### ***TDRA***

*The allocation of funds beyond the regional allocations will be handled locally at the COG levels.*

### **Comment #5: Concern for ETCOG funding**

Commenter expressed concern for funding reaching the communities of ETCOG.

## **Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment**

### ***Staff Response:***

#### ***TDRA***

*Communities of ETCOG will be eligible for non-housing funding as a part of the seven COG Pool competitive process. Criteria for the competitive process are included in the Action Plan Amendment.*

#### ***TDHCA***

*Damage assessments indicated the vast majority of damage occurred in the four regions: H-GAC, SETRPC, LRGVDC and DETCOG. The remaining areas affected by the storms are eligible for funding for non-housing activities under the competitive pool; however, due to the lack of housing damage documented by the HUD data, funds for housing activities were not allocated to the pool.*

### **Comment #6: Healthcare facilities**

Commenter stated that Riverside General Hospital suffered severe damage from Hurricane Ike and inquired if funding for hospitals and medical facilities would be available.

### ***Staff Response:***

#### ***TDRA***

*Healthcare projects remain eligible under the non-housing allocation, but the Healthcare facilities fund included in previous versions of this proposed Action Plan Amendment was eliminated due to the requirement of the HUD redirected funding allocation changes.*

### **Comment #7: Housing incentives**

Commenter supported Departments' efforts and stated that the City of Galveston is revising housing standards and adopting enhanced building codes. Commenter encouraged approval of incentive payments to citizens.

### ***Staff Response:***

#### ***TDHCA***

*Although incentive programs are allowed under CDBG regulations, a revision to the Action Plan and obtaining HUD approval of any incentive programs would be necessary to offer this as a housing activity.*

## **Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment**

### **Comment #8: Timeframe for completion**

Commenter referred to page 46 of the proposed Action Plan Amendment and requested clarification regarding the Timeframe for Completion and what portion of that process is the State's responsibility.

#### ***Staff Response:***

##### ***TDRA***

*Non-housing contracts will be executed for a two-year period, including any requirements imposed as a result of the Conciliation Agreement. The timeline for the distribution of Round disaster recovery funding has been impacted by negotiations with HUD and the Complainants associated with the Conciliation Agreement.*

##### ***TDHCA***

*TDHCA will execute contracts with subrecipients to provide CDBG funds for housing activities. The term of the agreements is two years. TDHCA will conduct oversight of the benchmark, terms and conditions of the contracts to ensure housing activities are provided in accordance with benchmark requirements.*

### **Comment #9: Economic development**

Commenters supported the net increase in fund availability to the HGAC area, but encouraged TDRA to include economic development ideas and concepts in the Action Plan Amendment.

#### ***Staff Response:***

##### ***TDRA***

*Economic Development projects remain eligible under the non-housing allocation, but specific activity funding relation to Economic Development was omitted from the Plan in response to comments received from the public. Each region may dedicate funds for this purpose based on their needs and eligible applicants may also apply for economic development activities within their MOD-allocated funds. TDRA is available to provide technical assistance as needed upon request by eligible entities.*

### **Comment #10: Support for current proposal**

Commenter expressed gratitude for renewed efforts to serve those most in need and supported the latest funding plan for Ike recovery.

## ***Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment***

### ***Staff Response:***

#### ***TDRA***

*The revised Action Plan Amendment No. 1 has been revised based on negotiating with HUD and the results of the Conciliation Agreement.*

#### ***TDHCA***

*TDHCA agrees the terms of the Action Plan will provide necessary assistance to the recovery efforts of Texas and will reflect a commitment to serving low and moderate income persons.*

### **Comment #11: Funding allocations**

Commenters expressed support for the revised Action Plan Amendment because HUD has required the use of “actual damage” information to shift \$188 million in housing funds from areas with little housing damage to the Houston-Galveston area and \$20 million to Southeast Texas – regions which suffered extensive damage. Another commenter stated that regional allocations now more accurately represent actual regional damage that occurred from Hurricanes Ike and Dolly.

### ***Staff Response:***

#### ***TDRA***

*The revised Action Plan Amendment No. 1 has been revised based on negotiating with HUD and the results of the Conciliation Agreement.*

#### ***TDHCA***

*TDHCA agrees the allocations used in the revised Action Plan will direct significant funding to recovery efforts in areas of Texas that clearly sustained immense damage.*

### **Comment #12: Limited use of weather model**

Commenters expressed support for the revised Action Plan Amendment because the TDRA “weather model” is only used to determine the split in funds between Hurricanes Dolly and Ike and makes an appropriate allocation of \$185 million to the Rio Grande Valley to assist with recovery from Hurricane Dolly. Another commenter, while recognizing limitations to FEMA damage data and the “marginal improvement” caused by including low-moderate income data, did not support the “weather model” stating that it does not provide a validated approach to allocating funds for hurricane damage recovery. Commenter continued by urging the State to develop an approach for future disasters that provides a better method for allocating recovery funds and to discontinue use of the flawed “weather model”.

## **Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment**

### ***Staff Response:***

#### ***TDRA***

*The revised Action Plan Amendment No. 1 has been revised based on negotiating with HUD. TDRA agrees that the Rio Grande Valley sustained significant damage and funds have been directed to that region to address needs as a result of damages sustained by Hurricane Dolly.*

#### ***TDHCA***

*TDHCA agrees that the State model, used to direct 13% of these funds to the areas impacted by Hurricane Dolly, will address very real disaster recovery needs that may not be supported by federal damage assessments which, due to intervening factors, could not be properly completed.*

### **Comment #13: 55% for housing**

Commenters expressed support for the revised Action Plan Amendment because 55% of all funds are required to be dedicated to restoration of damaged housing and specified that housing funding which cannot be used in one region will be returned to the State and re-allocated to areas which still have unmet housing needs.

### ***Staff Response:***

#### ***TDRA***

*No comment/response necessary.*

#### ***TDHCA***

*TDHCA agrees the terms of the revised Action Plan will provide necessary assistance to the recovery efforts of Texas and that HUD's damage data supports the belief that there is significant housing damage, including housing damage to housing for person of low and moderate income, to support this prominent feature of the Action Plan Amendment.*

### **Comment #14: 55% benefit for Low to Moderate Income households**

Commenters expressed support for the revised Action Plan Amendment because 55% of all funds are required to be used to benefit Low to Moderate income (LMI) housing versus the 50% required by federal guidelines and the revised Action Plan Amendment requires that TDRA develop guidelines to assure that LMI families at various income levels are benefitted by this funding.

## **Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment**

***Staff Response:***

***TDRA***

*TDRA agrees that benefit to LMI persons is of critical importance.*

***TDHCA***

*TDHCA agrees the terms of the revised Action Plan will provide necessary assistance to the recovery efforts of Texas.*

### **Comment #15: Rebuilding public housing**

Commenters expressed support for the revised Action Plan Amendment because \$100 million are set aside to assure “one for one” rebuilding of public housing in Galveston and to address the need to repair other affordable rental housing.

***Staff Response:***

***TDHCA***

*TDHCA agrees the terms of the revised Action Plan will provide necessary assistance to the recovery efforts of Texas and appropriately assign priority to this need through the creation of a set-aside.*

### **Comment #16: Buyout program**

Commenters expressed support for the revised Action Plan Amendment because \$18 million are set aside for an “Impacted Area Buyout Program” for relocation and buyout assistance for LMI households living in FEMA designated “high risk areas” that are also areas of high minority and poverty concentration.

***Staff Response:***

***TDHCA***

*TDHCA agrees the terms of the revised Action Plan will provide necessary assistance to the recovery efforts of Texas and that it represents a significant response to the need for impacted persons to have housing choice.*

## ***Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment***

### **Comment #17: Housing program guidelines taskforce**

Commenters expressed support for the revised Action Plan Amendment because it sets up a “Housing Program Guidelines Taskforce” to assure that there is reasonable consistency across the State of Texas in eligibility requirements, program elements, maximum benefits and outreach efforts.

#### ***Staff Response:***

##### ***TDHCA***

*TDHCA agrees the task force will provide essential guidance to the programs while retaining the flexibility to make program choices and adjustments to respond to localized conditions.*

### **Comment #18: Standards for methods of distribution**

Commenters expressed support for the revised Action Plan Amendment because it establishes clear standards for how Council of Governments (COGs) develop their methods of distribution to allocate funds to cities and counties and it establishes that COGs are responsible for the methods of distribution and not local governments.

#### ***Staff Response:***

##### ***TDRA***

*Method of Distribution guidelines to be used by the COGs to allocate funding establish standards, including required elements for achieving LMI. Elected officials from local governments make up COG decision-making bodies.*

##### ***TDHCA***

*TDHCA agrees the terms of the revised Action Plan will provide necessary assistance to the recovery efforts of Texas.*

### **Comment #19: LaBelle Subdivision of Jefferson County**

Commenters stated that the homeowners in the LaBelle Subdivision of Jefferson County lost homes due to flooding from Hurricane Ike as a result of a Federal Survey Benchmark error and a lack of Floodplain Administration by official of Jefferson County, FEMA and the State of Texas. Commenter asked what revisions are in the plan that would help the LaBelle homeowners recover the loss of their homes, how the Action Plan Amendment will manage and implement the use of the CDBG funds as match funding for the LaBelle homeowners, and what solution the Departments propose to ensure SETRPC uses disaster funds to benefit the LaBelle homeowners. Another commenter stated

## **Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment**

that residents of the LaBelle Subdivision were not allowed to repair/rebuild their home and had no choice but to participate in the buyout at 75% of value and requested that they be provided the additional 25% of that value.

### ***Staff Response:***

#### ***TDRA***

*HUD has provided guidance regarding eligibility of activities as described above. TDRA will provide guidance to SETRPC to ensure that no funds are used for ineligible activities and result in repayment of disallowed costs. TDRA will work with TDHCA should other housing assistance alternatives are available.*

#### ***TDHCA***

*Buyout activities, such as the example given for the LaBelle community, are activities under the administration of TDRA.*

### **Comment #20: Assistance for business owners in Galveston**

Commenter stressed that rebuilding efforts for their privately owned business on the Galveston seawall that sustained direct damage from Hurricane Ike would not happen with help. Commenter continued that, having lost roughly 500 business due to this disaster, Galveston needs the employment opportunities and property/sales taxes generated by business rebuilding efforts.

### ***Staff Response:***

#### ***TDRA***

*Economic Development projects remain eligible under the non-housing allocation, but specific activity funding relation to Economic Development was omitted from the Plan in response to comments received from the public. Each region may dedicate funds for this purpose based on their needs and eligible applicants may also apply for economic development activities within their MOD-allocated funds. TDRA is available to provide technical assistance as needed upon request by eligible entities.*

### **Comment #21: Round 2 funding process**

Commenter expressed frustration with the Round 1 funding process and inquired on how to achieve Round 2 funding. Commenter also encouraged better communication as to the status of funding.

## **Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment**

### ***Staff Response:***

#### ***TDRA***

*TDRA publishes all awards and other critical information on the TDRA website. TDRA has been in direct continual communication with applicants through telephone, emails, correspondence or personal on-site visits to communities.*

#### ***TDHCA***

*The comment was directed to non-housing activities which are under the administration of TDRA. However, TDHCA understands how critical funding status is to subrecipients and is making every effort to implement efficient funding processes.*

### **Comment #22: Allowance for access to manufactured housing**

Commenter noted that in Round 1, many COG methods of distribution restricted or prohibited the use of manufactured housing as a possible permanent housing solution. Commenter recommended that victims be allowed to select the best home for their needs, whether that home is manufactured, modular or site-built.

### ***Staff Response:***

#### ***TDHCA***

*TDHCA is committed to allowing as much local control as possible. The Action Plan establishes a Housing Program Guidelines Task Force comprised of TDHCA and COG representatives that will develop criteria governing all housing programs to be carried out with disaster recovery funds. This issue would come under consideration of this task force.*

### **Comment #23: Personal property housing replacement**

Commenter encouraged allowance of personal property housing replacement because restricting or prohibiting disaster victims who do not own or cannot provide clear title to the real property, but can provide clear title for their destroyed manufactured home discriminates and neglects these Texans. Also, some Round 1 methods of distribution restricted personal property housing replacement outright. Commenter suggests that such prohibitions and restrictions excludes thousands from being eligible for funds because their manufactured home destroyed by a hurricane was on land they did not own land, was on rented land or was on family property. Commenter continued that many disaster victims who fell into one of the categories mentioned fall in the low, very low or extremely

## ***Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment***

low income ranges in various regions, are more likely not to have insurance, other financial resources or other family financial support following a disaster.

### ***Staff Response:***

#### ***TDHCA***

*Texas law allows those applying for disaster assistance to establish ownership by affidavit, thus affirming the applicant's claim to an ownership interest in the property, which allows for those living on family property to qualify for assistance. Allowing assistance to manufactured housing recorded as personal property (not real property) and located on property for which there is no ownership interest could be addressed by the Housing Program Guidelines Task Force comprised of TDHCA and COG representative that will develop criteria governing all housing programs to be carried out with disaster recovery funds.*

### **Comment #24: Paying off SBA loans for residents**

Commenter stated that the proposed Action Plan Amendment indicates that funding will not be available to pay off SBA loans for residents who took out those loans to make their home habitable immediately after the storm while other residents, who did not take a loan, may receive up to \$135,000 to repair or rebuild their hurricane damaged home. Commenter suggested that such a plan punishes those who took early action to repair their storm damage.

### ***Staff Response:***

#### ***TDHCA***

*CDBG regulations do not allow disaster funds to be used to pay off liens or mortgages.*

### **Comment #25: One-for-one public housing replacement**

Commenters requested that, since the City of Galveston is a “shrinking sandbar, a barrier reef island on which no one should live unless they are self-sufficient”, the Departments’ should not insist that all of the public housing in the City of Galveston be replaced one-for-one, but instead that all of the public housing in Galveston County be replaced one-for-one. Another commenter noted that the City of Galveston currently has an abundance of empty housing units both for sale and for lease and suggested that rebuilding all destroyed GHA housing will flood the market even more, increase vacancies and reduce all possible income for property owners. Commenter continued that building

## ***Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment***

in a flood zone for a non-existent population and demand seems like an unwise choice. Another commenter expressed firm sentiments “AGAINST the State of Texas agreeing to replace every single unit of public housing as a result of pressure and threat of lawsuit from MINORITY group, Texas Appleseed”. Commenter continued by including 16 citizen responses to an article entitled “Recovery HUD applauds state’s new Ike funds plan” from Galveston County’s The Daily News published May 26, 2010 as part of their written testimony.

### ***Staff Response:***

#### ***TDRA***

*The one-for-one replacement of public housing was a negotiated term of the conciliation agreement.*

#### ***TDHCA***

*The State of Texas appreciates and understands the concerns expressed about the rebuilding of the damaged or destroyed units on a one-for-one basis. The agreement in place resolved a Fair Housing Complaint. The Galveston Housing Authority has made a prior commitment to rebuild all of the housing damaged or destroyed by the storm and the State honored that commitment in the settlement of the Fair Housing Complaint.*

*A concern that was addressed by the Action Plan Amendment and the conciliation agreement to settle the matter is to make certain that the funds were available to accomplish the commitment to rebuild or replace. It is not the State’s intent to take away the authority to make decision from the community concerning where or how the housing units get rebuilt. Funds are directed by the State through this agreement to provide the funding to make certain that the much needed housing is made available. To the extent that they wish to accept the funds from the State, any subrecipient of State funds is required to follow the Action Plan and its Amendment and the conciliation agreement. No changes are being made to the plan based on these comments.*

### **Comment #26: Reimbursement program**

Commenters encouraged the establishment of a reimbursement program for housing.

## **Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment**

### ***Staff Response:***

#### ***TDHCA***

*CDBG regulations to not allow for income payments. For purposes of the CDBG program, “income payments” means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage). Therefore, HUD does not allow a reimbursement program. The regulations do allow a compensation program and HUD has issued a waiver for the CDBG income payment provision. However, the Action Plan would need to be revised to include a compensation program and HUD approval of the program must be obtained.*

### **Comment #27: Reporting responsibilities**

Commenter asked if additional reporting requirements from the conciliation agreement will be the communities’ responsibility.

### ***Staff Response:***

#### ***TDRA***

*Reporting requirements will be the responsibility of the grantees and the State. TDRA had already provided information on its website and complied with State public information requirements. New processes for additional reporting to comply with the Conciliation Agreement will be developed and distributed to grantees. TDRA will be providing technical assistance as necessary.*

#### ***TDHCA***

*The reporting requirements are expanded in the plan to offer greater transparency and public access to information such as program status and expenditure rates. Much of the data and reports provided by the communities will be available to the public.*

### **Comment #28: Timeline for pooled funds**

Commenter asked if the proposed timeline is the same for pooled funds as for the other funds.

### ***Staff Response:***

#### ***TDRA***

*Yes, the timeline for the pooled funds is general the same as the other funds.*

## **Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment**

### **Comment #29: Affordable Rental in DETCOG**

Commenter inquired if the \$174 million rental set-aside will be available for use in the DETCOG region.

#### ***Staff Response:***

##### ***TDHCA***

*No. None of the affordable rental funds were allocated to the DETCOG region. However, DETCOG may allocate some or all of the \$20 million in housing funds allocated to it to fund rental activities.*

### **Comment #30: Clarifying programmatic funding**

Commenter indicated that how programs such as the Disaster Recovery Enhancement Fund, the Impacted Area Buyout Program, the Moving-to-Opportunity Program and other affordable rental programs are incorporated into regional methods of distribution need to be clarified prior to implementation and regional method of distribution development.

#### ***Staff Response:***

##### ***TDRA***

*HUD is going to provide additional guidance related to the Disaster Recovery Enhancement Funds and that guidance will be made available in the MOD guidance provided to the COGs. TDRA will provide technical assistance as necessary.*

##### ***TDHCA***

*TDHCA acknowledges that the flexibility of the CDBG program, which allows for a wide range of potential disaster recovery activities, may create confusion upon implementation of any given program. TDHCA will conduct the necessary public hearings, technical assistance and continued support (such as webinars) to clarify individual programs.*

### **Comment #31: Proceed expeditiously**

Commenter noted that the second anniversary of Hurricane Ike is approaching and that, while progress has been made, much more needs to be done for a full recovery from the storms devastating effects. Commenter urged the State, HUD and all parties to move forward with this plan amendment.

## **Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment**

### ***Staff Response:***

#### ***TDRA***

*The timeline for distribution of Round 2 funding has been impacted by final negotiations with HUD and the fair housing complainants. The State is committed to moving the Hurricane Recovery Funds forward as quickly as possible based on the new timeline to provide funding to communities impacted by Hurricanes Dolly and Ike.*

#### ***TDHCA***

*TDHCA agrees with the commenter.*

### **Comment #32: Analysis of impediments**

Commenter suggested that the State, Galveston County, City of Galveston, Texas Appleseed, Texas Low-Income Housing Information Service and HUD take another look at the State, County and City “Analysis of Impediment” reports as these “well meaning” entities will be forcing the most vulnerable population (elderly, disabled, those in need of a “helping hand” toward self-sufficiency) of Galveston County who are in need of public housing to live in the City of Galveston, which is still recovering from a devastating hurricane, has the lowest median household income, low paying menial job opportunities, poorly rated schools, the highest crime rate, the highest concentration of poverty, the highest likelihood of flooding and subject to hurricane evacuations.

### ***Staff Response:***

#### ***TDHCA***

*The State has committed to conducting a new Analysis of Impediments (AI) to Fair Housing. Part of this process will include looking at ways to provide housing that is fair and equitable to all persons who are participating in federally funded programs. This comment will be provided to the AI consultant and the commenter will have an opportunity to express these comments in public hearings on the AI. Since the Action Plan Amendment requires a new AI in the disaster recovery areas, the commenter’s general suggestion is already included and the specific comment will be forwarded to the AI consultant to be addressed in the AI.*

## **Appendix C-6 – Public Comment: Two Hearings on Final Action Plan Amendment**

### TOPICS

1	Lack of understanding of program
2	Broadening the definition of "Housing"
3	Conciliation agreement
4	Ongoing damage
5	Concern for ETCOG funding
6	Healthcare facilities
7	Housing incentives
8	Timeframe for Completion
9	Economic development
10	Support for current proposal
11	Funding allocations
12	Limited use of weather model
13	55% for housing
14	55% benefit for Low to Moderate Income households
15	Rebuilding public housing
16	Buyout program
17	Housing program guidelines taskforce
18	Standards for methods of distribution
19	LaBelle Subdivision of Jefferson County
20	Assistance for business owners in Galveston
21	Round 2 funding process
22	Allowance for access to manufactured housing
23	Personal property housing replacement
24	Paying off SBA loans for residents
25	One-for-one public housing unit replacement
26	Reimbursement program
27	Reporting responsibilities
28	Timeline for pooled funds
29	Affordable rental
30	Clarifying programmatic funding
31	Proceed expeditiously
32	Analysis of impediments

**Appendix C-6 – Public Comment: Two Hearings on Final Action  
Plan Amendment**

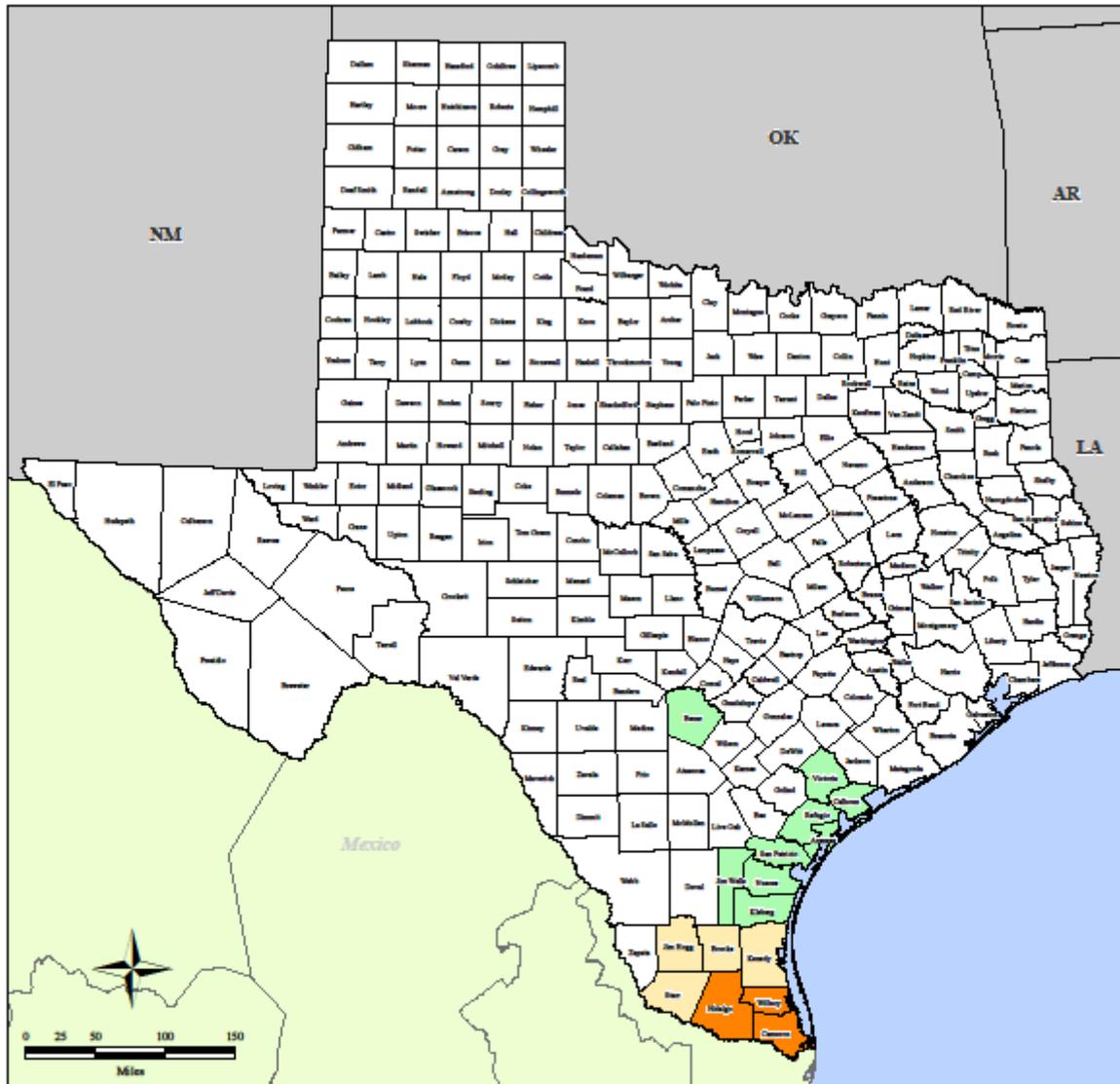
Commenter	Commenter Information	Source	Comments Made by Topic #
Raymond Vann	Raymond K. Vann and Associates	Austin Hearings 5-21-10, 5-26-10	1, 2, 3
Justin Bowling	Acting City Engineer, City of Galveston	Austin Hearings 5-21-10, 5-26-10	4
Mr. Ross	Citizen of Cherokee County	Austin Hearing 5-21-10 (Teleconference)	5
William Hilliard	Primary Agent for Riverside General Hospital	Austin Hearing 5-21-10	6
Alice T. Law	Assistant Director of Housing, City of Galveston	Austin Hearing 5-21-10	7
Karen Kibbe	Raymond K. Vann and Associates	Austin Hearing 5-21-10	3, 8
Chuck Wemple	Economic Programs Manager, HGAC	Austin Hearing 5-21-10	9
Sterling Patrick	Director of Housing, City of Galveston	Austin Hearing 5-26-10	27
Lesley Waxman	David Waxman and Associates	Austin Hearing 5-26-10 (Teleconference)	28
Joe Higgs	Gulf Coast Interfaith	Austin Hearing 5-26-10 (Teleconference)	9, 17, 27
Walter Diggles	Executive Director, HGAC	Austin Hearing 5-26-10 (Teleconference)	30
Steve Kerbow	Kerbow and Associates	Austin Hearing 5-26-10 (Teleconference)	3, 29
Dian Groh	Gulf Coast Interfaith, Galveston County Restore and Rebuild	Written testimony	10
Sheila Jackson Lee	Congresswoman, 18th District, Texas	Written testimony	26
Katrina Dafonte	Resident of Galveston County	Written testimony	11, 12, 13, 14, 15, 16, 17, 18

**Appendix C-6 – Public Comment: Two Hearings on Final Action  
Plan Amendment**

Shayla Edwards	Resident of Galveston County	Written testimony	11, 12, 13, 14, 15, 16, 17, 18
William Coleman	Resident of Harris County	Written testimony	11, 12, 13, 14, 15, 16, 17, 18
Harold Fattig	Resident of Galveston County	Written testimony	11, 12, 13, 14, 15, 16, 17, 18
Bernard Scrogin	Resident of Galveston County	Written testimony	11, 12, 13, 14, 15, 16, 17, 18
Caroline Miller	Resident of Country Road Estates, LaBelle, Texas	Written testimony	19
Mattie Lofton	Resident of Country Road Estates, LaBelle, Texas	Written testimony	19
Jim Angle	Business owner in Galveston	Written testimony	20
Mel McKey	Velasco Drainage	Written testimony	21
D.J. Pendleton	Executive Director, Texas Manufactured Housing Association	Written testimony	22, 23
Carolyn Flores	Unknown	Written testimony	24
Norma H. Rubin	Resident of Galveston	Written testimony	25
Robert Zahn	Resident of Galveston	Written testimony	25
Teresa McMahan	Resident of Galveston	Written testimony	25
Gulf Coast Interfaith	Gulf Coast Interfaith	Written testimony	11, 12, 13, 14, 15, 16, 17, 18

# APPENDIX D: FEMA Disaster Declaration Maps

## FEMA-1780-DR, Texas Disaster Declaration as of 08/13/2008



**Location Map**

**Legend**

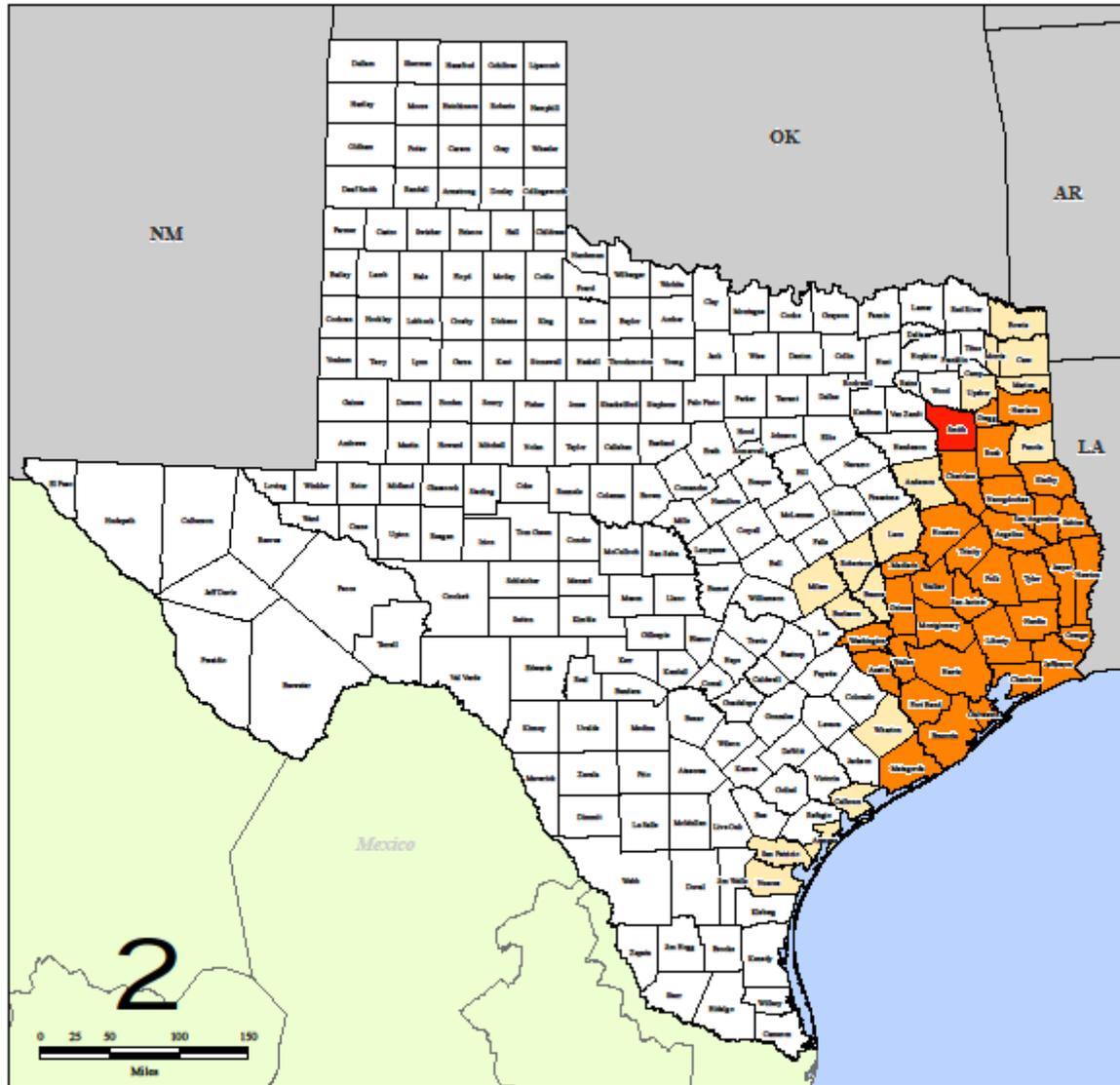
Designated Counties	
<span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: white;"></span>	No Designation
<span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #f4a460;"></span>	Public Assistance
<span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #90ee90;"></span>	Public Assistance (Categories A and R)
<span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #ffa500;"></span>	Individual Assistance and Public Assistance

*All counties are eligible for Hazard Mitigation*

**FEMA**  
*ITS Mapping & Analysis Center  
 Washington, DC  
 08/13/08 - 09:17 AM EDT  
 Source: Disaster Federal Registry Notice  
 Amendment No. 4 - 08/13/2008*

# APPENDIX D: FEMA Disaster Declaration Maps

## FEMA-1791-DR, Texas Disaster Declaration as of 11/21/2008



**Location Map**

**Legend**

**Designated Counties**

- No Designation
- Public Assistance
- Individual Assistance
- Individual Assistance and Public Assistance

**FEMA**

*ITS Mapping & Analysis Center  
Washington, DC  
11/21/08 - 04:19 PM EST*

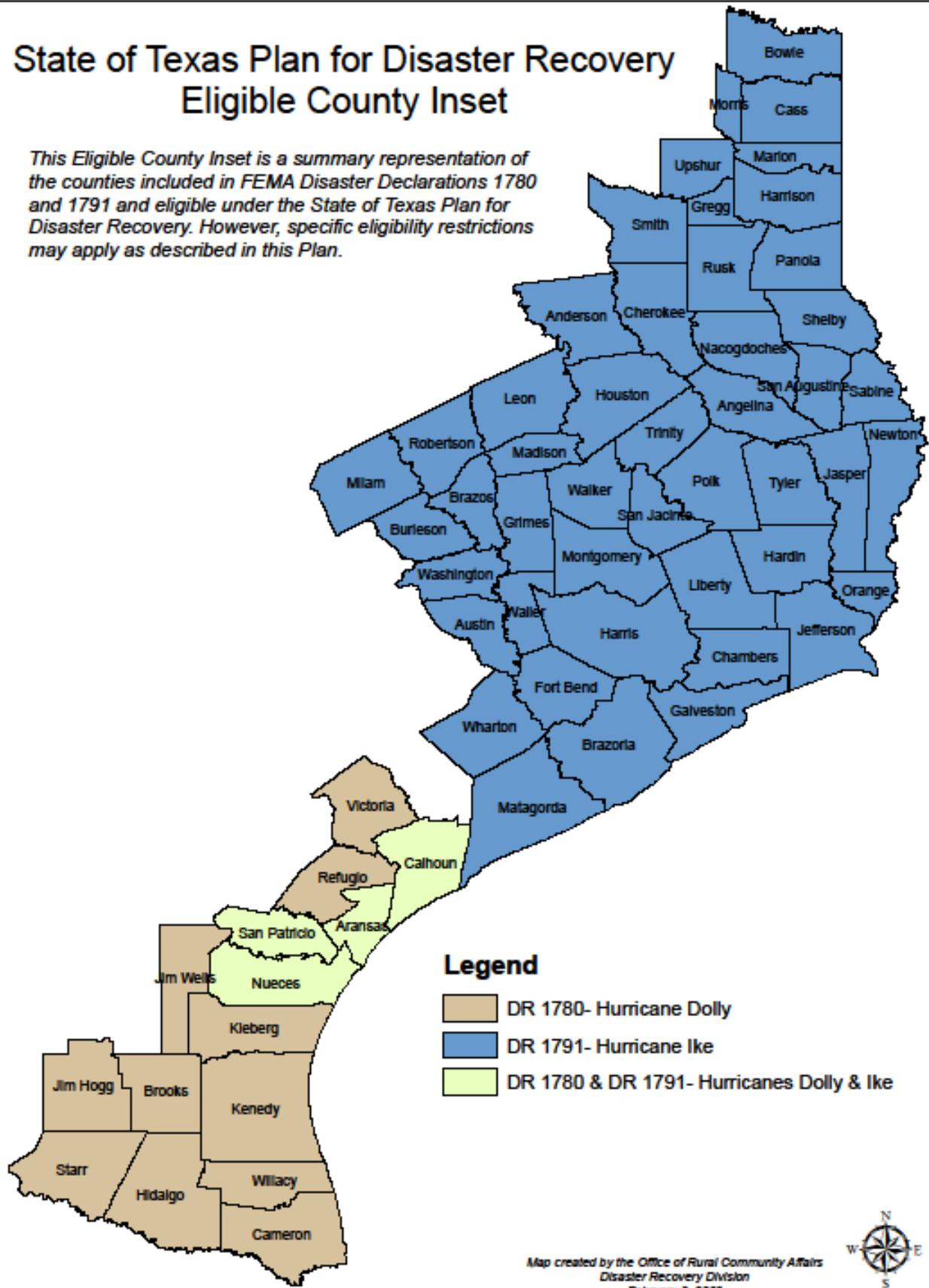
*Source: Disaster Federal Registry Notice  
Amendment No. 13 - 11/21/2008*

*All counties are eligible  
for Hazard Mitigation*

**APPENDIX D: FEMA Disaster Declaration Maps**

## State of Texas Plan for Disaster Recovery Eligible County Inset

*This Eligible County Inset is a summary representation of the counties included in FEMA Disaster Declarations 1780 and 1791 and eligible under the State of Texas Plan for Disaster Recovery. However, specific eligibility restrictions may apply as described in this Plan.*



**Legend**

- DR 1780- Hurricane Dolly
- DR 1791- Hurricane Ike
- DR 1780 & DR 1791- Hurricanes Dolly & Ike

Map created by the Office of Rural Community Affairs  
Disaster Recovery Division  
February 3, 2009



## Round 1 & Round 2

Regions	Housing	Affordable	Total Housing	Nonhousing	Total Nonhousing	Allocation
HGAC *	\$ 974,100,714	\$ 126,095,018	\$ 1,100,195,732	\$ 746,265,142	\$ 746,265,142	\$ 1,846,460,874
SETRPC *	\$ 252,007,878	\$ 33,096,235	\$ 285,104,113	\$ 222,387,946	\$ 222,387,946	\$ 507,492,059
LRGVDC	\$ 114,405,780	\$ 15,108,600	\$ 129,514,380	\$ 111,001,535	\$ 111,001,535	\$ 240,515,915
DETCOG	\$ 25,931,070	\$ -	\$ 25,931,070	\$ 138,849,214	\$ 138,849,214	\$ 164,780,284
Pool	\$ 1,364,046	\$ -	\$ 1,364,046	\$ 43,221,988	\$ 43,221,988	\$ 44,586,034
<b>Total</b>	<b>\$ 1,367,809,488</b>	<b>\$ 174,299,853</b>	<b>\$ 1,542,109,341</b>	<b>\$ 1,261,725,825</b>	<b>\$ 1,261,725,825</b>	<b>\$ 2,803,835,166</b>

55.0%

45.0%

**United States Department of Housing and Urban Development**

Case No. 06-10-0410-8 (Title VIII)

Case No. 06-10-0410-9 (Section 109)

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Texas Low Income Housing Information Service,  
*Complainant*

Texas Appleseed,  
*Complainant*

v.

The State of Texas, by and through  
The Texas Department of Rural Affairs and  
The Texas Department of Housing and Community Affairs,  
*Respondent*

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**CONCILIATION AGREEMENT**

Approved by the Assistant Secretary for Fair Housing and Equal Opportunity on  
behalf of the United States Department of Housing and Urban Development

Effective Date: \_\_\_\_\_, 2010

**I. PARTIES, DEFINITIONS, AND STATEMENT OF FACTS**

**A. Parties and Issues in Controversy**

**Complainants:**

**Texas Low Income Housing Information Service**  
508 Powell Street  
Austin, Texas 78703-5122  
[john@texashousing.org](mailto:john@texashousing.org)

**Texas Appleseed**  
1609 Shoal Creek, Suite 201  
Austin, Texas 78701  
[msloan@texasappleseed.net](mailto:msloan@texasappleseed.net)

**Representing Complainants:**

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Fax: (202) 728-0848  
E-mail: [mallen@relmanlaw.com](mailto:mallen@relmanlaw.com)

**Respondent:**

**State of Texas**, by and through:

**Texas Department of Rural Affairs**  
Charlie Stone  
Executive Director  
Texas Department of Rural Affairs  
1700 North Congress Avenue, Suite 220  
Austin, Texas 78711  
E-mail: [charlie.stone@tdra.state.tx.us](mailto:charlie.stone@tdra.state.tx.us)

**Texas Department of Housing and Community Affairs**  
Michael Gerber  
Executive Director  
Texas Department of Housing and Community Affairs  
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(512) 475-3800

E-mail: michael.gerber@tdhca.state.texas.us

**Representing Respondent:**

Barbara Deane

Assistant Attorney General

OFFICE OF THE ATTORNEY GENERAL

P. O. Box 12548

Austin, Texas 78711

E-mail: barbara.deane@oag.state.tx.us

**Issues in Controversy:**

Complainants allege the State has violated 42 U.S.C. §§3604(a), 3604(b), and 42 U.S.C. §§5309 in connection with its administration of funds under P.L. 110-329 (see Complaints). HUD understands and agrees that the execution of this agreement does not confer upon HUD any additional rights or obligations beyond those specified in Public Law 110-329 and the August 14, 2009 issue of the Federal Register. The regular (non-disaster, annual) allocation of CDBG funds to the State of Texas is in no way delayed or otherwise affected by the execution of this agreement. Nothing herein constitutes a finding or admission of any fact or noncompliance by the State of Texas, TDHCA or TDRA.

**B. Definitions**

For purposes of this Conciliation Agreement, the following terms shall have the meanings indicated below:

1. "Agreement" means this Conciliation Agreement.
2. "AFFH" means, as the context may indicate, either affirmatively furthering fair housing or to affirmatively further fair housing.
3. "Amendment" means the amendment to the State's Action Plan submitted by the State to HUD on September 30, 2009 describing the proposed use of an additional \$1.7 billion made available under P.L. 110-329.
4. "CDBG" means Community Development Block Grant.
5. "Complaints" means HUD Case No. 06-10-0410-8 and 06-10-0410-9, submitted to HUD by Texas Low Income Housing Information Service on December 1, 2009, deemed filed by HUD on January 21, 2010, and joined by Texas Appleseed as a Complainant on February 7, 2010, the amendment thereto filed with HUD by Texas Low Income Housing Information Service and Texas Appleseed on April 27, 2010, and the Administrative

Complaint filed with HUD by Texas Low Income Housing Information Service and Texas Appleseed on October 28, 2009. The term "Complaint," as used in this Agreement and when considered in context, refers to the applicable filing that is described in the preceding sentence.

6. "Council of Governments" or "COG" means a regional planning commission or similar regional planning agency as described in Chapter 391, Texas Local Government Code.
7. "FEMA" means the Federal Emergency Management Agency.
8. "HUD" means the U.S. Department of Housing and Urban Development.
9. "Hurricane Block Grant Funds" means \$3.1 billion in supplemental Community Development Block Grant disaster recovery funds allocated by HUD to the State to respond to the needs of Texans affected by The Hurricanes pursuant to Public Law 110-329.
10. "Hurricane Recovery Funds" means any Round I funds that are reallocated during the Term of this Agreement and Round II funds.
11. "LMI" means persons of low or moderate income as defined by HUD for purposes of the Hurricane Recovery Funds.
12. "LURA" means a land use restriction agreement, being a recorded agreement setting forth, among other things, income and rent restrictions applicable to units of affordable rental housing and constituting, with respect to the specific affordable rental housing identified therein, a covenant running with the land.
13. "MODs" means methods of distribution, as provided for in HUD's rules governing the CDBG disaster recovery program.
14. "Program" or "Programs" means any program, programs, or project funded by Hurricane Recovery Funds.
15. "Revised Amendment" means the revised amendment to the State's Action Plan describing the use of Hurricane Recovery Funds to be prepared by the State pursuant to Section II.B. of this Agreement. The Revised Amendment may be submitted to HUD as a series of partial amendments, and this term may refer to the revised amendment as a whole or in part as context may indicate.
16. "Round I" refers to Hurricane Block Grant Funds made available to the State under its Action Plan for CDBG Disaster Recovery Funds pursuant to notice in the *Federal Register* published by HUD on February 13, 2009.

17. "Round II" refers to Hurricane Block Grant Funds allocated to the State pursuant to notice in the *Federal Register* published by HUD on August 14, 2009.
18. "Recipient" means any entity that receives or administers any Hurricane Recovery Funds. The term does not include TDHCA or TDRA, unless the context clearly indicates otherwise.
19. "State" means the State of Texas.
20. "Term of this Agreement" means the period commencing on the Effective Date and ending on the Expiration Date.
21. "TDHCA" means the Texas Department of Housing and Community Affairs.
22. "TDRA" means the Texas Department of Rural Affairs.
23. "The Hurricanes" means Hurricanes Dolly and Ike.

Terms used in HUD regulations and not specifically defined herein have the meanings ascribed to them in such HUD regulations.

**C. Statement of Facts**

Pursuant to Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, Public Law 110-329 (2008), Congress appropriated \$6.5 billion in supplemental CDBG funds, of which HUD allocated \$3.1 billion in funding to respond to the needs of Texans affected by The Hurricanes. Thereafter, HUD published two notices of allocations, waivers, and alternative grant requirements in the *Federal Register*. The State designated TDRA its lead agency for administration of programs funded under P.L. 110-329. On May 14, 2009, HUD issued a general conditional approval of the State's Action Plan for use of Hurricane Block Grant Funds of approximately \$1.3 billion, and supplemental approvals thereof on July 2, 2009, and July 24, 2009.

On September 30, 2009, the State submitted the Amendment describing the proposed use of an additional \$1.7 billion made available under P.L. 110-329. By letter of October 28, 2009, to HUD Secretary Shaun Donovan, Texas Low Income Housing Information Service ("TxLIHIS") and Texas Appleseed lodged objections to the Amendment. On November 10, 2009, HUD informed the State that it had determined the Amendment to be "substantially incomplete," and directed the State to revise and resubmit the Amendment within forty-five (45) days.

On December 1, 2009, Complainant TxLIHIS submitted a Complaint to HUD alleging the State had violated 42 U.S.C. §§3604(a), 3604(b) and 3608 in its administration of certain Hurricane Block Grant Funds. HUD deemed that Complaint officially filed on January 21,

2010. Texas Appleseed requested to be added as a Complainant on February 7, 2010. The Complaint was amended on April 27, 2010. HUD accepted the amended Complaint. This amended Complaint alleged violations of 42 U.S.C. §§ 3604(a), 3604(b) and 5309. The allegation under 42 U.S.C. § 3608 was dropped in the amended Complaint.

The Complaints provide the basis for this Conciliation Agreement. The acceptance by HUD of the Complaints does in no way confer upon HUD any additional rights or obligations beyond those specified in Public Law 110-329 and the August 14, 2009 issue of the Federal Register. The regular (non-disaster, annual) allocation of CDBG funds to the State of Texas is in no way delayed or otherwise affected by the execution of this Conciliation Agreement.

- D. With the approval of this Conciliation Agreement, the Parties commit themselves to affirmatively furthering fair housing for survivors of The Hurricanes in an expeditious manner.

The Parties commit themselves to honor the terms of this Agreement and to work together to obtain HUD approval of this Agreement; a Revised Amendment that will provide for allocation of funds consistent with this Agreement; an updated AI consistent with the state's needs, the law, and guidance of HUD; and MODs for each COG informed by the applicable AI and respectful to public input and the dignity of people and communities these funds are intended to assist.

## II. TERMS OF AGREEMENT

In approving this Agreement as an acceptable conciliation of the Complaints, HUD is making a finding that the terms and conditions of this Agreement adequately address all issues urged in the Complaints, including, without limitation, the substantive and legal issues. To facilitate the efficient delivery of Hurricane Recovery Funds to eligible Texans affected by The Hurricanes, and without admission of liability by the State, TDHCA, or TDRA with respect to the allegations of the Complaints, TDHCA, TDRA and Complainants commit to the following terms:

### A. Analysis of Impediments to Fair Housing ("AI")

1. **Updated AI.** The State, acting through TDHCA, will update its AI. TDHCA acknowledges that this updated AI must conform to HUD's requirements in effect at the time that it is prepared. The State will develop its updated AI in two phases. Both phases of the development of the updated AI will be done by a qualified consultant or organization with experience in development of Analyses of Impediments. Under phase 1, within one-hundred-twenty (120) days of HUD's approval of this Agreement, plus such reasonable time as may be necessary for a lawful procurement, TDHCA shall produce for public comment a materially complete draft of that portion of its AI covering the areas eligible to receive Hurricane Recovery Funds (including the entitlement

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jurisdictions within that area). Under phase 2, which will begin once phase 1 of the updated AI is accepted by HUD, TDHCA will, as promptly as reasonably possible, while still ensuring a thorough and competent product, produce for public comment a materially complete draft of that portion of its AI covering the balance of the State.

- a. With respect to all Round I and Round II activities for which reimbursable activity has already occurred, the applicable Program shall be subject to the AI in effect at the time the reimbursable activity commenced.
- b. Phase 1 of the updated AI shall include and provide separately for the identification and analysis of impediments to fair housing in each of the following areas and shall recommend appropriate actions utilizing applicable Hurricane Recovery Funds to overcome the effects of the impediments identified in each area:
  - 1) The geographic area represented by the Houston-Galveston Area Council (hereafter, "H-GAC"). Phase 1 of the updated AI shall assess, among other factors, any fair housing impediments related to:
    - (i) the impact of the hurricane evacuee population within the City of Houston and Harris County; and
    - (ii) rebuilding public, assisted, and affordable housing on Galveston Island that was destroyed by The Hurricanes.
  - 2) The geographic area represented by the South East Texas Regional Planning Commission (hereafter, "SETRPC").
  - 3) The geographic area represented by the Deep East Texas Council of Governments (hereafter, "DETCOG").
  - 4) The geographic area represented by the Lower Rio Grande Valley Development Council (hereafter, "LRGVDC"), specifically including impediments to fair housing faced by farmworkers and residents of colonias.
  - 5) The geographic area represented by the remaining areas eligible as Recipients.
- c. After TDHCA produces the draft of phase 1 of the updated AI for public comment, pursuant to Section II.A.1. of this Agreement, the public shall have ten (10) days, pursuant to applicable law, to provide comments on the draft phase 1 of the updated AI. After the close of the public comment period, TDHCA shall submit phase 1 of the updated AI to HUD for review, together with TDHCA's written responses to any public comments as part of the submission, and seek confirmation from HUD that phase 1 of the updated AI complies with federal requirements. TDHCA will timely respond to any questions raised by HUD. TDHCA will copy the Complainants on

- written responses it provides to HUD in response to HUD's questions under this subparagraph.
- d. TDHCA shall appoint an advisory committee to review and provide comment to TDHCA prior to the release of phase 1 of the updated AI and to assist TDHCA with the evaluation of phase 1 of the updated AI and associated work products. This advisory committee may, as deemed necessary by TDHCA, be consulted with respect to the procurement of the consultant to develop the updated AI, which procurement shall be done as expeditiously as possible with the objective that it be completed and accepted by HUD no later than January 1, 2011, but earlier if possible.
  - e. Notwithstanding any other provision in this Conciliation Agreement, the State, through TDHCA and TDRA, may submit amendments for allocation to Recipients of Hurricane Recovery Funds to the Action Plan during the pendency of HUD's acceptance of phase 1 of the updated AI, and irrespective of any determination by HUD with respect to phase 1 of the updated AI. If HUD has not accepted phase 1 of the updated AI by January 1, 2011, neither TDHCA nor TDRA shall, except as provided by Section II.A.3.5, expend any further Hurricane Recovery Funds until such time as phase 1 of the updated AI has been accepted by HUD.
  - f. **Phase 2.** Under phase 2, which will begin once phase 1 of the updated AI is accepted by HUD, TDHCA will, as promptly as reasonably possible produce for public comment a materially complete draft of that portion of its AI covering the balance of the State. Phase 2 must be developed by a qualified consultant or organization with experience in the development of AIs. After TDHCA produces phase 2 of the updated AI for public comment; the public shall have thirty (30) days, pursuant to applicable law, to provide comments. After the close of the public comment period, TDHCA shall submit phase 2 of the updated AI to HUD for review, including written responses to any public comments as part of the submission.
2. **Application of Phase 1 of the Updated AI.** For Hurricane Block Grant Funds for which MODs have been reviewed and approved as of the Effective Date of this Agreement, TDHCA, TDRA, and Recipients may proceed to expend such funds. The Action Plan and MODs that have previously been submitted to and approved by HUD are not subject to the updated AI. Upon HUD's acceptance of phase 1 of the updated AI, TDHCA and TDRA will review the substance and effect of all Programs funded with applicable Hurricane Recovery Funds for consistency with phase 1 of the updated AI. Such Programs shall be funded and undertaken in a manner that affirmatively furthers fair housing consistent with this Agreement and federal law and regulations. TDHCA and TDRA shall require Recipients to review expenditures of Hurricane Recovery Funds to ensure they will be consistent with phase 1 of the updated AI. In the event of noncompliance by a Recipient with its AFFH obligations (as defined by phase 1 of the updated AI), TDHCA or TDRA shall impose progressive sanctions, which TDHCA and

TDRA shall promulgate by rule, up to and including termination of funding to a non-compliant Recipient.

3. **Use of Funds and Planning Activities Prior to the Completion of Production of Phase 1 of the Updated AI.** . Subject to Section 3.5 of this Agreement, TDHCA or TDRA may not expend Hurricane Recovery Funds (except for planning and administrative funds) until the earlier of January 1, 2011 or HUD's acceptance of phase 1 of the updated AI.

- 3.5 **Expenditures of Round II Funds Prior to the Acceptance of Phase 1 of the Updated AI.** Except as explicitly provided for elsewhere in this Agreement, neither TDHCA nor TDRA shall commit or expend any Hurricane Recovery Funds prior to HUD's acceptance of phase 1 of the updated AI, or January 1, 2011, whichever is earlier, except in cases of locally identified priority Programs that cannot be carried out without Hurricane Recovery Funds. With respect to a non-housing Program that is subject to this Section II.A.3.5, TDRA will, using an independent consultant acceptable to the Complainants, notify Complainants of the Program in question, describe the Program in detail and state explicitly how the Program is consistent with HUD's current Fair Housing Guidance. This notification shall contain the consultant's assessment of how the Program in question will be consistent with the State's and each Recipient's obligation to AFFH. For each housing Program that is subject to this Section II.A.3.5, TDHCA will notify Complainants of the Program in question, describe the Program in detail and state explicitly how the Program is consistent with HUD's current Fair Housing Guidance or this Conciliation Agreement. From the date of notification, Complainants will have ten business days within which to lodge an objection stating how the Program does not comply with HUD's current Fair Housing Guidance or this Conciliation Agreement. Upon mutual consent of the applicable agency and the Complainants, the period may be extended. The applicable agency and the Complainants commit to work together in good faith to resolve and address differences or concerns about such Programs. The Complainants may, while deciding whether to object or not, ask questions to and request clarifications directly from the consultant. In the event of an objection, TDHCA or TDRA will not expend Hurricane Recovery Funds until Complainants withdraw their objection, phase 1 of the updated AI is accepted by HUD or January 1, 2011, whichever is earlier. Complainants are bound by a covenant of good faith and fair dealing with respect to any objection. If Complainants do not timely object, they will be deemed to have waived any objection to the Program. With respect to each allocated area, the amount of money that may be spent under this Section II.A.3.5 is capped at the lesser of 33% the area's total allocation under the Revised Action Plan Amendment or \$258 million.

4. **AFFH Training.** TDHCA and TDRA shall provide mandatory training to Recipients on AFFH and civil rights compliance.
  - a. TDHCA or TDRA, as appropriate, shall promptly provide mandatory training to each Recipient's designee(s) concerning the Recipient's obligations to AFFH and to comply with civil rights certifications and the reporting requirements required by this Agreement.
  - b. Upon HUD's acceptance of phase 1 of the updated AI, TDHCA and TDRA shall conduct additional mandatory training with respect to Hurricane Recovery Funds to review with Recipients the impediments identified in phase 1 of the updated AI, to provide guidance and assistance on how to use phase 1 of the updated AI to inform their recovery activities regarding The Hurricanes, to help prepare them to carry out their responsibilities to AFFH, and to prepare them to meet their compliance requirements in administering their Programs in a manner consistent with this Agreement.
  - c. TDHCA and TDRA shall separately approve training curricula for the AFFH training described in this Section II.A.4. of this Agreement after a public notice and comment period of at least fifteen (15) days.
  
5. **Reporting On AFFH.** TDHCA and TDRA, by rule, shall establish procedures to collect data relevant to actions to AFFH for any Programs and shall require each Recipient to collect and report to TDHCA or TDRA, as applicable, on a quarterly basis, data relevant to actions to AFFH and ensure compliance with civil rights certifications. Upon written request by Complainants, TDHCA or TDRA, as applicable, will make available free of charge and within ten business days, data including but not limited to the following (unless such data can not be produced within such ten business days, in which case the applicable agency shall certify that fact in writing to the Complainants, and set a date within a reasonable time when the data will be available):
  - a. For each Program activity requiring a direct application by an individual or a non-institutional entity: the applicant household's income, the household's income as a percentage of area median family income as defined by HUD, the race and ethnicity of the head of the household, the household's familial status, and the presence or non-presence of a household member with a disability.
  - b. For each non-housing Program activity directly linked to an individual beneficiary: the beneficiary household's income and that household's income as a percentage of area median family income as defined by HUD, the race and ethnicity of the beneficiaries using census or survey data.

- c. For each activity providing housing or housing assistance that is not directly linked to a specific beneficiary: the cost of the housing unit to the applicant and to the occupant, the maximum qualifying household income as a percentage of area median family income as defined by HUD, restrictions regarding the age or familial status of occupants, the presence or non-presence of design or services that make the housing unit accessible to an individual with a disability, and the number of fully accessible units.
- d. For each non-housing activity that is identified as principally benefitting low- and moderate-income persons, a description detailing the methodology used for the determination of the LMI benefit that permits an independent evaluation of that determination, including a detailed geographic description of the households benefited with the census geographies used to make the determination or, if other methodology was utilized to make the determination, a clear and complete description of the methodology and data. This description shall include surveys, survey tabulations, correspondence, sampling methodology, and other material documentation on which TDHCA or TDRA, as applicable, has relied in making its LMI certification.
- e. TDHCA and TDRA, as applicable, shall collect and maintain, until at least the Expiration Date of this Agreement, all final documents listed in this Section II.A.5. of this Agreement.
- f. Final Program applications shall be posted on TDHCA's or TDRA's website, or linked to a single website, as appropriate, from the time of award through a period of six months following the applicable Program's closeout.
- g. For purposes of monitoring compliance with this Agreement and applicable law, TDHCA and TDRA agree to provide information to Complainants as follows:
  - 1. TDCHA and TDRA are each state agencies subject to the Texas Public Information Act, Texas Government Code, Chapter 552 ("Act"). Except as provided herein, nothing in this Agreement shall obligate TDHCA or TDRA to provide any information which it may not lawfully provide or is not required by law to provide. If any information is requested by Complainants that TDHCA or TDRA believes may be excepted from disclosure under the Act, the information may not be withheld unless the procedures and requirements of the Act are followed.
  - 2. The Complainants acknowledge that the Act does not require TDRA or TDHCA to create new documents, information or reports to respond to information requests under the Act. Should Complainants request documents, information or reports that do not exist or that TDHCA and TDRA do not possess, TDHCA and

TDRA agree to so notify Complainants within the timeframes established under the Act.

3. TDHCA and TDRA shall provide public information requested by Complainants within ten (10) business days of request, unless the applicable agency seeks an opinion from the Attorney General in good faith under the Act, or unless the information can not be produced within such ten business days, in which case the applicable agency shall certify that fact in writing to the Complainants, and set a date within a reasonable time when the information will be available.
4. To the extent Complainants request information that is available in electronic form, TDHCA and TDRA shall provide such information without charge or other fee. TDHCA and TDRA agree to provide such information in the electronic format used by TDHCA or TDRA. TDHCA and TDRA shall, without charge to Complainants, collectively provide Complainants up to 10,000 pages of information that is available only in paper form. When information is kept electronically and in paper form, Complainants have the option to elect the form in which the information that is to be provided.
5. Within thirty (30) days after the Effective Date, and upon written request by the Complainants (which requests shall in no event be more frequent than quarterly during the term of the Agreement), TDHCA and TDRA shall provide Complainants reports containing all data reported in the HUD Disaster Recovery Grant Reporting System with respect to Hurricanes Ike, Dolly and Rita.

**B. Allocation of Funds to Affirmatively Further Fair Housing**

1. **Action Plan Amendment.** TDRA and TDHCA shall prepare a Revised Amendment and submit it to HUD. TDRA and TDHCA acknowledge that prior to such submission they are responsible for satisfying applicable federal statutes and regulations governing public participation, as well as the provisions for public participation as announced in the February 13, 2009, and August 14, 2009 *Federal Registers*.

After the Revised Amendment is developed by TDRA and TDHCA TDRA and TDHCA shall submit the Revised Amendment to HUD for review. TDHCA and TDRA shall include written responses to any public comments as part of the submission. TDHCA and TDRA shall submit the Revised Amendment to HUD, seeking confirmation that it complies with federal requirements. TDHCA and TDRA will timely respond to any questions regarding the Revised Amendment raised by HUD. TDHCA and TDRA will copy the Complainants on written responses it provides to HUD in response to HUD's questions under this subparagraph.

The Revised Amendment may be submitted to HUD as a series of partial amendments. Subject to applicable federal requirements for public comment, the Revised Amendment (as a whole) shall include the following:

- a. **Methods of Distribution.** MODs shall be proposed that describe each Recipients' Programs, including a description of the funding levels, eligibility requirements, intended beneficiaries, and maximum and minimum benefit levels. For each Program listed in a MOD, TDRA and TDHCA, as applicable, shall describe how the Program will address identified impediments and AFFH in accordance with phase 1 of the updated AI. TDHCA and TDRA shall not release Hurricane Recovery Funds for any Program until a MOD as described above is proposed, published for public comment, submitted to the appropriate state agency for review, and thereafter submitted to and approved by HUD. Before any MOD is finalized, it shall be posted on the applicable agency's website so that it may be reviewed for a period of not less than fifteen (15) days for public comment.
- b. **LMI Allocation.**
  - i. TDHCA and TDRA shall expend at least 55 percent of Hurricane Block Grant Funds and Program income on Programs to benefit low- and moderate-income persons.
  - ii. TDHCA and TDRA may administer a Program directly if, at any point, in TDHCA's or TDRA's sole determination, there is no acceptable provider capable of serving the needs of low- and moderate-income persons residing in the locality or region in a competent and efficient manner.
  - iii. TDHCA and TDRA shall regularly report on their websites or link to a single website, and require regular reporting by Recipients, to ascertain and ensure compliance with the requirement in this Section II.B.1.b.
- c. **Housing Allocation.** TDHCA and TDRA shall expend at least 55 percent of Hurricane Block Grant Funds on housing Programs.
- d. **Recipient Performance.** TDHCA shall require Recipients to adhere to expenditure performance requirements with respect to the applicable Hurricane Recovery Funds used for housing, and to submit to performance evaluations of their expenditure rates every six months during the term of this Agreement. TDHCA's proposed performance standards shall be set at a level of incremental expenditure to reasonably assure that, within a period of no more than eighteen months from the date of the commencement of the Program, each Recipient will have identified sufficient eligible beneficiaries such that the Recipient will be able to provide reasonable assurance that the Recipient will be able to expend all applicable Hurricane Recovery Funds utilized for housing in compliance with

TDHCA-established benchmarks. TDHCA will require each Recipient to ensure that expenditure of those committed funds is in compliance with TDHCA-established benchmarks. If a Recipient is unable or unwilling to administer its allocated Hurricane Recovery Funds in compliance with TDHCA's benchmarks, the COG in which the Recipient is located will determine, in a manner acceptable to TDHCA, whether the COG or another eligible provider with demonstrated capacity will assume responsibility for the administration of those Hurricane Recovery Funds for the same purposes and for the benefit of the same beneficiaries. If the COG and TDHCA cannot find a mutually agreeable administrator, TDHCA agrees to administer a Program to carry out those responsibilities.

- e. TDHCA shall provide the proposed expenditure performance requirements for public review and comment fifteen (15) days before they are approved by TDHCA. TDHCA will provide a written response to any public comment.
- f. **Housing Program Guidelines.** TDHCA shall create a task force comprised of representatives of TDHCA and the COGs, that shall in one or more posted public meetings, develop criteria governing all housing Programs to be carried out with Hurricane Recovery Funds. Such recommendations, upon adoption by TDHCA, will direct the available scope of housing activities Recipients may carry out and will be reflected in an amendment. TDHCA must consider these recommendations and approve guidelines which shall include and address but not be limited to:
  - i. A list of housing Program activities (including appropriate relocation and buyout activities) from which Recipients may select housing Programs that they will offer;
  - ii. The cost and benefit criteria for each housing Program;
  - iii. The Program participant eligibility and qualification criteria for each housing Program;
  - iv. Housing quality standards for housing funded with Hurricane Recovery Funds;
  - v. The priority factors that Recipients must consider in administering their overall housing Program, including prioritization for persons at various income levels, persons with special needs, and relocation Programs;
  - vi. An evaluation of the income levels of disaster survivors and the establishment of reasonable guidelines to ensure that the housing needs of low-, very low- and extremely low-income households are assisted with housing in no less than the proportion to their relative percentages of the overall populations

which suffered housing damage within the community being served by the Program;

vii. Appropriate outreach and public awareness measures for housing Programs;

viii. The recommendations will provide and allow for objectively determined regional adjustments for these criteria to reflect differences in the costs of delivery for benefits and the economic profile of local target populations.

2. **Housing Initiatives.** Subject to applicable federal requirements for public comment, TDHCA shall establish and fund from Hurricane Recovery Funds the following housing initiatives as part of its Revised Amendment:

a. **Affordable Rental Housing Program.** Set asides from the Hurricane Block Grant Funds for affordable rental housing Programs administered by TDHCA, sufficient to ensure that TDHCA will meet the mandate of P.L. 110-329, and addressing multifamily rental housing, single family rental housing, and public housing needs arising from The Hurricanes. Such funds relating to affordable multifamily rental housing and owners of 20 or more single family or duplex private rental housing units constructed, repaired, or reconstructed using Hurricane Recovery Funds will be governed by appropriate use restrictions, to be evidenced by duly-recorded LURAs having terms of ten (10) years. TDHCA shall require all owners of affordable multifamily rental housing units and owners of 20 or more single family or duplex private rental housing units receiving assistance under this Program to accept Housing Choice Voucher holders under the same substantive provisions as those in place in the Texas Low Income Housing Tax Credit program established by Internal Revenue Code §42, Texas Government Code, Chapter 2306, and rules and guidelines promulgated by TDHCA relating thereto.

If, and only if, prior to the execution of the first such LURA applicable to an affordable multifamily property or owner of 20 or more single family or duplex private rental properties constructed, repaired, or reconstructed using Hurricane Recovery Funds, HUD has provided TDHCA written confirmation, in form and substance reasonably acceptable to TDHCA, that TDHCA shall have no responsibility to monitor or enforce any such LURA or the ownership and operation of the property to which it relates after ten (10) years from the date such LURA is executed and recorded, a subsequent ten (10) year period shall be included in the LURA, which shall expressly provide that such additional ten (10) year period shall be enforceable under the same substantive provisions as those in place in the Texas Low Income Housing Tax Credit program established by Internal Revenue Code §42, Texas Government Code, Chapter 2306, and rules and guidelines promulgated by TDHCA relating thereto.

- b. **One-For-One Replacement.** From TDHCA's affordable housing set aside out of the Hurricane Recovery Funds, no less than \$50 million shall be available for use in the City of Galveston for the one-for-one replacement of all family and elderly public housing units damaged or destroyed in Hurricane Ike. Of the remaining funds, no less than \$25 million shall be provided for the construction, reconstruction, replacement, or rehabilitation of family and elderly public housing units damaged or destroyed by The Hurricanes, with priority being given to activities which include one-for-one replacement of family and elderly public housing units within a Public Housing Authority jurisdiction, or federally funded farm labor housing.
- c. **Disaster Housing Demonstration Program.** TDHCA shall administer \$6 million in Hurricane Recovery Funds for the disaster housing pilot program required by HB 2450 (81<sup>st</sup> Legislature, regular session). This funding shall be administered with \$2 million available in each of the following areas Lower Rio Grande Valley Development Council, Harris County, and Galveston County. TDHCA will publish the criteria under which interested parties may compete to administer such pilot projects.
- d. **Title Clearance and Legal Assistance Program.** A title clearance and legal assistance Program funded from Hurricane Recovery Funds at \$500,000.
- e. **Rebuilding Subsidized Housing.** In furtherance of the objective of restoration of subsidized housing damaged or destroyed by The Hurricanes and to ensure funds are available to address issues identified in phase 1 of the updated AI, TDHCA shall create a Program, to be administered by the appropriate COG, funded at \$100 million, for the sole benefit of low- and moderate-income persons with unmet housing needs resulting from The Hurricanes, with priority given to addressing issues identified with public housing and affordable rental housing damaged or destroyed by The Hurricanes. Of this amount, \$90 million shall be made available in the Counties of Harris and Galveston, and \$10 million shall be made available in the County of Orange. Such Program shall require:
  - i. The one-for-one replacement or rehabilitation of all family and elderly public housing units that were damaged or destroyed as a result of The Hurricanes within the local jurisdictions in a manner that affirmatively furthers fair housing in compliance with phase 1 of the updated AI. Twenty million dollars shall be reserved specifically to support the one-for-one replacement of family and elderly public housing damaged or destroyed by The Hurricanes in the City of Galveston. Once all public housing units damaged or destroyed by The Hurricanes in Galveston have been addressed the reservation shall be released for other rental housing activities under this section.

- ii. The rehabilitation, reconstruction or construction of single-family and multi-family rental housing units damaged or destroyed by The Hurricanes within the jurisdictions or surrounding regions in a manner that affirmatively furthers fair housing in compliance with phase 1 of the updated AI in sufficient numbers and at appropriate rents to affordably house an equal number of Housing Choice Voucher holders as were living within each jurisdiction at the time of The Hurricanes.
  - 1) TDHCA will work with units of local government in the areas where applicable Hurricane Recovery Funds are to be administered requiring that zoning and permitting in connection with the use of Hurricane Recovery Funds are addressed in a manner which is consistent with AFFH and other applicable laws.
  - 2) TDHCA shall require all Recipients for multifamily and owners of 20 or more units of single family or duplex private rental housing to accept Housing Choice Voucher holders under the same substantive provisions as those in place in the Texas Low Income Housing Tax Credit program established by Internal Revenue Code §42, Texas Government Code, Chapter 2306, and rules and guidelines promulgated by TDHCA relating thereto, for a period of ten (10) years. Such provisions shall be evidenced by duly-recorded LURAs. Furthermore, such housing shall be subject to the same use restrictions as those described in Section II.B.2.a.
- f. **Impacted Area Buyout Criteria.** TDHCA shall set aside \$18 million of Hurricane Recovery Funds to fund relocation and buyout assistance for low and moderate income victims of The Hurricanes living in FEMA designated “High Risk Areas” and areas of high minority and poverty concentration as approved by TDHCA. These activities will be administered by the COGs under policies developed by TDHCA, and will use relocation counselors and licensed real-estate professionals.
- g. **Moving To Opportunity Program.** TDHCA and Complainants shall work together to prepare a request to HUD for an allocation of additional Housing Choice Vouchers, or assistance in developing alternative tenant-based rental assistance for eligible households. Contingent on securing federal appropriations to fully fund Housing Choice Vouchers or equivalent tenant-based rental assistance to assist up to 2,500 eligible households, TDHCA shall propose to establish a Moving to Opportunity Program, funded at \$1 million per year for five years and operated by Public Housing Authorities, to permit eligible renter households in areas affected by The Hurricanes to locate alternative rental housing in higher opportunity areas. Such funds shall be expended to provide relocation counseling, security and utility deposits, moving expenses, and reasonable Program administrative expenses under criteria developed by TDHCA.

3. **Tax Issues.** In addition to other requirements described in this Agreement, TDHCA shall prohibit the denial of assistance to applicants who are elderly or disabled based upon an election to defer property tax payments as permitted under Texas law, or to applicants who have property tax debt so long as the applicant has entered or agrees to enter into a plan with the appropriate local taxing authority to pay such taxes. TDHCA shall require contractors for the State, COGs, and Recipients being paid from Hurricane Recovery Funds to properly state these criteria in all public notices and media communications regarding their Programs, and to use a TDHCA-approved disclosure form to inform potential beneficiaries and applicants of their right to enter into a payment plan or defer taxes as provided in Texas law. This disclosure will be in clear language, understandable to a layperson. TDHCA shall approve the proposed disclosure and instructions after a 15 day public comment period.
4. **Ownership.** TDHCA shall provide Recipients with clear instructions concerning the standards that must be used to establish property ownership as provided under Texas Government Code §2306.188, and prohibit Recipients' use of standards that are more onerous than those in Texas Government Code §2306.188. TDHCA shall approve the proposed instructions after a fifteen (15) day public comment period.
5. **Access to Housing for Persons with Disabilities.** TDHCA shall establish clear standards under which all housing constructed or rehabilitated with Hurricane Recovery Funds shall be designed to be visitable by people with disabilities.
  - a. TDHCA shall create a task force, appointed in consultation with Complainants, to develop a practical policy for the waiver of requirements allowed under Texas Government Code §2306.514(b) related to new construction and rehabilitation of properties using Hurricane Recovery Funds. No such waiver would be granted where the property being constructed was being built specifically for an applicant with special needs. TDHCA shall provide full consideration to Hurricane Recovery Funds applications for LMI households with special needs and will give such applications funding priority.
  - b. Visitability standards set forth in Texas Government Code §2306.514(b) shall apply to all housing constructed with Hurricane Recovery Funds except if a waiver is granted under Section II.B.5.a. of this Agreement.
  - c. TDHCA and TDRA shall establish rules, procedures and funding guidelines requiring their contractors and Recipients to (i) adequately assess the needs of survivors of The Hurricanes with disabilities for funding to be carried out with Hurricane Recovery Funds and (ii) assign the highest funding priority to Programs serving low and moderate income households within this population.

6. **Eligibility.** In the administration of Hurricane Recovery Funds, TDHCA shall prohibit COGs and Recipients from refusing housing assistance to applicants solely on the basis that the applicants were denied assistance by FEMA. TDHCA shall include in each Hurricane Recovery Funds grant contract provisions to require the Recipient to accept reasonable alternative proof of damage from The Hurricanes in the event a homeowner has been denied FEMA assistance. TDHCA will promulgate clear standards to be used for establishing whether an applicant's home is eligible for housing benefits out of Hurricane Recovery Funds because of damage related to The Hurricanes and shall require all COGs and Recipients to adhere to these standards. TDHCA shall issue proposed instructions for compliance with this provision after a 15 day public comment period.

### **III. REPORTING**

TDHCA and TDRA shall increase the accountability and transparency for Hurricane Recovery Funds by posting on their respective websites, or linking to a single website, the HUD-approved updated AI, Revised Amendment, all final MODs, all final Program applications, all project status and fund expenditure reports provided to HUD, and reporting data required in Sections II.A.5 and II.B.1.b.iii of this Agreement.

- A. TDHCA and TDRA shall require each Recipient to submit to TDHCA or TDRA, as applicable, all notices of any public hearings or requests for public comment the Recipient may have that relates to the administration of Hurricane Recovery Funds that are provided to such Recipient. TDHCA and TDRA agree to post on their respective websites, or link to a single website, all such notices that TDRA or TDHCA, as applicable, receives from any such Recipient. Such postings will not fulfill the Recipients' responsibility under Chapter 551 of the Texas Government Code.
- B. **Assistance with Document Location.** If TDHCA or TDRA receives a request for information under the Act that the agency does not possess, then in response to the request for information, the applicable agency will, within ten business days, provide the Complainants with a list of governmental bodies that the agency, reasonably and in good faith, believes may have the information.
- C. In the event of noncompliance by a Recipient with the applicable terms of this Agreement or with federal law or regulation governing the administration of Hurricane Recovery Funds, TDHCA and TDRA shall by rule provide for the imposition of progressive sanctions, consistent with the requirements of applicable state and federal law, up to and including a termination of funds to that non-compliant Recipient.

### **IV. OTHER**

Conciliation Agreement

CASE NAME: Texas Low Income Housing Information Service and Texas Appleeed v. State of Texas  
CASE NUMBERS: 06-10-0410-8 (TITLE VIII); 06-10-0410-9 (SECTION 109)

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**A. Withdrawal and Dismissal of Complaints**

Upon the Effective Date of this Agreement, the Complaints will be deemed to have been withdrawn and dismissed without need of any further action by any party and with the express understanding that neither the Complaints nor any issue or allegation urged in such Complaints, that had been urged in any previous version of such Complaints, or that may have been urged in any of the Complaints in connection with the State's administration of the Hurricane Block Grant Funds, may be re-filed, in whole or in part by, on behalf of or at the request of any Complainant.

**B. Miscellaneous Terms**

1. **Notice.** If any legal notice is provided concerning this Agreement, notice shall be given at the following:

**For TxLIHIS:**

John Henneberger, Co-Director  
Texas Low Income Housing Information Service  
508 Powell Street  
Austin, Texas 78703-5122

**For Texas Appleseed:**

M. Madison Sloan, Staff Attorney  
Texas Appleseed  
1609 Shoal Creek, Suite 201  
Austin, Texas 78701  
msloan@texasappleseed.net

**For TDRA:**

Charles Stone  
Executive Director  
Texas Department of Rural Affairs  
P. O Box 12877  
Austin, Texas 78711  
charlie.stone@tdra.state.tx.us

**For TDHCA:**

Michael Gerber  
Executive Director  
Texas Department of Housing and Community Affairs  
P. O. Box 13941  
Austin, Texas 78711  
michael.gerber@tdhca.state.tx.us

Notice shall be sent either electronically or, in compliance with the "mailbox" rule, when sent first class, return receipt required.

2. **Venue.** The parties, and by approving this Agreement HUD, agree that venue for any suit brought by the Department of Justice to enforce the terms of this Agreement should be brought in the federal district court for the Southern, Eastern, or Western District of Texas in which one or more of the defendants in such suit resides or has its principle place of business. Except as otherwise provided in this paragraph, any action to enforce the terms of this Agreement shall be brought in a State District Court for Travis County, Texas.
3. **Headings.** Headings are included solely for the ease of locating subjects and shall not be considered for purposes of interpreting this Agreement, nor do they enlarge or limit any term of this Agreement.
4. **Plural and Gender.** Every singular word may be read as a plural and vice versa. Any reference to gender herein may be read as either masculine, feminine, or neuter and should not be interpreted as a limitation.

5. **Remedies for Breach.** Each party agrees that, in the event of a breach of this Agreement, the harmed party is limited to seeking injunctive relief to compel compliance with this Agreement.
6. **Use of Funds.** Notwithstanding anything contained in this Agreement: (a) the State represents that state law does not prohibit TDHCA and TDRA from entering into this Agreement and complying with its terms; (b) this Agreement applies solely to Hurricane Block Grant Funds and does not and shall not be construed to apply to any other federal funds or to any State funds; (c) State funds may not be used in a manner inconsistent with Texas law, including without limitation, the General Appropriations Act and the Texas Constitution; and, (d) this Agreement shall not control or compel appropriation of any State funds.
7. **Severability.** If any section of this Agreement is determined by a court to be in violation of the laws of the State, federal law or regulation, or against public policy, the remainder of the Agreement shall continue to operate in full force.
8. **Entire Agreement.** This Agreement contains the entire Agreement and understanding between the parties. With respect to this Agreement, no representations, promises, agreements or understandings, written or oral, not herein contained shall be valid or binding unless the same is in writing and signed by the party intended to be bound.
9. **Construction.** This Agreement is the result of conciliation negotiations undertaken in good faith and in that regard the rule of contractual construction that an ambiguous term shall be construed against the drafter shall not be employed.
10. **Review by Counsel.** Each of the Parties represents and warrants to the others that it has had this Agreement reviewed by counsel prior to execution.
11. **Notice and Cure.** An action by Complainants or either of them for breach of this Agreement may not be commenced until and unless TDHCA or TDRA or both, as appropriate, have been given written notice specifying the basis for the assertion of a material breach, a reasonable opportunity to cure, and have failed to cure or take steps to cure.
12. **Force Majeure.** "Force Majeure event" means an event beyond the control of the State, TDHCA, or TDRA which prevents or delays compliance with one or more of their obligations under this Agreement, such events including but not limited to the following:
  - a. an act of God (such as, but not limited to, hurricanes, tornadoes, and floods);
  - b. war, hostilities (whether war be declared or not), invasion, or embargo;

- c. rebellion, revolution, insurrection, or military or usurped power, or civil war;
- d. contamination by radioactivity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component of such assembly;
- e. contamination by any other hazardous materials or substance;
- f. riot, commotion, strikes, work stoppages or slowdowns, lock outs or disorder, or
- g. acts or threats of terrorism.

Upon the occurrence of a force majeure event a party to this Agreement shall not be considered in breach of this Agreement for failure to perform any obligation hereunder to the extent that such performance is prevented by that force majeure event. Upon occurrence of a force majeure event the party or parties whose performance is affected shall, as promptly as reasonably possible, provide notice of the facts and circumstances to the other parties hereto. The parties will work in good faith to resume performance as soon as is reasonably possible once such force majeure event no longer impairs or affects their ability to do so.

**C. Effective Date and Expiration Date**

The Effective Date of this Agreement is the last date on which it is signed by each signatory for the State and each Complainant, and approved by each signatory for the U.S. Department of Housing and Urban Development. If this Agreement, the Revised Amendment, the updated AI, or the ultimate release of funds based on approved MODS—as each may be amended by agreement of the Parties or by agreement between The State and HUD—are not approved by HUD, this Agreement shall be null and void *ab initio* without need of any further action by any party even if it has been executed by each Complainant, TDHCA and TDRA. The Expiration Date of this Agreement is six (6) months following the date of the close out of the Hurricane Block Grant Funds grant.

**D. Relief for Complainants**

Complainants seek no monetary award of damages. They are, however, entitled to payment of actual and reasonable attorneys' fees and costs in the amount of \$120,000.

**E. Monitoring**

Complainants and TDHCA and TDRA agree that HUD shall monitor compliance with the terms and conditions specified in this Agreement. As part of such monitoring, HUD may, upon reasonable notice and at reasonable times, inspect TDHCA's and TDRA's records, examine witnesses and copy pertinent records. TDHCA and TDRA agree to provide their

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cooperation in any monitoring review undertaken by HUD to ensure compliance with this Agreement.

**F. Reporting and Record Keeping**

All required certifications and documentation of compliance with the terms of this Agreement shall be submitted to:

U.S. Department of Housing and Urban Development  
Fair Housing Enforcement Center  
ATTENTION: CONCILIATION REVIEW  
801 Cherry Street, Unit #45, Suite 2500  
Fort Worth, Texas 76102

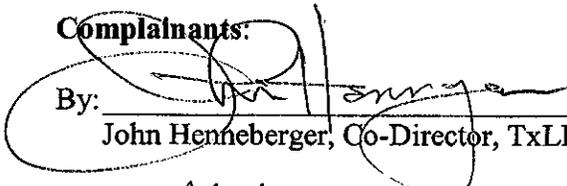
**G. Consequences of Breach**

The parties acknowledge that in the event of an uncured breach of this Agreement, 42 USC §3610(c) will apply.

**H. Signatures**

This Agreement is being signed by TDRA and TDHCA by individuals acting in their official capacity. They have the requisite authority to sign this Agreement on behalf of their respective agencies. These other signatures to this Agreement attest to the approval and acceptance of this Conciliation Agreement by the signatories.

**Complainants:**

By:  Date: May \_\_, 2010  
John Henneberger, Co-Director, TxLIHIS

By:  Date: May 21, 2010  
M. Madison Sloan, Staff Attorney,  
Texas Appleeed

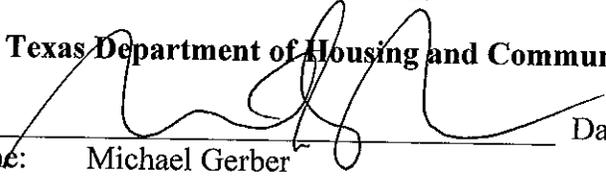
By:  Date: May 21, 2010  
Michael Allen, Esq.,  
Counsel for TxLIHIS and Texas Appleeed

Conciliation Agreement

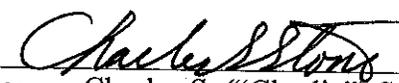
CASE NAME: Texas Low Income Housing Information Service and Texas Appleseed v. State of Texas  
CASE NUMBERS: 06-10-0410-8 (TITLE VIII); 06-10-0410-9 (SECTION 109)

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**The Texas Department of Housing and Community Affairs:**

By:  Date: May 21, 2010  
Name: Michael Gerber  
Title: Executive Director

**The Texas Department of Rural Affairs:**

By:  Date: May 21, 2010  
Name: Charles S. ("Charlie") Stone  
Title: Executive Director

**APPROVED:**

By: \_\_\_\_\_ Date: May \_\_\_\_, 2010  
Name: Garry Sweeney, Director  
Fair Housing and Equal Opportunity  
Region VI  
U.S. Department of Housing and Urban Development

## **Appendix G-1a – Pool: Non-Housing**

### **Criteria for the Non-Housing Pool**

#### **Eligible Applicants**

Eligible Applicants are cities and counties that are eligible to be grantees for 2008 Supplemental Disaster Recovery funding and are located within the ATCOG, CBCOG, CTCOG, BVCOG, ETCOG, GCRPC and STDC Council of Government regions. All other eligible entities must apply under the appropriate city or county application for their service area. Additional guidance and further details, including information regarding Multi-Jurisdiction applications, may be provided in the Application and Application Guide for the Pool fund.

#### **Threshold Requirements**

There must be a clear and compelling need related directly to the major natural disaster declaration for hurricane disaster relief, long-term recovery and/or restoration of infrastructure. No disaster recovery assistance will be considered with respect to any part of a disaster loss that is reimbursable by the Federal Emergency Management Agency (FEMA), the Army Corps of Engineers, insurance, or other source (restriction against duplication of benefits). An activity underway prior to the Presidential disaster declaration will not qualify unless the disaster directly impacted the project.

#### **Award Amounts and Award Process**

Awards will not be less than \$75,000 and will not exceed \$1 million per grantee. All applications will be scored against the criteria and awards made as described herein and awards will be made within the amount of funds available. All calculations will be derived out to two decimal places. All applications will be discretely ranked based on the scoring criteria outlined in this document. In the event of a tie score, a tie-breaker factor will be applied to the tied applications in order to rank them. Applications including multiple projects will receive one cumulative score that may incorporate weighted averages by project as described in the criteria methodology.

The first round of awards will only consider applications that qualify under the Low-to-Moderate Income (LMI) national objective. Once the State satisfies Housing and Urban Development (HUD) requirements for fund allocation to LMI activities, if funds are remaining, any outstanding un-awarded applications will be awarded in rank order only to the amount of funds available.

#### **Citizen Participation**

The applicants must have a public hearing on application submission with a public comment period of at least 7 days. Additional citizen participation guidance will be provided in the Application Guide.

### **Project Selection: Summary of Objective Scoring Criteria**

#### **100 Total Points**

1. Low-to-Moderate Income Percentage: **Total points 35**
  - (1) What is the project low-to-moderate income percentage?

## **Appendix G-1a – Pool: Non-Housing**

- (a) LMI% greater than or equal to 90% – Maximum 35 points
  - (b) LMI % greater than or equal to 80% but less than 90% –Maximum 28 points
  - (c) LMI % greater than or equal to 70% but less than 80%– Maximum 21 points
  - (d) LMI % greater than or equal to 60% but less than 70% –Maximum 14 points
  - (e) LMI % greater than or equal to 51% but less than 60%- Maximum 7 points
  - (f) LMI % less than 51% - 0 points
2. **Project Priority: Total points 25**
- (1) Does the project address a priority activity?
    - (a) Priority Activities- Maximum 25 points
    - (b) Non-priority Activities- 0 points
3. **Hurricane Damage per Capita: Total points 20**
- (1) What is the applicant’s rate of FEMA Public Assistance (PA) and Individual Assistance (IA) per capita? – Maximum 20 points
4. **Employment Impact: Total points 12**
- (1) What is the change in employment from 2<sup>nd</sup> Quarter 2008 to 4<sup>th</sup> Quarter 2008 for the applicant’s county? – Maximum 12 points
5. **Regional Impact: Total points 8**
- (1) Does the project meet two or more of the regional emphasis criteria? – Maximum 8 points

### **Tie-Breaker:**

What is the poverty rate (poverty percentage) of the census geographic area?

## **Scoring Criteria Methodology**

1. **Low-to-Moderate Income Percentage: Total points 35**
- a. **What is the project low-to-moderate income (LMI) percentage?**

**Methodology:** Project beneficiary information will be reviewed to determine the appropriate LMI point category. Applications that include multiple projects are required to weigh the LMI percentage based on the proportion of project cost relative to the total of all project costs present in the application. Project cost is determined by subtracting project delivery costs from the total project cost. Applications for a single project will receive the full number of points for the LMI category within which it falls.

- (a) LMI% greater than or equal to 90% – Maximum 35 points
- (b) LMI % greater than or equal to 80% but less than 90% –Maximum 28 points
- (c) LMI % greater than or equal to 70% but less than 80%– Maximum 21 points
- (d) LMI % greater than or equal to 60% but less than 70% –Maximum 14 points
- (e) LMI % greater than or equal to 51% but less than 60%- Maximum 7 points
- (f) LMI % less than 51% - 0 points

## **Appendix G-1a – Pool: Non-Housing**

The following procedure shall be used to weigh the LMI percentage for multiple-project applications:

For each project, the project cost shall be divided by the total of project costs for all projects included in the application. This proportion is then multiplied by the LMI percentage for the project, resulting in a weighted LMI percentage for the project. The weighted LMI percentages for all projects are added together, resulting in an aggregated, weighted LMI percentage for the total application. Points are assigned based on the weighted LMI percentage for the total application.

### EXAMPLE

Project	Project Total All Activities	Project Delivery	Total Project Cost	Cost Weight	LMI %	Weighted LMI %
Sewer	\$134,000	\$16,080	\$117,920	0.13	46.57%	6.08%
Water	\$167,000	\$20,040	\$146,960	0.16	59.68%	9.72%
Drainage	\$550,000	\$49,500	\$500,500	0.56	74.31%	41.61%
Park	\$149,000	\$11,900	\$137,100	0.15	45.91%	6.97%
	\$1,000,000	\$97,520	\$902,480	1		<b>64.39%</b>

\*Park is used in this example; however Parks are not eligible under the Urgent Need National Objective.

In this example, the application would be awarded 14 points because the Weighted LMI Percentage is 64.39 percent.

Data Source: HUD 2000 Census or TxCDBG verified Survey  
DRS Application Table 1 verified by TDRA

### **2. Project Priority: Total points 25**

#### **a. Does the project address a priority activity?**

**Methodology:** Table 1 information will be reviewed to determine the appropriate project type category based on disaster recovery funds requested and points will be assigned. Applications that include multiple projects are required to weigh the project priority points based on the proportion of project cost relative to the total of all project costs present in the application. Project cost is determined by subtracting project delivery costs from the total project cost. Applications for a single project will receive the full number of points for the project priority category within which it falls.

(a) Priority Activities- Maximum 25 points

(b) Non-priority Activities- 0 points

Priority Activities are:

- Sewer facilities
- Water facilities
- Drainage and flood facilities, including shoreline stabilization

## **Appendix G-1a – Pool: Non-Housing**

- Streets/ bridges

The following procedure shall be used to weigh the project priority points for multiple-project applications:

For each project, the project cost shall be divided by the total of project costs for all projects included in the application. This proportion is then multiplied by the project priority points for the project, resulting in a weighted project priority score for the project. The weighted priority score for all projects are added together, resulting in an aggregated, weighted project priority score for the total application.

### EXAMPLE

Project	Project Total All Activities	Project Delivery	Total Project Cost	Cost Weight	Priority Points	Weighted Priority Points
Sewer	\$134,000	\$16,080	\$117,920	0.13	25.00	3.27
Water	\$167,000	\$20,040	\$146,960	0.16	25.00	4.07
Drainage	\$550,000	\$49,500	\$500,500	0.56	25.00	14.00
Park	\$149,000	\$11,900	\$137,100	0.15	0.00	0.00
	\$1,000,000	\$97,520	\$902,480	1		<b>21.34</b>

In this example, the application would be awarded 21.34 points.

Data Source: DRS Application Table 1 verified by TDRA

### **3. Hurricane Damage per Capita: Total points 20**

- a. What is the applicant’s rate of FEMA Public Assistance (PA) and Individual Assistance (IA) per capita?**

**Methodology:** The amount of all FEMA Public Assistance (PA) and Individual Assistance (IA) for the applicant as of December 31, 2009 will be divided by the total population for the applicant to determine the amount of damages per capita. This average amount of damage per capita will be multiplied by a factor of 1.25, which determines the Base factor. The applicant’s damage per capita is then divided by the Base factor, and then multiplied by the 20 maximum available points. The result is the score for the applicant.

### EXAMPLE

<i>Divide Damage by Population:</i>	
Amount of damage reported for applicant (FEMA documentation)	
Total population (citywide and / or countywide)	= damages per capita
<i>Then:</i>	
Average damage per capita * 1.25 = Base	

## **Appendix G-1a – Pool: Non-Housing**

*Then:*  

$$\frac{\text{Applicant's damage per capita} * 20}{\text{Base}} = \text{Score}$$

Data Source: FEMA PA and IA latest available figures as of December 31, 2009  
 HUD 2000 Census or TxCDBG verified Survey

**4. Employment Impact: Total points 12**

- a. What is the change in employment from 2<sup>nd</sup> Quarter 2008 to 4<sup>th</sup> Quarter 2008 for the applicant's county?**

Employment figures for all industries both public and private for the 2<sup>nd</sup> Quarter of 2008 and the 4<sup>th</sup> Quarter of 2008 are obtained from the Texas Workforce Commission's (TWC) *Quarterly Census of Employment and Wages* (QCEW) for each county in the Pool region. Cities are scored on the rates for the county in which they are located. The percent of change in each county (increase / decrease) from the 2<sup>nd</sup> Quarter 2008 to the 4<sup>th</sup> Quarter 2008 is then calculated. Refer to "Change in Employment Data Worksheet" attachment. Points are then awarded based upon the following scale:

No decrease:	0 points
Decrease up to 1.99%	2 points
Decrease: 2.00% - 2.99%	4 points
Decrease: 3.00% - 3.99%	6 points
Decrease: 4.00% - 5.99%	8 points
Decrease: 6.00% & over	12 points

Data Source: Texas Workforce Commission's (TWC) *Quarterly Census of Employment and Wages* (QCEW) for the 2<sup>nd</sup> Quarter of 2008 and the 4<sup>th</sup> Quarter of 2008  
 Change in Employment Data Worksheet

**5. Regional Impact: Total points 8**

- a. Does the project meet two or more of the regional emphasis criteria?**

**Methodology:** Application information will be reviewed to determine if the project(s) meet any two of the four regionalization criteria, and points will be assigned. Applications that include multiple projects are required to weight the regionalization points based on the proportion of project cost relative to the total of all project costs present in the application. Project cost is determined by subtracting project delivery costs from the total project cost.

Projects may qualify as regional in nature if they meet two or more of the following criteria:

## **Appendix G-1a – Pool: Non-Housing**

- Multi-Jurisdictional benefit as evidenced by project-specific agreements between jurisdictions that would share the project benefit
- Serves regional connectivity or connectivity between systems (Example: Interconnect between water systems)
- At least 15% of each jurisdiction’s in the multi-party agreement population receives project benefit as verified by TDRA in the beneficiary information documentation
- Consolidation of two impacted services/ facilities

The applicant with the largest % of beneficiaries will be considered the applicant of record.

The following procedure shall be used to weigh the regionalization points for multiple-project applications:

For each project, the project cost shall be divided by the total of project costs for all projects included in the application. This proportion is then multiplied by the regionalization points for the project, resulting in a weighted regionalization score for the project. The weighted regionalization score for all projects are added together, resulting in an aggregated, weighted regionalization score for the total application.

### **EXAMPLE**

Project	Project Total All Activities	Project Delivery	Total Project Cost	Cost Weight	Regional Points	Weighted Regional Score
Sewer	\$134,000	\$16,080	\$117,920	0.13	8.00	1.05
Water	\$167,000	\$20,040	\$146,960	0.16	8.00	1.30
Drainage	\$550,000	\$49,500	\$500,500	0.56	0.00	0.00
Park	\$149,000	\$11,900	\$137,100	0.15	8.00	1.22
	\$1,000,000	\$97,520	\$902,480	1		<b>3.57</b>

Data Source: DRS Application and relevant agreements verified by TDRA

### **Tie-Breaker:**

What is the poverty rate (poverty percentage) of the census geographic area?

**Methodology:** Poverty rate may be determined by reviewing the 2000 Census Data for the census geographic area. Once this information is obtained for each applicant and the target area identified on the census map, the poverty rate for each applicant is calculated by dividing the total number of persons at or below the designated poverty level by the population from which poverty persons was determined. If the target area(s) encompasses more than one census geographic area (such as two or more Census Tracts or Block Groups or any combination of Census Tract(s) and/or Block Group(s)), the poverty rate shall be calculated as follows: sum of the total number of persons at or below the designated poverty level of all census geographic

## ***Appendix G-1a – Pool: Non-Housing***

areas in the target area divided by the sum of the total population from which poverty persons was determined of all census geographic areas in the target area.

Tied applicants will be ranked in order of poverty rate, with higher poverty rate being ranked highest.

**Data Source:** Population and Poverty Rate: 2000 Census Summary File 3 Table P87  
Census Geographic Area: 2000 Census map(s)

## Appendix G-1a – Pool: Non-Housing

### Change in Employment Data Worksheet

		<u>2nd Quarter '08</u>	<u>4th Quarter '08</u>	<u>% of Change</u>	<u>Points</u>
ATCOG	Bowie	43,668	44,046	0.87%	0
	Cass	7,903	7,840	-0.80%	2
	Morris	4,720	4,974	5.38%	0
BVCOG	Burleson	3,938	3,843	-2.41%	4
	Grimes	6,978	7,120	2.03%	0
	Leon	5,365	5,766	7.47%	0
	Madison	3,958	3,786	-4.35%	8
	Robertson	3,939	4,125	4.72%	0
	Washington	14,503	14,625	0.84%	0
	CBCOG	Aransas	6,036	5,698	-5.60%
Brooks		2,631	2,680	1.86%	0
Jim Wells		18,237	19,102	4.74%	0
Kleberg		12,681	12,880	1.57%	0
Nueces		156,542	156,912	0.24%	0
Refugio		2,222	2,253	1.40%	0
San Patricio		18,359	18,178	-0.99%	2
CTCOG		Milam	6,924	6,407	-7.47%
ETCOG	Anderson	17,919	17,688	-1.29%	2
	Cherokee	15,444	15,016	-2.77%	4
	Gregg	75,360	75,819	0.61%	0
	Harrison	23,528	23,515	-0.06%	2
	Marion	2,011	2,009	-0.10%	2
	Panola	8,776	8,765	-0.13%	2
	Rusk	14,422	14,752	2.29%	0
	Smith	94,698	95,850	1.22%	0
	Upshur	6,658	6,500	-2.37%	4
GCRPC	Calhoun	9,694	9,683	-0.11%	2
	Victoria	39,405	38,934	-1.20%	2
STDC	Jim Hogg	1,910	1,990	4.19%	0
	Starr	13,379	13,901	3.90%	0

# **Appendix G-1a – Pool: Non-Housing**

Data Source: Texas Workforce Commission's (TWC) *Quarterly Census of Employment and Wages* (QCEW) for the 2<sup>nd</sup> Quarter of 2008 and the 4<sup>th</sup> Quarter of 2008

## ***Appendix G-2a – Housing: Affordable Rental***

### **Affordable Rental Housing Recovery Program**

TDHCA, subject to this administrative coordination role in relation to The Texas Department of Rural Affairs (TDRA), is designated as the agency responsible for all housing activities and will continue to administer disaster recovery funding for housing, including this set-aside for the Affordable Rental Housing Recovery Program.

The Federal Register dated August 14, 2009 appropriating these funds requires that no less than \$342,521,992 of the state's total allocation be used for the replacement of affordable rental housing stock. Accordingly, TDHCA will utilize not less than \$174 million from the total housing funds available from Round 2 funds to restore multifamily and single family affordable rental housing. (Round 1 allocated \$188,136,997 for this purpose.) The funds, including the rental set asides, will be administrated by TDHCA. All funds shall be awarded through a competitive notice of funds availability.

In populated coastal areas, single family rental stock was especially damaged, displacing lower-income persons and weakening the local workforce. The Department proposes to dedicate at least \$40,000,000 in this program to address affordable single-family rental stock recovery. The Department also proposes to provide no less than \$50,000,000 for developments with project based rental assistance including public housing or Housing Choice Voucher eligible units. The balance of the funds shall be used for multifamily rehabilitation and new construction, potentially in conjunction with other housing finance tools available through TDHCA or local Housing Finance Agencies.

### **Affordable Rental Housing Program**

#### **Program Description and Criteria Related to Round 2 Funding**

##### **Application Selection Criteria and Thresholds**

The threshold, scoring, and other criteria included herein constitute the state's proposed use and allocation of the \$174,000,000 set-aside for affordable housing rental activities under Round 2. These factors are based on a similar system of weights and scores included in the Round 1 Affordable Rental Housing NOFA that was drafted in consultation with local officials and public interest groups through a series of roundtables held in the Dolly and Ike impacted areas. The public comment period specific to this draft Amendment was held December 14, 2009, through December 21, 2009. TDHCA will hold a minimum of three public hearings related to the NOFA.

##### **Application Cycle**

Applications will be awarded on a competitive basis within each region, with the exception of single family rental applications that are 8 units or less, which will be awarded on a first-come, first-served basis. In the event that all funds under one of the rental categories are not requested, the remaining balance will be made available to any other funding category within this set-aside

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that is oversubscribed within the region and awarded based on scoring order. Any funds remaining after addressing applications within the region will be returned to the State for allocation to affordable housing rental activities across the remaining disaster-impacted regions that had loss of or damage to affordable rental housing.

### **Affirmatively Furthering Fair Housing**

The State of Texas and TDHCA acknowledge that there is an obligation, applicable to CDBG Disaster Recovery funds, to affirmatively further fair housing (AFFH). A successful AFFH effort is something that requires awardees and the State to conduct an analysis of impediments to fair housing (AI). The State has not updated its own AI since 2003, but it is understood that HUD will be issuing new guidance on AIs in early 2010. At that time TDHCA will initiate a substantial study and effort to update its own AI.

In the absence of a recently updated AI, each entity applying for housing funds under the CDBG program must provide a narrative describing any known factors that may present fair housing obstacles that need to be addressed. These must then be described in connection with the application, explaining exactly how those factors were taken into account and how they specifically propose to uphold the requirement of AFFH. These narratives will be scrutinized by TDHCA in reviewing applications. Examples of factors might include such things as damaged housing in a floodplain, an area of urban blight, or an area of high concentrations of poverty. Possible AFFH remedies might include offering individual benefit recipient's relocation options or proposing to build replacement housing in more desirable locations. To the extent that such solutions may increase the cost of delivery, the applicant should also describe their assessment of those cost factors and the final recommendations for use of these funds.

### **Limitation on Funds**

- a) TDHCA proposes to provide \$50,000,000 of the \$174 million set-aside for developments with project-based rental assistance, such as public housing or Housing Choice Voucher eligible units.
- b) In populated coastal areas, single family rental stock was especially damaged, displacing lower-income persons and weakening the local workforce. TDHCA proposes to dedicate \$40,000,000 of this \$174 million set-aside to addressing affordable single family rental stock recovery. The single family stock within the affected regions varies from a single unit owned by an individual to multiple single residences located on scattered sites. To address the needs of the communities comprehensively and effectively restore the rental inventory, single family rentals will be addressed in two groups: 8 or fewer units and those with 9 or more units.
- c) The balance of the funds shall be used for multifamily rehabilitation and new construction to replace stock damaged or destroyed by one of the storms for which Round 2 is provided, potentially in connection with other housing finance tools available through TDHCA or local Housing Finance Agencies.
- d) The maximum base award amount is \$10,000,000 for the multifamily and project-based categories with an overall cap of \$20,000,000 per Developer/Applicant. The maximum base awards for single family are \$65,000 for rehabilitation and \$125,000 for reconstruction with a maximum award per applicant of \$5,000,000. For each category, additional substantiated

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costs will be considered for accessibility and visitability features defined as added features or costs to design housing in such a way that it can be lived in or visited by people who have trouble with steps or who use wheelchairs or walkers; elevation related costs; and additional costs that are associated with household relocation outside of floodplains, slum and blighted areas designated as such by the local jurisdiction, areas with high concentrations of poverty, or areas with unmitigated environmental hazards; and local code compliance.

- e) The availability and use of these funds will be subject to TDHCA’s CDBG Program Rules at Title 10 Texas Administrative Code (10 TAC) Chapter 54 in effect for the set-aside at the time the applications are submitted, the Federal CDBG regulations governing the CDBG program (24 CFR Part 570), and Chapter 2306 of the Texas Government Code. Other federal regulations apply, including but not limited to:
  - i) 24 CFR §50 and §58 (Environmental Requirements);
  - ii) 24 CFR §85.36 and §84.42 (Conflict of Interest Regulations); and
  - iii) 24 CFR §5(A) (Federal Fair Housing Regulations).
- f) These criteria will be consistently applied to all applicants. In the event of a conflict between these criteria and the Action Plan Amendment, the Action Plan Amendment will prevail.

The following shows the proposed breakdown of funding for each Region according to three categories:

	<b>Single Family Rental</b>	<b>Project-Based Rental</b>	<b>Multifamily Rental</b>	<b>Total Allocation</b>
SETRPC	\$ 7,044,000	\$ 8,805,000	\$ 14,837,858	\$ 30,686,858
HGAC	23,960,000	29,950,000	50,498,172	104,408,172
LRGVDC	3,468,000	4,335,000	7,305,600	15,108,600
DETCOG	4,028,000	5,035,000	8,497,241	17,560,241
POOL	1,500,000	1,875,000	3,161,255	6,536,255
<b>Totals</b>	<b>\$ 40,000,000</b>	<b>\$ 50,000,000</b>	<b>\$ 84,300,126</b>	<b>\$ 174,300,126</b>

### **Eligible Applicants**

Eligible Applicants are Units of General Local Government, Nonprofit Organizations, Public Housing Authorities (PHAs), for-profit entities, and individual owners located within service regions for SETRPC, H-GAC, LRGVDC, DETCOG, or the regions located in the Pool including ATCOG, CBCOG, CTCOG, BVCOG, ETCOG, GCRPC, and STDC that can demonstrate an unmet housing need resulting from Hurricane Dolly or Ike.

These funds are proposed to be made available in the form of grants or loans to the owners of rental properties in any of the 63 “Impacted Counties” covered under the Action Plan that sustained documented loss of or damage to rental stock as a direct result of either Hurricane Dolly or Hurricane Ike. Awards will be administered on a competitive basis. If awarded, a minimum of 51 percent of the total units in each assisted structure containing more than two units must be used for affordable rental housing for low-moderate income Texans earning 80 percent or less of the Area Median Family Income (AMFI), unless specified to serve a greater

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number of units and/or low-moderate income persons in the application. Two unit structures must be occupied by at least one family earning 80 percent or less of AMFI, and single units must be occupied by individuals and families earning 80 percent or less of AMFI.

### **Eligible Activities**

- a) Rehabilitation of existing affordable single family or multifamily rental housing developments damaged by Hurricane Dolly or Ike; and/or,
- b) Replacement of multifamily rental housing developments or units damaged or destroyed by Hurricane Dolly or Ike through reconstruction and/or new construction on the same site or another site as long as the applicant shows evidence of an equal or greater number of units damaged or destroyed located within the region. Documentation must be submitted in the form of street addresses to substantiate the damaged/destroyed units.
- c) Single family rental units may be rehabilitated or reconstructed.
- d) An applicant must be either the current owner of the property, or at the time of application, have a binding contract to purchase the property and the seller must have been the owner at the time of the disaster. Establishing ownership by non-traditional means in accordance with House Bill 2450, 81<sup>st</sup> Texas Legislature, is specifically permitted when applicable. An “as is” appraisal (consistent with 10 TAC §1.34) is required for all acquisition properties.
- e) If the replacement units are to be reconstructed on a different site, the newly constructed units must be constructed in compliance with TDHCA’s established floodplain policy if applicable and cannot be located in a slum or blighted area designated as such by the local jurisdiction, areas with high concentrations of poverty, or areas with unmitigated environmental hazards.
- f) Eligible activities will include those permissible under the Housing and Community Development Act (HCDA) Section 105(a) and the federal CDBG Rules at §24 CFR 570.201, .202, and .204 unless specifically waived under FR-5256-N-01 or FR-5337-N-01 published February 13, 2009, and August 14, 2009, respectively. Activities allowed under Section 24 CFR 570, Subpart I, as specifically allowed for under Federal Register Notice dated February 13, 2009, which involve the rehabilitation, reconstruction, or new construction (including demolition, site clearance, and remediation) of affordable rental housing in Hurricanes Dolly and Ike impacted areas.
- g) Scattered site developments are eligible as long as they are, or will be, affordable rental housing units and satisfy eligibility, selection, and threshold criteria.

### **Project Selection: Summary of Objective Scoring Criteria**

- a) Scoring Criteria. Applicants may receive up to 260 points based on the scoring criteria listed below, and must obtain a minimum score of 100 points to be considered for award. Evidence of these items must be submitted in accordance with the 2009 Final Application Submission Procedures Manual (ASPM), effective as of the date of issuance of the NOFA to award funds. All applications will be held to scoring criteria with the exception of single family rental applications that are 8 units or less. The scoring criteria are as follows:
  - i) **Proposed Activities – Maximum 100 Points**
    - Developments proposing Rehabilitation of properties that are in compliance, at the time of application, with TDHCA’s established floodplain policy if applicable and that are not located in a slum or blighted area designated as such by the local

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jurisdiction and that are not located in an area of high concentrations of poverty: **100 points**

- Developments proposing Reconstruction/ New Construction: **50 points**

### **ii) Extremely Low-Income Targeting – Maximum 20 Points**

To encourage the inclusion of families and individuals with the highest need for affordable housing and encourage economically integrated communities and developments, applicants will receive a maximum of 20 points for proposed developments that provide a percentage of units to families or individuals earning 30 percent or less of the area medium income (AMI) for the development site that also includes an equal percentage of market rate units. The maximum monthly rent (which includes the tenant paid portion of the rent, the utility allowance, and any rental assistance payment) charged by the development owner for units benefiting low-moderate income persons earning 30 percent or less of the AMI as defined by HUD shall not exceed the limits determined by TDHCA and published on an annual basis. Such rent shall not be greater than 30 percent of the income of a family whose income equals 30 percent of AMI as defined by HUD with adjustments for family size. To receive points, the application must target units for both criteria in point structure below.

- a) If less than or equal to 5 percent of the total development will serve families at 30 percent AMI **and** less than or equal to 5 percent of the total development will contain market rate units: **5 Points**
- b) If at least 6 percent but less than or equal to 10 percent of the total development will serve families at 30 percent AMI **and** at least 6 percent but less than or equal to 10 percent of the total development will contain market rate units: **10 Points**
- c) If at least 11 percent but less than or equal to 15 percent of the total development will serve families at 30 percent AMI **and** at least 11 percent but less than or equal to 15 percent of the total development will contain market rate units: **15 Points**
- d) If at least 16 percent but less than or equal to 20 percent of the total development will serve families at 30 percent AMI **and** at least 16 percent but less than or equal to 20 percent of the total development will contain market rate units: **20 Points**

### **iii) Exceeding the LMI requirement – Maximum 30 Points**

All assisted developments must designate at least 51 percent of all assisted units to serve low-moderate income families earning 80 percent or less of AMFI as defined by HUD for the applicable affordability period. Developments that exceed this minimum figure for the affordability period will receive the following points:

- a) For developments that designate at least 51 percent but less than 61 percent of the units to serve low-moderate income families: **5 points**
- b) For developments that designate at least 62 percent but less than 71 percent of the units to serve low-moderate income families: **10 points**
- c) For developments that designate at least 72 percent but less than 81 percent of the units to serve low-moderate income families: **15 points**

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- d) For developments that designate at least 82 percent but less than 91 percent of the units to serve low-moderate income families: **20 points**
  - e) For developments that designate at least 92 percent but less than 99 percent of the units to serve low-moderate income families: **25 points**
  - f) For developments that designate 100 percent of all the units to serve low-moderate income families: **30 points**
- iv) Cost-Effectiveness of a Proposed Development – Maximum 10 Points**  
Points will be provided for one or the other of the criteria below, but not both.
- a) For units designated for elderly individuals if cost per square foot does not exceed \$87.00 per square foot: **10 points**.
  - b) For units designated for families if the cost per square foot does not exceed \$77.00 per square foot: **10 points**.
- v) Increasing the State’s Affordable Housing Stock – Maximum 40 Points**  
In order to target units that will have the most impact on increasing the affordable housing stock, points will be awarded based on the habitability of the development.
- a) Developments that have less than or equal to 5 percent of the Total Units uninhabitable and unoccupied and propose to make those units affordable units: **5 points**
  - b) Developments that have at least 6 percent but less than or equal to 10 percent of the Total Units uninhabitable and unoccupied and propose to make those units affordable units: **10 points**
  - c) Developments that have 11 percent but less than or equal to 15 percent of the Total Units uninhabitable and propose to make those units affordable units will receive: **15 points**
  - d) Developments that have greater than or equal to 16 percent of the Total Units uninhabitable and propose to make those units affordable units: **20 points**
- In addition to the units scored above:
- a) Developments that will make less than or equal to 25 percent substandard affordable units meet habitability standards: **5 points**
  - b) Developments that will make 26 percent but less than or equal to 50 percent substandard affordable units meet habitability standards: **10 points**
  - c) Developments that will make 51 percent but less than or equal to 75 percent substandard affordable units meet habitability standards: **15 points**
  - d) Developments that will make 76 percent but less than or equal to 100 percent substandard affordable units meet habitability standards: **20 points**
- vi) Serving Persons with Disabilities – Maximum 10 Points**  
Developments that increase the number of accessible units beyond the minimum required by Section 504, the Fair Housing Accessibility Guidelines or other mandated minimums will earn points provided the units must meet the full mobility requirements of Section 504.

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- a) Developments that increase the number of required accessible units by an additional 5 percent (rounded to the next whole unit): **5 points**
- b) Developments that increase the number of required accessible units by an additional 10 percent (rounded to the next whole unit): **10 points**

### **vii) Units That Meet Or Exceed Low-Maintenance And Energy Efficiency – Maximum 10 Points**

Any combination of the following items may be used for up to the maximum points.

- a) Install water-conserving fixtures in all units with the following specifications for toilets and shower heads, and follow requirements for other fixtures wherever and whenever they are replaced: toilets – 1.6 gallons per flush; showerheads – 2.0 gallons per minute; kitchen faucets – 2.0 GPM; bathroom faucets – 2.0 GPM: **2 Points**
- b) Install Energy Star or equivalent refrigerators in all units: **2 Points**
- c) Install Energy Star or equivalent lighting fixtures in all interior units and use Energy Star or high-efficiency commercial grade fixtures in all common areas: **2 Points**
- d) Use tankless hot water heaters or install conventional hot water heaters in rooms with drains or catch pans piped to the exterior of the dwelling and with non-water sensitive floor coverings (for all units): **2 Points**
- e) Install Energy Star or equivalent power vented fans or range hoods that exhaust to the exterior (in all units): **2 Points**
- f) Install Energy Star or equivalent bathroom fans in all units that exhaust to the outdoors which has a humidistat sensor or timer, or operates continuously in all units: **2 Points**
- g) Install correctly sized HVAC units (according to Manual J) of at least 14 SEER or better in all units: **3 Points**
- h) Perform an energy analysis of existing building condition, estimate costs of improvements, and make those improvements resulting in a 10 year or shorter payback: **4 Points**

### **viii) Homeless Population – Maximum 25 Points**

Developments that dedicate at least 51 percent of their units towards serving persons who have previously been homeless or at risk of being homeless: **25 points**.

### **ix) Leveraging of Public and Private Financing – Maximum 15 Points**

Developments will receive points for the involvement of non-CDBG financing within the structure of the applicants proposed sources and uses, under one of the following subparagraphs. Evidence must be submitted in the form of a Final Commitment or Term Sheet .

- a) Applicants that receive a total contribution of funding from other local, state, federal, or private contributions of at least 10 percent but less than 25 percent of the Total Housing Development Cost of the Development (as reflected in the Cost Schedule): **5 points; or**

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- b) Applicants that receive a total contribution of funding from other local, state, federal, or private contributions of at least 26 percent but less than 50 percent of the Total Housing Development Cost of the Development (as reflected in the Cost Schedule): **10 Points; or**
- c) Applicants that receive a total contribution of funding from other local, state, federal, or private contributions of at least 51 percent but less than 75 percent of the Total Housing Development Cost of the Development (as reflected in the Cost Schedule): **15 Points**

### **Affordability Requirements**

- a) Each development will require a minimum CDBG affordability period of not less than a 10 year period beginning after closeout of the loan or grant. If the property is restricted under an existing Land Use Restriction Agreement (LURA) from TDHCA, the affordability period will be the greater of 10 years or the existing affordability period reflected in the existing LURA. Throughout this period, the applicant agrees to maintain the development for the intended purpose as outlined in the LURA. Compliance will be monitored by TDHCA consistent with 10 TAC §60, Subchapter A, Compliance Monitoring.
- b) At a minimum, 51 percent of the total units must benefit low-moderate income persons earning 80 percent or less of the AMFI as defined by HUD and detailed in Title I, Section 105(a) of the HCDA, unless otherwise specified to serve a high amount of units and/or targeted income group within the application. Two unit structures must be occupied by at least one family earning 80 percent or less of AMFI, and single units must be occupied by individuals and families earning 80 percent or less of AMFI.
- c) Rent restricted units occupied by low-moderate income households must be occupied at affordable rents. The units occupied by the low-moderate income households must comply with the High HOME rents published by TDHCA under the HOME program. Rents must comply with the rent limit through the affordability period and compliance with the rent limit is calculated in the same manner as the HOME program.

### **Threshold Criteria**

- a) No disaster recovery assistance will be considered with respect to any part of a disaster loss that is reimbursable by, or as match for the Federal Emergency Management Agency, the Army Corps of Engineers, insurance, or other source (restriction against duplication of benefits). An activity underway prior to the Presidential disaster declaration will not qualify unless the disaster directly impacted the project.
- b) Completion and submission of the required application and any other supplemental information deemed necessary by TDHCA.
- c) Completion and submission of the Site Packet as provided in the application materials.
- d) Development Certification as provided in the ASPM.
- e) Submission of current financial statements, authorization to release credit and previous participation documentation (if applicable).
- f) Submission of current *pro forma* and operating budget.
- g) Provide a third-party verified scope of work or property condition assessment in accordance with 10 TAC §1.36.
- h) Rehabilitation developments need only to provide evidence for one of the following:

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- i) If no insurance claim was filed specific to damages from the applicable hurricane, the Applicant must submit third party documentation from a verifiable source acceptable to TDHCA, establishing the amount of damage incurred as a direct result of Hurricane Dolly or Ike. Such damage must have caused one or more units to no longer be habitable. The amount of the deductible must be confirmed and there must be confirmation that no claim was filed because the amount to be claimed would not have met the deductible; or
- ii) If an insurance claim was paid out and the settlement amount was less than the amount requested, the Applicant must provide written justification that warrants the amount of funds requested.
- i) Provide evidence of financial reserves or a line of credit equal to at least 10 percent of the total development cost to be held during the construction period for rehabilitation developments.
- j) Rehabilitation may include the replacement of damaged or no longer functional appliances. Appliances must be permanently installed and replaced with Energy Star or equivalently rated appliances (refrigerator, dishwasher, ceiling fans, and lighting).
- k) If HVAC systems are to be replaced, they must be replaced with energy efficient rated systems.
- l) All New Construction or Reconstruction that is using this source of funding alone, or layered with other funding sources, must meet the minimum threshold requirements as described in §49.9(h) of the Texas Government Code with the exception of the following:
  - i) (3) regarding set-asides;
  - ii) (4)(K) and (4)(L) regarding certifications;
  - iii) (6)(C) and (D) which relate to tax credit syndication;
  - iv) (8) regarding notifications;
  - v) (11)(B) regarding non-profit set-aside for tax credits; and
  - vi) (15) regarding self-score.

### **Tie Breakers**

In the event that two or more applications receive the same score, TDHCA will first utilize those priorities noted below, in the order they are presented, to determine which Development will receive a preference in consideration for an award. TDHCA may also make a partial funding recommendation. Developments located in a municipality, or if located outside a municipality, a county that has:

- a) the highest number of units *per capita* destroyed by Hurricane Dolly or Ike;
- b) the greatest dollar amount of damage *per capita*;
- c) the greatest number of residents displaced;
- d) the lowest area median income.

### **Application Review Process**

- a) **Review and Assessment of Applications.** Applications submitted for consideration under the Affordable Rental Housing Recovery Program will be reviewed for eligibility, threshold, and scoring factors. An Application, during any of these stages of review, may be determined to be ineligible as further described below. Applicants will be promptly notified in these instances.

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- i) Eligibility Criteria Review. All Applications will first be confirmed for eligibility for funding by reviewing for applicant and activity eligibility.
- ii) Selection Criteria Review. Applications will be evaluated to determine if the proposed activities meet TDHCA requirements.
- iii) Threshold Criteria Review. Applications will be reviewed for Threshold Criteria. Applications not meeting Threshold Criteria will be notified of any Administrative Deficiencies; in each event the Applicant will be given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria after receipt and review of the Administrative Deficiency response will be terminated and the Applicant will be provided a written notice to that effect.
- iv) Administrative Deficiencies. If an Application contains Administrative Deficiencies pursuant to 10 TAC §49.3(2) which, in the determination of TDHCA staff, require clarification or correction of information submitted at the time of the Application, TDHCA staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Selection, Threshold Criteria, and review for financial feasibility by TDHCA's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made several times. TDHCA staff will request clarification or correction in a deficiency notice in the form of an email, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call (only if there has not been confirmation of the receipt within 24 hours) to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of TDHCA by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then the Application will move behind the other Applications in the process behind their priority group. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. This Administrative Deficiency process applies to requests for information made by the Real Estate Analysis Division review.

### **Financial Evaluation**

TDHCA shall underwrite an Application to determine the financial feasibility and amount of requested funds needed for the Development to arrive at an appropriate level of CDBG Disaster Recovery Funds. In determining an appropriate level of CDBG Disaster Recovery Funds, TDHCA shall, at a minimum, evaluate the estimated cost of repairs needed by the Development based on insurance estimates from the Development owner's insurer, and if applicable verifiable estimates from reputable contractors. TDHCA shall evaluate acceptable cost parameters as evidenced in the third-party verified scope of work or property condition assessment.

Underwriting of a Development will include a determination by TDHCA, that the amount of CDBG Disaster Recovery Funds recommended for commitment to a Development is necessary for the financial feasibility of the Development and its viability as a qualified rent restricted housing property. In making this determination, TDHCA will use the Underwriting Rules and Guidelines, 10 TAC §1.32. An Applicant may not change or supplement any part of an Application in any manner after the filing deadline, and may not increase their funding amount, or revise their unit mix (both income levels and bedroom mixes), except in response to a direct

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request from the Real Estate Analysis Division to remedy an Administrative Deficiency as further described in 10 TAC §49.3(2) or by amendment of an Application after a commitment.

TDHCA may decline to consider any application if the proposed activities do not, in TDHCA's sole determination, represent a prudent use of TDHCA's funds. TDHCA is not obligated to proceed with any action pertaining to any applications which are received and may decide it is in TDHCA's best interest to refrain from pursuing any selection process. TDHCA strives, through its loan terms, to securitize its funding while ensuring the financial feasibility of a Development. TDHCA reserves the right to negotiate individual elements of any application.

A NOFA will be released subsequent to this draft Amendment Approval and will address specific submission and compliance requirements.

## **Appendix G-2b – Housing: Locally Run Housing Eligibility**

### **Housing Eligibility- Locally Controlled Programs**

#### **Eligibility Criteria**

The CDBG funding allocated to the states to support the States' long term disaster recovery has statutory and regulatory requirements and program objectives to develop viable communities by providing decent housing and suitable living environment and expanding economic opportunities, primarily for low and moderate income persons. Therefore each activity must meet one of the national objectives. Housing programs developed by Subrecipients must describe criteria and maintain records that meet the federal requirements in order to be considered as meeting one of the National Objectives of the CDBG program which include:

- Activities benefiting low and moderate income persons (LMI),
- Activities which aid in the prevention or elimination of slums or blight, or
- Activities designed to meet community development needs having a particular urgency.

It is assumed that the LMI national objective will be selected for most housing activities. In order for activities involving the acquisition, construction or rehabilitation of housing to meet the LMI objective, the permanent residential structures must be occupied by persons with incomes at or below 80% of area median income (AMI). The housing can be either owner-occupied or renter occupied. When single or multifamily housing is rented, it must be occupied at affordable rents as published by TDHCA.

Rental developments assisted with disaster funding are required to lease at least 51% of the units to LMI income documented persons at 80% or less of AMI to qualify under the LMI income objective. Meeting the LMI income objective for owner- as well as renter-occupied properties is determined using the following rules:

- All single unit structures must be occupied by LMI income households.
- A two-unit structure or duplex must have at least one unit occupied by persons at 80% or less of AMI;
- Structures containing more than two units must have at least 51% of the units occupied by person at 80% or less of AMI.

HUD has issued a waiver under the disaster program for down payment activities that allows participation of persons with incomes up to 120% of AMI.

CDBG regulations do not have restrictions for how long units must be occupied by the recipients in order to meet the national objective; however in accordance with a recommendation made by the HUD Office of Inspector General (OIG), TDHCA will require owner-occupied structures to be occupied for at least three years and rental properties to be rented, at affordable rents, to LMI persons for at least ten years. Also in accordance with CDBG program requirements and HUD OIG's recommendation, TDHCA will require beneficiaries to maintain insurance including flood and hazard insurance on the completed structure.

Subrecipients must develop housing programs to make assistance available proportionately to residents in the community. Housing programs should be structured to allocate funds to recipients at various income levels including:

- Very low income, those with incomes at 30% of less of AMI;
- Low income, those with incomes at 50% of less of AMI; and
- Moderate income, those with incomes at 80% of less of AMI.

Program guidelines must be established to meet Program priorities as well as a determination of how the program addresses applicant processing. Applications can be processed on a first come, first served basis or gathered and then processed according to the prioritization, or a combination thereof.

## **Appendix H-1 – Round 1 Application Status: Non-Housing**

### Round 1 Non-Housing Awards

<u>APPLICANT</u>	<u>AWARD AMOUNT</u>	<u>AWARD DATE</u>
Ark-Tex Council of Governments	\$1,164,673.00	2/8/2010
Burleson County	\$1,573,562.00	2/8/2010
Grimes County	\$1,807,896.00	1/29/2010
Leon County	\$1,213,683.00	12/9/2009
Madison County	\$483,872.00	11/24/2009
Madisonville	\$416,837.00	12/9/2009
Marquez	\$59,400.00	8/27/2009
Midway	\$62,700.00	9/9/2009
Robertson County	\$792,891.00	9/21/2009
Washington County	\$711,485.00	12/9/2009
Wickson Creek SUD	\$214,830.00	12/9/2009
Brooks County	\$75,000.00	11/6/2009
Fulton	\$155,403.00	8/14/2009
Jim Wells County	\$252,270.00	1/29/2010
Kleberg County	\$185,117.00	10/13/2009
Nueces County	\$1,551,016.00	11/24/2009
Port Aransas	\$405,336.00	12/9/2009
Refugio County	\$75,000.00	9/9/2009
San Patricio County	\$422,234.00	10/30/2009
Milam County	\$250,000.00	9/21/2009
Alabama-Coushatta	\$76,256.00	12/11/2009
Angelina County	\$7,670,585.00	9/30/2009
Broadus	\$57,474.00	9/30/2009
Browndell	\$43,369.00	11/13/2009
Center	\$177,276.00	10/13/2009
Chester	\$117,582.00	11/13/2009
Coldspring	\$405,938.00	12/17/2009
Colmesneil	\$302,355.00	9/30/2009
Corrigan	\$355,164.00	1/6/2010
Crockett	\$767,191.00	1/29/2010
DETCOG Economic Development Foundation	\$802,994.00	4/26/2010
Diboll	\$228,682.00	7/30/2009
Garrison	\$36,623.00	7/30/2009
Goodrich	\$50,329.00	4/19/2010
Grapeland	\$155,292.00	8/21/2009
Groveton	\$199,636.00	10/13/2009

**Appendix H-1 – Round 1 Application Status: Non-Housing**

Hemphill	\$202,776.00	2/12/2010
Houston County	\$1,350,749.00	8/27/2009
Hudson	\$170,326.00	7/30/2009
Huntington	\$83,238.00	8/27/2009
Jasper	\$1,461,424.00	4/5/2010
Jasper County	\$4,687,856.00	2/26/2010
Joaquin	\$29,490.00	10/30/2009
Kennard	\$33,292.00	8/31/2009
Kirbyville	\$403,827.00	12/17/2009
Latexo	\$28,656.00	1/6/2010
Livingston	\$1,258,420.00	3/19/2010
Lovelady	\$66,479.00	9/9/2009
Nacogdoches	\$1,404,736.00	9/30/2009
Nacogdoches County	\$6,204,385.00	11/11/2009
Newton	\$406,651.00	10/22/2009
Newton County	\$2,043,005.00	11/13/2009
Onalaska	\$269,757.00	8/21/2009
Pineland	\$96,206.00	8/14/2009
Point Blank	\$301,759.00	1/29/2010
Polk County	\$4,883,764.00	4/30/2010
Sabine County	\$783,631.00	3/29/2010
San Augustine	\$785,463.00	11/13/2009
San Augustine County	\$1,821,325.00	11/24/2009
San Jacinto County	\$9,196,913.00	3/12/2010
Seven Oaks	\$25,928.00	3/19/2010
Shepherd	\$1,104,650.00	8/14/2009
Tenaha	\$30,920.00	1/22/2010
Timpson	\$33,033.00	10/22/2009
Trinity	\$513,350.00	1/22/2010
Trinity County	\$1,758,520.00	7/30/2009
Tyler County	\$7,724,124.00	4/12/2010
Woodville	\$1,064,598.00	3/19/2010
Alto	\$372,606.00	12/17/2009
Anderson County	\$178,000.00	2/8/2010
Carthage	\$104,400.00	10/13/2009
Cherokee County	\$1,258,228.00	3/19/2010
Cuney	\$275,411.00	10/30/2009
Easton	\$121,348.00	11/24/2009
Elkhart	\$267,995.00	8/31/2009
Gilmer	\$119,995.00	10/22/2009
Gladewater	\$500,000.00	10/22/2009
Gregg County	\$1,001,500.00	9/30/2009
Harrison County	\$349,912.00	1/6/2010

## **Appendix H-1 – Round 1 Application Status: Non-Housing**

Jacksonville	\$363,055.00	10/13/2009
Jefferson	\$72,769.00	10/22/2009
Kilgore	\$249,300.00	10/13/2009
Lakeport	\$121,348.00	10/22/2009
Longview	\$428,000.00	9/21/2009
Marion County	\$48,513.00	8/27/2009
Marshall	\$317,500.00	12/11/2009
Mount Enterprise	\$56,100.00	10/13/2009
New Summerfield	\$498,876.00	9/9/2009
Ore City	\$80,449.00	10/22/2009
Panola County	\$134,425.00	11/13/2009
Rusk	\$127,394.00	1/6/2010
Rusk County	\$219,809.00	10/22/2009
Smith County	\$202,946.00	8/21/2009
Tatum	\$273,613.00	10/13/2009
Troup	\$247,190.00	11/6/2009
Upshur County	\$133,629.00	8/27/2009
Waskom	\$207,368.00	11/13/2009
Wells	\$250,000.00	10/22/2009
White Oak	\$170,794.00	8/31/2009
Winona	\$57,229.00	10/22/2009
Calhoun County	\$166,667.00	8/27/2009
Point Comfort	\$166,666.00	8/7/2009
Port Lavaca	\$166,666.00	9/30/2009
Seadrift	\$166,667.00	8/7/2009
Victoria County	\$333,334.00	3/5/2010
Ames	\$201,481.00	3/12/2010
Anahuac	\$6,000,000.00	8/14/2009
Bayou Vista	\$2,101,656.00	9/9/2009
Baytown	\$12,059,464.00	11/24/2009
Bellaire	\$2,268,944.00	6/3/2010
Brazoria County	\$8,704,745.00	3/5/2010
Chambers County	\$33,342,539.00	3/19/2010
Clear Lake Shores	\$1,393,934.00	9/30/2009
Cleveland	\$1,917,110.00	8/14/2009
Daisetta	\$193,079.00	11/13/2009
Dayton	\$1,439,156.00	9/9/2009
Deer Park	\$2,081,811.00	5/24/2010
Devers	\$77,679.00	8/21/2009
Dickinson	\$3,119,091.00	10/22/2009
Fort Bend County	\$1,054,737.00	10/30/2009
Friendswood	\$2,555,358.00	3/5/2010
Galena Park	\$827,007.00	5/24/2010

**Appendix H-1 – Round 1 Application Status: Non-Housing**

Galveston	\$100,502,418.00	3/19/2010
Galveston County	\$6,385,195.00	3/5/2010
Hardin	\$140,981.00	8/27/2009
Harris County	\$23,222,174.00	3/5/2010
Hilshire Village	\$229,980.00	5/17/2010
Hitchcock	\$2,888,164.00	10/30/2009
Houston	\$21,814,141.00	8/7/2009
Humble	\$574,664.00	5/17/2010
Jacinto City	\$3,419,720.00	6/3/2010
Jamaica Beach	\$2,195,385.00	8/31/2009
Kemah	\$2,012,002.00	10/22/2009
La Marque	\$3,265,797.00	11/13/2009
La Porte	\$1,599,995.00	5/24/2010
League City	\$3,135,392.00	9/21/2009
Liberty	\$2,025,000.00	8/31/2009
Liberty County	\$6,832,838.00	3/12/2010
Magnolia	\$676,000.00	11/6/2009
Matagorda County	\$4,787,320.00	3/5/2010
Mont Belvieu	\$4,071,375.00	2/12/2010
Montgomery	\$375,525.00	12/9/2009
Montgomery County	\$486,622.00	3/19/2010
Morgan's Point	\$574,391.00	6/3/2010
Nassau Bay	\$856,386.00	5/24/2010
Oak Ridge North	\$625,000.00	11/24/2009
Old River-Winfree	\$2,479,926.00	3/5/2010
Panorama Village	\$224,440.00	11/6/2009
Pasadena	\$15,518,429.00	11/6/2009
Piney Point Village	\$229,980.00	5/17/2010
Plum Grove	\$173,659.00	9/30/2009
Santa Fe	\$2,738,741.00	8/31/2009
Shenandoah	\$455,677.00	10/30/2009
Southside Place	\$229,980.00	5/24/2010
Splendora	\$659,200.00	3/5/2010
Texas City	\$4,614,680.00	7/30/2009
Tiki Island	\$1,722,664.00	1/6/2010
Walker County	\$622,320.00	1/22/2010
Waller	\$229,980.00	6/3/2010
Waller County (G&W WSC)	\$130,279.00	12/9/2009
Webster	\$789,673.00	5/24/2010
West University Place	\$229,980.00	5/17/2010
Willis	\$954,912.00	10/13/2009
Woodbranch Village	\$40,153.00	11/6/2009
Alamo	\$500,000.00	9/9/2009

## **Appendix H-1 – Round 1 Application Status: Non-Housing**

Alton	\$500,000.00	9/30/2009
Brownsville	\$3,815,743.00	8/21/2009
Cameron County	\$10,831,683.00	11/24/2009
Combes	\$88,362.00	10/30/2009
Donna	\$500,000.00	12/23/2009
Edcouch	\$450,534.00	2/12/2010
Edinburg	\$2,224,325.00	3/19/2010
Elsa	\$500,000.00	10/30/2009
Harlingen	\$2,190,385.00	8/31/2009
Hidalgo	\$500,000.00	9/21/2009
Hidalgo County	\$5,000,000.00	8/27/2009
Indian Lake	\$17,369.00	11/24/2009
La Feria	\$243,611.00	10/13/2009
La Joya	\$405,865.00	2/8/2010
La Villa	\$64,052.00	5/7/2010
Laguna Vista	\$121,521.00	4/19/2010
Los Fresnos	\$176,408.00	10/22/2009
Los Indios	\$42,128.00	10/22/2009
Lyford	\$511,086.00	10/30/2009
McAllen	\$4,027,591.00	8/27/2009
Mercedes	\$500,000.00	10/22/2009
Mission	\$1,886,739.00	9/30/2009
Palmhurst	\$500,000.00	1/14/2010
Palmview	\$408,927.00	12/23/2009
Penitas	\$150,132.00	11/6/2009
Pharr	\$2,061,114.00	12/17/2009
Port Isabel	\$166,271.00	2/26/2010
Primera	\$127,458.00	11/13/2009
Raymondville	\$2,003,224.00	2/26/2010
Rio Hondo	\$70,772.00	1/29/2010
San Benito	\$819,164.00	10/22/2009
San Juan	\$600,000.00	3/12/2010
San Perlita	\$300,358.00	11/13/2009
Santa Rosa	\$98,594.00	10/22/2009
South Padre Island	\$1,095,436.00	9/30/2009
Sullivan City	\$500,000.00	10/22/2009
Weslaco	\$600,000.00	9/30/2009
Willacy County	\$2,144,044.00	3/29/2010
Beaumont	\$4,328,912.00	12/17/2009
Bevil Oaks	\$760,292.00	3/5/2010
Bridge City	\$9,689,353.00	6/5/2009
Hardin County	\$12,011,743.00	6/5/2009
Jefferson County	\$23,899,594.00	3/5/2010

## **Appendix H-1 – Round 1 Application Status: Non-Housing**

Lumberton	\$618,203.00	12/11/2009
Orange	\$7,768,271.00	8/7/2009
Orange County	\$12,304,606.00	3/12/2010
Pine Forest	\$290,584.00	8/27/2009
Port Arthur	\$13,010,493.00	10/13/2009
Rose City	\$723,231.00	11/24/2009
Sour Lake	\$576,989.00	10/22/2009
SETRPC Economic Development Foundation	\$1,900,000.00	4/5/2010
Taylor Landing	\$356,387.00	10/13/2009
West Orange	\$1,459,376.00	12/23/2009
Escobares	\$83,500.00	1/6/2010
Jim Hogg County	\$138,097.00	10/13/2009
Kountze	\$87,745.00	3/5/2010
La Grulla	\$98,052.00	2/26/2010
Pinehurst	\$51,659.00	3/5/2010
Rio Grande City	\$138,728.00	1/22/2010
Roma	\$124,867.00	10/30/2009
Starr County	\$416,322.00	10/30/2009

**Grand Total**

\$525,017,733.00

## **Appendix H-2 – Round 1 Application Status: Housing**

### Round 1 Housing Awards

<u>APPLICANT</u>	<u>AWARD AMOUNT</u>	<u>AWARD DATE</u>
City of Galveston	\$160,432,233.00	7/16/2009
Galveston County	\$99,503,498.00	7/16/2009
South East Texas Regional Planning Commission	\$95,000,000.00	7/16/2009
City of Houston	\$87,256,565.00	5/21/2009
Harris County	\$56,277,229.00	7/16/2009
Houston-Galveston Area Council of Governments (H-GAC)	\$11,076,980.00	7/30/2009
Liberty County	\$8,878,923.00	9/3/2009
Montgomery County	\$6,909,237.00	7/16/2009
Deep East Texas Council of Governments	\$5,931,070.00	7/30/2009
Cameron County	\$3,093,750.00	7/30/2009
Hidalgo County	\$2,000,000.00	6/30/2009
City of Brownsville	\$1,635,318.00	7/30/2009
Fort Bend County	\$1,582,107.00	7/30/2009
Brazos Valley Affordable Housing Corporation	\$948,930.00	9/3/2009
Willacy County	\$541,287.00	9/3/2009
East Texas Council of Governments (ETCOG)	\$415,117.00	7/16/2009
City of Mission	\$209,638.00	9/3/2009
Chambers County	\$20,921,582.00	9/3/2009

**Grand Total**                      \$562,613,464.00