

# State of Texas Action Plan for CDBG Disaster Recovery Grantees under the Department of Defense Appropriations Act, 2006

Disaster Recovery Initiative

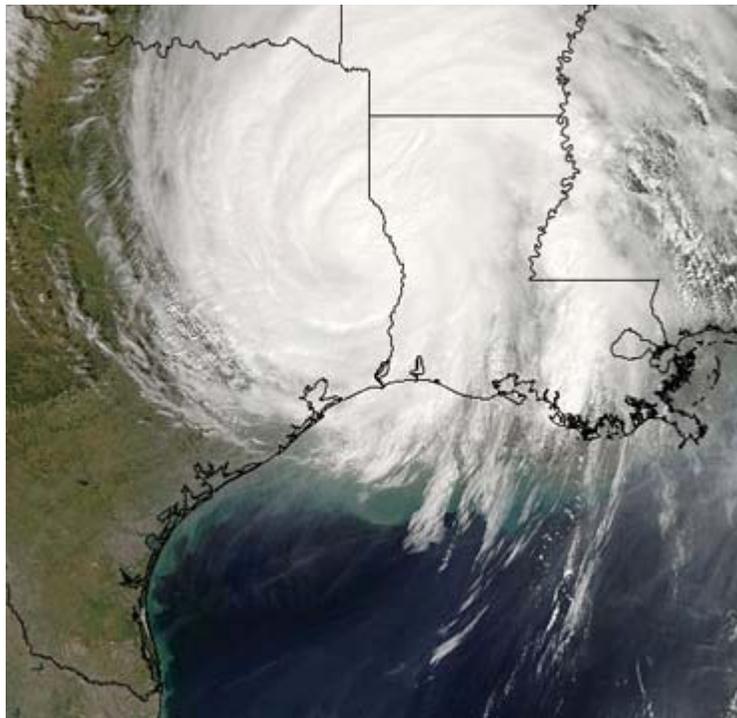
U.S. Department of Housing and Urban Development (HUD)

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**Rick Perry, Governor**



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## EXECUTIVE SUMMARY

The Texas Department of Housing and Community Affairs (TDHCA) and the Office of Rural Community Affairs (ORCA), in conjunction with the Office of the Governor, have prepared this *State of Texas Action Plan for CDBG Disaster Recovery Grantees under the Department of Defense Appropriations Act, 2006 (Action Plan)*.

This Action Plan will be used by TDHCA, the agency designated by the Governor to administer these funds, and ORCA to provide \$74,523,000 in federal Community Development Block Grant (CDBG) funding for housing, infrastructure, public service, public facility, and business needs in the 29-county area directly impacted by Hurricane Rita. Throughout this document these funds will be referred to as “CDBG Disaster Recovery Funding.” These funds will assist with long term recovery efforts and infrastructure restoration. The State recognizes that these funds – while beneficial to affected areas – will meet only a small fraction of the enormous needs of Texas citizens in the region. In fact, as documented in the State’s official disaster request document *Texas Rebounds: Helping Our Communities and Neighbors Recover from Hurricanes Rita and Katrina*, more than \$2 billion in funds are required to sufficiently meet the existing need. This figure includes \$322 million in CDBG eligible need for housing related activities alone. More specifically, as a result of Hurricane Rita, more than 75,000 homes in the area suffered major damage or were destroyed. Of these, approximately 40,000 homeowners were uninsured. These homeowners are likely to face average damage repair costs in excess of \$8,000 that will not be reimbursed through FEMA or insurance claims. This figure also includes \$498.3 million in CDBG eligible, unreimbursed critical infrastructure needs caused by Hurricane Rita.

Under this Action Plan, four of the state’s Councils of Governments (COGs), will serve as applicants for the CDBG Disaster Recovery funding. Throughout the document, the eligible COGs will be referred to as “Applicants.” The document they prepare for the purpose of allocating the CDBG Disaster Recovery funding shall be the “Application.” Applicants representing the affected counties will apply on behalf of the entitlement communities, non-entitlement communities, and federally recognized Indian Tribes within their region. The use of COGs as Applicants is intended to quickly make these funds available in the areas identified with the greatest unmet needs.

- For unmet housing needs funding, three COGs, whose service areas contain the 22 counties eligible for FEMA Individual Assistance, will be the only Applicants. The counties served by the Applicants are: Angelina, Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jasper, Jefferson, Liberty, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler, and Walker.
- For non-housing related activities, four COGs, whose service areas contain the 29 counties eligible for FEMA Public Assistance, will be the only Applicants. The counties served by the Applicants are the

same counties eligible for unmet housing needs funding plus the following counties: Cherokee, Gregg, Harrison, Houston, Marion, Panola, and Rusk. Individual contracts will be prepared between the State and each entity (cities, counties, and federally recognized Indian Tribes) that receives grant awards (Subgrantee) as part of the Application. A Subgrantee may also have the COG arrange for local grant administration.

As designated by the U.S. Department of Housing and Urban Development (HUD), no less than 55 percent of the total CDBG Disaster Recovery allocation will be directed towards unmet housing needs and that percentage may be increased based on local decisions regarding the priority of needs. Because the majority of the CDBG Disaster Recovery funding will be dedicated to housing activities, the Governor has designated the TDHCA Board to make all awards, including awards for critical infrastructure, associated with this Action Plan.

Public comment was accepted at five public hearings held throughout the affected region as well as Austin. Hearings were held in Nacogdoches (March 20), Beaumont (March 21), Livingston (March 22), Austin (March 22), and Houston (March 28). Public comment was also accepted in writing to TDHCA. Mailed comment was sent to the Division of Policy and Public Affairs, TDHCA, PO Box 13941, Austin, Texas 78711-3941. Comment was also submitted via e-mail to [info@tdhca.state.tx.us](mailto:info@tdhca.state.tx.us). The public comment period closed on March 30, 2006.

In addition to the public comment period held March 14, 2006, through March 30, 2006, the Departments extended the public comment period to solicit comments on Spanish and Vietnamese versions of the Action Plan. The additional Plans were made available so that households of limited English proficiency could participate in the public comment process and shape the development of the CDBG Disaster Recovery Program in their area. This comment period will start April 21, 2006, and last through Monday, May 8, 2006.

On Thursday, April 13, 2006, notices of the extended public comment period in Spanish and Vietnamese languages were posted on TDHCA's and ORCA's websites. On Friday, April 14, 2006, the Spanish version of the Action Plan was posted on the Departments' websites. On Tuesday, April 18, 2006, the Vietnamese version of the Action Plan will be posted. On April 21, 2006, notice of the public comment period for both the Spanish and Vietnamese versions of the document will be published in the *Texas Register*.

In addition to *Texas Register* and website postings, the Departments carried out additional outreach to distribute the Spanish and Vietnamese versions of the Action Plan. TDHCA sent Spanish- and Vietnamese-language notices to everyone on the Department's email list. TDHCA also contacted each

COG serving the impacted area for a list of advocacy organizations serving Spanish and Vietnamese communities, and the notice was distributed to each organization on the list.

Upon HUD approval of the Action Plan, TDHCA, in conjunction with ORCA, will release a uniform Application. It is anticipated that technical assistance workshops will begin on May 15, 2006. The Application acceptance period is projected to run May 22, 2006, through June 23, 2006. It is anticipated that the TDHCA Board will determine the Applications to fund as soon as possible following the close of the Application period. If necessary to expedite the award of funds, additional TDHCA Board meetings may be added to the regularly scheduled meetings. The award schedule is subject to change depending on the approval date by HUD of the Action Plan.

## **INTRODUCTION**

The State of Texas is required to publish an Action Plan for Disaster Recovery (Action Plan) that describes the proposed use of U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funding associated with the Department of Defense Appropriations Act, 2006 (Public Law 109-148, approved December 30, 2005) for disaster relief of unmet housing and infrastructure needs resulting from Hurricane Rita in the most impacted and distressed areas of Texas.

This document will specifically describe the:

- citizen participation process used to develop the Action Plan;
- eligible affected areas and applicants, and the methodology used to distribute funds to those applicants;
- activities for which funding may be used; and
- grant administration standards and procedures that will ensure program requirements, including non-duplication of benefits, are met through continuous quality assurance and internal audit functions.

This Action Plan will be used by the Texas Department of Housing and Community Affairs (TDHCA) and the Texas Office of Rural Community Affairs (ORCA) to provide \$74,523,000 in CDBG Disaster Recovery Funding to be used toward meeting unmet housing, infrastructure, public service, public facility, and business needs in areas of concentrated distress as intended by Public Law 109-148 and HUD. Throughout this document, activities involving these two organizations will be referred to as those of the “Departments.”

It should be noted from the outset that this Action Plan, with its extremely limited funds, does not begin to cover the \$2 billion in unmet needs of Texas related to Hurricanes Rita and Katrina as more specifically reported in *Texas Rebounds* (<http://www.osfr.state.tx.us/WRfiles/Texas%20Rebounds%2003-01-06.pdf>)

which was prepared by the Office of the Governor in consultation with local governments, state agencies, housing authorities and social services organizations. Unmet critical local government housing and infrastructure needs, all eligible for CDBG funding, were estimated in the *Texas Rebounds* report to be \$1.274 billion at a minimum.

### **FEDERAL APPROPRIATIONS**

Public Law 109-148 (effective December 30, 2005) provided \$11.5 billion of supplemental appropriation for the CDBG program for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of Hurricanes Rita, Katrina and Wilma. Of this amount, \$74,523,000 was specifically allocated to Texas by the Secretary of HUD to address the consequences of Hurricane Rita. The funds are intended by HUD to be used toward meeting unmet housing, infrastructure, public service, public facility, and business needs in areas of concentrated distress. The Federal Register (Volume 71, Number 29) includes a definition of “unmet housing needs” as including, but not being limited to, those of uninsured homeowners whose homes had major or severe damage. As provided for in Public Law 109-148, the funds may not be used for activities reimbursable by or for which funds are made available by FEMA or the Army Corps of Engineers. The availability of funding was formally announced in the Federal Register (Volume 71, Number 29) on February 13, 2006.

### **THE IMPACT OF THE STORMS AND TEXAS’ RECOVERY NEEDS**

The 2005 Atlantic hurricane season was one of the most extreme in recorded history. The Central and Western Gulf Coast were hit by several large storms, including Hurricanes Katrina and Rita, which had a dramatic impact on the state of Texas.

The Governor of Texas declared a State of Emergency on August 29, 2005, relative to Hurricane Katrina’s imminent landfall on the Gulf Coast. Hurricane Katrina made landfall that same day in Louisiana.

The President issued an Emergency Declaration on September 2, 2005, for all 254 counties in Texas for emergency protective measures due to the huge influx of evacuees from Louisiana, Alabama, and Mississippi. As a result of massive evacuations, Texas absorbed more than 400,000 evacuees from the Central Gulf Coast – mostly from Louisiana.

While Texas’ long-term sheltering operation was in its infancy, dangerous Hurricane Rita entered the Gulf of Mexico. On September 21, 2005, due to the impending threat of Rita, the President issued another Emergency Declaration for all 254 Texas counties. On September 24, 2005, only 26 days after Katrina devastated the Gulf Coast, this Category Three made landfall. While the eye of the storm made landfall near Sabine Pass, Texas, the core of the hurricane’s most extreme destruction hit the heavily populated

and industrialized areas of Port Arthur, Orange, and Beaumont. Communities in the path of the hurricane sustained enormous physical damage from excessive winds and rain. In some heavily wooded areas, an estimated 25 percent of the trees were lost. High winds and falling trees caused extensive damage to homes and businesses. The same day of the storm, Texas received a FEMA Major Disaster Declaration for all 254 counties for debris operations and emergency protective measures for Rita. Multiple amendments have since been added to the Major Disaster Declaration to expand the list of eligible counties for FEMA Individual Assistance Program (IAP) and Public Assistance Program (PAP) funding to 29 designated counties.

The Governor's Division of Emergency Management (GDEM) and FEMA reported the receipt of 479,199 registrations for the Individual Assistance Program as a result of Hurricane Rita in the 29-county area. As a result of Hurricane Rita, more than 75,000 homes in the area suffered major damage or were destroyed. Of these, approximately 40,000 homeowners were uninsured. Furthermore, a substantial percentage of the damaged households are located in areas predominantly occupied by individuals meeting the definition of low to moderate income (LMI). There were 44 recovery centers set up in disaster impacted counties and throughout the state so that residents could apply for immediate assistance, meet with Small Business Administration loan specialists, and get information about available federal and state assistance. Additionally, 4,249 travel trailers were issued to displaced individuals and families.

The current (as of March 9, 2006) combined FEMA and GDEM estimate of damage caused to Texas infrastructure by Hurricane Rita is \$239,146,582. (This estimate will continue to increase until all applications and site visits can be completed.) Schools, hospitals, critical private nonprofit organizations, local jurisdictions, and utilities are among those that sustained financially crippling damages.

According to FEMA, 640,968 Katrina and Rita applicants for assistance are residing in Texas as of February 1, 2006. Most of these families are living in Southeast Texas. Second only to Louisiana, Texas hosts the most people impacted by the devastating hurricanes of 2005. The overall impact of Hurricanes Katrina and Rita in Texas is widespread and extremely apparent.

#### **FEDERAL AND STATE RESPONSES TO DATE**

TDHCA and ORCA both served as part of the GDEM Team. TDHCA staff also served in disaster assistance centers in Austin, Dallas, Houston, San Antonio, and Tyler working directly with evacuees to help direct them to vacant units and out of city shelters. The Departments' staff also participated in several workshops in Southeast Texas to discuss how their various funding sources could be used in the disaster recovery effort.

In the wake of Hurricane Katrina, TDHCA initiated a major effort to update its online multifamily property inventory to provide real time vacancy information. This allowed potential residents to more easily identify which developments actually had vacant affordable units available. TDHCA continues to provide contact information for vacant units through this online database. The database contains addresses, phone numbers, and property contact information on thousands of available rental units in Texas funded by TDHCA, HUD, the U.S. Department of Agriculture, and other financing sources. TDHCA created this searchable database to aid evacuees from Hurricanes Katrina and Rita in finding a long-term solution to their housing needs in the city of their choice.

TDHCA played a key role in the State's efforts to respond to Hurricanes Katrina and Rita. Its network of Community Services Block Grant contract agencies, for example, assisted more than 80,000 people with housing, food, transportation, and a wide variety of other essential emergency services.

In the wake of Hurricane Rita, TDHCA immediately requested from the Internal Revenue Service that relief be granted similar to Notice 2005-69, 2005-69-40 IRB 622 (applying to Hurricane Katrina which temporarily suspended certain requirements under section 42 of the Internal Revenue Code). This allowed owners of low income housing tax credit projects throughout the state to provide temporary housing in vacant units to individuals who resided in jurisdictions designated for Individual Assistance who have been displaced because their residences were destroyed or damaged as a result of the devastation caused by both Hurricane Katrina and Hurricane Rita. This action allowed thousands of displaced persons to gain access to affordable housing that they otherwise would not have been able to utilize.

Below is a summary of resources TDHCA and ORCA, immediately called upon after Hurricane Rita. In general, these funds, which were fully subscribed or well oversubscribed, have been or soon will be awarded.

#### Funds Provided for Housing Related Activities

- On December 30, 2005, TDHCA, through its Office of Colonia Initiatives (OCI), released a Notice of Funding Availability (NOFA) for approximately \$1,800,000 of State of Texas Housing Trust Funds to organizations assisting individuals or families that were victims of Hurricane Rita to purchase or refinance real property on which to build new residential or improve existing residential housing through self-help construction for very low and extremely low income individuals and/or families (owner-builders), including persons with special needs. This NOFA reflected the TDHCA Board's decision to redirect a substantial portion of the housing funds the Department receives from the State's treasury towards Hurricane Rita recovery efforts. Eligible applicants were nonprofit organizations certified by TDHCA as Nonprofit Owner-Builder Housing Programs (NOHP) as described

in Subchapter FF, Section 2306.755 of the Texas Government Code. To date, three applications requesting \$1.87 million were received. Two of these applications were approved by the TDHCA Board on March 20, 2006. The remaining application, for \$600,000 is being evaluated at this time and pending confirmation of eligibility will be presented to the Department's Board for ratification on May 4, 2006.

- On January 27, 2006, TDHCA, released a NOFA for \$8.3 million in federal HOME Investment Partnerships Program funds for the repair or reconstruction of homes damaged by Hurricane Rita. These funds were obtained through a HUD waiver that allows the use of Program Year (PY) 2005 and PY 2006 Community Housing Development Organizations (CHDO) set-aside funds for disaster relief efforts. TDHCA provided funds to affected counties using a tier-system that gives priority to those with the greatest damage. Twelve applications requesting all of the available funding were received and were funded in March 2006. On December 21, 2005, TDHCA submitted a request to HUD for additional waivers to also use unobligated CHDO funds from PYs prior to 2005 for disaster recovery. This request would provide for approximately \$4.7 million of additional funding.
- On January 30, 2006, TDHCA issued a NOFA related to Housing Tax Credits authorized through HR 4440, also known as the Gulf Opportunity Zone Act of 2005. This act amended the Internal Revenue Code of 1986 to provide tax benefits for certain areas affected by Hurricane Rita. The Act provided for an increase of \$3,500,000 in the 2006 Housing Tax Credit Ceiling for the State of Texas. TDHCA determined that it would allocate that \$3,500,000 solely in 21 of the 22 impacted counties for rehabilitation, reconstruction, or replacement new construction of rental units. TDHCA also separated those credits from the rest of the 2006 Housing Tax Credit Ceiling to respond to the emergency nature of the necessary assistance. There were 14 total applications totaling \$9.4 million in credits (an over subscription of over 250 percent). These award recommendations will be reviewed by the TDHCA Board in May 2006.
- On February 15, 2006, TDHCA announced the release of \$16 million in home loans that will be made available to qualified homebuyers wishing to purchase a home within targeted areas including the 22 East Texas counties designated under the Gulf Opportunity Zone Act of 2005. Provisions under the act made it possible for TDHCA to offer the financing to qualified borrowers at a 4.99 percent interest rate through a network of participating lenders. Under the resulting "Rita GO Zone" program, eligible borrowers can qualify with higher family incomes and can purchase homes that exceed an area's average purchase price by more than allowed by other state programs. An eligible borrower's income can be up to 140 percent of the median income, and the home purchase price limit is 110 percent of the area's median home value. As of April 6, 2006, \$14.5 million in loans had been applied for by home owners.

### Funds Provided for Non-Housing Activities

- In the days immediately following Hurricane Katrina, ORCA set aside \$1 million from its disaster relief fund to assist communities to improve, expand, and equip temporary shelters to house evacuees resulting from Hurricane Katrina. ORCA has provided daily technical assistance to applicants as well as the consultants who work with the smaller communities both from the Austin office and the South East Texas field office. As a result of the disaster relief fund, eight communities now have emergency shelters to incorporate into their emergency management plans for future Texas disasters.
- To offset the huge medical need created by both the Hurricane Katrina evacuees and then of those directly impacted by Hurricane Rita, the ORCA Rural Health division created a capital improvement disaster grant program for rural hospitals and clinics. The program was funded at \$420,000 from both interest accrued on tobacco endowment funds and the State Office of Rural Health Grant. ORCA received more than \$870,000 in application requests. In total, 20 rural hospitals and clinics benefited from the program.

### **CITIZEN PARTICIPATION AND PUBLIC COMMENT**

Since Hurricanes Katrina and Rita made landfall, federal, state, and local governments and agencies have worked continuously with citizens regarding damage and loss in local communities. Applications for FEMA assistance; homeowner insurance claims; visits to local disaster recovery centers; and requests for emergency shelter, food, and financial assistance confirm that the public has played a role in communicating needs to federal, state, and local agencies. Examples of such meetings include extensive participation by TDHCA directors and staff at the following disaster recovery meetings:

- A Texas Senate Finance Hearing on disaster recovery held in Beaumont on November 17, 2005.
- HUD Hurricane Rita disaster recovery summit held in Beaumont on December 14, 2005.
- TDHCA disaster recovery funding availability workshops held in Beaumont and Nacogdoches on January 19 and 20, 2006.
- The Port Arthur Recovery Conference held on February 23 and 24, 2006.

Further, as the Departments' staff visited and consulted with local government leaders, state and federal legislators, and community action and social services agencies that were hit hardest by the storms, various forums were provided for the sharing of information concerning financial assistance that was needed. Many of the visits were followed up by telephone calls to the Departments with questions about possible funding sources that could be used to address unmet needs.

The public comment period on the Action Plan ran from March 14, 2006, to March 30, 2006. To discuss and gather direct public comment on the proposed Action Plan, five public hearings were held at the following times and locations.

Location:	Nacogdoches	Beaumont	Livingston	Austin	Houston
Address:	C.L. Simon Recreation Center  1112 North Street, Room 2 Nacogdoches, TX 75961	South East Texas Regional Planning Commission 2210 Eastex Freeway Beaumont, TX 77703	Livingston Municipal Complex 200 W. Church Street Livingston, TX 77351	Stephen F. Austin Building  1700 N. Congress Avenue, Rm. 170 Austin, TX 78701	Harris County Jury Assembly Room,  1019 Congress, 1st floor Houston, TX 77002
Date & Time:	March 20, 2006, 6:00 pm	March 21, 2006, 10:00 am	March 22, 2006, 10:00 am	March 22, 2006, 6:00 pm	March 28, 2006, 6:00 pm

The Departments' notice of the public comment period and associated public hearings was published in the Texas Register on March 10, 2006. Similar notice was simultaneously provided on the Departments' websites in English and Spanish. On March 1, 2006, an announcement in English and Spanish that described the public comment period and public hearings schedule for the first four hearings was mailed to over 2,500 addresses on ORCA's typical CDBG notification list, which includes all of the State's mayors and county judges. Texas Indian Tribes were also included in this mailing. On March 10, 2006, a follow up notice announcing an additional hearing in Houston was distributed using the same contact lists.

The Departments called all counties and cities in the affected counties prior to the public hearings and faxed and mailed a public hearing notification letter to all entitlement and non-entitlement cities and counties in the affected region prior to the public hearings. Additionally, a wide variety of interested parties were notified electronically about the public hearings through TDHCA's "interested contact" databases. This database includes 2,855 emails of public officials, for-profit and non-profit developers, community housing development organizations, advocacy groups, and supportive service providers that have expressed an interest in being notified about upcoming TDHCA activities.

The locations of the hearings were fully accessible. Staff at the hearings were able to dialogue in both Spanish and English, and the hearing announcement had opportunities for persons with hearing disabilities to request an interpreter for the hearing and opportunities for persons requiring auxiliary aids or services to request that arrangements be made.

In addition to the public comment period held March 14, 2006 through March 30, 2006, the Departments extended the public comment period to solicit comments on Spanish and Vietnamese versions of the Action Plan. The translated versions of the Plans were made available so that households of limited English proficiency could participate in the public comment process and shape the development of the CDBG Disaster Recovery Program in their area. This comment period started April 21, 2006 and lasted through Monday, May 8, 2006.

On Thursday, April 13, 2006, notices of the extended public comment period in Spanish and Vietnamese languages were posted on TDHCA's and ORCA's websites. On Friday, April 14, 2006, a Spanish version of the Action Plan was posted on the Departments' websites. On Tuesday, April 18, 2006, a Vietnamese version of the Action Plan was posted. On April 21, 2006, notice of the public comment period for both the Spanish and Vietnamese versions of the document was published in the Texas Register.

In addition to Texas Register and website postings, the Departments carried out additional outreach to distribute the Spanish and Vietnamese versions of the Action Plan. TDHCA sent Spanish- and Vietnamese-language notices to everyone on the Department's email list. TDHCA also contacted each COG serving the impacted area for a list of advocacy organizations serving Spanish and Vietnamese communities in their region. Notices in both languages were distributed to the organizations identified in the resulting lists.

Other direct efforts to encourage participation in the public comment process included the following:

- The Departments consulted county judges, CDBG entitlement communities, and Indian Tribes in the eligible counties to discuss the Action Plan details.
- The Departments consulted State officials, including State Legislators, in the impacted areas.
- Emails announcing the hearings, providing the Action Plan and asking for feedback were sent to the COGs and followed-up by consultations with the COGs.
- Letters summarizing the Action Plan were also sent to
  - each of the cities within the eligible counties,
  - entitlement communities across the state, and
  - TDHCA's list of affordable housing development partners.

Public comment was accepted directly at the public hearings, by mail, or via email to the address below.

Mail:	TDHCA Division of Policy and Public Affairs P.O. Box 13941 Austin, TX 78711-3941
Fax:	(512) 469-9606
Email:	info@tdhca.state.tx.us

One area of particular interest to the Departments was comment on issues that require requesting additional CDBG Disaster Recovery Funding waivers from HUD to address specific needs related to regional and local recovery activities. Such waiver requests collected through this process or otherwise identified in the preparation of the Action Plan are included in Appendix A of this document.

A summary of the comments received during the public comment period and the Departments' reasoned responses and actions is provided in Appendix B of this document.

To expedite the distribution of funds, Applicants will not be required to conduct public hearings or meetings to receive comments from residents of the community. Rather, Applicants will be required to post a public notice in a newspaper of general circulation that states the type of activities to be undertaken, the amount of funding available for the activities, the portion of the funds that will be used for administrative purposes, the method used to allocate the funds within the region, and a date by which public comments must be made. In areas where there are large populations of non-English speaking citizens, such notices must be provided in the predominant languages of the region.

To encourage the receipt of comment on the need for a wide variety of activities, the Applicant shall send letters to local community organizations that work to:

- help low income families avoid becoming homeless;
- reach out to homeless persons and assess their individual needs;
- address the emergency shelter and transitional housing needs of homeless persons;
- help homeless persons make the transition to permanent housing and independent living;
- provide supportive housing assistance to groups with special needs including the elderly, frail elderly, persons with disabilities (mental, physical, developmental), persons with alcohol or other drug addiction, persons with HIV/AIDS and their families, and public housing residents;
- provide for planning within the affected areas (i.e., local and county officials); and
- address community and small business development needs on local and regional levels.

Any recipient of public funds in Texas may be subject to Texas Government Code Chapter 552, commonly called the Public Information Act. Records retention policies must meet federal Office of Management and Budget guidelines and/or other applicable state or local statute with regards to record retention.

The Departments are operating under the Consolidated Plan that covers federal fiscal years 2005-2009. After careful review, it was determined by the Departments that the Consolidated Plan does not need to be amended to implement this Action Plan. Subsequent Consolidated Action Plans and Consolidated Annual Performance Reports will discuss continuing activities and results associated with this disaster recovery effort.

## **ELIGIBLE AREAS**

Counties where the CDBG Disaster Recovery Funds may be used were determined by the FEMA Emergency Declaration and Major Disaster Declaration issued by FEMA in response to Hurricane Rita.

#### FEMA-3261-EM-TX

- Initial Incident Date: 9/24/2005
- Emergency Declaration Date: September 21, 2005
- FEMA provided 100 percent Federal funding for all 254 counties in Texas for emergency protective measures for the first 72 hours of the incident period. Thereafter, the Federal funding was reduced to 75 percent.

#### FEMA-1606-DR-TX

- Initial Incident Date: 9/24/2005
- Major Disaster Declaration Date: September 24, 2005
- FEMA provided 100 percent Federal funding for all 254 counties in Texas for debris removal and emergency protective measures for the first 72 hours of the incident period. Thereafter, the Federal funding was reduced to 75 percent.

Table 1 and Figure 1 on the next page show the counties that were eligible under the FEMA Individual Assistance Program (IAP) and Public Assistance Program (PAP). IAP funds are direct payments to individuals or households for housing assistance (lodging, rental assistance, home repair, home replacement, or housing construction) or other needs assistance (medical, dental, funeral costs, transportation costs, etc.). Although this program may include cash grants up to \$26,200 per individual or household, most assistance is in the form of low interest loans to cover expenses not covered by state or local programs or private insurance. PAP funding provides supplemental disaster grant assistance to State, local governments, and certain private nonprofit entities for the debris removal, emergency protective measures, and repair, replacement, or restoration of disaster-damaged publicly owned infrastructure or facilities. The CDBG Disaster Recovery Funding may be used in the 29 eligible counties that were eligible for assistance under those two FEMA programs.

#### **ELIGIBLE APPLICANTS**

Eligible Applicants include four COGs whose service areas contain the 29 eligible counties for the CDBG Disaster Recovery Funding (Deep East Texas COG, East Texas COG, Houston-Galveston Area Council, and the South East Regional Planning Commission). Figure 1 shows the distribution of the eligible counties amongst the four Applicants.

The COGs were designated as the eligible Applicants for the following reasons:

- Having the COGs prepare the Applications should allow for better prioritization of local needs within the region. Given the very limited amount of CDBG Disaster Recovery Funding available and the widespread need, utilizing the COGs helps ensure funds go to the most impacted and distressed areas that have the greatest housing and infrastructure needs consistent with the *Texas Rebounds* report.
- COGs have a long history of working with the CDBG program and the affected cities and counties. As a result, COG staff has a very good understanding of both the CDBG program and regional needs.

- COGs have a regional planning focus that includes, but is not limited to, state and federal programs in their area. Their role as subrecipients will promote coordination with those existing regional plans.
- For the purpose of expediting the distribution of funds to the areas in need, reducing the number of Applicants helps fast track the application process. Having only four Applicants reduces administrative time and application production costs for the Departments as well as city and county governments and federally recognized Indian Tribes.

**Table 1. Eligible Counties**

	County	Individual Assistance Program (IAP)	Public Assistance Program (PAP)
1	Angelina	✓	✓
2	Brazoria	✓	✓
3	Chambers	✓	✓
4	Cherokee		✓
5	Fort Bend	✓	
6	Galveston	✓	✓
7	Gregg		✓
8	Hardin	✓	✓
9	Harris	✓	
10	Harrison		✓
11	Houston		✓
12	Jasper	✓	✓
13	Jefferson	✓	✓
14	Liberty	✓	✓
15	Marion		✓
16	Montgomery	✓	✓
17	Nacogdoches	✓	✓
18	Newton	✓	✓
19	Orange	✓	✓
20	Panola		✓
21	Polk	✓	✓
22	Rusk		✓
23	Sabine	✓	✓
24	San Augustine	✓	✓
25	San Jacinto	✓	✓
26	Shelby	✓	✓
27	Trinity	✓	✓
28	Tyler	✓	✓
29	Walker	✓	✓
Total Counties by FEMA Category		22	27

**Figure 1. Eligible Counties and Applicants**



For unmet housing needs, the Applicants representing the affected regions will apply on behalf of their respective regions. Individual contracts will be prepared between TDHCA and each Applicant who will be the region's Subgrantee for unmet housing need activities. Each Subgrantee will administer an amount, based on need, for their region, and will be required to work with the affected counties to ensure that their most severe unmet housing needs are addressed and that all state and federal requirements of the CDBG Program are met. Because the COGs that represent the affected regions are already working aggressively to address the housing needs of their respective communities by leveraging funding, TDHCA believes that better consistency and controls can occur if these entities account for the funding that is being utilized within their regions, and thus TDHCA will have better controls to prevent duplication of benefits.

For non-housing needs, the Applicants will apply on behalf of the counties and city jurisdictions and federally recognized Indian Tribes within their region. Individual contracts will be prepared, under TDHCA Board authority, between ORCA and each Subgrantee (county, city, and federally recognized Indian Tribe that receives a grant award). A Subgrantee may have the COG arrange for local grant administration.

With regard to their eligibility to apply for CDBG Disaster Recovery funds, each Applicant's performance status was thoroughly reviewed to ensure they were in compliance with both of the following sections of the Texas Administrative Code (TAC).

- As more thoroughly described in 10 TAC Sec. 1.3, "Delinquent Audits and Other Issues," applicants are ineligible to apply for CDBG Disaster Recovery funds if they have any audits past due to TDHCA and are ineligible to receive funds until any unresolved TDHCA audit findings or questioned or disallowed costs are resolved.
- As more thoroughly described in 10 TAC Sec. 255.1(h)(6), an applicant that has one year's delinquent audit may apply for disaster funding but must satisfy all outstanding ORCA audits prior to award. A community with two years of delinquent audits may not apply for additional funding and may not receive a funding recommendation.

All Applicants are expected to follow local, state, and federal laws pertaining to the use of public funds unless a waiver is granted prior to the obligation of funds.

## Contact Information and Links to COGs

### **Deep East Texas COG**

<http://www.detcog.org/>  
Walter G. Diggles, Executive Director  
wdiggles@detcog.org

Comments on programs or suggestions:  
info@detcog.org

DETCOG (JASPER OFFICE)  
210 Premier Dr.  
Jasper, TX 75951  
Phone: 409.384.5704  
Toll Free: 1.800.256.6848  
TDD: 409.384.5975  
Fax: 409.384.5390

DETCOG (LUFKIN OFFICE)  
118 S First St.  
Lufkin, TX 75901  
Phone: 936.634.8653  
Toll Free: 1.800.256.7696

### **East Texas COG**

<http://www.etcog.org/>  
Glynn Knight, Executive Director  
glynn.knight@etcog.org  
3800 Stone Road  
Kilgore, Texas 75662  
Phone: 903/984-8641/Fax 903/983-1440

### **Houston/Galveston AC**

<http://www.h-gac.com>  
Jack Steele, Executive Director  
Jack.Steele@h-gac.com  
P.O. Box 22777  
Houston, TX 77227-2777  
Phone: 713-627-3200

### **South East Texas RPC**

<http://www.setrpc.org/>  
Chester R. Jourdan, Jr., Executive Director  
setrpc@setrpc.org  
2210 Eastex Freeway  
Beaumont, Texas 77703  
Phone: 409.899.8444 /Fax: 409.347.0138

## **PROPOSED USE OF TEXAS DISASTER RECOVERY FUNDS**

### How Funds Will Address Texas' Greatest Unmet Needs

Federal requirements clearly state that the funds can be used only for disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of Hurricane Rita. Requirements provide that the funds be directed to the most impacted and distressed areas within the state. As provided for in Public Law 109-148, the funds may not be used for activities reimbursable by or for which funds are made available by FEMA or the Army Corps of Engineers. The Departments anticipate requesting waivers to tailor the program to best meet the unique disaster recovery needs of Texans as issues arise and are brought forward by the participants.

### Eligible Activities

This Action Plan outlines the Departments' framework for allocating funding. However, Applicants are being provided, and are also encouraged to read, the requirements set out in the Federal Register (7666 Federal Register/Vol. 71, No. 29, Feb. 13, 2006). Unless otherwise stated in the Federal Register, statutory and regulatory provisions governing the CDBG program for states, specifically 24 CFR Part 570 Subpart I, apply to the use of these funds.

All proposed activities must be eligible CDBG activities according to 24 CFR Part 570 Subpart I, except as waived by HUD, must meet requirements for disaster recovery funding cited throughout this document,

and must meet at least one of the three national CDBG objectives. All housing, public service, public facility, infrastructure, and business development activities allowable under 24 CFR Part 570 are eligible Application activities.

- Housing activities will include but not be limited to single and multifamily acquisition, demolition, repair, rehabilitation, reconstruction, and new construction as appropriate for the specific local needs to address damage as a result of Hurricane Rita. Flood buyouts of homes damaged by Hurricane Rita in which the owner will repurchase a home are considered housing activities. Funding provided for these housing activities will be in the form of a grant.
- Non-Housing activities will include but not be limited to FEMA Infrastructure Grant Program match, FEMA Hazard Mitigation Grant Program match (including drainage projects, flood buyouts in which the property is converted into open, undeveloped land, and safe-room and community storm shelters), Natural Resource and Conservation Service (NRCS-USDA) flood and drainage projects, roads and bridges, water control facilities, water and waste water facilities, buildings and equipment, hospitals and other medical facilities, utilities, parks and recreational facilities, debris removal, public/community shelters, and loan funds for businesses. All of these activities must be related to addressing damages created by Hurricane Rita.

#### Anticipated Accomplishments

Given the very limited amount of available CDBG Disaster Recovery Funding as compared to the tremendous need, the Departments expect to make focused efforts to restore housing units lost or severely damaged by the storm and to make repairs to public infrastructure damaged by Hurricane Rita. The Departments anticipate that low to moderate income (LMI) residents will be the primary beneficiaries of the program. Under HUD program guidelines, “low to moderate income” individuals reside in households that earn less than 80 percent of the area median family income. Applicants for the funds will be required to specify activities, proposed units of accomplishment, and proposed beneficiaries in the Application. These anticipated accomplishments will be reported by the Departments to HUD during the first quarter of reporting using the online Disaster Recovery Grant Reporting System.

#### National Objective

All activities must meet one of the three national objectives set out in the Housing and Community Development Act (address slum and blight, urgent need, primarily benefit LMI persons). Pursuant to explicit authority in the Department of Defense Appropriations Act, 2006 (Public Law 109-148, approved December 30, 2005), HUD is granting an overall benefit waiver that allows for up to 50 percent of the grant to assist activities under the urgent need or prevention or elimination of slums and blight national objectives, rather than the 30 percent allowed in the annual State CDBG program. The primary objective of Title I of the Housing and Community Development Act and of the funding program of each grantee 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 and moderate income." The statute goes on to set the standard of performance for this primary objective at 70 percent of the aggregate of the funds used for support of activities producing benefit to low and moderate income persons. Since extensive damage to community development 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, leaving a 50 percent requirement, to give grantees even greater flexibility to carry out recovery activities within the confines of the CDBG program national objectives. The Application must clearly document for the TDHCA Board that at least the 50 percent requirement is met. TDHCA strongly encourages applicants to assist those lower income households with the greatest need in all of their activities.

## **METHOD OF ALLOCATION**

### General Information

The Departments will administer the \$74,523,000 HUD allocation. The state may use up to 5 percent of the funding (\$3,726,150) for the Departments' administrative expenses, including contract administration, compliance monitoring, and the provision of technical assistance to Applicants and Subgrantees. The remaining funding is being made available directly to Subgrantees for eligible projects.

The Secretary of HUD's January 25, 2006, News Release (No. 06-011) provided that "Fifty-five percent of the funds are allocated toward unmet housing needs. The remaining funds are allocated toward concentrated distress, as these communities will have not only the greatest damage and destruction to their housing stock, but also the most intensive infrastructure and business damage not otherwise accounted for in our data, and the least locally available resources to address that damage." With the caveat that no less than 55 percent of the funding must go towards meeting unmet housing needs, the Departments are leaving decisions related to the use of funding for specific activities to those at the local level. Therefore, the amount associated with housing related activities could increase depending on the needs identified by the Applicants. At a minimum \$38,938,268 (55%) of the available \$70,796,850 in non-administrative funding will be set aside for unmet housing needs. The statute requires that funds can be used only for disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of Hurricane Rita.

Allocation of Funds to Areas of Greatest Need

FUNDING ALLOCATION

FEMA data was used to determine the distribution of housing and non-housing related damage across the eligible counties. The State of Texas and local governments have repeatedly voiced concerns over the accuracy and completeness of this data. While this is of great concern, the FEMA data nevertheless remains the most detailed and comprehensive source of information that is available. Table 2 shows each applicant’s allocation amount based on the Departments’ distribution methodologies.

<b>Table 2. Funding Allocation by Applicant</b>	Minimum Housing Need Allocation*	Non-Housing Need Allocation	Total Allocation	% of Total Allocation
<b>Applicant and Eligible Counties</b>				
Deep East Texas Council of Governments Angelina, Houston, Jasper, Nacogdoches, Newton, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, and Tyler Counties	\$5,745,034	\$13,278,209	\$19,023,244	27%
East Texas Council of Governments Cherokee, Gregg, Harrison, Marion, Panola, and Rusk Counties	\$-	\$2,099,997	\$2,099,997	3%
Houston-Galveston Area Council Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Walker Counties	\$6,694,697	\$4,011,720	\$10,706,418	15%
South East TX Regional Planning Commission Hardin, Jefferson, and Orange Counties	\$26,498,536	\$12,468,656	\$38,967,192	55%
<b>Total</b>	<b>\$38,938,268</b>	<b>\$31,858,583</b>	<b>\$70,796,850</b>	<b>100%</b>

\*As discussed in the “General Information” section above, the actual Housing Need Allocation could increase and the Non-Housing Need Allocation could decrease based on the actual Application requests. Allocations will ultimately be determined based on Applicant consultations with cities, counties, and federally recognized Indian Tribes in the impacted areas.

Consistent with the charge to serve areas in concentrated distress, it should be noted that more than half the funds go to the three counties (Jefferson, Orange, and Hardin) that had the most storm damage. The map of the storm path shown in Appendix C shows these counties were located in the area of greatest storm strength.

In the event that each of the eligible Applicants does not submit an Application or does not request the total eligible funding amount, any remaining funds will be allocated amongst the remaining Applicants on a prorated basis tied to need.

Housing Activity Need Allocation Methodology

After intensive review of data from FEMA, the Texas Department of Insurance, and self reported damage reports from local governments provided by the GDEM, it was determined that FEMA Individuals and Households Program payment information provided an accurate comparison of county-by-county storm damage within the eligible counties. The actual FEMA data is provided as Appendix D. This objective data

was also evaluated to see how it was supported by first hand observations of need that were developed from many TDHCA staff trips to the affected areas and ongoing discussions with local officials.

Seven of the eligible counties for the CDBG Disaster Recovery Funds were ineligible for FEMA IHP assistance. After reviewing insurance claim data for these counties as reported by the Texas Governor's Office, it appears that these areas experienced comparatively low levels of housing damage as compared to the other affected counties. As a result, housing activity need assistance was not associated with these seven counties.

2000 U.S. Census poverty and very low income household data within the affected counties was also evaluated to see if the effects of the damage would be greatly distorted by subregional income differences. While there were slight differences observed between the counties, these differences were not deemed significant enough to warrant altering the distribution from that indicated by the regional information on disaster damage.

To determine the portion of each Applicant's funding allocation specifically related to unmet housing needs, the total county level housing need data within each COG was calculated. A funding distribution based on each COG's resulting percentage of total payments made under the FEMA IHP program was then generated.

#### Non-Housing Activity Need Allocation Methodology

For all non-housing activities, FEMA data detailing total infrastructure losses of the affected counties was considered for allocation purposes. This data is shown in Appendix E. Based on this data, with confirmation from first-hand accounts from ORCA staff and local communities and data supplied by regional COGs, ORCA allocated the non-housing portion of the disaster funding by county. Each affected county was allocated a minimum of \$350,000 for non-housing activities. The remainder of the funding available for non-housing activities was then divided on a prorated basis to counties with the greatest damage. The allocations by county were summed to determine the total non-housing need allocation for each COG region.

### **APPLICATION AND AWARD PROCESS**

#### Award Authority

Because a minimum of 55% of the CDBG Disaster Recovery funding is required to be dedicated to housing activities, the Governor designated the TDHCA Board to make all awards associated with this Action Plan. Because of the critical need for quick delivery and anticipated use of the funds awarded, changes to the awarded Application will require TDHCA Board approval if they exceed a 5% variance in funds or deliverables.

### Application Process and Award Timeline

Upon HUD approval of the Action Plan, the Department will release the Application and anticipates beginning technical assistance workshops on May 15, 2006. The Application acceptance period is projected to run May 22, 2006, through June 23, 2006, or for a period of 30 days after the Action Plan is approved by HUD if later than the above dates. The Departments will jointly review all submissions for completeness, eligibility, and to ensure that the Application helps address the area's greatest unmet needs. To the extent necessary, deficiencies may be issued and corrections on ineligible activities requested. It is anticipated that the TDHCA Board will determine the Applications to fund as soon as possible following the close of the Application period. If necessary to expedite the award of funds, an additional TDHCA Board meeting may be added to the regularly scheduled meetings.

### Technical Assistance

The state will provide technical assistance to Applicants requesting assistance in applying for funding under the Action Plan. At a minimum, this technical assistance will provide information on the eligible uses of funds, the Application, 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.

### Application Requirements

The Departments will utilize a uniform Application that allows Applicants to submit multifaceted (housing, public service, public facility, infrastructure, and business development) requests. All Applications must satisfy the following set of threshold criteria.

1. Each Applicant must provide a detailed description of the methodology used to allocate and prioritize funds within their region along with any supporting data used in methodology. This description must provide full explanation of how the specific proposed activities will be used only for disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to Hurricane Rita. This description must establish timelines and anticipated delivery dates.
2. If an Applicant chooses to utilize a competitive awards process, the Application must reflect exactly what that competitive process includes and state its scoring and prioritization criteria based on the most impacted and distressed areas.
3. Each Applicant is required to place funding limits for housing activities on their recipients, households and/or activities. Each Applicant must identify in its Application the limits to be used and the methodology utilized for establishing those limits. For non-housing activities, the Applicant may use a

scoring priority based on activities in combination with limits or may use an allocation, or a combination of both, that is based on the most impacted and distressed areas.

4. A fully executed and complete Certification and Application for Assistance. This certification will clearly establish that the proposed activities are eligible and satisfy national objectives. It will also establish that the beneficiaries will satisfy the household income targeting requirements established in the Federal Register notice. The Certification and Application for Assistance shall include the percentage of funds to be used to meeting housing needs as identified by HUD for these funds.
5. For each city, county or federally recognized Indian Tribe covered by the Application, a resolution of support of the appropriate governing body authorizing the submission of the Application and authorizing its chief executive officer as the authorized representative in all matters pertaining to the participation in the program. For housing activities, this means the Applicant must provide signatures from all county judges within their region affirming their agreement that the COGs take responsibility for CDBG funding and addressing their county's unmet housing needs.
6. Evidence of the Applicant's public notification and a summary of resulting public comment received on the proposed use of funds as a result of publishing the notice and sending correspondence on the plans to the appropriate parties. This evidence must also provide evidence of outreach in public notice to non-English speaking citizens in predominant languages of the region. Additionally, copies of correspondence sent to local community organizations that work to address the needs of the homeless and other groups with special needs as more thoroughly described in the Citizen Participation and Public Comment section of this Plan.
7. Evidence of good standing with regard to 10 TAC Sec. 1.3, "Delinquent Audits and Other Issues" (TDHCA) and 10 TAC Sec. 255.1(h)(6) (ORCA).
8. Evidence of sufficient financial oversight as established by an "Independent Auditor's Report" from 2004, or if available, 2005, audited financial statements for each Subgrantee represented by the Application.
9. Evidence of sufficient local need to utilize requested funds. Such need may be described using FEMA, State, or local damage reports, or Citizen's Survey Forms as provided in the Application. If the Citizen's Survey Form is utilized, the form:
  - a. may be used as a tool to perform preliminary marketing and outreach to potential consumers,
  - b. should be completed by potential individuals seeking CDBG assistance, and
  - c. must be signed and dated.

Evidence of need must support the requested level of assistance requested in the Application. The Applicant must also provide evidence of outreach to non-English speaking citizens in predominant languages of the region.

10. Evidence, in the form of a narrative, as to how the Applicant will:

- a. prevent low income individuals and families with children from becoming homeless;
- b. address the emergency shelter and transitional housing needs of homeless persons;
- c. help homeless persons make the transition to permanent housing and independent living;
- d. provide supportive housing assistance to groups with special needs including the elderly, frail elderly, persons with disabilities (mental, physical, developmental), persons with alcohol or other drug addiction, persons with HIV/AIDS and their families, and public housing residents;

11. Evidence, in the form of a brief narrative, as to how the applicant currently promotes or will promote the following requirements:

- a. land use decisions that reflect responsible flood plain management and removal of regulatory barriers to reconstruction;
- b. construction methods that emphasize high quality, durability, energy efficiency, and mold resistance;
- c. enactment and enforcement of modern building codes;
- d. mitigation of flood risk where appropriate; and
- e. adequate, flood-resistant housing for all income groups that lived in the disaster impacted areas.

All non-housing activity Subgrantees must further demonstrate the ability to manage and administer the proposed project, demonstrate the financial management capacity to operate and maintain any improvements resulting from the project, levy a local property tax or local sales tax option, demonstrate satisfactory performance on previously funded CDBG contracts, and have resolved any outstanding compliance or audit findings. More detail on these requirements can be found at 10 TAC 255.1 (ORCA).

#### Match Requirement

The provisions at 42 USC 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.

### **GRANT ADMINISTRATION**

#### Administration and Staffing

The Departments' staff will be provided with all training necessary to ensure the proper administration of the grants. To increase oversight at the local level, Subgrantee staff will be provided with all additional training necessary to ensure proper administration. The Departments also anticipate establishing at least one additional field office within the affected area to provide direct disaster technical assistance where needed.

### Administrative Costs

Subgrantees are strongly encouraged to minimize their administrative costs so that the amount available for program activities will be maximized. To ensure that this is the case, the amount of allowable Subgrantee administrative costs is capped at 10 percent of the grant award. In those instances where the Subgrantee deems that this amount is not sufficient for their activities, they may petition the TDHCA Board for administrative costs in an amount up to 15 percent of the grant. If milestones and delivery dates are not met, the Board may review the administrative fees as penalties for failure to meet the program deadlines. Subgrantees who have compliance issues or have not met substantial deadlines will not have their petition considered for increased administrative costs.

### State Action Plan Amendments

The following events would require a substantial amendment to the Action Plan:

- addition or deletion of any allowable activity described in the plan;
- change in the allowable beneficiaries; or
- a change of more than five percent in the funding allocation between the activity categories described in the Action Plan (unless sufficient Applications are not received to meet the targeted percentages for each activity).

If a substantial amendment to the Action Plan is needed, then reasonable notice will be given to citizens and units of general local government to comment on the proposed changes. This notice must be provided to citizens in predominant languages of the region. Consistent with the desire to allocate these funds as quickly as possible, the public comment period will be the same as that utilized for the Action Plan. The Departments' public comment notification, receipt, and response processes will also follow those used to develop the Action Plan.

### Contract Amendments

The Departments encourage all Subgrantees to carefully plan projects that meet the stated requirements and to specify activities, associated costs, milestones/delivery dates, and proposed accomplishments and beneficiaries in order to reduce the need for amending contracts. The Departments will award two-year contracts. Contract amendments that vary more than 5% must be approved by the TDHCA Board.

The Departments will follow an established, unified process for amendments. Subgrantees should contact the Departments prior to requesting an amendment or contract modification that affects the budget, activities, beneficiaries or timeframe for accomplishing the work. Should a proposed amendment result in the need for modification of this Action Plan, the state will follow the process required by HUD for this disaster recovery funding.

Substantial amendments may be cause to review the entire Application submitted to determine if the project is meeting its stated goals and its timelines.

#### Documentation

Each Subgrantee must submit or maintain documentation that fully supports the Application that was submitted to the Departments. Requirements relating to documentation are set out in the Application Guide.

#### Reporting

Each Subgrantee must report on a quarterly basis (on a form provided by the Departments) on the status of the activities undertaken and the funds drawn. Quarterly status reports will be due to the Departments within 15 calendar days following the end of the quarter. The Departments will then report to HUD using the online Disaster Recovery Grant Reporting system.

More frequent reports may be required if Subgrantee has missed milestones/or has not met substantial elements of the Application/plan.

#### Anti-Displacement and Relocation

The State requires that each Subgrantee 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 and local policy.

#### Citizen Complaints

All Subgrantees must have adopted procedures for responding to citizens' complaints as is required under the Texas Small Cities Nonentitlement CDBG Program or Entitlement programs. Citizens must be provided with the address, phone numbers, and times for submitting such complaints or grievances. Subgrantees must provide a written response to every citizen complaint within 15 working days of the complaint, if practicable.

#### Definitions

All regulations associated with the CDBG program apply to this funding unless specifically detailed as a waiver in the Department of Defense Appropriations Act, 2006 (Public Law 109-148, approved December 30, 2005 or as specified in the Feb. 13, 2006 Federal Register notice) or subsequently waived by HUD as documented in this Action Plan. In addition, definitions and descriptions contained in the Federal Register are applicable to this funding.

## Regulatory Requirements

- Subgrantees must comply with fair housing, nondiscrimination, labor standards, and environmental requirements applicable to the CDBG Program.
- Fair Housing: Each Subgrantee will be required to take steps to affirmatively further fair housing; and when gathering public input, planning, and implementing housing related activities, 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 and moderate income communities. The Departments 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 Subgrantee will be required to adhere to the Departments’ established policies which ensure that no person be excluded, denied benefits or subjected to discrimination on the basis race, color, national origin, religion, sex, familial status, and/or physical and mental handicap under any program funded in whole or in part by Federal CDBG funds. Subgrantees will be required to document compliance with all nondiscrimination laws, executive orders, and regulations.
- Labor Standards: Each Subgrantee 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: Specific instructions concerning environmental requirements at 24 CFR Part 58 will be made available to all Subgrantees. Some projects will be exempt from the environmental assessment process, but all Subgrantees will be required to submit the Request for Release of Funds and Certification (HUD Form 7015.15). Funds will not be released for expenditure until the Departments are satisfied that the appropriate environmental review has been conducted. Subgrantees 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.

### Flood Buyouts

Disaster recovery Subgrantees 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 Subgrantee must uniformly apply the valuation method it chooses.

Any property acquired with disaster recovery grants being used to match FEMA Section 404 Hazard Mitigation Grant Program funds is subject to Section 404(b)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, which requires that such property be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices. In addition, with minor exceptions, no new structure may be erected on the property and no subsequent application for federal disaster assistance may be made for any purpose.

A deed restriction or covenant must require that the property be dedicated and maintained for compatible uses in perpetuity.

Flood insurance is mandated for any assistance provided within a floodplain. The federal requirements set out for this funding provide further guidance on activities that are to be conducted in a flood plain. The Departments will provide further guidance regarding work in the floodplain upon request.

### Housing Assistance Beneficiaries

For Subgrantees undertaking housing assistance activities, a Housing Assistance Plan for selecting beneficiaries and housing units for housing assistance must be adopted and followed. Subgrantees are encouraged to use their existing Housing Assistance Plan if one is available. Modifications to the plan can only be made through the TDHCA contract amendment process. The contract will set out the specific requirements for the Housing Assistance Plan.

### Monitoring

The Departments will monitor all contract expenditures for quality assurance and to prevent, detect, and eliminate fraud, waste and abuse as mandated by Executive Order RP 36, signed July 12, 2004, by the Governor. The Departments 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, the Departments and the Subgrantees 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 Auditors Office. Reports from the State Auditors Office will be sent to the Office of the Governor, the Legislative Audit Committee and to the respective boards of the Departments.

The Departments have Internal Audit staff that perform independent internal audits of programs and can perform such audits on these programs and Subgrantees. The TDHCA Internal Auditor reports directly to the TDHCA Board of Directors. Similarly, the ORCA Internal Auditor reports directly to the ORCA Executive Committee.

The Departments will use an established, unified monitoring process. The Departments are currently in the process of modifying current monitoring procedures to specifically address the requirements of the CDBG Disaster Recovery Program and to ensure that all contracts funded under this disaster recovery allocation are carried out in accordance with federal and state laws, rules, and regulations, and the requirements set out in the Federal Register notice. The procedures will ensure that there is no duplication of benefits that have otherwise been covered by FEMA, private insurance, or any other federal assistance or any other funding source. The Departments will monitor the compliance of Subgrantees, and HUD will monitor the Departments' 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 to Hurricane Rita, or does not meet at least one of the three national CDBG objectives. In such case, the Subgrantee would be required to refund the amount of the grant that was disallowed. In addition and in order to ensure that funds are spent promptly, contracts will be terminated if identified timetables/milestones are not met. If it becomes necessary to terminate a contract with a Subgrantee, TDHCA will assume responsibility for the contract.

Monitoring efforts will provide quality assurance and will be guided by both responsibilities under the CDBG Program and responsibilities to low income Texans. These monitoring efforts include:

- Identifying and tracking program and project activities and ensure the activities were as the result of damage from Hurricane Rita;
- Identifying technical assistance needs of Subgrantees;
- Ensuring timely expenditure of CDBG funds;
- Documenting compliance with Program rules;
- Preventing fraud and abuse;
- Identifying innovative tools and techniques that help satisfy established goals; and
- Ensuring quality workmanship in CDBG funded projects

In determining appropriate monitoring of the grant, the Departments will consider prior CDBG grant administration, audit findings, as well as factors such as complexity of the project. The Departments will determine the areas to be monitored, the number of monitoring visits, and their frequency. All grants will be monitored not less than once during the contract period. The monitoring will address program compliance with 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.”) The Departments will utilize the checklists similar to those used in monitoring regular CDBG program activities.

The Departments will contract with the Subgrantee as independent contractors who will be required to hold the Departments harmless and indemnify them from any acts of omissions of the contractor.

#### Investigation

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. The Departments 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.

#### Program Income

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 and provides when such income must be paid to the state. For non-housing activities, program income generated under individual contracts with the Subgrantees will be returned to ORCA.

#### Timeframe for Completion

Availability of funds provisions in 31 USC 1551-1557, added by section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510), limit the availability of certain appropriations for expenditure. This limitation may not be waived. However, the Appropriations Act for these grants directs that these funds be available until expended unless, in accordance with 31 USC 1555, the Departments determine that the purposes for which the appropriation has been made have been carried out and no disbursement has been made against the appropriation for two consecutive fiscal years. In such case, the Departments shall close out the grant prior to expenditure of all funds. All grants will be in the form of a contract between the Subgrantee and the Departments that adheres to the federal time limitation.

## **REQUIRED CERTIFICATIONS**

The use of the disaster funding is contingent upon certain requirements, and both the Departments and Subgrantees will be expected to certify that these requirements will be met or carried out. Applicable federal and state laws, rules and regulations are listed in the Application Guide, and the designee authorized by the Subgrantee will be required to certify in writing that the grant will be carried out in accordance with the stated requirements. The Departments have provided a fully executed copy of HUD Required Certifications for State Governments, Waiver and Alternative Requirement as in Appendix F.

## APPENDIX A. REQUESTED WAIVERS

During the development of the Action Plan and the public comment period, particular attention was paid to identifying issues that require additional waivers from HUD to address specific regional and local recovery needs. The following list describes regulations for which a waiver is requested to allow for the full utilization of the CDBG Disaster Recovery funding.

1. Restrictions on the repair or reconstruction of buildings used for the general conduct of government at 42 USC 5305(a)(2) and (a)(14) and 24 CFR 570.207(a)(1).
2. The 50% of down payment limitation on direct homeownership assistance for low or moderate-income homebuyers at 42 USC 5305(a)(25)(D).
3. The requirement that 70% of funds are for activities that benefit low and moderate income persons at 42 USC 5304(b)(3)(A) and 24 CFR 570.484.
4. The provision at 24 CFR 570.483(b)(4)(ii) that requires units of general local governments, for job creation activities, to document that either or both of the following conditions apply to at least 51% of the jobs at the time CDBG assistance is provided: 1) the jobs are known to be held by low or moderate income persons, or 2) the jobs can be expected to turn over within two years and be filled by or made available to low or moderate income persons upon turn over. Instead, units of local government in the hurricane impacted areas will be able to presume that all jobs retained as a result of the CDBG funds meet one or both of these conditions.
5. The one-for one replacement requirements at 42 USC 5304(d)(2) and 24 CFR 570.488 for low and moderate income dwelling units (1) damaged by the disaster, (2) for which CDBG funds are used for demolition and (3) which are not suitable for demolition requires that all occupied and vacant occupiable low/moderate income dwelling units that are demolished or converted to use other than low/moderate income dwelling units in connection with a CDBG activity must be replaced with low/moderate income dwelling units.
6. Requirements that state grantee must match the amount of CDBG funds used for administration and limits administration and technical assistance to three percent and limits the state and its grantees to 20% of the aggregate amount received of the state CDBG program at 42 USC 5306(d)(3)(A), and 24 CFR 570.489(a)(1)(3).
7. The provisions at 42 USC 5304(j) and 24 CFR 570.489(e) that permit states to allow units of general local government to retain program income. For purposes of the supplemental funds, all program income will be returned to the state and will become program income to the most recent regular CDBG program year.
8. Requirements at 42 USC 12706 and 24 CFR 91.325(a)(6), that housing activities undertaken with CDBG funds be consistent with the strategic plan and 24 CFR 570.903, which requires HUD to annually review grantee performance under the consistency criteria.

9. The requirement at 42 USC 5306(d)(1) and 24 CFR 570.480 (a) that states electing to receive CDBG funds must distribute the funds to units of general local government in the state's nonentitlement areas.
10. The requirements at 24 CFR 570.207 (b)(3) relative to new construction of housing.

## APPENDIX B. DEPARTMENTS' RESPONSE TO PUBLIC COMMENT

The *Action Plan* was released on March 14, 2006. The public comment period for the document ran from March 14, 2006, through March 30, 2006. Announcement of the public comment period was printed in the *Texas Register* on March 10, 2006, and also on March 24, 2006.

During the period, the Department held five public hearings to accept comment. Hearing notices, in both English and Spanish, were posted on the Departments' websites. On March 1, 2006, an announcement in English and Spanish that described the public comment period and public hearings schedule for the first four hearings was mailed to over 2,500 addresses on ORCA's CDBG notification list, which includes all of the State's mayors and county judges as well as Texas Indian Tribes. On March 10, 2006, a follow up notice announcing an additional hearing in Houston was distributed using the same contact lists. Additionally, 2,855 entities were notified electronically about the public hearings through TDHCA's email notification lists.

The location, address, dates, and number of attendees are listed below:

Location:	Nacogdoches	Beaumont	Livingston	Austin	Houston
Address:	C.L. Simon Recreation Center  1112 North Street, Room 2 Nacogdoches, TX 75961	South East Texas Regional Planning Commission 2210 Eastex Freeway Beaumont, TX 77703	Livingston Municipal Complex 200 W. Church Street Livingston, TX 77351	Stephen F. Austin Building  1700 N. Congress Avenue, Rm. 170 Austin, TX 78701	Harris County Jury Assembly Room, 1019 Congress, 1st floor Houston, TX 77002
Date & Time:	March 20, 2006, 6:00 pm	March 21, 2006, 10:00 am	March 22, 2006, 10:00 am	March 22, 2006, 6:00 pm	March 28, 2006, 6:00 pm
Number of Attendees	22	40	20	8	24

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, Department staff attending the hearings spoke both English and Spanish.

The following comments were received on the Plan. A brief summary of the comment as well as the Departments' response is included. 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 and lists which comments, by number, the individual made. In general, housing-related comments were answered by TDHCA and non-housing comments were answered by ORCA. The answering Department is also listed with the comment responses.

For more information on the public comment received on this document, or for copies of the original comment, please contact the TDHCA Division of Policy and Public Affairs at (512) 475-3976.

**Comment #1: Use of CDBG Disaster Funds by DETCOG**

A few comments were made that outlined how the Deep East Texas Council of Governments intends to use the CDBG Disaster Funds.

For community development and infrastructure, these uses include for following: (1) pay the 25 percent of costs for debris removal that was incurred by the counties and cannot be reimbursed by FEMA, (2) emergency preparedness, (3) loans to small businesses with a maximum of \$150,000 per loan, (4) fund existing unfunded water and sewer FY2006 TCDP projects, (5) infrastructure “overrun” 0 percent loans for existing CDBG projects whose costs are now higher than anticipated because of elevated material costs, (6) streets damaged by the hurricane or those streets related to evacuation that need improvement, and (7) USDA drainage projects. For housing projects, these uses include the following: (1) forgivable loans for very low income persons, (2) interest-free loans for moderate income persons, and (3) rental rehab for subsidized rental properties. Repayments on the loans would be used to establish a revolving loan fund.

**Staff Response:*****TDHCA***

TDHCA will structure the CDBG Disaster Recovery Program for housing activities for eligible beneficiaries in the form of grants. Because housing activities will be in the form of grants, there will be no program income. The reconstruction or rehabilitation of privately owned properties, primarily for the purpose of benefiting low to moderate income persons, is an eligible activity under the CDBG program, including rehabilitating rental properties.

***ORCA***

Providing for the 25 percent match associated with FEMA awards, emergency preparedness, loans to small businesses impacted by the hurricane, streets damaged by the hurricane, and USDA drainage project match are all eligible uses under the CDBG regulations. Unfunded water and sewer FY2006 TCDP projects or any existing projects with cost overruns will not be funded because they did not result from damages incurred by Hurricane Rita. Any program income generated by non-housing activities will be returned to the State.

**Comment #2: Process for use of CDBG Disaster Funds by the ETCOG**

A comment was made that outlined how the East Texas Council of Governments (ETCOG) intends to process and use the CDBG disaster funds.

ETCOG's preliminary strategy includes the following: (1) create an inventory of public facility and infrastructure needs, (2) meet with local government officials to discuss the program and proposed evaluation criteria, (3) establish a timeframe for submitting applications to ETCOG, and (4) have ETCOG staff review and score applications. Applications receiving the highest scores will be included in the ETCOG application to ORCA.

**Staff Response:**

***TDHCA***

Applications for assistance under the CDBG Disaster Recovery Program will be made jointly to TDHCA and ORCA. Successful applicants will be required to ensure that funds are equitably distributed throughout the region to the most impacted and distressed areas. ETCOG is encouraged to solicit input from the community on unmet housing needs and provide the information to TDHCA. The Secretary of HUD's January 25, 2006, News Release (No. 06-011) provided that 55 percent of the funds be allocated toward unmet housing needs.

***ORCA***

FEMA numbers showed no housing damage in ETCOG. The 55 percent mentioned in the Secretary's News Release was of the total \$74 million awarded and was not applied per COG in the Action Plan. The FEMA numbers demonstrate that the greatest impact in ETCOG is infrastructure and public facilities. Projects should be prioritized based on these numbers. The strategy submitted by ETCOG is a very good plan that will need to be developed more fully to include more detail on method of distribution and priorities for inclusion in the Application.

**Comment #3: Use of CDBG disaster funds for transitional housing**

A comment was made that asked the program to consider using some of the CDBG disaster funds for transitional housing for the homeless.

**Staff Response:**

***TDHCA***

Funds under the CDBG Disaster Recovery Program will be awarded to COGs in the affected regions who will undertake activities based on prioritization of local needs. COGs are required to establish local needs through their citizen participation process. Activities must be eligible under 24 CFR Part 570, which allows for transitional housing for the homeless under public services as a limited clientele activity.

***ORCA***

In addition to TDHCA's response, funding will only be available to Hurricane Rita victims.

**Comment #4: Awarding CDBG Disaster Funds Directly to Councils of Governments**

Several comments were made that supported the decision to award the CDBG disaster funds to the local councils of governments (COGS).

**Staff Response:**

*TDHCA and ORCA*

The use of COGS has been proposed in the plan. No response necessary.

**Comment #5: Income Restriction Waivers**

A comment was made regarding income eligibility requirements. The commenter mentioned that many residents have had their incomes greatly reduced since the hurricane, and that recorded income from the previous year does not reflect the current financial conditions of these residents.

**Staff Response:**

*ORCA*

The Federal Regulations allow the State to assume low to moderate income based on the census tract the individual resides in and for job creation/retention activities the census tract the individual works in. Should the individual not meet the assumptions allowed under the regulations the State will also consider self certifications where the individual's circumstances have changed as a result of the hurricane.

**Comment #6: Consideration of Unfunded CDBG Applications from Previous Program Cycle**

A few comments were made regarding the possibility of funding those applications that did not receive awards in the previous regular CDBG cycle with this CDBG disaster funding.

**Staff Response:**

*ORCA*

Projects will only be considered that resulted from damage directly associated with damage caused by Hurricane Rita in the most impacted and distressed areas. No other projects will be eligible for funding under the Action Plan.

**Comment #7: Use of CDBG Disaster Funds for Reimbursement of Previous Expenses not Reimbursed by FEMA**

A few comments were made regarding the use of CDBG disaster funds to reimburse costs already incurred by the cities and counties but not covered by FEMA or insurance companies, such as infrastructure repairs and debris removal.

**Staff Response:**

**ORCA**

Funds that have already been expended by cities and counties to secure FEMA awards and for other eligible activities can be reimbursed under the Action Plan.

**Comment #8: Use of CDBG Disaster Funds to Reimburse Local Governments for Costs Incurred Due to the Hurricane that were Originally Intended to be Spent on Other Activities**

A comment was made regarding the use of CDBG disaster funds to reimburse counties for costs incurred due to the hurricane that were originally intended to be spent on other activities. For example, one county has committed significant funding for a fish hatchery, but was forced to spend some of those funds on hurricane costs.

**Staff Response:**

**ORCA**

Funds that have already been expended by cities and counties to secure FEMA awards and for other eligible activities can be reimbursed under the Action Plan.

**Comment #9: Prioritization of Local Projects**

One comment was made by a council of governments that thought that the local counties should be allowed to develop their own county plans and then submit them to the COG based on a priority system.

**Staff Response:**

**TDHCA and ORCA**

Under the Action Plan, the Applicants will be required to adopt and follow a policy for selecting beneficiaries and housing units for housing assistance. Applicants will develop a method of distribution based on needs identified in the plan, and submit the methodology to the Department as part of their Application. Development of this plan will require a high level of public participation. The distribution of funds must be directed to the most impacted and distressed areas as a direct result of Hurricane Rita.

**Comment #10: Consideration of Private Funding Resources**

One comment was received that asked for special consideration for local projects that have already received some private funding.

**Staff Response:**

***TDHCA***

Funds under the CDBG Disaster Recovery Program will be awarded to COGs in the affected regions who will undertake activities based on prioritization of local needs. COGs are required to establish local needs through their citizen participation process. Activities must be eligible under 24 CFR Part 570. The COGs may consider as part of their selection criteria other committed private funding for most impacted and unmet needs.

***ORCA***

The allocation of funding is being set at the COG (regional) level. How the priorities will be established is at the discretion of the COG with a high level of public participation and well documented methods of distribution.

**Comment #11: Errors in FEMA Damage Estimations by County**

A few comments were made about possible errors in the FEMA damage estimations by county and FEMA public assistance numbers by county, which were used by TDHCA and ORCA to make regional funding allocations.

**Staff Response:**

***TDHCA and ORCA***

The Departments acknowledge that the FEMA data is an estimate and may not accurately reflect actual need; however, the data is the most detailed and comprehensive source of information available for the entire area to ensure funding to the most impacted and distressed areas resulting from Hurricane Rita.

**Comment #12: Allocation of CDBG Funds**

A comment asked for clarification on how the CDBG disaster funds were being allocated by ORCA and TDHCA; specifically, whether the funds were going to be allocated to each county or to the whole region and whether each county was entitled to a certain amount of funds.

**Staff Response:**

***ORCA***

Funding is being allocated by the COG region. No specific amounts have been set aside by county. COGs, with considerable public participation and defined methods of distribution, will be determining the allocation of funding within each region.

### **Comment #13: Use of CDBG Disaster Funds for Cost Overrun Loans**

A few comments were made with regard to using CDBG disaster funds for infrastructure “overrun” 0 percent loans for existing CDBG projects whose costs are now higher than anticipated because of elevated material costs due to the hurricane.

#### **Staff Response:**

Any existing projects with cost overruns will not be funded because they did not result from damages by Hurricane Rita.

### **Comment #14: HUD Waivers in Louisiana**

One comment was made concerning waivers granted by the U.S. Department of Housing and Urban Development for the state of Louisiana. Comment encouraged that the State look to Louisiana for information on their waivers, including the waiver that enabled 50 percent down payment assistance.

#### **Staff Response:**

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

The Departments are considering submitting waiver requests to HUD, including a request to waive the 50 percent down payment assistance requirement. A complete list of waiver requests and HUD’s response will be made available to the public once complete.

##### ***ORCA***

HUD has encouraged the State to request any needed waivers to expedite the use of the funding or to meet the areas of greatest unmet need with the exception of fair housing, nondiscrimination, labor standards, and environmental assessments.

### **Comment #15: CDBG Disaster Funds for Rental Purposes**

A few comments were made regarding the use of CDBG disaster funds for rental rehabilitation loans, particularly where subsidized rents are being paid to the owners, as well as for the expansion of the local rental assistance programs.

#### **Staff Response:**

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

Rental rehabilitation loans, primarily for the purpose of benefiting low to moderate income persons, is an eligible activity under the CDBG program. Activities will be proposed by COGs based on prioritization of local needs.

**ORCA**

ORCA would prefer that any loans be repaid to the State versus creating multiple local revolving loan funds that will have to be monitored.

**Comment #16: Allocation of Other Funding to These Areas**

A comment was made regarding the existing CDBG disaster fund administered by ORCA. The comment asked whether these regions would still be eligible to apply for that funding, even though they are receiving this special CDBG disaster fund allocation.

**Staff Response:**

**ORCA**

Communities are encouraged to apply for the funding available under the Action Plan for all disaster projects directly related to Hurricane Rita. Applying this funding will not prevent any city or county from applying to any of ORCA's other programs.

ORCA anticipates that cities and counties in the affected regions would initially seek funding for the Rita disaster through the non-housing supplemental amount allocated to the region. ORCA recognizes that all cities and counties that submit projects to the COG for consideration would be funded through the allocation. ORCA would prioritize those that submitted applications to the COG for the non-housing allocation in the region and any ranking in the COG review when determining the use of its limited regular Disaster assistance.

**Comment #17: Disbursement of CDBG Disaster Funds to Cities and Counties**

One comment was made regarding the disbursement of CDBG disaster funds. The commenter would prefer that the CDBG funds be allocated and disbursed prior to their starting work, rather than the cities and counties having to pay for the work, and then afterwards receiving the CDBG funds as reimbursement.

**Staff Response:**

**ORCA**

For cases where reimbursement is not an option due to financial limitations of the Subgrantee, advances can be considered on a case-by-case basis. ORCA will not reimburse for work not completed and a service must be provided.

**Comment #18: Use of CDBG Disaster Funds for Electricity Needs**

One comment concerned the use of funds for electric companies and electric co-ops for repairs.

**Staff Response:**

**ORCA**

Funding electric companies and electric co-ops affected by the hurricane are eligible under the Action Plan provided the activities are eligible under 24 CFR 570 and based on the priorities set by the COG.

**Comment #19: Flexibility in Reimbursing Expenses Already Incurred by the Counties**

One comment was made that addressed the need for local officials to make “decisions outside of a little box” to meet the needs of their communities after the hurricane. The commenter asks that the program be flexible in reimbursing the local governments for some of their creative ways in responding to local needs.

**Staff Response:**

**TDHCA**

The Departments will work with Subgrantees to be as flexible as possible and to expedite the funding process. Any CDBG-eligible activity may be considered by the COG when prioritizing unmet needs,

**ORCA**

The CDBG program is one of the most flexible federal programs in operation. Any project eligible under the federal regulation resulting from damages incurred as a result of Hurricane Rita will be considered according to the priorities set by the COGs and the need to address the most impacted and distressed areas.

**Comment #20: Timeliness of Fund Disbursement and Use of FY 2006 Funds**

A comment was made inquiring about how quickly ORCA and TDHCA will receive the CDBG disaster allocation. Specifically, the commenter suggested the ORCA and TDHCA use the FY 2006 allocation to fund the disaster activities now and then when the CDBG disaster allocation comes in, ORCA could reimburse themselves for FY 2006.

**Staff Response:**

**ORCA**

Due to the limited funding available under the annual CDBG allocation, the upcoming application rounds, commitments made in the 2006 Action Plan developed with public hearings and the ORCA Executive Committee, and because using funds from the current CDBG allocation would require an amendment to the existing CDBG action plan, ORCA will not be using the FY 2006 allocation to fund disaster activities for later reimbursement. In addition, HUD has committed to expedite review of the State Action Plan and the State has set a very aggressive application roll out and funding processes.

**Comment #21: Use of Funds for Part of a Project**

A few comments were made regarding the use of CDBG disaster funds to fund part of a project.

**Staff Response:****ORCA**

Partial funding or phased projects will be eligible under the Action Plan as long as beneficiaries can be identified at the conclusion of the project and the project can have a definitive end.

**Comment #22: Time Extensions for Existing CDBG Projects**

A comment was made regarding the timely completion of existing CDBG projects. The commenter urged that communities with existing projects not be penalized for requiring time extensions because of disaster activities to complete their projects.

**Staff Response:****ORCA**

ORCA has discussed the possibility of reviewing requirements for the communities that have spent time on disaster recovery versus proceeding with projects, but that mechanism has not yet been completed.

**Comment #23: Use of CDBG Disaster Funds for Public Buildings**

One comment stressed the need for funding for public buildings, including city halls and buildings that serve as local command centers during times of disasters.

**Staff Response:****ORCA**

The federal regulations governing CDBG do not allow CDBG funds to be used for buildings solely used for the general purpose of government. Buildings damaged by Hurricane Rita that serve dual purposes such as public safety or emergency services may be eligible for repair costs on a pro-rata basis.

**Comment #24: Disaster Impacts on Regional Allocations for Other Programs**

A comment was made regarding how the regional allocations through other programs would be impacted because of the disaster. The commenter asked whether (1) extra points or preference would be given to the disaster-impacted areas when deciding funding allocations statewide and (2) whether the supplemental CDBG disaster allocation would affect their ability to apply for other programs and/or the amount of funding that the region will receive from other programs.

**Staff Response:**

***TDHCA***

This issue must be addressed before the Regional Allocation Formula and Affordable Housing Need Scores for the HOME, Housing Tax Credit, and Housing Trust Fund Programs can be developed for the next funding cycle. If accurate demographic data on changes to regional and local affordable housing need caused by Hurricanes Rita and Katrina becomes available, then this data and associated available funding to address it might be considered as part of the formulas and scores TDHCA uses to distribute its funding. It should be noted that if need associated with these disasters is considered, then it might be argued that other general statewide demographic changes since the 2000 Census should be considered. However, given the ongoing debate over the accuracy of the disaster impact data and the likelihood that data will not be available at the geographical areas needed for the various formulas and scores, a definitive answer cannot be provided at this time. In any case, the formula and scores will be submitted for public comment as is the standard operating procedure for these activities.

***ORCA***

The Regional Review Committees set the priorities for their prospective regions and can set up scoring in a way that ensures that disaster projects will be awarded above all else. The State's annual CDBG allocation for CD and CDS will remain the same as originally proposed.

**Comment #25: Role of Entitlement Areas in Process**

A comment was made regarding how entitlement areas would be involved in the process. The comment made a few different points: (1) for entitlement areas to participate, they must pass an ordinance to do so, which is a taxing process; (2) even though the entitlement area actually does the project and is responsible for audits and paperwork, it does not look like they get administration dollars; and (3) the COGS should include the entitlement areas in implementation and Application scoring.

**Staff Response:**

***TDHCA***

COGs are required to work with cities, counties, and federally recognized Indian tribes, through their citizen participation process, to administer the program according to jointly established priorities.

Under the CDBG Disaster Recovery program, COGs can subcontract with other entities to administer the program.

***ORCA***

For non-housing activities, each city or county (entitlement or nonentitlement) will have an individual contract with its associated administration funding.

**Comment #26: Use of Funds for Reimbursement of Police and Fire Stations**

A commenter asked whether funds could be used to reimburse areas for the repair of police and fire stations damaged in the hurricane.

**Staff Response:**

**ORCA**

The federal law governing CDBG do not allow CDBG funds to be used for buildings solely used for the general purpose of government. Buildings damaged by Hurricane Rita that serve dual purposes such as public safety or emergency services may be eligible for repair costs on a pro-rata basis for the portion of the building used for emergency services.

**Comment #27: Use of Funds for Education Activities**

A commenter asked whether CDBG disaster funds could be used for education facilities, including buildings and equipment.

**Staff Response:**

**ORCA**

State CDBG funds have not historically been used for educational facilities because other sources have existed to fund these types of activities.

**Comment #28: Use of Funds for Hospital Facilities**

A commenter asked whether CDBG disaster funds could be used for hospital facilities.

**Staff Response:**

**ORCA**

Funding damages caused by Hurricane Rita to hospitals would be an eligible use under the Action Plan.

**Comment #29: Need for Down Payment Assistance Funds in Area**

A comment was made regarding the need for down payment assistance funds for the area, and how current programs can address this need.

**Staff Response:**

## ***TDHCA***

TDHCA will continue exploring ways to address housing needs in disaster areas and to identify sources of funding that could be used to compliment existing revenue sources.

Through TDHCA's First Time Homebuyer Program, funds are available for grant down payment assistance up to 5 percent of the mortgage amount in conjunction with a low interest rate first-lien mortgage. Approximately \$121 million will be available beginning June 1, 2006. In accordance with the Gulf Opportunity Zone Act, which covers a 22-county area impacted by Hurricane Rita, the first time homebuyer program requirement is being waived, and increased income and purchase price limits will be offered.

### **Comment #30: Need for a General State Disaster Plan**

A comment was made regarding the need for a general disaster plan that covers Texas so that the State can respond to disasters in a more timely manner.

#### **Staff Response:**

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

The current TDHCA deobligation policy allows for deobligated HOME funds to be used for disaster relief as one of the top priorities.

The Governor's Division of Emergency Management team, of which TDHCA and ORCA are a part, have participated in planning for future disasters.

##### ***ORCA***

The Governor's Office is currently working on plans for disaster responses statewide.

### **Comment #31: Need of Funds for Other Disasters**

A comment was made regarding the need for funding that will arise due to other disasters. The commenter wanted to emphasize that there are other disasters, and that money should not be wholly spent on one cause.

#### **Staff Response:**

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

The Department regularly has funding available to address disasters in Texas that have been designated by the Governor.

##### ***ORCA***

The Action Plan will cover damage caused by Hurricane Rita. ORCA's regular disaster fund is available for other disasters.

### **Comment #32: Waive Application Requirements for Regular Funding Cycles**

One commenter suggested that the Departments waive certain application requirements for the regular funding cycles. Specifically, the commenter referred to the HOME Program requirement where an area included in a consortium apply for funding through the consortium and not through the State.

#### **Staff Response:**

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

The State's 2006 Single Family HOME Program funding cycle is specifically designed to serve non-participating jurisdictions, primarily rural Texas, pursuant to Section 2306.111 of the Texas Government Code. The next scheduled Single Family HOME Program funding cycle is scheduled for 2008. Public comment during the rule-making process is encouraged should a waiver if this requirement be requested.

### **Comment #33: Waivers for Davis-Bacon and Environmental Requirements**

A comment asked for waivers regarding Davis-Bacon and environmental requirements.

#### **Staff Response:**

##### ***TDHCA and ORCA***

The Federal Register announcing the funding available under this Action Plan specifically eliminates the possibility of requesting waivers for labor standards and the environment.

### **Comment #34: Leverage Requirements for Funds**

One comment stressed the need for leveraging with these CDBG disaster funds and other programs.

#### **Staff Response:**

##### ***TDHCA and ORCA***

Staff agrees that leveraging of the funding available under this Action Plan should be encouraged wherever possible.

### **Comment #35: Funds for Emergency Facilities**

One comment addressed the use of funds for facilities that relate to emergency management operations and emergency shelters.

#### **Staff Response:**

##### ***ORCA***

Both emergency management operations and emergency shelters are eligible under the Action Plan.

**Comment #36: County Allocations and Grant Limits**

One comment asked whether each county would receive an allocation. Specifically, the commenter was concerned that one county or area would receive all or a majority of the funding. The commenter suggested that the program have grant limits to prevent this scenario.

**Staff Response:*****TDHCA***

For unmet housing needs, the COGs representing the affected regions will apply on behalf of their respective regions. Individual contracts will be prepared between TDHCA and each COG. Each COG will administer an amount, based on need, for their region, and will be required to work with the affected counties and federally recognized Indian tribes to ensure that their unmet housing needs are addressed and that all state and federal requirements of the CDBG Program are met. A method of distribution and how funds were prioritized will be required to be submitted as part of the CDBG Application.

***ORCA***

All decisions regarding allocations and grant limits will be set at the local level by the COGs from a method of distribution made available to the public. For non-housing needs, the COGs will apply on behalf of the counties, cities, and federally recognized Indian tribes within their respective regions. Counties, cities, and federally recognized Indian tribes will be the actual grant recipients. Individual contracts will be prepared between ORCA and each grant recipient.

**Comment #37: Reallocation of Funds**

A comment was made regarding the reallocation of any funds not spent by the councils of governments.

**Staff Response:*****TDHCA***

The Departments will reallocate any remaining funds amongst remaining awardees on a prorated basis tied to need.

***ORCA***

While not expected to be an issue, the Action Plan states that in the event each eligible applicant does not submit or does not request the total eligible funding amount, any remaining funds will be allocated amongst the remaining applicants on a prorated basis.

**Comment #38: Priority for Areas Receiving Hazard Mitigation Grant Program funding**

A commenter requested that priority be given to areas receiving Hazard Mitigation Grant Program funding. HMGP requires a 25 percent match and an extensive environmental assessment, and because many of these projects are multimillion-dollar projects, many projects would need match assistance.

**Staff Response:**

**ORCA**

The match required for the Hazard Mitigation Grant Program is an eligible use of the non housing allocation.

**Comment #39: Buyouts**

A comment was made regarding whether buyouts would be funded from the infrastructure side or the housing side. The commenter's concern is that, while buyouts are typically funded from the infrastructure side, most areas will have more to spend on infrastructure, and that more money might be available for housing.

**Staff Response:**

**ORCA**

Buyouts are considered to be an option for non housing activities under the Action Plan.

**Comment #40: Consolidation of Applications**

A commenter asked about the consolidation of Applications. For example, if an area has multiple facilities that need repair, would the areas need to submit separate Applications, or could they submit one Application for all facilities?

**Staff Response:**

**TDHCA**

This portion of the program design will be proposed by the applicants (COGs) under the program to the Departments. Applications will be submitted by local entities to the COGs who in turn will compile and submit a single Application to the State.

**ORCA**

Cities and counties will be submitting Applications to the COGs that have been developed by the COGs. The COGs will then be submitting one Application for the region for the projects meeting the priorities that were set for the region.

**Comment #41: Red Cross Shelter Requirements**

One comment was made regarding the apprehension of some communities in being required to use the Red Cross to run shelters funded through CDBG.

**Staff Response:**

**ORCA**

The intent of the idea of using the Red Cross Shelter criteria was to set a standard for the shelters being funded, not to force affiliation with the Red Cross.

**Comment #42: Match for Non-FEMA Projects**

One comment asked whether the CDBG disaster funding could be used to fund match requirements on infrastructure projects made by a city or county without FEMA assistance.

**Staff Response:**

**ORCA**

Projects directly attributable to damage caused by Hurricane Rita that a city or county has already paid for would be eligible for reimbursement if the project was not reimbursable elsewhere and was eligible under the CDBG regulations.

**Comment #43: Program Communication**

One comment requested information on how the counties were informed of the public hearings and how the counties can communicate with and provide input to the council of governments.

**Staff Response:**

**TDHCA**

The Departments' notice of the public comment period and associated public hearings was published in the *Texas Register*, an announcement was mailed in English and Spanish that described the public comment period, and public hearings schedule for the first four hearings to all of the State's mayors and county judges. Additionally, a wide variety of interested parties were notified electronically about the public hearings through TDHCA's "interested contact" databases.

Prior to applying to the Departments for the CDBG Disaster Relief funding program, COGs will be required to follow their local citizen participation requirements to ensure that all effected entities have an opportunity to comment.

**ORCA**

The notification of the public hearings was on both the ORCA and TDHCA websites, two separate post cards announcing the public hearings were mailed to cities and counties throughout the state, letters

of invitation were faxed to all cities in the affected area, and each city and county received a personal phone call from ORCA or TDHCA staff inviting them to the public hearings.

**Comment #44: Involvement of Indian Tribes**

A comment was made regarding the involvement of Indian tribes in the planning process for the program, as well as funding allocation.

**Staff Response:**

***TDHCA***

The COGs representing the affected COG regions will apply for funding on behalf of entitlement communities, non-entitlement communities, and federally recognized Indian Tribes within their region. COGs are required to solicit input on their proposed program and Application from all affected entities in their regions. In addition, COGs will be required to conduct extensive outreach to all affected citizens in their regions.

**Comment #45: City Input**

A comment was made emphasizing that input should be collected from cities in the process as well as prioritization of non-housing needs.

**Staff Response:**

***TDHCA***

Prior to applying to the Departments for the CDBG Disaster Relief funding program, COGs will be required to follow their local citizen participation requirements to ensure that all effected entities have an opportunity to comment on the development of programs to address housing and non-housing needs as a result of Hurricane Rita.

***ORCA***

The COGs will be soliciting input from all affected cities and counties with in their respective regions.

**Comment #46: Penalization for 100 Percent FEMA Reimbursement**

One comment was made regarding the reimbursement of projects funded by FEMA. The comment asked that areas receiving 100 percent reimbursement not be financially penalized because many other areas did not act quickly enough to receive the 100 percent, and thus only received 75 percent reimbursement.

**Staff Response:**

***ORCA***

The funding available under the Action Plan cannot be used for projects reimbursed or reimbursable by other sources.

**Comment #47: Reimbursement for Services Provided to Hurricane Evacuees**

One comment was made asking for reimbursement of services provided to hurricane evacuees that migrated to the Houston area.

**Staff Response:**

***TDHCA and ORCA***

Due to the limited amount of funding available, all eligible activities under this Action Plan must specifically fund damages directly related to Hurricane Rita.

**Comment #48: Housing Allocation**

One comment suggested that the whole CDBG Disaster Allocation be spent on housing, rather than just 55 percent.

**Staff Response:**

***TDHCA***

COGs will prepare Applications based on prioritization of local needs within the region as established through their Citizen Participation process.

***ORCA***

The 55 percent allowed for housing is a minimum and the actual allocations will be set at the COG (regional) level.

**Comment #49: Direct Allocation**

One comment suggested that TDHCA allocate funds directly to individuals, rather than suballocating funding to the councils of governments.

**Staff Response:**

***TDHCA***

The current structure of the Departments does not allow for the direct funding of individuals.

**Comment #50: Low Income Targeting**

One comment was made that stressed that low income households should be the sole beneficiaries of the funds, and that waivers to enable assistance to higher incomes should not be sought.

**Staff Response:**

*TDHCA*

The Department will seek waivers that allow for the maximum flexibility in program administration to allow for greater local decision-making ability on how to best meet the most impacted area with unmet housing needs

**Comment #51: Use of Regional Review Committees**

A couple comments questioned the use of existing CDBG Regional Review Committees to score the Applications at the local level.

**Staff Response:**

*ORCA*

The scoring/funding allocation decision will be made at the COG (regional) level.

**Comment #52: Fair Housing**

One comment stressed that fair housing needed to be addressed in the plan.

**Staff Response:**

*TDHCA*

Fair housing requirements are addressed in the Action Plan.

**Comment #53: Public Housing Units**

One comment suggested that CDBG funds be used to repair public housing damaged by the hurricane.

**Staff Response:**

*TDHCA*

Priorities will be set at the regional level; repair of public housing is an eligible activity.

**Comment #54: Administration Costs**

A comment was made regarding the amount of funding that can be used for administration costs. The commenter stressed that the majority of funds should be spent on assistance, and administration costs should be minimized.

**Staff Response:**

*TDHCA and ORCA*

Grantees will be strongly encouraged to minimize their administrative costs so that the amount available for program activities will be maximized. To ensure that this is the case, the amount of allowable Subgrantee administrative costs is capped at 10 percent of the grant award. In those instances where the Subgrantee deems that this amount is not sufficient for their activities, they may petition the TDHCA Board for administrative costs in an amount up to 15 percent of the grant.

#### **Comment #55: State Priority System**

One comment was made concerning the priority system for receiving assistance. The commenter suggested that the State develop the priority system that would pertain to the whole area, rather than the local councils of governments deciding the programs in their area. The commenter said that the need should be equalized across the whole area, rather than one household receiving assistance in a region that might not in another.

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

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

Priorities will be set in each region based on consultation with the local communities in the affected area.

###### ***ORCA***

The State has determined that by using the COGs with considerable input from the communities they represent will allow local control of the funding decisions.

#### **Comment #56: Funds for Existing Revolving Loan Funds for Health Facilities**

One comment was made regarding local health facilities that provided services to hurricane victims. The commenter suggested that a portion of the CDBG disaster funds be allocated to existing revolving loan funds that are made available to community clinics, community hospitals, and local health providers.

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

###### ***ORCA***

Repair of damage to community clinics, community hospitals, and local health providers with revolving loan funds is eligible under the CDBG regulations.

#### **Comment #57: Requested Waivers**

A comment from the South East Texas Regional Planning Commission requested that the departments seek the following waivers:

- 1: "Restrictions on the repair or reconstruction of buildings used for the general conduct of government at 42 USC 5305(a)(2) and (a)(14) and 24 CFR 570.207(a)(1)."

2: “The 50% of down payment limitation on direct homeownership assistance for low or moderate-income homebuyers at 42 USC 5305(a)(25)(D).”

3: “The requirement that 70% of funds are for activities that benefit low and moderate income persons at 42 USC 5304(b)(3)(A) and 24 CFR 570.484.”

4: “The provision at 24 CFR 570.483(b)(4)(ii) that requires units of general local governments, for job creation activities, to document that either or both of the following conditions apply to at least 51% of the jobs at the time CDBG assistance is provided: 1) the jobs are known to be held by low or moderate income persons, or 2) the jobs can be expected to turn over within two years and be filled by or made available to low or moderate income persons upon turn over. Instead, units of local government in the hurricane impacted areas will be able to presume that all jobs retained as a result of the CDBG funds meet one or both of these conditions.”

5: “The one-for one replacement requirements at 42 USC 5304(d)(2) and 24 CFR 570.488 for low and moderate income dwelling units (1) damaged by the disaster, (2) for which CDBG funds are used for demolition and (3) which are not suitable for demolition requires that all occupied and vacant occupiable low/moderate income dwelling units that are demolished or converted to use other than low/moderate income dwelling units in connection with a CDBG activity must be replaced with low/moderate income dwelling units.”

6: “Requirements that state grantee must match the amount of CDBG funds used for administration and limits administration and technical assistance to three percent and limits the state and its grantees to 20% of the aggregate amount received of the state CDBG program at 42 USC 5306(d)(3)(A), and 24 CFR 570.489(a)(1)(3).”

7: “The provisions at 42 USC 5304(j) and 24 CFR 570.489(e) that permit states to allow units of general local government to retain program income. For purposes of the supplemental funds, all program income will be returned to the state and will become program income to the most recent regular CDBG program year.”

8: “Requirements at 42 USC 12706 and 24 CFR 91.325(a)(6), that housing activities undertaken with CDBG funds be consistent with the strategic plan and 24 CFR 570.903, which requires HUD to annually review grantee performance under the consistency criteria.”

9: “The requirement at 42 USC 5306(d)(1) and 24 CFR 570.480 (a) that states electing to receive CDBG funds must distribute the funds to units of general local government in the state’s nonentitlement areas.”

10: “The requirements at 24 CFR 570.207 (b)(3) relative to new construction of housing.”

**Staff Response:**

***TDHCA and ORCA***

The State is submitting a request for waivers as part of the final Action Plan.

**Comment #58: Reconstructing Lives**

One comment emphasized that that the goal here should be to reconstruct the lives of the Rita evacuees, not just reconstruct buildings. The commenter specifically mentioned offering \$20,000 in down payment assistance, so that households could choose where they would like to live and work, and also establish roots and build equity by purchasing a home.

**Staff Response:*****TDHCA***

Assistance provided through the CDBG Disaster Recovery Program is intended to afford individuals the opportunities to rebuild their lives. The COGs will set priorities for the use of funds through their citizen participation process, and that may include down payment assistance, which is an eligible CDBG activity.

**Comment #59: Job Training**

One of the comments concerned the need for job training for the evacuees.

**Staff Response:*****TDHCA***

The COGs will set priorities for the use of funds through their citizen participation process, and that may include job training assistance, which is an eligible CDBG activity.

***ORCA***

Job training activities are eligible as public services benefiting low to moderate income individuals and can be funded under the Action Plan subject to prioritization at the regional level. Business loans that lead to job creation or retention are also eligible activities.

**Comment #60: Portability of Assistance**

A commenter suggested that assistance be standard and portable across the region, so that if a household receiving assistance moved within the region, they could still receive assistance.

**Staff Response:*****TDHCA***

The COGs will set priorities for the use of funds through their citizen participation process; they may allow the portability of assistance within the region.

**Comment #61: Consideration for Areas Not Receiving Assistance**

One commenter asked for special consideration for areas that did not receive assistance from FEMA or the Red Cross, but have damages.

**Staff Response:**

***TDHCA***

Funding for unmet housing needs under this program will be awarded to COGs and prioritized based on their citizen participation process. COGs will apply on behalf of cities, counties, and federally recognized Indian tribes for non-housing needs. Each awardee must ensure that duplication of benefits does not occur.

***ORCA***

Any eligible activity in the 29 affected counties will be eligible under the Action Plan subject to the priorities set in each region.

**Comment #62: Use of Funds for Repair of Well**

One commenter asked if funds could be used to repair a well that became inoperable after the hurricane, but may not have become inoperable because of the hurricane.

**Staff Response:**

***ORCA***

Only activities resulting directly from damage caused by Hurricane Rita will be able to receive funding under the Action Plan. Applicant would need to demonstrate this first at the COG level and then at the State review level.

**Comment #63: Consideration for Areas Not Eligible for FEMA Assistance**

A comment was made regarding areas that were not eligible for certain categories of FEMA assistance. Specifically, the comment concerned Harris County, which was eligible for FEMA categories A and B, but nothing else. The commenter asked that consideration be given to these areas for funds for which they were not eligible, such as infrastructure, because other areas that are eligible can apply for them through FEMA.

**Staff Response:**

***ORCA***

Any activities eligible under the CDBG regulations, in the effected counties, for damage resulting from Hurricane Rita are eligible for funding under the Action Plan.

## Public Comment by Commenter

Commenter	Commenter Info	Source	Comments Made by #
Joe Folk	County Judge, Jasper County	Written comment given to presenters (also read statement at Nacogdoches hearing)	1
Glynn Knight	ED, ETCOG	Written comment given to presenters (also read by Walter Diggles at Nacogdoches hearing)	2
Jimmie Cooley	Mayor, City of Woodville	Written comment given to presenters (also read statement at Livingston hearing)	1
Ken Martin	ED, Texas Homeless Network	Written Comment by Email	3
Carl Thibodeaux	County Judge, Orange County	Written Comment	4
Billy Caraway	County Judge, Hardin County	Written Comment	4
Walter Diggles	ED, DETCOG	Nacogdoches Hearing Testimony	5,6,7,8,9,10,11
David Waxman	Consultant	Nacogdoches Hearing Testimony	4,6,9,12,13,14,15,16
Joe Folk	County Judge, Jasper County	Nacogdoches Hearing Testimony	1
Truman Dougharty	County Judge, Newton County	Nacogdoches Hearing Testimony	11,17
Floyd "Doc" Watson	County Judge, Shelby County	Nacogdoches Hearing Testimony	11,18
Sue Kennedy	County Judge, Nacogdoches County	Nacogdoches Hearing Testimony	19
David Waxman	Consultant	Beaumont Hearing Testimony	4,20,21,22
Suzie Simmons	Councilwoman, City of Sour Lake	Beaumont Hearing Testimony	4,23,24
Guy Goodson	Mayor, City of Beaumont	Beaumont Hearing Testimony	25
Chris Boone	Public Works, City of West Orange	Beaumont Hearing Testimony	26
Sam Lucia	Disaster Recovery Liaison, Beaumont	Beaumont Hearing Testimony	27
Linda Gaudio	Memorial Hermann Baptist Hospital	Beaumont Hearing Testimony	28
Jeanie Turk	Realtor speaking for Hardin County WCID 1	Beaumont Hearing Testimony	6
Ruby Martin	Mortgage Lender	Beaumont Hearing Testimony	29
Michael Hunter	Consultant	Beaumont Hearing Testimony	30,31,32,33,34
Mark Viator	Chairman, SETX Recovery Coalition	Beaumont Hearing Testimony	4,18
Jimmie Cooley	Mayor, City of Woodville	Livingston Hearing Testimony	1
Walter Diggles	ED, DETCOG	Livingston Hearing Testimony	5,6,11,35
David Waxman	Consultant	Livingston Hearing Testimony	4,20
Jay Rice	Consultant	Livingston Hearing Testimony	36,37,38,39,40
Ray Vann	Consultant	Livingston Hearing Testimony	41
Steve Kerbow	Consultant	Livingston Hearing Testimony	42,43
Carlos Bullock	Council Member, Alabama-Coushatta Indian Tribe	Livingston Hearing Testimony	44
Carl Griffith	County Judge, Jefferson County	Written Comment by Email	4
Troy Jones	Mayor, City of Groveton	Written Comment by Mail	7
Bob Dunn	Mayor, City of Nacogdoches	Written Comment by Mail	36,38,45,46
JA Johnson	Caldwell Leadership Institute	Written Comment by Fax	47
Jack Steele	HGAC	Written Comment by Fax	4
John Henneberger	Texas Low Income Housing Service	Written Comment by Email	48,49,51,52,53,54
John Henneberger	Texas Low Income Housing Service	Austin Hearing Testimony	48,49,50,51,52,53,55
Steve Shelton	UT Medical Branch	Austin Hearing Testimony	49,50,52,55,56
Chester Jourdan	ED, SETRPC	Written Comment by Email and Mail	4,20,57
Bill White	Mayor, City of Houston	Houston Hearing Testimony	58,59,60
Lynn Wells	Mayor, City of Daisetta	Houston Hearing Testimony	61
Brenda Kirk	Consultant	Houston Hearing Testimony	27
Phil Patchett	City Manager, City of Trinity	Houston Hearing Testimony	62

Commenter	Commenter Info	Source	Comments Made by #
Rob Wroblewski	Chief of Police, City of Nassau Bay	Houston Hearing Testimony	63

APPENDIX C. MAP OF HURRICANE RITA TRACK AND ASSOCIATED WIND SPEEDS

Source: U.S. Fish and Wildlife Service website March 2, 2006 (<http://www.fws.gov/southwest/HurricaneRita/Images/RitaMap1.pdf>)



**APPENDIX D. FEMA HOUSING ASSISTANCE NEED DATA (By COG and County)**

Source: FEMA Individuals and Households Program (IHP) Hurricane Rita Data for Eligible Counties as of 2/3/2006.

COG	County	Applications	IHP Referrals	IHP Eligible	IHP Amount	Housing Assistance Referrals	Housing Assistance Eligible	Housing Assistance Amount	Other Need Referrals	Other Need Eligible	Other Need Amount	
DETCOG Total	Angelina	9,632	7,113	3,335	\$5,538,337	5,253	1,914	\$4,040,640	4,692	1,791	\$1,497,697	
	Houston	104	0	0	\$-	0	0	\$-	0	0	\$-	
	Jasper	17,382	15,779	12,456	\$30,788,550	14,254	10,540	\$25,384,771	10,285	5,436	\$5,403,779	
	Nacogdoches	5,944	4,484	1,980	\$2,956,349	3,041	974	\$2,024,934	3,259	1,156	\$931,415	
	Newton	6,346	5,715	4,495	\$12,150,693	5,208	3,862	\$10,164,520	3,768	1,953	\$1,986,173	
	Polk	11,459	9,083	4,943	\$9,555,577	7,174	3,533	\$7,736,985	6,055	2,137	\$1,818,592	
	Sabine	3,914	3,142	1,714	\$3,059,873	2,425	1,115	\$2,390,738	2,078	806	\$669,135	
	San Augustine	2,205	1,741	996	\$1,822,598	1,391	658	\$1,371,711	1,162	529	\$450,887	
	San Jacinto	5,906	4,790	2,788	\$5,722,435	3,753	1,904	\$4,435,673	3,256	1,349	\$1,286,762	
	Shelby	2,185	1,642	618	\$930,652	1,271	361	\$679,606	1,021	297	\$251,047	
	Trinity	2,425	1,808	943	\$1,469,188	1,319	535	\$1,064,401	1,209	507	\$404,788	
	Tyler	9,123	8,072	6,300	\$16,999,259	7,092	5,125	\$13,599,143	5,539	3,113	\$3,400,115	
	<b>DETCOG Total</b>		<b>76,625</b>	<b>63,369</b>	<b>40,568</b>	<b>\$90,993,511</b>	<b>52,181</b>	<b>30,521</b>	<b>\$72,893,122</b>	<b>42,324</b>	<b>19,074</b>	<b>\$18,100,390</b>
	ETCOG Total	Cherokee	79	0	0	\$-	0	0	\$-	0	0	\$-
		Gregg	27	0	0	\$-	0	0	\$-	0	0	\$-
		Harrison	34	0	0	\$-	0	0	\$-	0	0	\$-
		Marion	5	0	0	\$-	0	0	\$-	0	0	\$-
		Panola	40	0	0	\$-	0	0	\$-	0	0	\$-
		Rusk	39	0	0	\$-	0	0	\$-	0	0	\$-
		<b>ETCOG Total</b>	<b>224</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
HGAC Total		Brazoria	9,914	5,384	1,172	\$2,270,269	3,845	1,072	\$2,104,700	3,158	127	\$165,569
		Chambers	9,078	7,469	4,840	\$10,586,720	6,266	3,904	\$8,782,799	4,636	1,896	\$1,803,921
		Fort Bend	3,761	2,160	576	\$1,117,274	1,598	530	\$1,056,431	1,216	57	\$60,844
		Galveston	42,337	27,545	9,737	\$19,671,690	21,842	8,807	\$17,952,050	16,282	1,626	\$1,719,640
		Harris	89,032	54,298	15,414	\$27,835,508	40,071	13,331	\$25,510,559	32,984	2,647	\$2,324,949
		Liberty	27,417	22,567	13,876	\$28,292,469	18,028	10,641	\$23,491,774	14,729	5,530	\$4,800,694
	Montgomery	11,504	8,523	3,814	\$6,456,511	5,861	2,303	\$4,823,907	5,949	1,890	\$1,632,605	
	Walker	2,448	1,792	808	\$1,492,337	1,375	566	\$1,220,242	1,180	311	\$272,095	
	<b>HGAC Total</b>	<b>195,491</b>	<b>129,738</b>	<b>50,237</b>	<b>\$97,722,778</b>	<b>98,886</b>	<b>41,154</b>	<b>\$84,942,462</b>	<b>80,134</b>	<b>14,084</b>	<b>\$12,780,317</b>	
	Hardin	24,615	22,596	18,386	\$45,606,168	20,945	16,397	\$38,566,023	13,263	7,081	\$7,040,145	
Jefferson	134,824	125,399	103,957	\$246,481,295	121,776	101,082	\$220,692,269	59,762	20,561	\$25,789,026		
Orange	44,420	41,855	35,317	\$90,062,411	40,166	33,240	\$76,955,705	24,225	12,401	\$13,106,706		
<b>STRPC Total</b>	<b>203,859</b>	<b>189,850</b>	<b>157,660</b>	<b>\$382,149,874</b>	<b>182,887</b>	<b>150,719</b>	<b>\$336,213,997</b>	<b>97,250</b>	<b>40,043</b>	<b>\$45,935,877</b>		
<b>Grand Total</b>	<b>476,199</b>	<b>382,957</b>	<b>248,465</b>	<b>\$570,866,163</b>	<b>333,954</b>	<b>222,394</b>	<b>\$494,049,581</b>	<b>219,708</b>	<b>73,201</b>	<b>\$76,816,584</b>		

**APPENDIX E. FEMA PUBLIC ASSISTANCE PROGRAM REPORTED DAMAGE BY COUNTY**

County	Reported Damage
Nacogdoches	\$9,169,743.44
Angelina	\$1,776,366.70
Houston	\$266,685.47
Jasper	\$38,101,568.43
Newton	\$2,521,555.65
Polk	\$1,156,307.82
Sabine	\$674,436.12
San Augustine	\$7,486,361.32
San Jacinto	\$125,305.43
Shelby	\$379,100.05
Trinity	\$909,295.66
Tyler	\$28,550,757.54
Deep East Texas Council of Governments - Region Total	\$91,117,483.63
Cherokee	\$201,742.56
Gregg	\$64,795.50
Harrison	\$114,674.64
Marion **	N/A
Panola	\$131,035.20
Rusk	\$525,170.32
East Texas Council of Governments - Region Total	\$1,037,418.22
Brazoria	\$1,984,997.86
Chambers	\$1,972,305.97
Fort Bend	\$453,626.63
Galveston	\$6,638,771.39
Harris	\$2,534,873.63
Liberty	\$3,029,508.62
Montgomery	\$3,150,923.59
Walker	\$8,560,640.29
Houston-Galveston Area Council - Region Total	\$28,325,647.98
Hardin	\$24,001,733.09
Jefferson	\$70,667,214.40
Orange	\$4,464,763.10
Southeast TX Regional Planning Commission - Region Total	\$99,133,710.59
<b>Total</b>	<b>\$219,614,260.42</b>

\*\* Not Available

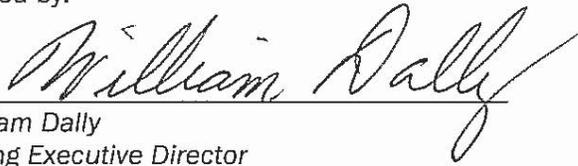
## APPENDIX F. CERTIFICATIONS FOR STATE GOVERNMENTS, WAIVER AND ALTERNATIVE REQUIREMENT

In accordance with applicable statutes, regulations, and notices the State of Texas makes the following certifications:

1. The state certifies that it will affirmatively further fair housing, which means that it 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)(ii).)
2. 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.
3. The state certifies its compliance with restrictions on lobbying required by 24 CFR Part 87, together with disclosure forms, if required by that part.
4. 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, possesses the legal authority to carry out the program for which it is seeking funding, in accordance with applicable HUD regulations and this Notice.
5. The state certifies that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR Part 24, except where waivers or alternative requirements are provided for this grant.
6. 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.
7. 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).
8. 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;
9. The state certifies that it is complying with each of the following criteria:
  - a. Funds will be used solely for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of Hurricane Rita in communities included in Presidential disaster declarations.

- b. 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.
  - c. 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.
  - d. 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 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
    - i) 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
    - ii) 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).
10. 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.
11. 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:
- a. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
  - b. 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 non-violent civil rights demonstrations within its jurisdiction.
12. 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.
13. 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.
14. The state certifies that it will comply with applicable laws.

Signed by:



William Dally  
Acting Executive Director  
Texas Department of Housing and Community Affairs

5-12-2006  
Date

**APPLICATION FOR  
FEDERAL ASSISTANCE**

Version 7/03

		<b>2. DATE SUBMITTED</b>	Applicant Identifier
<b>1. TYPE OF SUBMISSION:</b> Application <input type="checkbox"/> Construction <input checked="" type="checkbox"/> Non-Construction	Pre-application <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction	<b>3. DATE RECEIVED BY STATE</b>	State Application Identifier
		<b>4. DATE RECEIVED BY FEDERAL AGENCY</b>	Federal Identifier
<b>5. APPLICANT INFORMATION</b>			
Legal Name:		Organizational Unit:	
State of Texas		Department: Texas Department of Housing and Community Affairs	
Organizational DUNS: 806781902		Division:	
<b>Address:</b>		<b>Name and telephone number of person to be contacted on matters involving this application (give area code)</b>	
Street: 221 East 11th Street		Prefix: Mr.	First Name: William
City: Austin		Middle Name	
County: Travis		Last Name Dally	
State: TX	Zip Code 78701	Suffix:	
Country: United States		Email: william.dally@tdhca.state.tx.us	
<b>6. EMPLOYER IDENTIFICATION NUMBER (EIN):</b>		Phone Number (give area code)	Fax Number (give area code)
74-2610542		(512) 475-3801	(512) 477-3096
<b>8. TYPE OF APPLICATION:</b>		<b>7. TYPE OF APPLICANT:</b> (See back of form for Application Types)	
<input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.)		A	
Other (specify) <input type="checkbox"/> <input type="checkbox"/>		Other (specify)	
<b>10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:</b>		<b>9. NAME OF FEDERAL AGENCY:</b>	
TITLE (Name of Program): Community Development Block Grant		U.S. Department of Housing and Urban Development	
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): 27 Counties impacted by Hurricane Rita		<b>11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:</b> State of Texas CDBG Disaster Recovery under the Department of Defense Appropriations Act, 2006 [Docket No. FR-5051-N-01] [Federal Register: February 13, 2006 (Volume 71, Number 29)]	
<b>13. PROPOSED PROJECT</b>		<b>14. CONGRESSIONAL DISTRICTS OF:</b>	
Start Date: May 9, 2006	Ending Date: N/A	a. Applicant Statewide	b. Project 1,2,5,6,7,8,9,10,14,18,22,29
<b>15. ESTIMATED FUNDING:</b>		<b>16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?</b>	
a. Federal	\$ 74,523,000.00	a. Yes. <input type="checkbox"/> THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON	
b. Applicant	\$ .00	DATE:	
c. State	\$ .00	b. No. <input checked="" type="checkbox"/> PROGRAM IS NOT COVERED BY E. O. 12372	
d. Local	\$ .00	<input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
e. Other	\$ .00	<b>17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?</b>	
f. Program Income	\$ .00	<input type="checkbox"/> Yes If "Yes" attach an explanation. <input checked="" type="checkbox"/> No	
g. TOTAL	\$ 74,523,000.00		
<b>18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.</b>			
a. Authorized Representative			
Prefix Mr.	First Name William	Middle Name	
Last Name Dally		Suffix	
b. Title Acting Executive Director		c. Telephone Number (give area code) (512) 475-3801	
d. Signature of Authorized Representative <i>William Dally</i>		e. Date Signed 05/12/2006	

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Prescribed by OMB Circular A-102