

# **CITY OF WEST ORANGE**

**DR-4332**

**City of West Orange**

**Local Acquisition Program**

**Community Development and  
Revitalization**

# *DR-4332 City of West Orange Local Acquisition Program*

## **Introduction**

The General Land Office (GLO), City of West Orange, and Long-Term Recovery

As a result of Hurricane Harvey (TX-DR-4332), the City of West Orange received over 60 inches of rainfall during the period between August 24, 2017 and August 31, 2017. Flood waters did not recede until September 3, 2017. Streets, homes and businesses throughout the City were inundated with water. Residents were stranded in their homes and several high-water rescues were performed by emergency responders and volunteers.

Residential, commercial and industrial structures throughout the City suffered extensive damages due to flooding associated with Hurricane Harvey. Streets were damaged as a result of standing water and the heavy equipment traffic during debris removal and cleanup efforts. Flood and drainage facilities were heavily damaged, causing homes to continue to flood during periods of relatively small amounts of precipitation. Residents were stranded with no power or food and were without access to emergency services for nearly two weeks. All residents faced an imminent threat of bodily injury during the disaster event. As a result of the massive, widespread flooding, the City suffered significant damages to public infrastructure, critical facilities and housing. The City's economy came to a grinding halt. Residents and businesses continue to face the challenges associated with post-disaster recovery after a storm of unprecedented magnitude.

In response to the needs of homeowners, the City of West Orange applied for and received federal funding through the Texas General Land Office. The GLO's Community Development and Revitalization (GLO-CDR) division oversees the administration of Community Development Block Grant Disaster Recovery (CDBG-DR) funds provided by the U.S. Department of Housing and Urban Development (HUD) following a disaster. These funds remain the most flexible recovery source available and can support communities with protection and resiliency.

The local acquisition program will remove homes and people from harm's way. The City will acquire twenty (20) properties damaged during Hurricane Harvey or located within disaster risk reduction areas and demolish residential structures. The program will relocate homeowners and their families to low risk areas outside of the floodplain/floodway and assist qualified applicants in moving/relocation expenses. Additional incentives, relocation assistance and down payment assistance may be utilized to encourage eligible households to relocate to a suitable living environment.

The purpose of the City of West Orange DR-4332 Local Acquisition Guidelines is to aid in the long-term recovery efforts by encouraging families who face a risk to health and safety due to hazards created by Hurricane Harvey to permanently relocate to areas outside of the floodplain, floodway, or Disaster Risk Reduction area (if deemed applicable). This Program will be administered by the City of West Orange.

## **Overview**

The DR-4332 Local Acquisition Program is designed to assist homeowners that are currently located in the existing or proposed floodplain, floodway, or potential Disaster Risk Reduction Areas (DRRA) to relocate to an area that is less prone to flooding and disaster.

While no Disaster Risk Reduction Areas have been identified at the time of adoption of these guidelines, DRRA(s) may be established at a later to time if conditions are identified that warrant designation by Council.

## **Goals**

HUD has authorized the use of Acquisition programs to:

- (1) Reduce the risk to homeowners from the effects of subsequent disasters.
- (2) Assist in the recovery of low to moderate income households.
- (3) Protect taxpayer resources that might otherwise be needed after disaster in the same area (80 FR 72102).

Acquisition programs support hazard mitigation, floodplain management goals, and resiliency by removing homeowners from the floodplain, thus eliminating vulnerability to future flooding situations.

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

## **Property located in a Floodway May NOT Be Redeveloped**

The City of West Orange may not redevelop property acquired through the DR-4332 Local Acquisition Program located within a floodway. Property located within a floodway and acquired by the City will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or floodplain and wetlands management practices, or other purposes allowed by HUD and accepted by the GLO. No new structure will be erected on property acquired within a floodway under the acquisition or relocation program other than:

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

## **Property located in a Floodplain or DRRA May Be Redeveloped**

The City of West Orange may use property acquired through the DR-4332 Local Acquisition Program located within an existing or proposed floodplain or DRRA for redevelopment activities while ensuring resiliency and mitigating the impact of future disasters. The following covenants/restrictions will be placed upon acquired properties and will remain in effect for perpetuity:

- Any structures constructed shall be elevated at least two (2) feet above base floodplain elevation (BFE)
- Flood insurance shall be maintained on all structures constructed on property

## **Voluntary Acquisition Program**

## Definitions

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

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

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

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

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

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

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

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

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

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

1. An area containing a hazard caused or exacerbated by the Presidentially declared disaster for which the grantee received its CDBG-DR allocation;
2. The hazard must be a predictable environmental threat to the safety and well-being of Program beneficiaries, as evidenced by the best available data and science; and
3. The Disaster Risk Reduction Area must be clearly delineated so that HUD and the public may easily determine which properties are located within the Disaster Risk Reduction Area.
4. In carrying out acquisition activities, the subrecipient must ensure they are in compliance with their long-term redevelopment plans.

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

**Duplication of Benefits:** The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of a loss resulting from a major disaster as to which he/she has already received financial assistance under any other program or from insurance or any other source.

**Elderly Family:**

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

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

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

**Floodplain:** FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area. • "100-year

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

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

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

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

**Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (Title 49 CFR Part 24) (42 U.S.C. 4601 et seq.) (URA):** Applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted program or projects. URA’s objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects. For the purposes of these guidelines, URA mostly applies to residential displacements in involuntary (49 CFR Subpart B) acquisition or multifamily damaged/occupied activities that require the relocation of the tenants. A displaced person is eligible to receive a rental assistance payment that is calculated to cover a period of 42 months, as waived by the FR.

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

## **VOLUNTARY ACQUISITION PROGRAM GUIDELINES**

### **National Objective**

Acquisition activities under the DR-4332 City of West Orange Local Acquisition Program must meet one of the following National Objectives:

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

**LMA** – End use of property provides a benefit to an area determined by census data or household income survey to consist predominantly of low-to-moderate income households

### **Voluntary Participation Program**

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

Homeowners located in an existing or proposed floodplain, floodway, or DRRA may be assisted:

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

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

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

### **Acquisition Program Process:**

1. Homeowner will complete an application to determine eligibility. Part of this process includes:
  - Title Search to be completed by title company.
  - If there are any issues with presenting clear title, the homeowner will be given an opportunity to clear these issues at his/her own expense. The homeowner may seek assistance from the title company that completed the search or from legal aid of their choice.
  - Survey may be required by title company before closing.
2. The City of West Orange will procure a professional appraiser to complete a real estate analysis based on comparative properties. The final Acquisition offer will be based on the Sales Comparison Approach using the post-disaster Fair Market Value as determined by the professional appraiser.
3. The homeowner will have the right to determine the value of the property by hiring an appraiser to conduct their own assessment if they do not agree with the amount offered. If accepted, the City of West Orange will update the offer and submit the offer to the owner.
4. The participating homeowner must remove all personal property from the residence prior to the day of closing.
5. Closing documents – Homeowner must sign the agreement for sale document and a limited subrogation agreement document. If the homeowner receives duplicative funds in the future, (e.g. insurance payments that are currently in litigation) they will be required to pay back funds.
6. If the homeowner qualifies for a Relocation Incentive and/or Down Payment Assistance, the funds are provided once confirmation of relocation is received (closing statement of new home or property) by the City of West Orange. Additionally, a Three (3) Year Promissory Note will be required to be executed at closing. While it is advisable that the homeowner already have a new property lined up to purchase before closing with the City on Acquisition Property, it is not required. However, the homeowner must acquire property at the new location within 60 days of the Acquisition closing.
7. The City of West Orange will ensure that the property title acquired by the City is deed restricted to require elevation of future structures and maintenance of flood insurance as described herein.

### **Demolition of Storm Damaged Property**

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

### **Property Eligibility Requirements for Acquisition**

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

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

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

- 1) Households with members under the age of 18 (minors).
- 2) Female heads of household.
- 3) Elderly & disabled households.
- 4) Military veterans in the household.

A household is considered LMI if their income is less than 80% of the area median income. Income eligibility will be determined using Area Median Income (AMI) based on HUD Section 8 Housing Income Limits, adjusted for family size and verified following the GLO's Adjusted Gross Income Methodology. The methodology uses the previous year's filed tax return or tax return transcript for all household members to verify the household's annual income.

A committee will be formed comprised of City staff and consultants for the purpose of eligibility determinations and case management. Attention will be placed on uniform and consistent documentation materials and criteria used to make determinations.

### **Unmet Needs Analysis**

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

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

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

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

### **Allowable Expenditures**

The following expenditures are allowable under the Acquisition Program:

- The closing costs associated with processing the transaction, recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property and similar expenses incidental to convey the real property to City of West Orange.
  - Penalty costs and other charges for prepayment of any preexisting recorded mortgage.
  - The pro-rated portion of any prepaid real property taxes which are allocable to the period after City of West Orange obtains title to the property or effective possession of it, whichever is earlier.
- Costs for obtaining clear title to the property are NOT allowed.

## **City of West Orange Acquisition Program Additional Assistance and Incentives**

Type of Assistance	*Maximum Assistance Available
Relocation Assistance	Up to \$5,000 for temporary housing and relocation costs
Purchase of a lot w/ intent to build new home or newly constructed home	Up to \$35,000
Purchase of an existing home	Up to \$10,000
Down Payment Assistance	Up to 100% of required amount
Acquisition Incentives	Up to \$35,000

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

**Additional Recovery Relief**

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

These funds will be available as either Down Payment Assistance, Relocation Assistance and/or Acquisition Incentives. If the homeowner accepts any of these types of assistance, a three-year affordability requirement will be executed. The homeowner must live in the newly acquired home for a period of three years and maintain homeowner insurance. Since the replacement home can’t be located in the floodplain, floodway, or Disaster Recovery Area, flood insurance will not be required, but regular homeowner insurance must be maintained. Homeowners may qualify for these funds whether they choose to relocate within the City of West Orange or elsewhere. To qualify for assistance, purchased homes must be considered safe, decent, sanitary housing.

**Down Payment Assistance**

The following items must be met to provide additional funding:

- Purchased a lot or are using a pre-owned lot located outside of a floodplain or to a lower-risk area within the subrecipient’s jurisdiction for construction of a new home (a construction date must be provided), or the applicant purchased a newly constructed or existing home located outside of floodplain or a lower-risk area in the subrecipient’s

jurisdiction.

- Purchased homes must be considered decent, safe, and sanitary.
- The funding must be used within an established timeframe [e.g., sixty (60) days].
- Down Payment Assistance:

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a) HUD approved a waiver to allow homeownership assistance to be provided to households earning up to 120 percent of the area median income and down payment assistance for up to 100 percent of the amount required. While homeownership assistance may be provided to households with up to 120 percent of the area median income, only those funds used to serve households with up to 80 percent of the area median income may qualify as meeting the low- and moderate-income person benefit National Objective.

b) The replacement home is usually more expensive than the Acquisition home because new homes are built to recently adopted building codes and zoning requirements as opposed to older homes.

c) The amount of assistance is based on the determined need of the applicant; however, the amount will not exceed \$35,000.

Eligible properties for down payment assistance include:

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

### **Relocation Assistance**

Relocation Assistance would be other funding needed to purchase a replacement lot or home. These expenditures would include items such as inspections, appraisals, surveys, insurance, closing costs, etc. The following requirements must be met to qualify for the Relocation Incentive:

- Homeowner purchased or will use a pre-owned lot located outside of the floodplain, floodway, or Disaster Reduction Area for construction of a new home. A construction date must be provided.
- Homeowner purchased an existing home located outside of the floodplain, floodway or DRRA.
- Purchased homes must be considered decent, safe, and sanitary.
- The funding must be used within an established timeframe (e.g. sixty (60) days).
- Relocation funding must not exceed:

- \$35,000 – For purchase of a vacant lot with the intent to construct a home (construction date provided).

- \$35,000 – to construct a new home on a lot that was already owned.

- \$10,000 – For purchase of an existing home.

Funding provided toward the purchased property must not be used to duplicate benefits already paid by another federal agency such as FEMA and SBA. The DOB Calculation

Form will need to include payments for eligible relocation assistance.

### **Acquisition Incentives**

The purpose of the incentive is to encourage maximum participation by property owners and remove as many properties as possible from high-risk areas. Incentive payments should assist the household with necessary funds to buy an existing home or construct a home on a newly purchased lot, as applicable. Incentives are allowable post-storm fair market value is used to purchase the home (acquisitions). An incentive is not available for properties that served as second homes. A second home is not the primary residence of the owner, a tenant, or any occupant at the time of the storm. Subrecipients and the state may provide relocation assistance outside of Acquisition activities, as necessary. Subrecipients and the state must document how the assistance will be determined and issued to applicants when determining final eligibility assistance costs. The vacant land limit is set at \$35,000. Although this is the cap, it is not the floor; the actual lot cost should not exceed the standard single lot size in the community.

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

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

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

The City of West Orange will provide the following benefits to households that they displace:

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

The relocation assistance requirements at Section 104(d)(2)(A) of the Housing and Community Development Act and 24 CFR 42.350 are waived to the extent that they differ from the requirements of the URA and implementing regulations at 49 CFR Part 24, as modified by the notice for activities related to disaster recovery. Without this waiver, disparities exist in relocation assistance associated with activities typically funded by HUD and FEMA (e.g., Acquisitions and relocation). Both FEMA and CDBG funds are subject to the requirements of the URA; however, CDBG funds are subject to Section 104(d), while FEMA funds are not. The URA provides that a displaced person is eligible to receive a rental assistance payment that covers a period of 42 months. By contrast, Section 104(d) allows a lower-income displaced person to choose between the URA rental assistance payment and a rental assistance payment calculated over a period of 60 months. This waiver of the Section 104(d) requirements assures uniform and equitable treatment by setting the URA and its implementing regulations as the sole standard for relocation assistance under the federal register notice.



# *Local Acquisition Program Requirements*

## **National Objective**

Housing activities under the DR-4332 City of West Orange Acquisition Program must meet one of the following National Objectives:

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

**LMA** – End use of property provides a benefit to an area determined by census data or household income survey to consist predominantly of low-to-moderate income households

## **Environmental**

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

## **Proof of Event Damage**

For acquisition activities, the homeowner must demonstrate that damage or destruction to the home occurred or a hazard currently exists as the result of the DR-4332 disaster event. All verification methods are subject to City of West Orange approval.

## **Method of Verification**

Disaster damage can be documented by the following source documentation:

- FEMA, SBA or Insurance award letters

## **Alternate Method of Verification**

- If the above-referenced documentation is not available and/or if a homeowner was denied assistance by FEMA, assistance through the DR-4332 Acquisition Program may still be available. Homeowners are not solely ineligible based on a denial by FEMA. Time stamped photos provided by homeowners, neighborhood level media reports, or documentation done by disaster relief organizations may be utilized to determine that the damage was caused by the event. As a last resort, a Damage Assessment complete with photos of the damage and a written assessment of the damage by each photo taken must be performed and conducted by a certified or licensed inspector (HQS, TREC, or similar license). This inspection must be completed in accordance with GLO's Damage Assessment Guidelines and must be supplied by City of West Orange as the GLO subrecipient that certifies the damage occurred as a result of the event.

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

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

The goal of the City of West Orange is to ensure that outreach and communication efforts reach eligible survivors from all racial, ethnic, national origin, religious, familial status, the disabled, “special needs,” and gender groups. Emphasis will be focused on successful outreach to LMI areas and those communities with minority concentrations that were affected by the disaster. Outreach efforts may include:

- Door-to-door canvassing and special outreach efforts to hard-to-reach populations (e.g., seniors, and persons with severe disabilities who either do not have information about the resources available or are unable to apply for resources).
- Advertise with the local media outlets, including newspapers and broadcast media, that provide unique access for persons who are considered members of a protected class under the Fair Housing Act;
- Flyers in utility and tax bills advertising the Program;
- Reach out to public or non-profit organizations and hold/attend community meetings;
- Other forms of outreach tailored to reaching the eligible population, including door-to-door outreach, and on the weekends, if necessary;
- Measures will be taken to make the Program accessible to persons who are considered members of a protected class under the Fair Housing Act by holding informational meetings in buildings that are compliant with the Americans with Disabilities Act (ADA), providing sign language assistance when requested, and providing special assistance for those who are visually impaired when requested.
- Applications and forms will be offered in English and other languages prevailing in the region in accordance with Title VI of the Civil Rights Act of 1964, including persons with disabilities (24 CFR 8.6), Limited English Proficiency (LEP), and other fair housing and civil rights requirements such as the effective communication requirements under the Americans with Disabilities Act. Every effort will be made to assist such applicants in the application process.
- Case managers will help navigate and inform survivors who may qualify for acquisition and Acquisition of their damaged unit to remove them from flood hazards, environmental hazards, and other unsafe conditions while meeting AFFH obligations.
- Documentation of all marketing measures used, including copies of all advertisements and announcements, will be retained and made available to the public upon request.
- Subrecipients and the state will be required to use the Fair Housing logo in Program advertising, post Fair Housing posters and related information and, in general, inform the public of its rights under Fair Housing regulations law.
- The City will coordinate with HUD-certified housing counseling organizations to ensure that information and services are made available to both renters and homeowners. Additional information for each grantee is available here: <https://apps.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?weblistaction=summary>

### **Applications**

Upon approval of these guidelines by the General Land office, the City of West Orange will

accept applications for a period of sixty (60) days by the following methods:

In person:

City of West Orange City Hall\*  
2700 Western Ave.  
West Orange, TX 77630  
Monday - Friday, 8:30 am – 4:30 pm

Via mail:

City of West Orange  
Attn: Theresa Van Meter  
2700 Western Ave.  
West Orange, TX 77630

Special arrangements can be made for persons with special needs, language interpretation or for persons needing alternate times and locations by calling Theresa Van Meter, City Secretary, at (409) 883-3468.

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

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

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

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

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

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

All projects must undergo an AFFH review by the GLO prior to any commitment of funds. Such review will include assessment of a proposed project's area demography, socio economic

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

## **Records Retention**

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

## **Section 3**

Compliance with Section 3 is required by 24 CFR Part 135 and the executed contract between the City of West Orange and the GLO. City of West Orange is subject to the GLO's Section 3 Policy.

## **Homeowner Data**

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

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

## **Procurement Requirements**

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

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

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

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

City of West Orange will procure goods and services using the federal procurement and contract

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

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

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

## **Conflict of Interest**

The conflict of interest regulations contained in the contract between City of West Orange and the GLO prohibit local elected officials, City of West Orange employees, and consultants who exercise functions with respect to CDBG-DR activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, from receiving any benefit from the activity either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.

For purposes of this section, "family" is defined to include parents (including mother-in-law and father-in-law), grandparents, siblings (including sister-in-law and brother-in-law), and children of an official covered under the CDBG-DR conflict of interest regulations at 24 CFR Sec. 570.489(h).

The GLO is able to consider granting an exception to the conflict of interest provision should it be determined by the GLO that City of West Orange has adequately and publicly addressed all of the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the Housing and Community Development Act of 1974 and the effective and efficient administration of the program. City of West Orange should not enter a conflict of interest until justification has been received and approved by the GLO in accordance with applicable procurement laws.

## **Complaint/Appeal Process**

### **General Policy**

The GLO and City of West Orange are responsible for responding to complaints and appeals in

a timely and professional manner. The City will keep a record of each complaint or appeal that it receives to include all communications and their resolutions.

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

## **Responsibilities**

The City of West Orange has tasked an independent consultant, Traylor & Associates, Inc., to handle all homeowner inquiries regarding DR-4332 Acquisitions. Traylor & Associates will:

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

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

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

Michael Stelly  
Director of Public Works  
2700 Western Ave.  
West Orange, TX 77630  
(409) 883-7574

## **Documentation**

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

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

## **Audit Requirements**

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

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

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

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

# *Homeowner Eligibility Requirements*

## **Case Management**

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

City of West Orange Case Managers will work to assist homeowners from inception to close out under the DR 4332 City of West Orange Acquisition Program. A single point of contact will be assigned to each homeowner to ensure that homeowners have the immediate contact information to be successful in their long-term recovery efforts. As applications are being accepted and reviewed for determinations of eligibility to participate in the Program, each homeowner will be counseled and made aware of their application status.

## **Application Intake and Counseling**

Included in this program design is the mechanism to prevent any pre-screening of homeowners without a written application being taken therefore anyone who makes an inquiry about the program is provided City of West Orange application package to complete. All such inquiries will be reported in a format to be provided by GLO. All documentation submitted by the homeowner must include a signed statement, verifying that the information provided is true, complete and accurate. Any false, fictitious, or fraudulent information, or the omission of any material, may subject the homeowner to criminal, civil or administrative penalties. Program documents include the following statement:

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

Case Managers or Interpreters must be able to communicate with the homeowners in their primary language and should be assigned to the clients as appropriate. Additionally, they must ensure effective communications with persons with disabilities pursuant to 24 CFR 8.6 and other fair housing and civil rights requirements (such as the effective communication requirements under the Americans with Disabilities Act). Case Managers will be trained to be well versed in all aspects of the DR 4332 Acquisition Program.

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

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

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

## **Income Eligibility**

Income levels will be established for all homeowners. Although low income homeowners will be given priority, it is not necessary to be low income to qualify for this program. HUD publishes these AMFI levels annually, and eligibility will be based on the most recently published HUD income limits. This program will verify income received by all household members using the Internal Revenue Service (IRS) Form 1040 series method. Documents used in verifying household income must be current as of the date the application is signed.

Income sources include but are not limited to the following:

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

## **Method of Verification**

### **IRS Criteria and Definition**

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

### **Determining Household Composition**

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

#### **Included persons:**

- Head of household, spouse, or co-head of household
- Dependents
- A dependent is never the head, spouse, or co-head. A dependent is a family member who is under 18 years of age, disabled or a full-time student.
- Prison inmates, if scheduled to be released within 12 months
- Children in joint custody, if in home at least 50% of the time or more
- Military personnel, but only if head, spouse, or co-head. Combat/Hazard pay should not be counted as income

- Temporarily absent family members. Gross income and income from assets of temporarily absent family member must be counted in household income, regardless of the amount of income the absent member contributes to the household.
- If a homeowner is separated from their spouse, the homeowner's application will be used as proof that the estranged spouse is permanently absent from the household.

**Excluded persons:**

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

**Proof of Ownership**

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

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

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

**Property Taxes**

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

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

**Duplication of Benefit (DOB) Review**

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

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

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

### **Child Support**

All homeowners and other members of their household must be current on payments for child support. If any member of the household is not current on child support, that member will be required to enter into a payment plan which will be obtained from the Office of Attorney General (OAG). A copy of the payment plan signed by all applicable parties along with documentation demonstrating they are current on their payment plan must be supplied. Each homeowner will be asked to sign an affidavit regarding child support.

### **Damage assessment**

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

### **Environmental Review**

An environmental review must be performed on the property prior to federal funds being committed by City of West Orange (24 CFR Parts 50, 58, 574, 582, 583, and 970). No commitment or disbursement of funds will occur prior to the completion of this review. The environmental review should document compliance with 24 CFR Part 58 and all related laws, authorities and executive orders. The CDBG-DR Program will not reconstruct or rehabilitate homes that have been determined to be in the floodway.

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

Flood Disaster Protection Act of 1973 as amended and Sec. 582(a) of the National Flood Insurance Reform Act of 1994 – compliance with the legal requirements of Section 582(a) mandates that HUD flood disaster assistance that is made available in an Special Flood Hazard Areas (SFHAs) may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for flood damage to any personal, residential or commercial property if: (1) the person had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and (2) that person failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

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

Approved projects will require affordability note monitoring **if** the homeowner receives housing Incentive through the DR-4332 Acquisition Program. For activities that include housing Incentives, City of West Orange will set a budget to accommodate the necessary work to perform the monitoring requirements under the Unsecured Forgivable Promissory Note for three (3) years. To ensure compliance with the requirements of the 13.09 executed with the homeowner, City of West Orange will perform an annual check to confirm all promissory note commitments are in place through the term of the 13.09. Insurance notice of default will be documented and followed up on as they are received by the City. City of West Orange will use the GLO Monitoring Process.

### **Closing Activities**

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

### **Homeowner Eligibility Requirements Summary**

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