

# **The City of Wharton**

## **2016 Floods**

### **Disaster Recovery**

### **Housing Guidelines**

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**Housing Guidelines Updates:**

Housing Guidelines Version	Changes Requested	Approval Date
Original		

**CDBG-DR Housing Program**

Programs and Eligible Activities	National Objective	Program Administrator	Tenure <i>“Start date” is date of HUD’s approval of Action Plan</i>
<b>Single Family/Homeowner</b>			
<b>Homeowner Assistance Program (HAP):</b> <ul style="list-style-type: none"> <li>● Rehabilitation</li> <li>● Reconstruction</li> <li>● Repair/Replace MHUs with new MHUs</li> <li>● Elevation</li> </ul>	Low- and moderate-income and urgent need	GLO-CDR	End date: June 25, 2021

**1. PROGRAM OBJECTIVES**

The City of Wharton, Texas experienced a catastrophic flood event in April 2016. Beginning April 17<sup>th</sup>, the Colorado River started flooding over its banks. At this time, the river crested to 48.29 feet which was the fourth highest crest on record and the highest level observed since November 26, 2004. The record crest is 51.90 which still holds from December 13, 1913<sup>1</sup>.

The primary focus of the housing recovery program is to provide relief for survivors affected by this event while complying with all CDBG-DR requirements and addressing recognized impediments to fair housing choice as required under the Fair Housing Act. Assistance may be provided to survivors with housing rehabilitation, reconstruction and/or elevation, as allowable by an approved Action Plan. The City of Wharton’s housing activities include the following objectives:

- Provide high quality, durable, resilient, mold resistant, energy efficient, decent, safe, and sanitary housing that meets Green Building Standards, and mitigates impact from future disasters. Resilient measures may include but are not limited to: elevating the first floor of habitable area, breakaway ground floor walls, reinforced roofs, and storm shutters.

<sup>1</sup> <https://abc13.com/weather/the-colorado-river-crested-overnight-in-wharton/1302295/>

- While affirmatively furthering fair housing, prioritize households meeting one or more of the following criteria: residents include minors under the age of 18, heads of household, residents are elderly or disabled, and/or are U.S. veterans.
- Emphasize housing choices and designs to reduce maintenance and insurance costs, as well as provide the provision of independent living options.

## 2. DEFINITIONS

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

**Affirmative Fair Housing Marketing Plan (AFHMP):** A document used to help the City offer equal housing opportunities regardless of race, color, national origin, religion, sex, familial status, or disability<sup>2</sup> (24 CFR Part 200, Subpart M). Implementing Affirmative Fair Housing Marketing Requirements Handbook (8025.1) can be obtained from HUD's website [https://www.hud.gov/program\\_offices/administration/hudclips/handbooks/fheo/80251](https://www.hud.gov/program_offices/administration/hudclips/handbooks/fheo/80251).

**Affirmatively Furthering Fair Housing (AFFH):** AFFH is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. The HUD AFFH assessment tool and final rule can be found here: [https://www.huduser.gov/portal/affht\\_pt.html](https://www.huduser.gov/portal/affht_pt.html).

**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 Family Income (AMFI):** Calculated annual limits based on HUD-estimated median family income with adjustments based on family size used for demonstrating LMI beneficiaries in the programs.

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

**Builder/Contractor:** (Used interchangeably) A person who contracts to construct or repair houses or buildings and/or supervises building operations.

**Case Management:** Working with individual survivors and their families to understand the Program's housing options, resulting in clear and transparent determination of eligibility. Case managers must consider all special circumstances of the survivor's needs to decrease their barriers to participate in the program where possible. Staff should meet at designated locations and supply information in a standard format.

**Damage Assessment:** An inspection of the housing unit to document damage from the event. The assessment by an experienced inspector is required to specifically and clearly document storm-related property damage via photographic evidence and detailed narratives using the GLO's Damage Assessment Guidelines, found at <http://recovery.texas.gov/>. Damage assessments must include final cost of repair estimates according to local code, HUD's Housing Quality Standards, and mold remediation, to bring the home up to code at completion.

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<sup>2</sup> 24 CFR 200.625

**Davis-Bacon Act of 1931 (40 USC Part 3141 et seq.) and Related Acts:** All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. This applies to the rehabilitation and reconstruction of residential property only if such property contains not less than 8 units.<sup>3</sup>

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

**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.

**Elevation Standards:** Standards that apply to new construction, repair of substantial damage, or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR 55.2(b)(1).

**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.

**Event:** The Presidentially declared 2016 flooding, disaster event.

**Family:** A household composed of two or more related persons. The term family also includes one or more eligible persons living with another person or persons who are determined to be important to their care or well-being and the surviving member or members of any family described in this definition who were living in a unit assisted under the Housing Opportunities for Persons With AIDS (HOPWA) Program at the time of his or her death.

**Federal Emergency Management Agency (FEMA)-Designated High-Risk Area:** Areas designated by FEMA as vulnerable to significant wind and/or storm surge damage and areas located in 100-year flood zones. These areas will be identified during the environmental review process for each participating jurisdiction.

**Federal Register (FR):** A daily publication of the US federal government that issues proposed and final administrative regulations of federal agencies.

**Flood Disaster Protection Act of 1973 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 Special Flood Hazard Areas (SFHAs) may not be used to make a

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<sup>3</sup> <https://www.hudexchange.info/resources/documents/Housing-and-Community-Development-Act-1974.pdf>



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.

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

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

**Floodplain:** FEMA designated 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 chance of being inundated by a flooding event in any given year.

**General Land Office (GLO):** The Texas General Land Office is the lead state agency for managing the state's Community Development Block Grant - Disaster Recovery grants through the U.S. Department of Housing and Urban Development.

**Grant Agreement:** A funding agreement detailing eligible program costs and project-specific award agreements between The City of Wharton and the GLO, including regulatory provisions, certifications, and requirements.

**Green Building Standards:** All rehabilitation (meets the definition of substantial improvement), reconstruction, or new construction must meet an industry-recognized standard that has achieved certification under at least one of the following programs: (1) ENERGY STAR Certified Homes, (2) Enterprise Green Communities, (3) LEED New Construction, Homes or Existing Buildings Operations, or (4) ICC–700 National Green Building Standard.

**Home/Housing Unit:** (used interchangeably) a house, apartment, group of rooms, or single room occupied or intended for occupancy as separate living quarters.

**Homeowner Assistance Activity:** The utilization of CDBG-DR funding to rehabilitate or reconstruct damaged homes for the applicant to remain in the original home at the original home site. The home to be assisted must have been owner-occupied at the time of the event.

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

**Housing and Community Development Act of 1974, as amended by the Supplemental Appropriations Act of 1984:** Established the program of Community Development Block Grants to finance the acquisition and rehabilitation of real property and which defined the recipients and uses of such grants, with the primary goal of benefitting LMI persons.

**Housing and Urban Development Act of 1968, Section 3:** Requires program administrators ensure that training, employment, and other economic opportunities generated by HUD financial assistance shall be directed to the greatest extent feasible and consistent with existing federal, state, and local laws and regulations, to low- and very low-income persons. Recipients of Section 3-covered funding ensure compliance and the compliance of their contractors/subcontractors with the Section 3 requirements, as outlined in 24 CFR 135.32.<sup>4</sup>

**Housing Quality Standards (HQS):** The HQS establish certain minimum standards for buildings constructed under HUD housing programs. This includes new single-family homes and rehabilitated homes. Outlined in 24 CFR 982.401.

**Low to Moderate Housing (LMH) National Objective:** Any activity that involves the buyout, acquisition, or rehabilitation of property to provide housing or improve permanent residential structures will upon completion benefit and must be occupied by low- and moderate-income households (42 U.S.C. 5305(c)(3)). Income eligibility will be determined using Area Median Income (AMI), adjusted for family size and verified in accordance with GLO's Adjusted Gross Income Methodology. The most current income limits, published annually by HUD, shall be used by the City to verify the income eligibility of each household applying for assistance at the time assistance is provided.

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

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

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

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<sup>4</sup> <https://www.hudexchange.info>

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

**Modular Housing:** A home built in sections in a factory to meet state, local, or regional building codes. Once assembled, the modular unit becomes permanently fixed to one site.

**Needs Assessment:** A needs assessment is a critical component in the allocation of funding across and within National Objectives for CDBG-DR funds. A needs assessment will recommend the proportions of funding that should be set aside to benefit each LMI and non-LMI economic group. The needs assessment will determine the activities to be offered, the demographics to receive concentrated attention, the disabled, "special needs," vulnerable populations, and target areas to be served. The needs assessment will also include an assessment of the types of public services activities that may be needed to complement the program, such as housing counseling, legal counseling, job training, mental health, and general health services. The needs assessment should set goals within the income brackets similar to the housing damage sustained within the impacted areas. Deviations from goals must be approved by the GLO before the Program may move forward. The GLO will work with the City to develop regional local needs assessments. Each needs assessment will be posted for a 14-day public comment period and approved by the GLO before implementation.

**New Construction:** A replacement home that substantially exceeds the original footprint on the existing lot (if permitted).

**One-for-One Replacement:** Subpart B Requirements Under Section 104(d) of the Housing and Community Development Act of 1974, 24 CFR 42.375 provides for public and/or assisted lower-income dwelling units to be demolished or converted to a use be replaced with comparable lower-income dwelling units.

**Program Design:** The selection and development of programs and activities based on a needs assessment. The Program Design must include the type of housing activities that will be offered by the City ; how the program will be marketed; how Fair Housing Objectives will be achieved, as described in the AFHMP; and how funding will be prioritized as determined through a needs assessment.

**Reconstruction:** Demolition and rebuilding of a stick-built or modular housing unit on the same lot in substantially the same footprint and manner. This activity also includes replacing an existing substandard manufactured housing unit (MHU) with a new or standard MHU. The number of units on the lot may not increase, and the total square footage of the original, principal residence structure to be reconstructed may not be substantially exceeded; however, the number of rooms in a unit may be increased or decreased.

**Rehabilitation:** Repair or restoration of storm-damaged housing units in the impacted areas to applicable construction codes and standards.

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

**Subrecipient:** Cities, counties, Indian tribes, local governmental agencies (including COGs), private non-profits (including faith-based organizations), or a for-profit entity authorized under 24 CFR 570.201(o). The definition of subrecipient does not include procured vendors, private grant administrators, or contractors providing supplies, equipment, construction, or services and may be further restricted by Program rules or other guidance including applications. See vendor definition for further clarification.

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

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

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure” (44 CFR 59.1).

**Texas Integrated Grant Reporting (TIGR):** TIGR is the GLO system of record for all CDBG-DR grant management and reporting.

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

**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 City cannot finance the activities on its own because other funding sources are not available. The City 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).

**Vendor:** The subrecipient, or the state-procured vendors, or private grant administrators, providing supplies or services to administer the Program and to serve homeowner assistance needs. Upon approval, the vendor may implement the Program or act on behalf of the GLO or the subrecipient.

### 3. PROGRAM DESIGN

To develop the Program Design for all activities offered through this funding, the City and the state must use qualified data (HUD/FEMA/SBA, insurance data, or other data as approved by the GLO in advance, to allocate the disaster funding). Section 3.A.2 explains an unmet needs assessment.

- Qualified data will be used to document the impact of the relevant storm on the LMI subcategories which will aid in the development of a goal for targeting the use of housing funds in the appropriate levels and to the appropriate economic categories.
- The method of data evaluation utilized by the State and the City (i.e., class distribution categories by income, raw number of homes impacted versus the aggregated dollar amounts impacting communities, etc.) must be made available to the public for 14 days on a publicly accessible website. Notice of the posting of the method of review must be provided to the GLO not later than the day the method is posted on a website. If any public comment is made, the City must address the comment in a public response.

#### A. Program Design Requirements

##### I. National Objective

All housing activities must meet one of the three National Objectives required under the authorizing statute of the CDBG-DR Program:

- **LMI** — Benefitting Low- to Moderate- Income persons:
  - **LMH** — Benefitting Low and Moderate-Income Housing (LMH) where any assisted activity that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low- and moderate-income only to the extent such housing will, upon completion, be occupied by such persons; or
- **Urgent Need** — Meet a need having a particular urgency.

## **II. Unmet Needs Analysis**

An Unmet Needs Analysis of HUD/FEMA or other housing demographic disaster victim data was considered when determining the proportions of funding that must be set aside to benefit each LMI and non-LMI economic group. Using FEMA claims data and other applicant demographic data allows goals to be established in a way that fairly allocates funds across jurisdictions and neighborhoods so that survivors are served in proportion to need. The Needs Assessment determined the activities to be offered, the demographics to receive concentrated attention, 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 Guidelines.

The Needs Assessment documents 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 the City of Wharton can move forward. During the first 90-days of application intake the following goals will be targeted:

- 40.55% of the funds will be targeted to household earning 0% - 30% AMFI
- 30.68% of the funds will be targeted to households earning 31% - 50% AMFI
- 28.77% of the funds will be targeted to households earning 51% - 80% AMFI

91 days after the initial application intake, if there are uncommitted funds, households earning 81% - 120% AMFI will be considered for assistance. However, at no time will funding for these households exceed 30% of the City total allocation. 91 days after initial application intake the following goals will be in place:

- 25.15% of the funds will be targeted to household earning 0% - 30% AMFI
- 19.03% of the funds will be targeted to households earning 31% - 50% AMFI
- 17.84% of the funds will be targeted to households earning 51% - 80% AMFI

These are minimum goals for each category. The City will utilize a minimum of 70% of their funding to serve LMI applicants.

## **III. Environmental Review**

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

## **IV. Proof of Event Damage**

For assistance activities, the unit must demonstrate that the damage or destruction to unit was caused by the Event. Disaster damage can be documented in one or more of the following ways:

- FEMA or Small Business Administration (SBA) letters

- Insurance award letters.
- i. If the above-referenced documentation is not available, an inspection report/Damage Assessment (complete with photos of the damage and a written assessment of the damage with each photo taken) will be conducted by an HQS, TREC, or an inspector with a similar license or experience. The inspector must certify the damage occurred as a result of the event (refer to the GLO's Damage Assessment Guidelines found at <http://recovery.texas.gov/>; or
- ii. If FEMA, SBA, or insurance award letters are not available and an inspection report is inconclusive as to the cause of the damage, the applicant may provide alternative evidence, such as neighborhood-level media reports or documentation of damage by disaster response/relief organizations. City and GLO approval is required for this form of proof.

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

A Damage Assessment will be performed by a qualified inspector to specifically and clearly document event related damage via photographic evidence and detailed narratives if the survivor did not receive FEMA or SBA funds for the repair or replacement of a home. The Damage Assessment may also include a final cost of repair estimate. Damage to homes will be repaired according to construction specifications, local code, and HUD's Housing Quality Standards.

## V. Size of Unit

HUD guidelines provide minimum housing unit size based on anticipated household size and occupancy policies. Two persons per bedroom is deemed reasonable. The City of Wharton follows the HUD HOME Program in determining household size. Household composition determinations will be made by the City early in the eligibility process as this may affect the applicant's decision to proceed with recovery assistance.

### **Exceptions to this standard are based on the following factors:**

- No more than two persons are required to occupy a bedroom.
- Persons of different generations (i.e., grandparents, parents, children), persons of the opposite sex (other than spouses/couples), and unrelated adults are not required to share a bedroom. Note: All persons 18 and over are considered adults.
- Couples living as spouses (whether or not legally married) must share the same bedroom for household size determination purposes.
- A live-in aide who is not a member of the family is not required to share a bedroom with a member of the household. Note: The need for a full-time live-in aide must be documented.
- Individual medical problems (e.g., chronic illness) sometimes require separate bedrooms for household members who would otherwise be required to share a bedroom. Documentation supporting the larger-sized unit and related subsidy must be provided and validated.

- In most instances, a bedroom is not provided for a family member who will be absent most of the time. If individual circumstances warrant special consideration, a waiver request may be approved.
- To comply with the standard, the City and the State must follow and document the reason for a requested exception. See section below.

**When determining family size, all children expected to reside in the unit in the next year as members of the household should be included. Examples include, but are not limited to, the following:**

- Pregnant women: Children expected to be born within the year.
- Adoption: Children who are in the process of being adopted.
- Foster Children: Foster children residing in the unit along with families who are certified for foster care and are awaiting placement. If children are anticipated to occupy the unit within a reasonable period of time, they must be considered when determining the issuance size.
- Joint/Shared Custody Arrangements: In most instances, children in joint/shared custody arrangements should occupy the unit at least 50 percent of the time. However, if individual circumstances merit special consideration, a waiver request may be approved as outlined in the section on Issuance Size Exceptions. The custody arrangement may be verified by the divorce decree/legal documents or by self-certification.
- Custody of Children in Process: Children whose custody is in the process of being obtained by an adult household member. Evidence that there is a reasonable likelihood that the child will be awarded to the adult (e.g., within 3 months) must be provided for the child to be included.
- Children Temporarily Absent from Household:
  - Children temporarily absent from the home due to placement in foster care. Evidence that there is a reasonable likelihood that the child will return to the household (e.g., within 3 months) must be provided for the child to be included.
  - Children who are away at school but live with the family during school recesses.
- Chronic Illness — An individual with an ongoing health problem who requires at least part-time assistance on a regular basis;
- Pending Child Custody cases — Includes, but is not limited to, children in foster care who may be returning home, foster children, pending adoptions, etc.; and
- Parental Custody Situations — Children physically occupy the unit less than 50 percent of the time as documented by a divorce decree and/or self-certification.

Issuance size exceptions may be granted by the City of Wharton and the State.

Waivers for other individual circumstances may be granted with pre-approval by the GLO. The family must request a waiver in writing and explain the need and justification.



## **VI. Timeliness of Application Status**

The City of Wharton will ensure timely communication of the application status to applicants who have applied for disaster recovery assistance. A Case Manager will be assigned to each applicant and will be responsible for contacting the applicant by phone to provide status updates. In the event that the applicant cannot be reached by phone, an email or letter will be sent. A written correspondence will always be sent by mail to inform the applicant of their final application determination. Applicants may call or email their Case Manager to inquire about their application status. Phone numbers and email addresses will be provided once a complete application has been received and a Case Manager has been assigned.

## **VII. Affirmatively Furthering Fair Housing Review**

All projects must undergo an AFFH review prior to any commitment of funds. Such review will include assessment of a proposed project area demography, socioeconomic characteristics, housing configuration and need, education, transportation, health care opportunities, environmental hazards or concerns, and all other factors material to the determination.

## **B. Housing Assistance Caps**

Unit Costs must be necessary, reasonable, allowable, and allocable. Refer to 2 CFR Part 200 Subpart E. The following table (Table 3) charts monetary caps for assistance that apply to applicants based on project type.

**Table 3. Housing Assistance Caps**

Project Type	Reconstruction	Rehabilitation
Base Unit	*Local Composite Bid	*Local Composite Bid <i>max</i> \$65,000
Replacement With Energy Efficient Manufactured Housing Unit (MHU)	*\$75,000	
Non-Coastal Elevation	\$35,000	\$35,000
Coastal Elevation	\$60,000	\$60,000
Water Well	\$30,000	\$30,000
Septic System	\$25,000	\$25,000
Accessibility	\$20,000	\$20,000
Abatement	\$20,000	\$20,000
***Project Soft Costs	***Actual and max \$10,000	***Actual and max \$7,000

**\*Local Composite Bid:** All program units will require a local composite bid which will be performed by the City of Wharton. Composite bid costs are set costs provided by procured builders and include the builder's house plans to be used in the Program. Builders will have their architect and engineering firm design or modify the plans as necessary for the Program. This is included in the architecture costs of a unit. Builder plans will be provided to the City of Wharton and the GLO for review and approval. See 4.H.(1)(b) *Building Specifications for Reconstruction/New Construction* of the Guidelines for further information.

**\*\*\*Project Soft Costs:** Project soft costs are direct costs specifically related to the replacement of an MHU, rehabilitation, reconstruction, or new construction. These costs include site-specific utility disconnect or reconnect fees, permits, elevation certificate work, topographic survey costs, damage assessments/inspections, and code inspections. Additionally, one year of homeowner insurance(s) may be purchased for each unit. If a property was damaged by a flood but was outside of the 100-year flood plain, subrecipients may purchase flood insurance to reduce the economic risk from future floods. The GLO may grant an exception to increase the unit soft cost for unexpected or unforeseen costs during construction. Subrecipients will be required to use the GLO's 11.17 Work Write-Up/Cost Estimate form.

Additionally, a change order request must be submitted with the necessary support documentation to warrant an exception. All change order requests must follow federal and state procurement requirements to obtain reasonable costs.

### **C. Affirmative Marketing Outreach Plan**

The City of Wharton is committed to affirmatively furthering fair housing through established affirmative marketing policies. Affirmative marketing efforts for the disaster funding include the following:

- Implementing an Affirmative Fair Housing Marketing Plan, based on HUD regulations. The plan includes items on the GLO's checklist to affirmatively market units financed through the Program. The procedures cover dissemination of information, applicant technical assistance, project management, reporting requirements, and project review.
- The goal is to ensure that outreach and communication efforts reach eligible survivors from all races, ethnicities, national origins, religious groups, familial statuses, the disabled, those with “special needs,” and gender groups. For each project or program, notification to these populations include:
  - Encouragement to apply for, rehabilitation, reconstruction and/or elevation; and
  - Information about the opportunity to reconstruct, rehabilitate and/or elevate their primary residence that sustained damages due to the event and/or its after-effects.
- Emphasis is placed on successful outreach to LMI areas and those communities with minority concentrations affected by the disaster. Outreach efforts 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).
- In addition to marketing through widely available media outlets, efforts may be taken to affirmatively market the CDBG-DR Program as follows:
  - 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;
  - Mail outs and flyer distribution to residents of impacted areas;
  - Coordination with public and non-profit organizations; and
  - Other forms of outreach tailored to the needs of eligible populations.
- 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 any 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.

- Documentation of all marketing measures used, including copies of all advertisements and announcements, will be retained and made available to the public upon request.
- Wharton will use the Fair Housing logo in Program advertising, post Fair Housing posters and related information and, in general, inform the public of its rights under Fair Housing regulations law.
- Evaluation of outreach activities and applications received will be necessary to determine if outreach is successful and applications that are being received accurately reflect the socioeconomic and other forms of demographic diversity. Evaluation will be ongoing.

## **D. Reporting Requirements**

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

### **I. Section 3**

Compliance with Section 3 is required by 24 CFR Part 135 and the executed contract between the City and Builders. Builders should refer to the GLO's Section 3 Policy.

### **II. Applicant Data**

Reporting requirements will include, but not be limited to, the following:

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

### **III. Records Retention**

All official records on programs and individual activities shall be maintained for a 3-year period beyond the closing of a grant between The City of Wharton and the GLO. Applicant records may be maintained electronically. The City will use the approved electronic record management system

utilizing the GLO's Activity File Checklist. All projects, program activity files, and applicant information received will be maintained within the GLO's system of record.

## **E. Procurement Requirements**

The City of Wharton will maintain adequate documentation showing that the procurement 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. These records include, but are not limited to, the following information:

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

Pricing for rehabilitation shall be developed via an independent damage assessment and work write-up. This becomes the scope of work and will be priced in conjunction with a line-item price list that will be produced out of the original RFP with appropriate reasonable and customary verification.

The City's procurement policies and procedures correspond with the procurement and contract requirements outlined in 2 CFR 200.318 – 200.326.

The City will ensure that the ~~the tri-party contract~~ agreement executed between the subrecipient, homeowner and contractor will document the period of performance, the work to be completed, the agreed price, and contractor or provider's required compliance with all applicable federal, state, and local requirements. If there is a conflict between federal, state, and local laws and regulations regarding procurement, the more stringent law or regulation will apply.

Additionally, the City and Builders will comply with Section 3 (24 CFR Part 135). It is strongly suggested that Builders use HUD's best practices be to help ensure compliance (HUD Model Section 3 Plan), including creating a Section 3 plan. The City will "take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible." (HUD CFR 200.321).

## **F. Site and Development Restrictions**

Housing that is reconstructed, rehabilitated, or newly constructed with CDBG-DR funds must meet all applicable local codes, rehabilitation standards, ordinances, Green Building Standards, and zoning ordinances at the time of project completion.

### **I. General Standards**

All housing units participating in the Program will be required to meet Housing Quality Standards (HQS) detailed under 24 CFR 982.401, Fair Housing Accessibility Standards, and Section 504 of the Rehabilitation Act of 1973. Housing activities must also meet all applicable local building codes and standards. All single-family homes should also incorporate resiliency solutions which

may include but are not limited to: elevating the first floor of the habitable area; breakaway ground floor walls; reinforced roofs; storm shutters; use of ENERGY STAR appliances and fixtures; and mold and mildew resistant products.

## **II. Lead-Based Paint**

All projects must comply with the lead-based paint requirements of 24 CFR Part 35, Subparts A, B, J, K, and R. See additional information regarding lead-based paint abatement in Sections 4.E.(1) and 4.H.(1)(f) of these guidelines.

## **III. Housing Quality Standards (HQS)**

All rehabilitation projects must comply with Housing Quality Standards (HQS) and all applicable local codes and ordinances. CDBG-DR assisted housing that is construction or rehabilitation must meet all applicable state and local housing quality standards and code requirements; and if there are no such standards or code requirements, the housing must meet HUD's Housing Quality Standards in 24 CFR 982.401

## **IV. Constructed or Substantial Improvements**

International Residential Code 2012 or higher (IRC) (with windstorm provisions) and International Building Code (IBC) must be met where they apply. To avoid duplicative inspections when Federal Housing Administration (FHA) financing is involved in a CDBG-DR assisted property, an inspection must be performed by a qualified inspector. All rehabilitation should be designed to incorporate principles of sustainability, including water and energy efficiency, resilience, and mitigating the impact of future disasters. Whenever feasible, Wharton and Contractors should follow best practices, such as Professional Certifications and Standard Work Specifications provided in the U.S. Department of Energy's Guidelines for Home Energy Professionals.

## **V. Green Building**

Reconstructed or substantially rehabilitated housing must comply with the Energy Star (Certified Homes or Multifamily High-Rise Green Standards).

Rehabilitation meeting the substantial damage/improvement definition, must include compliance with ENERGY STAR (Certified Homes or Multifamily High-Rise).

A certificate of compliance issued as part of the chosen standard's compliance process will be required to be submitted as proof of compliance. Homes and multifamily homes in high wind and hurricane areas must also be built in compliance with FORTIFIED Home© standards or any other equivalent comprehensive resilient or disaster resistant building program. These standards also apply to rehabilitation projects that fall within the HUD definition of substantial rehabilitation.

Additionally, the implementation of Green Building Standards will apply for construction

projects completed, underway, or under contract prior to the date that assistance is approved for the project. Subrecipients are encouraged to apply the applicable standards to the extent feasible. For specific required equipment or materials for which an ENERGY STAR-labeled, Water Sense-labeled, or FEMP-designated product does not exist, the requirement to use such products does not apply.

## **VI. Elevation**

The following elevation standards will apply to repair of substantial damage, or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR 55.2(b)(1). All structures, as defined under 44 CFR 59.1, designed principally for residential use and located in the 100-year (or 1 percent annual chance) floodplain that receive assistance for repair of substantial damage, or substantial improvement, as defined under 24 CFR 55.2(b)(10), must be elevated with the lowest floor, including the basement, at least 2 feet above the annual floodplain elevation.

Applicable state, local, and tribal codes and standards for floodplain management that exceed these requirements, including elevation, setbacks, and cumulative substantial damage requirements, will be followed.

The GLO has established elevation costs caps at \$60,000 for elevation of single-family homes in coastal counties, and \$35,000 for non-coastal counties. The GLO may re-evaluate its elevation costs caps during the implementation of the homeowner assistance program based on average costs associated with elevating single-family homes and on a case-by-case basis as needed.

## **VII. Standards for Rehabilitation of non-substantial damaged residential**

Builders and The City of Wharton will follow the HUD CPD Green Building Retrofit Checklist available at <https://www.hudexchange.info/resource/3684/guidance-on-the-cpd-green-building-checklist/>. Builders and the City will apply these guidelines to the extent applicable to the rehabilitation work undertaken, including the use of mold resistant products when replacing surfaces such as drywall. When older or obsolete products are replaced as part of the rehabilitation work, rehabilitation is required to use ENERGY STAR-labeled, Water Sense-labeled, or Federal Energy Management Program (FEMP) designated products and appliances.

## **VIII. Resilient Home Construction Standards**

Subrecipients are encouraged to incorporate a Resilient Home Construction Standards for substantially damaged residential buildings that incorporate a Resilient Home Construction Standard recognized such as those set by the FORTIFIED Home™ Gold Level for new construction or single family, detached homes; and FORTIFIED Home™ Bronze level for repair or reconstruction of the roof; or any other equivalent comprehensive resilient or disaster resistant building program. Homes in Texas windstorm areas must meet the Texas Windstorm standards and be issued a WPI-8 windstorm certificate from the Texas Department of Insurance. Resilient standards when incorporated will increase a home's resilience to natural hazards, including high wind, hail, and

tropical storms.

## **IX. Accessibility**

Single Family Housing Units must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the GLO's Visitability Standards.

## **G. Conflict of Interest**

The conflict of interest regulations contained in the contract between the City of Wharton and the GLO prohibit local elected officials, City 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 can consider granting an exception to the conflict of interest provision should it be determined by the GLO that the City 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. The City should not enter into a conflict of interest until justification has been received and approved by the GLO in accordance with applicable procurement laws.

## **H. Complaint/Appeal Process**

### **I. General Policy**

The City of Wharton and the State 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. The City complaint and appeal process will be posted on the website and provided to each applicant.

When a complaint or appeal is received, a representative will respond to the complainant or appellant within three (3) business days where practicable. For expediency, the City and the State shall utilize telephone communication as the primary method of contact; however, email and postmarked letters will be used as necessary.

### **II. Responsibilities**



Both the City of Wharton and the State shall identify customer service specialists within their program that will be tasked with handling all homeowner inquiries.

Customer service specialists are responsible for (1) determining if complaints and appeals relate to the business or authority of the City, (2) ensuring that a response to all complaints and appeals are within the appropriate time frame (a final response must be provided within 15 working days of the receipt of the final complaint need for additional time), and (3) ushering all complaints and appeals through to a resolution.

The City will handle incoming complaint in the following manner: the first point of contact will be the City vendor. If the complaint cannot be satisfied by the vendor, the complaint will be escalated to the Wharton Community Development Director, if the complaint is unresolved at this stage the City Judge will have the final say in the complaint resolution. As a last resort, the complainant or appellant has the option to contact the GLO to further escalate their request.

### **III. Documentation**

Documentation for each complaint or appeal will be maintained and will include the following:

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

### **I. Audit Requirements**

If the City of Wharton receives funds exceeding the thresholds set in 2 CFR 200.501, Audit Requirements, the City shall have a single or program specific audit conducted in accordance with the applicable federal requirements.

Vendors and contractors employed by the State and City will be required to comply with the executed contract.

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

The City of Wharton reserves the right to change, modify, waive, or revoke all or any part of these guidelines, with the prior written approval of the GLO.

Waivers to the requirements in these Guidelines can only be approved by the GLO and must be provided in writing. The GLO will provide the option for a waiver only after the waiver request has

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

If 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.

#### **4. SINGLE FAMILY HOUSING PROGRAMS**

Eligible activities under the City of Wharton’s Single-Family Housing Programs include rehabilitation, reconstruction and elevation.

##### **A. Survivor Case Management**

Applicants are likely to need support throughout the process. Applicants 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 CDBG-DR Program may be complicated by the loss of documents or temporary residence outside the area. The City of Wharton will work to cultivate partnerships where needed with local and community liaisons such as banks, counseling agencies, legal services, title companies, etc.

The City of Wharton case managers (which will be a third-party consultant) will work to assist survivors from inception to close-out of their recovery needs associated with the Housing Program. As survivor applications are being accepted and reviewed for determinations of eligibility to participate in the Program, each applicant will be counseled and made aware of their application status through email, phone, and/or letters.

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

Anyone who makes an inquiry about the Program will be provided with a GLO application package to complete. The GLO requires a standardized application. All such inquiries will be reported in a format to be provided by the GLO. Applications will be submitted electronically through the TIGR system if available at the time of intake.

All documentation submitted by the applicant must include a signed statement verifying that the information provided is true, complete and accurate. Any false, fictitious, or fraudulent information, or the omission of any material, may subject the applicant to criminal, civil or administrative penalties. Program documents must capture 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 and/or counselors or interpreters will communicate with the applicant in their primary language and will be assigned to the clients as appropriate. Additionally, they will 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 section 504 and the

Americans with Disabilities Act). Counselors will be trained to be well-versed in all housing recovery activity requirements.

**C. Applicant Eligibility Requirements**

The following are threshold requirements, which must be met for an applicant to be eligible for assistance. Eligibility does not guarantee assistance since a prioritization strategy within LMI economic subgroups will be required (consistent with Program Design requirements), and it is expected that there will be more eligible applicants than can be served with available funds.

**IV. General Eligibility**

**a. Income Determination**

The income limits to be utilized for the CDBG-DR Single Family Homeowner Program are area-specific (by City/County) income limits established yearly by HUD for the Section 8 Housing Program. Income eligibility will be determined and verified in accordance with the GLO’s Adjusted Gross Income Methodology. The most current income limits, published annually by HUD, shall be used by the City or the state to verify the income eligibility of each household applying for assistance at the time assistance is provided. The City of Wharton must always use the most recent income limits and will be monitored to ensure compliance with the income guidance as provided throughout these Guidelines.

The current Section 8 Housing Income Limits for the City of Wharton are:

FY 2019 Income Limit	FY 2019 Income Limit Category	Persons in Family							
		1	2	3	4	5	6	7	8
Wharton, TX	Extremely Low ( 30%)	\$12,490.00	\$16,910.00	\$21,330.00	\$25,750.00	\$30,170.00	\$34,050.00	\$33,900.00	\$38,750.00
HUD Metro FMR Area	Very Low (50%)	\$20,550.00	\$23,500.00	\$26,450.00	\$29,350.00	\$31,700.00	\$34,050.00	\$36,400.00	\$38,750.00
	Low ( 80%)	\$32,900.00	\$37,600.00	\$42,300.00	\$46,950.00	\$50,750.00	\$54,500.00	\$58,250.00	\$62,000.00

**b. National Objective**

- i. Beneficiaries of the Single-Family Programs must meet the LMH National Objective of supporting housing activities for impacted persons of low- and moderate-income that, upon completion of the housing activity, will be occupied by such person.
- ii. Assistance to non-LMI applicants may be provided under urgent need (see d. below).

**c. Unmet Needs**

Only applicants with an unmet need related to the CDBG-DR funded event will be eligible. Documentation evidencing impact from the event will be required as part of the unmet needs determination. The unmet needs analysis is discussed in Section 3.A.(2) of these Guidelines.

**d. Proof of Ownership**

The applicant must be an individual who owns the property to be repaired, rebuilt, or replaced due to damage from the event. Ownership can be documented as follows:

- Provide a copy of a valid deed of trust or warranty deed that is recorded in the City of Wharton’s records which cites the applicant’s name. Liens on Housing Units: the City will coordinate with lienholders to ensure the rehabilitation assessment is approved by the lender.
- For MHUs, a Statement of Ownership and Location (SOL) must be provided. Liens on MHU properties: If an applicant owns a mobile home and there is a lien on the property, the City of Wharton will work 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 Texas Department of Housing & Community Affairs, Manufactured Housing Division (TDHCA).<sup>5</sup> Once this is done, the lender can transfer the lien from the mobile home to the property.

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

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

- i. No other party has the right to claim ownership;

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<sup>5</sup> <https://www.tdhca.state.tx.us/mh>

- ii. Everyone who has the right to claim ownership has agreed to participate in the program; or
- iii. A party who has the right to claim ownership could not be located (after all reasonable attempts have been made).

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

- i. Tax receipts;
- ii. Home insurance;
- iii. Utility bills; or
- iv. Other documentation deemed to be acceptable by the GLO.

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

**The above-referenced alternatives are not optional and must be provided to prove ownership for the City of Wharton's HAP Program.**

**e. Principal Residency**

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

**f. Property Taxes**

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

- The property owner qualified for and received a tax deferral as allowed under Section 33.06 of the Texas Property Tax Code or;
- The applicant entered into a payment plan with the applicable taxing authority.

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

### **g. Duplication of Benefits (DOB) Review**

Each application will be reviewed to determine if previous funding awarded to the applicant was appropriately used on the home and if any funds were received for the same purpose. The applicant must have an unmet need to move forward in the program. The City of Wharton must determine the applicant's unmet needs first and then calculate the applicant's DOB. Applicants must provide insurance, FEMA, SBA, and any other type of funding documentation for funds that were received. Additionally, the City will request the State verify that the submitted data is accurate and current at the time of the award, to the best of their abilities (e.g., validate against FEMA data). The City will also determine if insurance was required under the terms of the applicant's mortgage as part of the application review. Regardless of unmet needs and prior funds received, applicant awards cannot exceed program limits.

The total DOB (difference between assistance already received minus expenditures) will equal the remaining gap. The GLO's DOB Calculation Form will be used to determine the total DOB amount. If the total previously awarded assistance is greater than or equal to the total expenditures, then a positive dollar amount will indicate a DOB. To reconcile the DOB amount owed, the applicant can pay the DOB amount, or the applicant may be offered a reduction in the scope on the repair or replacement of their home's nonessential components (e.g., laminate for tile floors, etc.).

The CDBG-DR funds may not be used to pay for damages covered by any FEMA reimbursement, SBA assistance, insurance claim, or any insurance policy including delayed or future payments anticipated. A DOB review must be completed for each project to determine unmet needs prior to award.

The City's policies and procedures to prevent any duplication of benefits when determining an applicant's unmet need are as follows:

- The City representative will conduct an onsite inspection of the applicant's home. The result of the inspection will be a work write-up and cost estimate to elevate (where necessary), repair, or replace the home damaged during the floods.
- During application intake all applicants will be required to fill out an affidavit stating any benefits they have previously received.
- The City will make all reasonable efforts to verify the information provided by the applicant.
- The City will use the GLO approved DOB Calculation Form when determining DOB

- In the case of recapture (e.g., applicant is currently appealing or suing their insurance company; therefore, recapture of future funds will be completed by the City) the City will reimburse the GLO with any recaptured funds. In addition, the City will require an executed Subrogation Agreement for any pending appeals or lawsuits.

#### **h. Child Support<sup>6</sup>**

All applicants and co-applicants must be current on payments for child support. If the applicant or co-applicant is not current on child support, that individual will be required to enter into a payment plan that will be obtained from the Office of Attorney General (OAG). A copy of the payment plan signed by all applicable parties along with documentation demonstrating that they are current on their payment plan must be supplied.

#### **i. Damage Assessment**

Each applicant's home will be assessed to verify that it was damaged from the 2016 Flooding Event. A damage assessment report along with pictures will be required for each applicant.

#### **j. Environmental Review**

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

#### **k. 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.

### **D. Property Eligibility Requirements**

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<sup>6</sup> Family Code, Title 5, Section 231.006

The following threshold requirements are applicable to the assisted unit and must be met for the applicant to receive assistance.

- Unit Characteristics — only single-family owner-occupied units within the City’s jurisdiction will be eligible for Single Family Homeowner Programs.
- Manufactured Housing Units (MHUs or mobile homes) are eligible for rehabilitation at the discretion of the City; however, the MHU to be rehabilitated must be no more than 5 years old at the time of assistance, and no more than \$10,000 in hard and soft construction costs can be used to rehabilitate an MHU. The MHU must pass an HQS inspection upon completion.

## **E. Eligible Improvements**

### **I. Types of Improvements**

- Improvements needed to meet HUD Section 8 existing Housing Quality Standards and Cost-Effective Energy Measures are eligible improvements.
- Improvements must be physically attached to the house and be permanent in nature (e.g., sheds or garages located separately from the house are ineligible). Eligibility of attached structures such as carports or utility rooms is based upon available funds and agreement by the GLO in cases where safety or the structural integrity of the house is involved.
- Improvements will include, as necessary, lead-based paint abatement, asbestos abatement, accessibility for families with disabilities or special needs, energy efficiency, or ventilation items such as ceiling fans, window screens, screen doors, and window blinds.
- Ranges, refrigerators, and other necessary appliances are eligible items; however, they will only be considered eligible when they are not present, or the repair would not be cost effective. They will be dealt with on a case-by-case basis.
- Documentation to support non-traditional housing costs, because they are required by local codes or homeowner associations (e.g., garages, fencing, masonry, etc.), must be submitted to the GLO for approval.
- Required permits, if any, will be obtained by the contractor or builder at his/her expense and will be included as part of the bid costs.
- Assistance will not be used for luxury items, including but not limited to, garage door openers, security systems, swimming pools, fences, and television satellite dishes.
- Garages, fences, and brick or masonry are not generally eligible unless required by jurisdictional code set forth by the city, county, and/or a homeowner’s association.

### **II. Supplemental Improvements**

- All debris, abandoned vehicles, and buildings that pose a safety and/or health threat, as determined by the local jurisdiction or person qualified to make such a determination, must be removed from the property prior to the start of construction. The applicant will remove derelict personal property.



- All electrical components must be inspected, including service meter, wiring, and fixtures, even if no electrical work is being specified. Unsafe components must be replaced. All exposed wiring, switches, and light bulbs in living areas must be encased.
- All homes must be equipped with a smoke detector installed in conformance with the one- and two-family dwelling code.
- Rehabilitated homes inhabited by a member with a disability or elderly persons must be analyzed as to the special physical needs of such persons. Improvements, such as widened doorways, ramps, level entry and doorways, and grab bars in bath areas, must be installed, if appropriate.

**F. Inspection Requirements**

Each project will require an inspection(s) during the lifecycle of the project. The required inspections are outlined below. Further details regarding the inspections are included in Section H of these Guidelines. The program will only pay for one inspection per activity per phase outlined below. Any additional inspection costs will be the responsibility of the designated contractor rehabbing, reconstructing, constructing, or demolishing the home.

**Table 4. Inspection Requirements**

<b>Single Family Housing Inspection Requirements</b>					
<b>Application Type</b>	<b>50%</b>	<b>Final Inspection</b>	<b>Demolition Confirmation</b>	<b>TREC</b>	<b>Monitoring Inspections</b>
Reconstruction	Yes	Yes	Yes	Yes **	%*
Rehabilitation	Yes	Yes****		Yes **	%*
*Monitoring inspections are performed by GLO or subrecipient representatives. **TREC inspections are performed by GLO or subrecipient representatives. ***Not performed on mobile homes. ****For substantial rehabilitation only.					

**G. Project Closeout/Affordability Monitoring Requirements**

Approved projects will require Affordability Note Monitoring. The City of Wharton must consider setting 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 executed Note with the homeowner, the City will perform at a minimum an annual check to confirm all Note commitments are in place through its term. Insurance notices of default should be documented and evaluated as they are received by the City of Wharton. The City should use the GLO Monitoring Process, but alternates can be proposed for GLO approval.

## **Housing Activity Types - Homeowner Rehabilitation and Elevation**

### **I. Overview**

Benefit for LMI applicants is the principal National Objective approved for the Single-Family Homeowner Program. It is important to note that to carry out this objective, the statute requires that not less than 70 percent of the aggregate of CDBG program funds be used to support activities benefitting low- and moderate-income persons.

Eligible activities are as follows: rehabilitation, reconstruction, and associated elevation and demolition charges. The primary focus of HAP is to provide relief for those people impacted, with consideration given to affirmatively further fair housing, as called for within the Fair Housing Act, in accordance with the approved AFHMP.

The subrecipient's Program Implementation begins with determining the survivor's unmet needs for the rehabilitation, or reconstruction of the survivor's home. The subrecipient's approved Needs Assessment and Outreach Plan described in these Guidelines will advise subrecipients on how they are to offer housing activities to meet the types of housing needs experienced by the affected population and their demographics in order to maximize housing recovery efforts.

Rehabilitation or reconstruction assistance is available to applicants that meet all criteria, for costs not yet incurred, subject to funding availability. Rehabilitation will be provided to homes that have up to \$65,000 in estimated damage from the event. All other homes will be reconstructed. Based on the extent of damage, survivors may be eligible for rehabilitation or reconstruction of their homes.

After the final inspection, Form 11.0, Final Housing Inspection has been signed by all required parties, the builder will submit Form 11.04, Building Contractor's Request for Payment which will also require signatures by the builder, homeowner, inspector, and the program representative. A Certificate of Occupancy (if applicable) must be retained in the file.

### **II. Building Specifications**

For reconstructed homes, construction specifications (for 2, 3, and 4- bedroom homes with total square footage ranges) will be developed by the City of Wharton. Each home must be constructed in accordance with local codes and should include resilience and mitigation requirements. Subrecipients may engage an architect to allow for local architectural variations; however, basic square footage (within ranges — see Size of Units below), room requirements, building materials, and general specifications must remain standardized for any home newly constructed or reconstructed with CDBG-DR funding. Elevation options will be developed by the subrecipient. The standardized specifications will then be put out for bid locally. House plans become property of the subrecipient to use for possible future federal funding. Plan costs

should only occur once and may be used throughout the implementation of the housing recovery program.

### **III. Visitability Checklist**

Visitability Checklists are required for single family homes for the first floor only, even if multiple floors exist. However, rehabilitation does not require the completed home include all of the following requirements for reconstruction unless an occupant of the home is disabled:

- i. At least one 36-inch entrance door (preferably the main entrance) is on an accessible route served by a ramp or no-step entrance.
- ii. Each interior door is at least a standard 32-inch door, unless the door provides access only to a closet of less than 15 square feet.
- iii. Each hallway has a width of at least 36 inches and is level with ramped or beveled changes at each door threshold.
- iv. Each bathroom wall is reinforced for potential installation of grab bars.
- v. Each electrical panel, light switch, or thermostat is not higher than 48 inches above the floor.
- vi. Each electrical plug or other receptacle is at least 15 inches above the floor.
- vii. If the applicable building codes do not prescribe another location for the breaker boxes, each breaker box is located not higher than 48 inches above the floor inside the building.

### **IV. Size of Units**

Guidance for the preferred amount of people per bedroom is discussed in the Program Design section of these Guidelines. The GLO-determined total square footage ranges are as follows:

- i. 2 bedroom/1-2 bath home: 1,000–1,330 SF
- ii. 3 bedroom/1-2 bath home: 1,331–1,425 SF
- iii. 4 bedroom/2 bath home: 1,426–1,500 SF

### **V. Rehabilitation Caps**

Rehabilitation of existing homes damaged by the event is capped at \$65,000. Additional expenses, such as elevation, are allowed as limited by the Housing Assistance Caps as described in Section 3.B. of the Program Design section of these Guidelines. Estimated rehabilitation costs exceeding this cap must be paid by the homeowner. The funds must be put into an escrow account prior to construction start. If the gap in funds cannot be provided by the homeowner, the house will be considered ineligible for assistance under this program. An

estimated cost of repair (ECR) using RS Means or similar will determine if the unit is to be rehabilitated. A homeowner providing gap financing should meet with a HUD housing counselor. A list of housing counselors can be found here:

<https://apps.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?&webListAction=search&searchstate=TX>

During the site-specific environmental review, the City of Wharton will identify homes that are subject to historic preservation reviews under Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. Section 306108).

## **VI. Construction**

- i. Housing that is constructed or rehabilitated with CDBG-DR funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. All local permitting and city/county inspections must be completed. International Residential Code 2012 or higher (IRC) (with windstorm provisions) and International Building Code (IBC) must also be met where they apply. All rehabilitation projects must comply with Housing Quality Standards (HQS) and all applicable local codes and ordinances. Additional codes and standard requirements are detailed in the Program Design section of these Guidelines.
- ii. If the unit to be assisted was built prior to 1978 and the type of assistance offered will be rehabilitation, the assisted unit will be tested for the presence of lead-based paint and asbestos-containing materials. If present, the removal and abatement of lead-based paint and asbestos-containing materials will be considered in the costs of rehabilitation under the Abatement Cap as described in the Program Design section of these Guidelines. Lead-based paint and asbestos-containing material inspections provide two benefits: (1) the costs of abatement are considerable and must be factored into the cost estimates for rehabilitation, and (2) the health risks to residents, particularly children in the case of lead-based paint, may be severe, so any presence of lead-based paint in an assisted unit, even one that is to be reconstructed, must be reported so that the residents may seek appropriate medical attention.
- iii. Project construction must be completed within 120 days of the project's Notice to Proceed date or the timeframe provided in the builder's contract, unless otherwise extended, at GLO discretion.
- iv. A pre-construction conference between the assisted homeowner, contractor, and a City representative, will be conducted to ensure all parties (assisted homeowner, contractor, and the City) are in agreement about the work to be completed. The pre-construction conference will consist of two parts:
  - Part 1: Basic contract and procedural issues to include begin- and end-dates of the contract, terms of the contract, payment schedules and procedures, inspection procedures and requirements, responsibilities of the contractor and the assisted homeowner, change order procedures, payment requests and

procedures (escrow account), lead-based paint requirements, role of the City conflict resolution procedures, and other programmatic procedures.

- Part 2: A walk-through of the house for rehabilitation assistance, or a selection of the house plans and other associated design elements. All parties should understand how the work will proceed. Instructions will be given regarding clean up by the homeowner prior to the work and the contractor after the work.

## **VII. Construction Agreement**

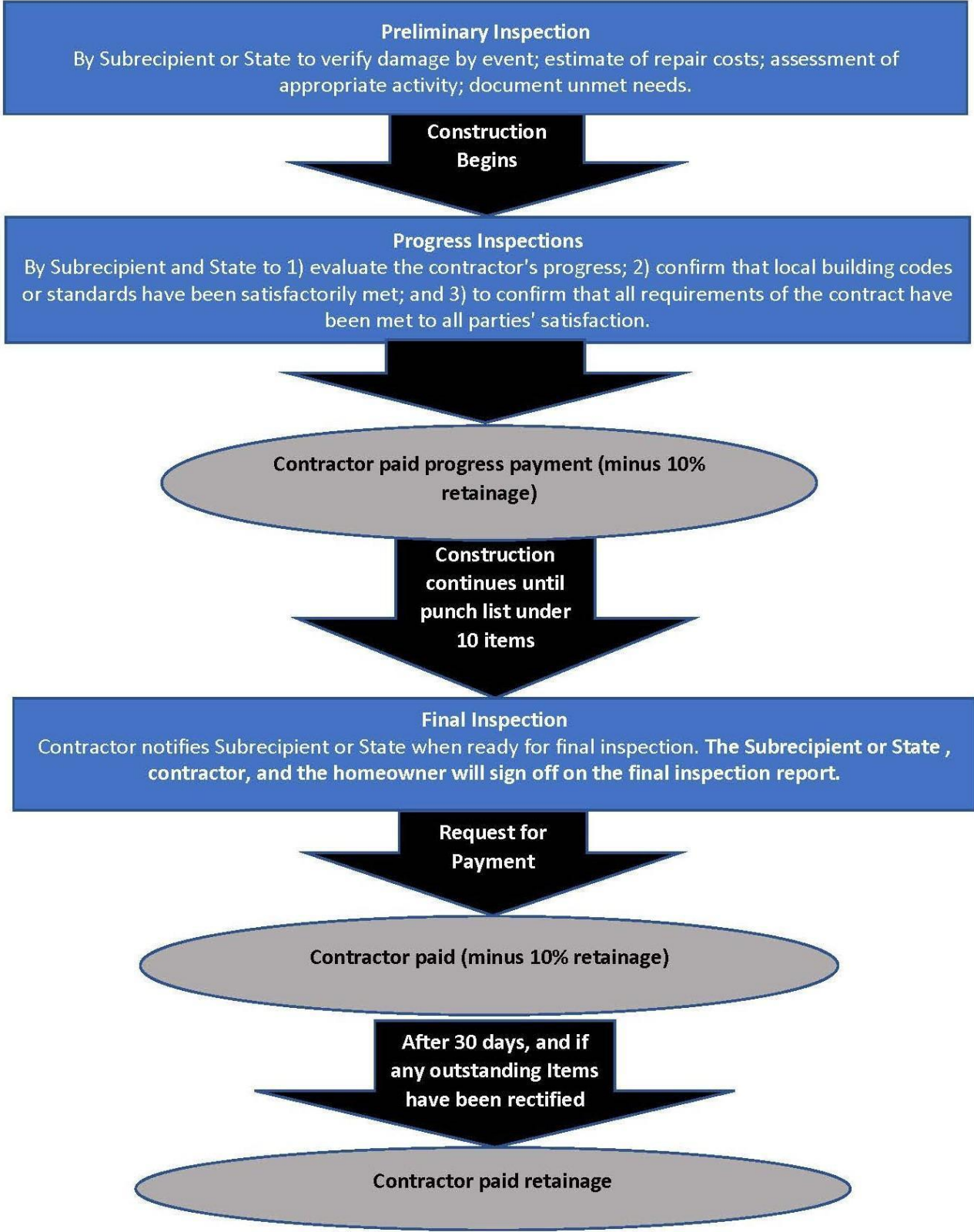
The construction agreement for stick-built homes will be a bi-party agreement between the rehabilitation/reconstruction contractor and the assisted homeowner.

Project construction must be completed within 120 days of the project's Notice to Proceed date or the timeframe provided in the builder's contract, unless otherwise extended, at GLO discretion.

## **VIII. Property Inspection and Final Payment**

For additional information, refer to section 4.F. *Inspections*, of these Guidelines and refer to the flowchart on the next page.

**Inspection and Payment Flowchart**



## **Preliminary Inspections**

A preliminary inspection will be conducted by the City of Wharton to determine the condition of the unit for each application and to verify damage by the event if FEMA, the Small Business Administration (SBA), or insurance award letters are not available to demonstrate tieback to the applicable event. The initial inspection will be conducted by the City's inspector, or another qualified inspector, and a list of the deficiencies will be prepared. The inspection will also provide an estimate of repair costs to determine whether rehabilitation will be offered and must be in sufficient detail to be utilized in the creation of work write-ups. This process documents the unmet needs for the applicant with respect to rehabilitation of their damaged home.

## **Progress Inspections**

- i. Progress inspections (50 percent) performed by the City serve three primary purposes: (1) to evaluate the contractor's progress; (2) to confirm that local building codes or standards have been satisfactorily met; and (3) to confirm that all requirements of the contract have been met to the satisfaction of all parties.
- ii. At key stages in the project, the City will schedule inspections. Key stages are times when work such as wiring and plumbing are completed but still exposed prior to the wall or flooring being replaced; or when work being performed by a specialty subcontractor, who will be present for only a short time, is nearing completion.
- iii. Inspections to approve progress payments will be made at a time requested by the contractor. These inspections will be made within a reasonable amount of time so as not to delay the processing of the contractor's payments. The City will retain 10 percent of all payments. If possible, the same person will conduct both progress and final inspections.

## **Final Inspections**

- i. As in all construction projects, a punch list will be developed toward the end of the job. A punch list is a listing of items written as specifications, which constitute the work necessary to complete the contract. The contractor and the City can develop the punch list as a result of the final inspection, or the contractor and the assisted homeowner can create the list prior to the final inspection. The punch list will represent work documented on the work write-up that was not completed. The list will not add work that had not already been identified. Once the punch list has been prepared, no other work items are expected of the contractor. If the punch list contains more than ten (10) items, the contractor is not ready for a final inspection.

- ii. When work is nearing completion, including any punch list items, the contractor will notify the City representative of a specific date when the job will be ready for a final inspection. The purpose of the final inspection is to guarantee that all work called for in the contract has been completed according to specification. If progress inspections were conducted often enough to make mid-course corrections, the final inspection should only need to catch those items which have been done since the last inspection. The final inspection will be as thorough and deliberate as the initial inspection. Finished carpentry, painting, backfilling, electrical fixtures, all single-family homeowner activities, and clean-up should be closely checked for completion. The City representative and the homeowner will sign off on the final inspection report.
- iii. Every attempt will be made to satisfy the homeowner's concerns at final inspection. If the homeowner objects and refuses to sign off on the final inspection, the GLO or vendor will move forward with closing and place a note in the file for audit purposes.
- iv. The City will make sure that the assisted homeowner has received all warranties and instruction booklets for installed equipment.
- v. After documentation has been submitted to the City evidencing that the home has passed the final inspection, all punch list items have been satisfactorily completed, and all warranties have been issued, the project can be brought to final resolution. For purposes of accountability, Homeowner Assistance Program administrators must have written documentation that the assisted homeowner and the City have accepted the work (the final inspection requires signatures from the homeowner, contractor, and the City).

### **Warranties and Retainage**

- i. When the results of the final inspection indicate that the work is completed in accordance with the contract, the City will submit the contractor's request for payment and, upon receipt of the funds, disburse the funds to the contractor. The City shall retain 10 percent of the funds for 30 days. During this time any outstanding punch list items must be corrected, and documentation of the corrections must be submitted to the GLO or its representative. Following satisfactory correction of all outstanding items, the retainage will be paid to the contractor upon availability of grant funds following the final 30-day period.
- ii. Should the contractor fail to satisfactorily correct any and all outstanding items, (1) the City will not disburse the retainage, (2) the assisted homeowner may take any necessary legal recourse, and (3) the contractor may be removed from performing any more rehabilitation work on the home. The GLO will have all necessary work completed at the GLO's discretion.



- iii. In addition, should the contractor be doing other work under this Single-Family Homeowner Program and fail to correct any warranty problems, no other payments will be made to him/her until such problems are corrected. This will affect a builder's assignment method and these actions should be recorded.
- iv. All work performed by the contractor will be guaranteed for a period of 12 months. Such warranty will be stipulated in the construction contract between the contractor and the homeowner. For a period of 12 months, the assisted homeowner may require the contractor to correct defects or problems arising from his/her work under this contract. Should the contractor fail to do so, the assisted homeowner may take any necessary legal recourse as prescribed in the rehabilitation or new construction contract. A reasonable amount of time will be given to correct the problem; however, in no case will such time exceed 14 days to respond. Warranty notices must be issued by the contractor in advance of expiration (e.g., 6 months and 30 days prior to expiration date of the warranty). The City representative will be copied on these notices.
- v. In addition to the 12-month warranty referenced above, the contractor shall provide a third-party extended warranty that shall cover, at a minimum, the structural integrity and the foundation for a period of 10 years. The City must inform the applicants at closing what the home warranty terms are and when they expire.

### **Prioritization of Funds**

The City will prioritize the LMI applicants. Within each category, any application received within the first 90 days that meets the LMI criteria will be considered before any non-LMI applications. If the program is not oversubscribed at that time, the City may begin processing non-LMI applications.

All applications will be processed based on the application submission time. Applications will be awarded on a first-complete, first-served basis. If an application is incomplete or inconclusive, the City representative will contact the applicant, allowing 14 days for a response. In the instance that a complete response is not received within the allotted 14 days, the application will be withdrawn, and the initial submission date will no longer be effective.

## Eligible Activities

For the purposes of this program, all costs associated with reconstruction, rehabilitation and elevation, and/or mitigation must be adequately documented.

All eligible work must be considered necessary and reasonable by the GLO. Only work performed within the existing footprint of the damaged structure, sidewalk, driveway, or other developed areas will be eligible for reimbursement.

The following table (Table 6) lists, but is not limited to, examples of eligible and ineligible expenditures:

**Table 6. Eligible Reimbursement Program Expenditures**

<b>Eligible Expenditures Include:</b>	<b>Examples of Costs That Are Not Eligible:</b>
Essential appliances (e.g., refrigerator, stove/oven, dishwasher)	Food, clothing, household goods
Permits and inspection fees	Fences or sheds
Removal of construction debris	Day labor paid by cash with no receipt
Utilities (plumbing, electrical and gas systems)	Tools
Structural repairs	Flatbed trailers
Heating, venting, and air conditioning systems	Mortgage payments
Septic or sewer system repair	
Well or water system repair	
Entrance and exit doors	

## H. Program Requirements

### Unsecured Forgivable Promissory Note

- I.** Participants in the Single-Family Homeowner Assistance Programs shall be required to sign an Unsecured Forgivable Promissory Note (GLO Form 13.09) located on the GLO's <http://recovery.texas.gov/> website.
- II.** The City will be required to execute the Unsecured Forgivable Promissory Note (the Note) with assisted homeowners for all homeowner activities under the CDBG-DR Program. The Note will be recorded in the Wharton courthouse records during the affordability monitoring period conducted by the City. The homeowner must comply with the terms of the Note as follows:
  - (a)** Assisted homeowners are required to maintain ownership of the assisted property for at least 3 years. Cash out refinancing, home equity loans, or any loans utilizing the assisted residence as collateral are not allowed for three years. A violation of this policy will activate the repayment terms of the Note.
  - (b)** Assisted homeowners are required to maintain principal residency in the assisted property for 3 years. A violation of this policy will activate the repayment terms of the Note.
  - (c)** Taxes are to be paid and in good standing for the properties assisted. Homeowners may be on a payment plan, but it needs to be submitted to the City.
  - (d)** Insurance must be maintained at the assisted property. Hazard, flood (if applicable), and windstorm (if applicable) will be monitored for the 3-year period.
  - (e)** Transfer notice of requirement to obtain and maintain flood insurance for property. Failure to do so shall deem the homeowner liable to reimburse the state for the relief assistance applied to the property. Evidence of this requirement must be maintained in disclosure documents by the homeowner.
- III.** The City is required to monitor assisted households for compliance with the terms of the Note. Homeowners who default on the terms of the Note will repay the prorated amount and any funds remaining on the note. The calculated default amount may be reported to credit bureaus and the Texas Office of the Attorney General.
- IV.** If the assisted homeowner continues to occupy the home until the term of the note expires, the loan is forgiven, and conditions are clear on the disposition of the property. If the property is sold, transferred, or vacated by the assisted homeowner for any single period that exceeds thirty (30) days during the three-year forgivable loan period, the repayment terms of the Note will be enforced, except in those cases addressed below.
  - (a)** Migrant farm workers who are recipients of a home under this program may, when proven to be performing work for not more than 6 months, leave a home vacant during the time of their employment; however, the recipient may not rent out the home, and they must intend to return to the home. If the assisted homeowner for any reason ceases to reside in the assisted unit during the City CDBG-DR contract period, only LMI persons may re-occupy the unit until the contract is administratively closed by the GLO or the CDBG-DR contract period expires, whichever is earlier.

(b) Accelerated forgiveness in certain cases: In the event of (1) the death, (2) relocation to a managed-care facility, or (3) relocation resulting from documented mental or physical incapacitation of the sole remaining assisted homeowner identified in the original application, the City may forgive any remaining loan balance. However, the requirement that only LMI persons may occupy the assisted housing unit until the CDBG-DR contract is closed by the GLO or the contract period expires, shall not be waived by the City. The City may submit a request to the GLO for assistance with unique accelerated forgiveness cases that may require review as a result of trust or will heirship matters.

V. The project must comply with all applicable federal and state requirements.

### **I. Files and Reports**

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

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

The City may not change, modify, waive, or revoke all or any part of these Guidelines without the written approval of the GLO.

Waivers to the requirements in these Guidelines can only be approved by the GLO and must be provided in writing. The GLO will provide the option for a waiver only after the waiver request has been posted on subrecipient's website for a public comment period of at least 7 days. The waiver request must demonstrate why the housing guidelines are not practicable for the subrecipient.

If 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.

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*Any references contained in these Housing Guidelines may be updated or changed without notice, to reflect the most up to date information available.*