COMMUNITY SERVICES DEPARTMENT
HARRIS COUNTY, TX  8410 LANTERN POINT DRIVE, HOUSTON, TX 77054

AFFORDABLE RENTAL HOUSING PROGRAM GUIDELINES

for 2017 Community Development Block Grant – Disaster Recovery (CDBG-DR)
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Affordable Rental Housing Program Guidelines
Harris County, Texas

1. Introduction
The Harris County Affordable Rental Housing Program (ARHP) is a program that will be administered by the Harris County Community Services Department (CSD). This program has been designed to provide funds for acquisition, rehabilitation, reconstruction, and new construction of affordable multi-family housing projects in Harris County, a highly impacted jurisdiction during Hurricane Harvey. Properties purchased through this acquisition, rehabilitation, reconstruction and new construction program will be acquired and/or developed/redeveloped to preserve affordable housing options for residents and create replacement housing for homes that will be taken off the market through the buyout program.

These guidelines are intended to provide an overview of ARHP as well as information on eligibility, selection criteria, application, construction, closeout and monitoring processes.

Funding for this program is made available through the Department of Housing and Urban Development’s (HUD) Community Development Block Grant Disaster Recovery (CDBG-DR) funds. The primary goal of this program is to preserve and increase affordable housing in Harris County while meeting the requirements set by the CDBG-DR National Objectives associated with the ARHP.

Eligible applicants acting individually or as a participant in a limited partnership (LP) or limited liability corporation (LLC) may include the following:
- For-Profit Developers/Borrowers
- Public Housing Authorities
- Units of Local Governments
- Not-For-Profit Developers/Borrowers

2. Definitions
Acquisition – The utilization of CDBG-DR Disaster funds to acquire real property. Acquisition only is typically not considered a complete activity in the Program and must be combined with another eligible use (i.e. relocation assistance). The purchase price must be consistent with applicable uniform cost principals (i.e. appraised value). Acquisition of existing rental properties are allowed without combining other use if the property is operating as an affordable property.

Act - means Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. Sec. 5301 et seq.).

Affordable Housing - In general, housing for which the occupant(s) is/are paying no more than 30 percent of his or her income for gross housing costs, including utilities. Please note that some
jurisdictions may define affordable housing based on other, locally determined criteria, and that this definition is intended solely as an approximate guideline or general rule of thumb.

**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.

**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.

**Developer** - A person, partnership or corporation who buys and develops houses, buildings, and/or land.

**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 or reconstruction 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.

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

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

- “100-year floodplain” — the geographical area defined by FEMA as having a one percent chance of being inundated by a flooding event in any given year.
  - No new construction will occur in the “100-year floodplain”
- “500-year floodplain” — the geographical area defined by FEMA as having a 0.2 percent change of being inundated by a flooding event in any given year.
- No project will take place in a Floodway

**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 or Multifamily High-Rise), (2) Enterprise Green Communities, (3) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development), or (4) ICC–700 National Green Building Standard.

**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 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.  

**Housing Quality Standards (HQS)** – The HQS establish certain minimum standards for buildings constructed under HUD housing programs. This includes new single-family homes and multifamily housing as outlined in 24 CFR 982.401.
**Housing Unit** – a house, apartment, group of rooms, or single room occupied or intended for occupancy as separate living quarters.

**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 subrecipient or the state to verify the income eligibility of each household applying for assistance at the time assistance is provided.

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

- Very low: Household’s annual income is up to 30 percent of 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.

**Minimum Property Standards** – The Minimum Property Standards (MPS) establish certain minimum standards for buildings constructed under HUD housing programs. This includes new single-family homes, multi-family housing, and health care type facilities as outlined in HUD’s 1994 Edition Handbook (4910.1). Harris County Minimum Property Standards are contained within the Affordable Housing Standards Document.

**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.

**Multifamily Rental** – Eight or more rental units in the property.

**Needs Assessment** – An assessment that determines the type of housing programs that will be offered equitably and based upon an objective assessment of unmet needs in the affected community’s population. Harris County’s Needs Assessment can be found on the Harris County Community Services Department’s website [https://csd.harriscountytx.gov/Pages/DisasterRecovery.aspx](https://csd.harriscountytx.gov/Pages/DisasterRecovery.aspx)

**Participating Mortgage Lender** – Participating Mortgage lender is a lender utilized by a program participant for the ARHP.

**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 subrecipient or the state; how the program will be marketed; how Fair Housing Objectives will be achieved, and how funding will be prioritized as determined through a needs assessment.

*Program Income* – Net income derived from the sale of program assets that exceeds $35,000 in the aggregate, in a single fiscal year, received by the subrecipient and directly generated from the use of housing CDBG-DR funds.

*Reasonable Accommodation* - under the Fair Housing Act, a reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service.

*Reasonable Modification* - under the Fair Housing Act, reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.

*Rehabilitation* - The labor, materials, tools, and other costs of improving buildings, other than minor or routine repairs. The term includes where the use of a building is changed to an emergency shelter and the cost of this change and any rehabilitation costs does not exceed 75 percent of the value of the building before the change in use.

*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 nonprofits (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.

*Supportive Housing* – A model that combines low-barrier affordable housing, health care, and supportive services to help individuals and families (particularly those at are homeless) lead more stable lives and live as independently as possible. In Harris County, clients are referred to supportive housing units through the Coordinated Access System maintained by the Coalition of the Homeless of Houston/Harris County or through a county recognized comparable referral system (such as a domestic violence referral system).

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

**Unsecured Forgivable Promissory Note** – Is an agreement between the assisted beneficiary and Subrecipient/GLO that requires applicants to comply for several terms during a set affordability period. At the end of the affordability period the terms are forgiven after they are met by the homeowner.

### 3. Purpose and Program Scope

The primary objectives of the Harris County Affordable Rental Housing Program (ARHP) are:

- To disburse a portion of the Harris County CDBG-DR1 (P.L. 115-56) grant funds to provide affordable rental opportunities to Low and Moderate Income (LMI) families.
- To restore, rebuild, or replace the rental housing stock damaged or destroyed in the affected areas.
- To increase the number of affordable housing units in the County;
- To increase the quality of affordable housing units in the County

#### 3.1. Types and Maximum Amount of Assistance

The maximum amount to be awarded per development is $25 million (Harris County may request a waiver to exceed on a case by case basis).

##### 3.1.1. Type of Assistance:

- **Loans**: Loans (forgivable or repayable) are not fully amortized. Instead, some or even all of the principal and interest payments are deferred to some point in the future. If forgivable, the forgiveness might be structured to occur at one point in time such as at the end of the affordability period (may apply to both HOME and CDBG funds) or forgiven incrementally (available under CDBG funding only) over time. If repayable, repayment might be required at the sale or transfer of the property or at the end of a fixed period of time. Deferred payment loans require the property or some other form of collateral to be used as security for repayment. They may be used to help rental projects by allowing deferral of loan payments for the first few years until the project becomes stable. Rental projects are considered stable three years after the completion of construction. These loans can accrue interest or be non-interest bearing.
  - **Interest Bearing Loans** or advances-are amortizing loans. Repayment is expected on a regular basis. Usually monthly, so that over a fixed period of time, all of the principal and interest is repaid. Such loans may have interest rates at or below the prevailing market rate. The property or some other assets are required as collateral. The term of the loan may vary.
  - **Non-Interest Bearing Loans**-The principal amount of such loans are paid back on a regular basis over time, but no interest is charged. The property or some other assets are used as collateral. The term of the loan may vary.

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1 Harris County CDBG-DR funds are received through an allocation made by the Texas General Land Office in the State Plan for Harvey Recovery as approved by the U.S. Department of Housing and Urban Development
3.1.1.2. **Grants:**
Grants are provided with no requirement or expectation of repayment. They are most commonly used for projects serving special needs populations. The property or some other assets are required as collateral for security during the applicable affordability period. Non-profit developer organizations, CHDO/CBDO, and government entities providing special needs housing are eligible for grant subsidies.

Additional information on funding assistance is provided in the Harris County Affordable Housing Standard, which are available on the Harris County CSD website at [https://csd.harriscountytx.gov/Pages/raf.aspx](https://csd.harriscountytx.gov/Pages/raf.aspx).

3.2. **Program Targets**
Based on the total amount of $204,500,000 allocated to the Affordable Rental Housing Program, Harris County has identified the following targets:

- 1600 units
- 12 projects with an average of 125 units per project
- 1600 Households

3.3. **Proposed Schedule**
Harris County is seeking the following schedule for the ARHP:

- Application acceptance to begin 1Q 2019
- Acquisition of existing units targeted first or those proposals that are “shovel ready”
- 18-month completion for new construction
- Program completion proposed December 2022

3.4. **National Objective**
The national objective to be utilized for this program include Low-Mod Income per 24 CFR part 570.208.

3.4.1. **Low Mod Income**
A Low- and Moderate-Income Household is defined as a household having income less than 80 percent of the median family income as determined by HUD for Harris County. At least 70% of CDBG Disaster funds allocated to the State of Texas must benefit low and moderate-income households.

3.5. **Displacement**
The permanent displacement of homeowners, tenants, businesses, non-profit corporations or farms is discouraged. If permanent displacement is necessary, Harris County and its subrecipients, owners or developers must comply with federal regulations found at 24 CFR Part 42, Displacement Relocation Assistance and Real Property Acquisition for HUD and HUD-Assisted Programs as amended as well as 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) for Federal and Federally-Assisted Programs as amended.

3.5.1. **Relocation**
Relocation Process must comply with the following:
• Harris County will follow the requirements of the Uniform Relocation Act (URA) or when HOME and or CDBG funds are included, may follow Section 104 (d) of the 1974 Community Development Act, as amended. These requirements provide for uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.

• In the case of temporary and voluntary displacement, Harris County or their subrecipient will inform program participant of the relocation services available. Commonly the information is distributed by flyer to homeowners or tenants, who would be receiving rehabilitation services.

• If permanent displacement is necessary, homeowners, tenants, businesses, farms, or non-profits that occupy the site of the CDBG-assisted project will be identified through tax records and/or visual inspection and informed by certified letter.

• Harris County or their subrecipient will serve as liaison between program participant, contractor, landlords, movers, etc. to ensure a problem free transition. The Harris County or their subrecipient will identify and accommodate the displaced household or business when possible as to their need or preference for a particular unit size and location. These will be determined in the in-take process for relocation services.

• Harris County or subrecipients submits necessary documentation to secure relocation payments.

• Relocation evaluation form is forwarded to program participant to evaluate the success of the relocation.

• If complaints arise, Harris County program administrators, their subrecipient and the program participant will enter into informal complaint resolution.

• Documenting relocation services and maintaining files on each program participant by Harris County subrecipients.

4. Program Administration

The Harris County CSD will administer the ARHP. The ARHP Request for Proposal (RFP) will establish the application process and acceptance period, threshold and evaluation criteria (including applicable building codes), selection criteria, and the award process.

Section 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards or “Super Circular” provide that no employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award.

The CDBG regulations at 24 CFR 570.611 and HOME regulations at 24 CFR 92.356 provide that no person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient or subrecipient that are receiving CDBG or HOME funds and (1) who exercises or has exercised any functions or responsibilities with respect to activities assisted with CDBG funds; or (2) who is in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a financial interest from a CDBG-assisted or HOME-assisted activity, or have any interest in any contract, subcontract, or agreement with
respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter.

5. Eligibility Overview

5.1. Eligibility Activity

Eligible activities include those permissible under Section 105(a) of the Act (Title I of the Housing and Community Development Act of 1974) and the federal regulations at 24 C.F.R. Part 570 which govern the repair, rehabilitation, reconstruction, or new construction (including acquisition, demolition, site clearance, and remediation) under the Affordable Rental Program.

Eligible activities are prioritized as follows:

Priority 1: Acquisition and or Rehabilitation of existing multifamily rental housing developments to improve damaged units by Hurricane Harvey or increase the stock of affordable units to provide housing choice for those affected by Hurricane Harvey;

Priority 2: Reconstruction of multifamily rental housing units that were destroyed by Hurricane Harvey (reconstruction is defined as complete demolition and rebuilding of a multifamily development); and

Priority 3: New construction of multifamily rental housing units to replace units that were destroyed by Hurricane Harvey at another location or increase the stock of affordable units to provide housing choice for those affected by Hurricane Harvey.

5.2. Eligibility Criteria

To qualify for ARHP, an applicant and/or property must meet the following minimum criteria:

- Development must meet CDBG-DR eligibility requirements.
- Development must be located within Harris County and outside the city limits of Houston except that in certain cases where the City and County partner on projects that provide housing.
- A minimum of 51 percent of the units must be restricted for twenty (20) or more years of an affordability period for low- and moderate-income (LMI) individuals/households earning 80 percent or less of the Area Median Family Income (AMFI) at affordable rents.
- Rents - Units designated to meet the affordability requirement (minimum of 51% of total units) must comply at minimum with High and Low HOME rents published by HUD under the HOME program. For households with an Area Median Family Income (AMFI) at 30% or below, rent will be based on 60% of the current Low HOME rent value rounded to the nearest whole dollar. Rents must comply with the applicable rent limit through the affordability period and compliance with the rent limit is calculated in the same manner as the HOME program. Tenant-paid rent, plus utility allowance, plus rental assistance (if any) must be under the High HOME or HUD-approved rent limit.
- Income Targeting of Rents - Income Targeting shall require that developments provide at least 15% of units to households with income at 30% or less of AMFI as published annually for Harris County by HUD and the Texas Department of Housing and Community Affairs (TDHCA). This targeting also includes 22% of units are restricted to households at 50% AMFI or less and assigned the applicable Low HOME rent amount.
based on household size. All remaining income restricted units must comply with High HOME rent for the applicable household size. See the 2018 TDHCA Rent and Income Limits table below for rent amounts. These amounts will be updated annually by HUD and TDHCA. Rents must also comply with other existing Land Use Restriction Agreement (LURA) restrictions, if applicable.

![Restricted Unit reserved by income category:](image)

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<th>Income Category</th>
<th>Percent of Units Reserved</th>
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<tr>
<td>0-30% of MFI</td>
<td>15%</td>
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<tr>
<td>31-50% of MFI</td>
<td>22%</td>
</tr>
<tr>
<td>51-80% of MFI</td>
<td>14%</td>
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<tr>
<td>81% + (Market rate)</td>
<td>49%</td>
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- Property Types: Multi-family rental development is eight or more rental units under common ownership.
- The Harris County Affordable Rental Program Notice of Funding Availability (NOFA)/Request for Proposals will clearly establish the application process and acceptance period, threshold/evaluation criteria (including applicable building codes), selection criteria and the award process.
- Project construction must be completed within 18 months of the effective date of the contract, unless otherwise extended.

### 5.3. Ineligible Applicants
Developments located outside of Harris County are ineligible. Developments located inside the City of Houston are also ineligible except in the case stated above under Eligibility Criteria regarding partnerships between the jurisdictions.

### 6. The Application Process
Harris County Community Service Department’s Request for Proposal (RFP) will establish the application process and acceptance period, threshold/evaluation criteria, and the award process.

#### 6.1. Application Process Overview
Below is a summary of the application process for the HCMFR program:

1. External Communication
   a. Marketing and Outreach to Development Community and Housing Authorities
   b. Request for Proposal (RFP) published on Harris County CSD websites and to interested parties email list
2. Developer Identification and Preliminary Screening
   a. Developers submit applications
   b. Initial threshold review for eligibility and completeness
3. Developer Application Evaluation
   a. Review of full application to evaluate location and new construction / rehab approach
   b. Site and neighborhood reviews (including permits)
   c. Multi-Unit Concentration Policy Review
d. Review design (Engineering Department)
e. Review Phase I ESA of proposed site
f. Financial review and Underwriting analysis
g. Prepare Independent Cost Estimate

4. Underwriting Committee Review
   a. Complete project underwriting
   b. Underwriting Committee Review and Recommendation
   c. Prepare recommendation for Executive Review and Approval

5. Final Application Approval
   a. Executive Review and Approval of Selected project and terms
   b. Provide conditional award letter to Project Applicant.
   c. Project is moved to Contract Phase

6. Appeals
   a. On-going appeals coordination with applicants

6.2. Primary Selection Criteria
HCCSD will develop criteria to award funds to the projects meeting the housing goals and objectives of the program, fair housing criteria, and the needs of the community. Primary criteria include the following:

- Located in High Opportunity Zones; and areas of revitalization as demonstrated by other public and/or private investments in such areas,
- Targets populations and set-asides (especially extremely low-income - 30 percent AMFI) according to RFP guidelines;
- Serves persons with disabilities beyond minimum requirements;
- Leverages public and private financing; (may request waiver to fully fund certain developments to expedite project completion)
- Activity type; and
- Cost-effectiveness.

6.3. Contract Development Phase
A team of advisors from Harris County including staff from Harris County CSD, Harris County Attorney’s Office, and Harris County Engineering Department will assist approved applicants with the following activities:

- Review of final budgets
- Contract development
- Contract monitoring
- Prepare security / legal documents
- GLO workbook assistance

7. Project Requirements
7.1. Development Partners
For the ARHP to be successful, it is important to have strong Development Partners. All partner organizations/firms should have their representatives or employees understand that noncompliance actions such as offering bribes, requesting special treatment, or subverting the
program processes is strictly prohibited under the regulations governing the ARHP. The County expects all partners to comply with these regulations. Non-compliance may result in suspension or debarment from program participation for the individual or the firm they represent depending on the seriousness of the situation.

Identity of Interest refers to situations where the owner, developer, or project sponsor control or own the services to be provided in a project, including but not limited to the general contractor, subcontractor, property manager or other service provider. A declaration of subcontractors or suppliers for which there is an identity of interest through joint ownership with the owner or developer must be declared in the application for funding submitted to the Harris County, and disclosed at completion of the project. Failure to declare Identify of Interest situations may deem a project ineligible. A cost certification shall also be required when such transactions are proposed to ensure that services are provided at a reasonable market cost. Harris County reserves the right to adjust developer profit and/or the amount of funds provided to a project when an Identify of Interest situation exists. Additional information can be found in the Harris County Affordable Housing Standards at https://csd.harriscountytx.gov/Pages/rfq.aspx.

### 7.2. Environmental Review (ERR) (24 CFR Part 58)

The Community Development Block Grant – Disaster Recovery program requires that the environmental effects of each activity carried out with CDBG-DR funds be assessed in accordance with the provisions of HUD’s regulations covering National Environmental Policy Act of 1969 (NEPA) and the related authorities listed in HUD’s implementing regulations at 24 CFR Parts 50 and 58. Activities are limited pending clearance of the environmental review.

All actions that utilize federal financial assistance must undergo an environmental review. The environmental review is meant to be a proactive step for protecting the environment and its inhabitants. It considers both the effects the proposal could create that change its environment and the effects imposed by the environment upon the proposal and its accomplishments.

A complete and clear project description should provide location specific information and geographic boundaries, as well as a delineation of all activities included in the overall scope of the project. The level of review varies depending on the type of activities a proposed project will involve as well as other factors, such as but not limited to environmental concerns or location within a flood plain.

Design and construction documents shall incorporate work necessary to mitigate environmental concerns identified in the environmental review and assessments unless these concerns are addressed prior to construction start and are outside the limits of the construction documents. These should be documented in writing to HCCSD prior to construction. Mitigation methods shall be in accordance with a plan prepared in conformance with applicable Federal, State, and local laws and regulations and accepted by HCCSD.

Due to the importance of the environmental review to CDBG-DR-assisted programs, the following is designed to help those obtaining information for and, performing environmental reviews to understand the relevant legislation and regulations as well as provide helpful hints to ensure the accuracy and promptness of an environmental review.

#### 7.2.1. Environmental Reviews must be completed before:

- Any commitment of CDBG-DR funds. This includes the expenditure of CDBG-
DR funds for activities exempt from further review, such as administrative activities

- Any commitment of non-Federal funds that would have an adverse environmental impact or limit the choice of alternatives for a CDBG-DR-funded project.
- Any choice limiting actions are taken pending approval of the Environmental review by the Applicant/Developer or any representative thereof, CSD, GLO, and by HUD. A choice limiting action is any action that will reduce or eliminate the opportunity to choose alternatives – i.e. acquisition of real property; leasing property; rehabilitation, repair, demolition, construction of buildings or structures; relocating buildings or structures, conversion of land or buildings/structures

7.3. Regulatory Agreement, Deed of Trust and Intercreditor Agreement Requirements

For all acquisition, construction and rehabilitation projects, Harris County shall require the execution and recordation of a Regulatory Agreement, Deed of Trust and Intercreditor Agreement prepared by the County Attorney to secure the obligations of all selected awardees. The Regulatory Agreement is prepared to ensure the affordability of the project while the Deed of Trust and Intercreditor Agreements are utilized to secure performance and recognize all creditors and their positions. Such documents shall be executed near or at the time of commitment of funds under a binding agreement and must be in place prior to any disbursement of grant funds. In all cases, CSD policy requires that all liens and Deeds of Trust be subordinated to the Harris County Regulatory Agreement.

7.4. Duplication of Benefits

Federal law prohibits any person, business concern, or other entity from receiving Federal funds for any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source. A duplication of benefits (DOB) occurs when:

- a beneficiary receives assistance, and
- the assistance is from multiple sources, and
- the assistance amount exceeds the need for a particular recovery purpose

Under federal law DOB must be deducted from the assistance amount (the amount that will be offered for the purchase of the property or for the repair of the structure). The following are sources of funding assistance provided for structural damage and loss that are considered a duplication of benefits (DOB):

- FEMA Individual Assistance (IA)
- FEMA National Flood Insurance Program (NFIP)
- Private Insurance,
- Small Business Administration (SBA)
- other sources.

Assistance received in the form of services instead of money, for property repairs from any source is not considered a duplication of benefits. Funds received from any source including flood insurance, FEMA and hazard insurance that were used to cover repair to the property do not reduce the amount of disaster assistance if the evidence of expenditures at least equals the amount
of assistance. Documentation must be provided demonstrating the cost and type of repair conducted.

7.5. Harris County Affordable Housing Standards

Harris County has adopted Affordable Housing Standards, which describe the housing policy that establish the minimum standard for the use of HOME Investment Partnerships Program (HOME) and Community Development Block Grant Program (CDBG) funds, including funding for Disaster Recovery, in the creation of affordable multi-family and single family housing developments for eligible residents of Harris County. The overall goal to these guidelines and standards is to ensure the development of quality affordable housing and achieve compliance with applicable Federal, State, and local laws, regulations, and policy objectives. Harris County, in order to ensure compliance with federal guidelines, has created the Affordable Housing Standards: Project Standards, Design Criteria and Underwriting Guidelines (“Affordable Housing Standards”) to address neighborhood compatibility, site design, rental rates, compliance period, site and neighborhood standards, as well as local and state development standards, including but not limited to unit specification, public notice, and building code requirements.

The Standards have been designed to include and expand on the requirements of the U.S. Department of Housing and Urban Development’s (HUD) Section 8 Housing Quality Standards (HQS) and meet the requirement to establish minimum property standards under the HOME Investment Partnerships Program. The standards apply to any housing projects that receive funding through the HOME Program, the Community Development Block Grant Program, or other CSD funds made available for the purpose of acquiring, rehabilitating or constructing housing. Harris County shall include funds in the overall project budget to cover the cost for inspection of the project construction. Inspections will be performed by County staff to ensure compliance with federal, state, and local regulations as well as to ensure perform measures as detailed in the contract between Harris County and the subrecipient. The total cost shall be up to 5% of the project budget. This amount will be included in the maximum subsidy calculation and, if match is required, in the required match provided by the subrecipient.

Many of the requirements and standards of this document exceed the requirements of the HUD Section 8 HQS.

7.5.1. Harris County Minimum Property Standard Compliance

The Harris County Minimum Property Standards require compliance with:

- All applicable codes
- All units built before 1978 are required to comply with the lead based paint regulations as described in 24 CFR part 35. Units built before 1978 shall be tested by certified lead based paint professional, if visual cracking, scaling, peeling, chipping, or loose paint is discovered during the inspection.
- Multi-Family units constructed prior to 1967 where asbestos is suspected or where reasonable evidence of asbestos exists will be required to have an asbestos certificate to certify that no hazardous materials are present, including finishes, adhesives, or nonencapsulated building materials. The discovery of any asbestos will require total and verified remediation prior to continuation of any further construction activities.
• Other Governing entities such as a Homeowner’s Association, Local and Federal regulations pertaining to the particular zoning, traffic, drainage, floodplains and fire must also be observed.
• ADA Standards for Accessible Design found at 28 CFR Part 36.
• Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against the handicapped in any federally assisted program. Single family units to be constructed will be made accessible as needed upon request of a prospective buyer if the nature of the disability of an expected occupant so requires in accordance with the Section 504 requirements of C.F.R. §8.29.
• Multi-family dwellings, as defined at 24 C.F.R. § 100.201, to be constructed must also meet the design and construction requirements at 24 C.F.R. § 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619).

Additional information on minimum property standards is provided in the Harris County Affordable Housing Standard, which are available on the Harris County CSD website at https://csd.harriscountytx.gov/Pages/RFQ.aspx.

7.6. Affirmative Marketing/Fair Housing
CSD shall ensure that no person shall on the ground of race, color, national origin, religion, sex, sexual orientation, age, familial status, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or be denied access to the CDBG Disaster Recovery Program. CSD will take additional measures to affirmatively market the CDBG Disaster Recovery Program, as follows:

• When necessary, CSD will make the program accessible to persons who are considered members of a protected class under the Fair Housing Act by holding informational meetings in buildings that are compliant with the Americans with Disabilities Act (ADA), provide sign language assistance when requested, and provide special assistance for those who are visually impaired when requested.
• CSD will provide reasonable accommodations as needed to make the program accessible to people with disabilities.
• CSD will retain documentation of all marketing measures used, including copies of all advertisements and announcements that will be available for public viewing upon request.
• CSD will use the Fair Housing logo in advertising, post Fair Housing posters and related information, and, in general, inform the public of its rights and obligations under Fair Housing regulations.

CSD will engage community members in areas throughout Harris County as well as those in potentially impacted areas, adjacent communities to gather stakeholder input, disseminate important program information, and to answer questions. See Community Engagement and Marketing Plan for further details.

ARHP information will be readily available and maintained on the Harris County Recovery website, http://harrisrecovery.org/
Program information in the form of brochures will be available at public engagement, and community outreach events coordinated and staffed by the CSD. Annually all marketing material will be reviewed and updated as needed. All information will be published in common languages predominantly used in the service area and target communities and will comply with the CSD Limited English Proficiency (LEP) policy.

In addition to marketing through widely available media outlets, CSD will take additional measures to promote the Disaster Recovery Program as follows:

- CSD will advertise with media outlets which provide unique access for persons who are considered members of a protected class under the Fair Housing Act.
- Application process for each property will follow Fair Housing Regulations and Requirements.

**7.7. Section 504**

Section 504 of the Rehabilitation Act of 1973, as amended, provides for equal opportunity to enter facilities and participate in programs and activities. All projects and programs receiving federal assistance must evaluate the current state of accessibility of their programs and activities to disabled participants and employees.

**7.7.1. Section 504 and Affordable Housing**

HCCSD requires those requesting federal assistance for affordable housing to comply with all federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against the handicapped in any federally assisted program. Dwelling units designed and constructed in accordance with the Uniform Federal Accessibility Standards (UFAS) will be deemed to comply with the Section 504 regulation. Accessible units must be, to the maximum extent feasible, distributed throughout the development and must be available in a sufficient range of sizes and amenities so as not to limit choice.

The project developer shall, at its sole expense, furnish the necessary inspection personnel to assure itself of compliance with the requirements of Section 504 and UFAS. The developer shall document and report the results of all inspection activities upon request by HCCSD. To comply with Section 504, the developer shall designate and maintain at a minimum, five percent (5%) of the dwelling units in the development (but not less than one unit) that must be accessible to individuals with mobility impairments. An additional two percent (2%) of the dwelling units (but at a minimum, not less than one unit) must be accessible to individuals with sensory impairments (i.e. hearing or vision impairments), unless HUD prescribes a higher number pursuant to 24 CFR Part 8.22©. In addition to the minimum Section 504 requirements, for new construction and major rehabilitation projects two additional mobility accessible and one additional vision/hearing accessible unit will be required.

**7.8. Davis Bacon**

The Davis-Bacon and Related Acts (DBA), apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of $2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act directs the Department of Labor to
determine such locally prevailing wage rates. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or District of Columbia contracts. The Davis-Bacon Act prevailing wage provisions apply to the “Related Acts,” under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance. DBA provides a wage floor that protects construction workers’ pay, and sets a level playing field for contractors who are bidding on federally funded projects. Davis Bacon shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.

For prime contracts in excess of $100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek. The overtime provisions of the Fair Labor Standards Act may also apply to DBA-covered contracts.

7.8.1. Davis Bacon Requirements
The principal requirements are:

- HCCSD will provide a copy of the current prevailing wage rate decision during the construction procurement phase.
- HCCSD may only award contracts to eligible contractors and subcontractors who have accepted the wage rate decision and have signed a certification to pay wages on that basis, and who will comply with other labor standards.
- Contractors must pay laborers the wage rate determined by the Department of Labor (DOL) to be the prevailing rate in that labor market.
- Contractors must submit weekly payrolls.
- HCCSD is required to report all suspected, reported or confirmed violations to HUD which may investigate these alleged violations.

7.9. Section 3
Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

7.9.1. HUD Section 3 / Minority and Women Business Enterprise (MWBE) Compliance Requirements
The Section 3 program requires that recipients of certain HUD financial assistance provide training, employment, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons.

Federal regulations also require that recipients should make every effort to use local business firms and contract with small, minority-owned and/or women-owned businesses in the procurement process. Specifically, recipients must take affirmative steps to use small firms, minority-owned firms, women-owned firms, or labor surplus area firms in CDBG-financed activities (24 CFR 85.36(c) or 84.44(b)).
All applicants must pick one of two options:

1) Comply with HUD Section 3 and MWBE requirements and complete a HCCSD Section 3 Employment & Minority Business Plan (to be downloaded from HCCSD’s website) to implement with their project; or

2) Choose to pay up to 1% of requested HCCSD funding or $25,000 (whichever is lower) towards HCCSD’s promotion of Section 3 activities in Harris County. Fee must be paid from none federal funds and is due at closing.

If an applicant chooses to comply with option 1 (above), they will be responsible for the following:

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

8. Rental Housing Project Management

Developers partnering with Harris County in the ARHP must have the ability to manage and coordinate the types of activities required in the development of multi-family housing including the following:

- Set-up in GLO system with required documentation
- DBRA Monitoring
- On-going project management monitoring
- Construction management monitoring and site visits
- Progress Inspection
- MWBE / Section 3 reporting

Harris County also expects successful applicants to adhere to the tasks/deliverables outlined below:

8.1. Contract Amendments
- Prepare contract amendments
• Conduct underwriting
• Submit to Evaluation Committee for award revision

8.2. Payment Processing
• Prepare and submit GLO Workbook with each draw
• Release progress payments to developer
• Adherence to 2 CFR 200 Procurement Code
• Draw funds

8.3. Inspections
• Minimum Property Standards Closeout Inspection
• TDLR and FHA Inspections
• HQS Inspection (on affordable units only)
• GLO Inspection

8.4. Closing
CSD will require documentation prior to, during, and after the closing of the purchased property.
• Retainage draw
• Certification of Occupancy
• Other required documents (related to AIA forms)
• Finalize application files

8.5. Lease-up Tracking
• Long-term affordability monitoring
• Conducting on-going monitoring visits (HQS)
• Review files

9. Records Management
To ensure accurate record keeping and reporting as one of the responsibilities included in the CDBG-DR agreement with HUD, CSD has developed a records management plan for the ARHP. The Operational Policies for ARHP were developed to support CSD’s commitment to compliant administration of the program.

9.1.1. Record Retention Period
Harris County Project Recovery Programs will abide by the State of Texas Record Retention Policy since it is currently the most restrictive of local, federal and state regulations:
• Seven (7) Years past the close out of the Grant
  • Records required by General Land Office
    https://www.tsl.texas.gov/slrm/state/schedules.html (administers CDBG funding for Texas). Texas Administration Code Title 13 Chapter 6
    ▪ Effective September 1, 2015
10. Confidentiality Policy

The Harris County Community Services Department (HCCSD) confidentiality policy covers employees, agents, consultants, officers, or elected officials or appointed officials of the Harris County Project Recovery Programs (HCPR), and any designated public agencies, or of subrecipients that are receiving funds under this CDBG-DR Grant who exercise or have exercised any functions or responsibilities with respect to HCPR activities.

In order to protect the confidentiality and privacy of those seeking services and to hold confidential all personally identifying or individual information, communications, observations, and information made by, between, or about service participants, including the identity of service participants, Harris County Community Services Department (HCCSD) and all agents, employees, consultants and volunteers are charged with maintaining the confidentiality of service participants as outlined in HCCSD policies and in federal and state law.

10.1. Protection of Confidential Information

HCCSD and all agents, employees, consultants and volunteers shall not disclose any personally identifying information (PII) or individual information collected in connection with services requested, utilized or denied through its programs or reveal any individual client information without the informed, written, reasonably time-limited consent of the person about whom information is sought, or as allowed by law.

11. Appeals

11.1. Grievance Policy/Procedure

Harris County is responsible for responding to complaints and appeals in a timely and professional manner. A grievance and appeals procedure will be afforded to applicants to provide a quick and efficient system for resolution of concerns or disputes that applicants may have with the procedures followed and services provided by Harris County. The appeals procedure will include both an informal and a written grievance process which may include but not be limited to informal hearings, third-party review and director approval. Harris County will keep a record of each complaint or appeal that it receives to include all communications and their resolutions. Complaints alleging violation of fair housing laws will be directed to the U.S. Department of Housing and Urban Development for immediate review (see Grievance and Appeals policy). Complaints regarding fraud, waste, or abuse of government funds will be forwarded to the HUD OIG Fraud Hotline (phone: 1–800–347–3735 or email: hotline@hudoig.gov). If an applicant disagrees with the county’s decision, he or she can appeal to the Texas GLO.

11.1.1. Complaints

When a complaint or appeal is received, a representative will respond to the complainant or appellant within fifteen (15) business days where practicable. For expediency, the Harris County shall utilize telephone communication as the primary method of contact; however, email and postmarked letters will be used as necessary.

11.1.2. Responsibilities

Harris County will identify staff within their program tasked with handling all applicant and participant inquiries. These staff will be responsible for:

- Determining whether or not complaints and appeals relate to the business or authority of Harris County,
• Ensuring that a response to all complaints and appeals are within the appropriate time frame (a response should be provided within 15 working days of the receipt of the complaint)
• Ushering all complaints and appeals through to a resolution.

Harris County has a Grievance and Appeals policy that addresses handling incoming complaints, including a complaint escalation process in order to ensure that complaints are handled at the earliest stage in the process. Please see the Consolidated Plan on the Harris County Website https://csd.harriscountrytx.gov/Documents/Section_2_Citizen_Participation_Plan.pdf

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

• Contact information for the complainant;
• Initial complaint;
• Address and Harris County 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.

12. Compliance & Monitoring
CSD will establish a monitoring/oversight program to ensure that ARHP assistance is being provided to eligible applicants, for eligible properties, and receiving the proper funding/assistance amounts.

12.1. Conflict of Interest
Section 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards or “Super Circular” provide that no employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award.

The CDBG regulations at 24 CFR 570.611 and HOME regulations at 24 CFR 92.356 provide that no person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient or subrecipient that are receiving CDBG or HOME funds and (1) who exercises or has exercised any functions or responsibilities with respect to activities assisted with CDBG funds; or (2) who is in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a financial interest from a CDBG-assisted or HOME-assisted activity, or have any interest in any contract, subcontract, or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter.
Identity of interest means any relationship (generally based on family ties or financial interests) between (a) the seller and purchase (prospective owner), (b) the owner and/or general contractor and the subcontractor, material supplier or equipment lessor, or (c) the owner and the lender, which could reasonably give rise to a presumption that the parties to the transaction may operate in collusion in establishing the purchase price of the property, the cost of the rehabilitation work, or the terms of the financing. Examples of identity of interest relationships include:

- When the owner or one or more of the officers, directors, stockholders, or partners of a corporation or partnership owning or selling the property has any family tie or is an officer, director, stockholder or partner of the general contractor or lender, or has any financial interest whatsoever in the general contractor or lender.
- When the seller or general contractor advances any funds to the owner (purchaser) or takes stock or any interest in the owner's (purchaser's) corporation, partnership, or property as payment.
- When any of the parties is involved with another in an enterprise wholly separate from the proposed HOME/CDBG project.

Conflicts of Interest and Identity of Interest must be disclosed in the request for proposals application for HCCSD funding.

12.2. Monitoring Fee
Harris County has implemented a Monitoring Fee Policy for multi-unit rental projects. This fee is an annual fee throughout the affordability period to allow for the long-term monitoring of the project during the affordability period. The fee is $50.00 per County-assisted unit annually for each year of the affordability period. For more information regarding the monitoring fee, please see HCCSD's Funding Guidelines Page at http://www.csd.hctx.net/RFQ.aspx.

12.3. Section 3
Harris County will adhere to all Section 3 requirements and will perform regular monitoring of any required contractors and interlocal partners and their contractors.

12.4. Closeout
Harris County CSD will ensure records are complete, that all requirements are adhered to and that the county have performed all monitoring processes. The County will create project and grant closeout checklists that will be maintained with the project file.

12.5. Anti-Fraud and Compliance Policies
Harris County will aggressively investigate all allegations of misconduct, fraud, waste or abuse regarding eligibility and the disbursement of award amounts to applicants. Information in both English and Spanish has been posted on the Harris County Recovery website.

12.6. Contact
Website: www.harrisrecovery.org
Email: rebuildharris@csd.hctx.net
Phone Number: 832-927-4961
The provisions of the guidebook may be amended or exceptions granted from time to time, as determined and approved in writing by the Director of the Harris County Community Services Department, by order of the Harris County Commissioners Court, and/or in accordance with the requirements dictated by the Texas General Land Office, or the U.S. Department of Housing and Urban Development.