STATEWIDE BUYOUT PROGRAM

POLICIES AND PROCEDURES

Programs featured in the State's Master CDBG-MIT Action Plan1 developed
in response to Federal Register Notice Docket No. FR-6109-N-02

PROGRAM ADMINISTERED BY:

Office of Community Development

Division of Administration

State of Louisiana

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I. VERSION HISTORY

Version 1.0	Sept. 20, 2021
Version 1.1	Dec. 23, 2021 – Updated landlord incentive affordability requirements in Section B
Version 1.2	Jan. 11, 2022 – Added Vermilion Parish housing incentive calculation and program timeline to Appendix A
Version 1.3	March 2, 2022 – Added Denham Springs housing incentive calculation and program timeline to Appendix A
Version 1.4	June 24, 2022 – Established the definition of "not suitable for replacement," as required by FR-6316-N-01, published June 21, 2022, and effective June 27, 2022

II. DEFINITIONS

Action Plan (AP): After HUD publishes the Federal Register Notice (FRN) for a congressional appropriation; the grantee (eligible government) must develop and submit an Action Plan describing the needs, strategies and projected uses of the CDBG-MIT funds. Louisiana's Action Plan for CDBG-MIT funding has been approved.

Acquisition: Acquisition of property appropriate for the eligible activities listed in 42 U.S.C. 5305(a)(1), including, but not limited to provision of flood risk reduction public works projects or improvements.

Buyout: Strategic acquisition of properties - in a floodway, floodplain, or disaster risk reduction area that is at risk of flooding - to reduce future flood risk.

CDBG-DR: Community Development Block Grant-Disaster Recovery funds.

CDBG-MIT: Community Development Block Grant-Mitigation funds.

Commercial Property: Real estate that is used for business activities.

Cross-Cutting Regulations: Regulations outside of CDBG regulations that apply to CDBG-MIT programs. These include regulations pertaining to financial management, procurement, environmental, labor, acquisition, relocation, fair housing and non-discrimination.

Fair Market Value (FMV): The current value of property, as determined by a Uniform Residential Appraisal (Form 1004) conducted by an appraiser licensed in the state of Louisiana and accepted by OCD or the grantee if the program is administered by a local entity.

Davis Bacon and Related Acts (DBRA): Federal law requiring payment of local prevailing wages as determined by the Department of Labor on public works projects. It applies to contractors and subcontractors performing work funded in whole or in part with CDBG funds for the construction, alteration or repair of any non-residential construction in excess of $2,000 and residential construction of eight units or more.

Duplex: A residential structure consisting of two (2) separate dwelling units with separate entrances, under one (1) roof, and located either side by side or one above the other.

Duplication of Benefits (DOB): A duplication of benefit is the receipt of financial assistance from multiple sources for the same purpose. 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 and CDBG-MIT funding with respect to any part of the loss resulting from a major disaster as to which he/she has already received or thereafter receives financial assistance under any other program or from insurance or any other sources. It is an amount determined by the program that may result in the reduction of an award value.

Environmental Review Record (ERR): The document resulting from the required environmental review, which includes a description of activities, evaluation of environmental impact, documentation of compliance with applicable environmental regulations and an environmental determination.

Federal Emergency Management Agency (FEMA): The Federal Emergency Management Agency is an agency of the United States Department of Homeland Security, the primary purpose of which is to coordinate the response to a presidentially declared disaster that has occurred in the United States.

Federal Register (FR): The Federal Register is the official journal of the federal government of the United States that contains government agency rules, proposed rules and public notices.

Federal Register Notice (FRN): HUD publishes Federal Register Notices that outline the rules and regulations for the CDBG disaster and mitigation funding. Any use of FRN in this document will refer specifically to FR-6109-N-02, unless otherwise noted.

Fee Simple Title: A legal term describing the most common and absolute type of property ownership. Upon acquiring a fee simple title, the state or its designee will become the complete and indefinite property owner, until the property is transferred to the local parish, municipality or other end property owner responsible for owning, maintaining the land and ensuring compliance with the open space and floodplain management deed restrictions on the property. When selling fee simple title, homeowners forego any rights, title or interest in the property. Existing structure, including buildings, prohibited by the deed restrictions within the floodplain easement must be demolished and removed, and no prohibited structures will be erected in the floodplain.

FEMA Individual Assistance (IA): Federal Emergency Management Agency Individual Assistance made available to eligible individuals and households who have sustained losses as a direct result of a disaster that receives a federal disaster declaration.

FEMA Public Assistance (PA): Federal Emergency Management Agency Public Assistance, which the President can make available to local, state and tribal governments, and certain types of private nonprofit organizations to remove debris, provides emergency protective measures, and restores equipment, buildings and other infrastructure damaged by the disaster.

Floodplain: Any area of land within a watershed that is susceptible to inundation by floodwaters from any source.

Floodplain Management: A decision-making process that strives to achieve the best use of the nation's floodplains. The process encompasses the choices made by owners of homes and businesses in the floodplain, decisions made by officials at all levels of government, plans made by land developers and contractors, and the judgment of the general public regarding future decisions to be made with regard to land use. 44CFR 59.1 defines *flood plain management* as “the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations."

Floodplain Servitude (also known as a “Floodplain Easement”): A reserved interest servitude, which is an interest in land, defined and delineated in a deed whereby the landowner conveys all rights and interest in the property to the state, grantee or its designee, but the landowner retains those rights, title, and interest in the property which are specifically reserved to the landowner in the servitude deed. Floodplain servitudes will allow property owners to own and maintain their land, but will limit its uses to those that restore, protect, maintain, and enhance the functions of floodplains while conserving their natural values such as serving as fish and wildlife habitat, improving water quality, retaining flood water and recharging groundwater.

Floodway (also known as a “Regulatory Floodway”): The portion of the Floodplain effective in carrying flow where flood hazard is generally the greatest, and water velocity is the highest.

Gross Living Area: The total area of finished, above-grade residential space calculated by measuring the outside perimeter of the structure. It includes only finished, habitable, above-grade living space. In this program, the Gross Living Area is the compensable square footage of the eligible home.

Levee: An earthen embankment, floodwall, or structure along a watercourse whose purpose is flood risk reduction or water conveyance[1].

Louisiana Watershed Initiative (LWI): Gov. John Bel Edwards established the Council on Watershed Management, which serves as the coordinated, interagency structure at the state level for watershed- based flood risk reduction. In August 2018, the Council launched the LWI to serve as the programmatic arm under which all related efforts operate.

Low-to-Moderate Income (LMI): A household is considered to be of low or moderate income if the household income (including income derived from assets) is at or below 80 percent of an area’s median income when factoring in household size. LMI determinations are based on the Area Median Income limits set annually by HUD for each parish or metropolitan statistical area.

Major Disaster Declaration: The President can declare a Major Disaster Declaration for any event that the President believes has caused damage of such severity that it is beyond the combined capabilities of state and local governments to respond. Louisiana’s major disaster declarations for the March and August 2016 flooding events include:

Severe Flooding (Disaster 4277) declared on August 14, 2016

[1] Definition from the US Army Corps of Engineers

Severe Flooding (Disaster 4263) declared on March 13, 2016

Mineral Rights: Mineral rights give ownership of minerals below the surface of a tract of land for exploration, development, and extraction of the minerals.

Mitigation Activities: Those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.

Mobile Home: Manufactured homes, including those that consist of a factory-assembled residential unit transportable in one (1) or more sections and ready for occupancy except for minor and incidental unpacking and assembly operations, all as more particularly defined and governed by Louisiana Revised Statutes 51:911,21 et seq. "Uniform Standards Code for Mobile Homes and Manufactured Housing." For the purposes of this program, the term "mobile home" is inclusive of mobile homes and manufactured homes.

Modular Home: A home that is constructed in a factory, but is assembled on the home site on a permanent foundation.

Multi-Unit Dwelling: A dwelling designed for occupancy by more than two families, such as a condo or townhouse.

National Flood Insurance Program (NFIP): When the Program refers to NFIP in the context of eligibility or duplication of benefits, the Program is referring to private and public flood insurance programs that cover structural repairs resulting from flood damages.

Natural Resources Conservation Service (NRCS): An agency of the United States Department of Agriculture (USDA) that provides technical assistance to farmers and other landowner and managers.

Not Suitable for Replacement: Dwelling units that are currently damaged or have been historically damaged, due to flooding or other damage, and are located in an area subject to substantial future flood risk as evidenced by one of the following criteria:

a. Property is located in a floodway or a V-zone
b. Property is located in a repetitive loss area as determined by OCD
c. Property is located in a buyout eligibility area as determined by OCD
d. Property is located in an area subject to 6 ft. or more of anticipated flood risk as indicated on the Coastal Protection and Restoration Authority (CPRA) Flood Risk Viewer for the 100-year flood, set at year 50 with a medium environmental scenario and "with plan" scenario
e. An engineering analysis indicates that the site is subject to substantial flood risk or inundation in the 1% AEP flood or a more frequent flood event

Recreational Vehicle (RV*):* The term includes conventional motor homes and towable travel trailers. These are vehicles primarily used for camping or other recreational vehicles.

Second Home: A home that is not the primary residence of the owner, a tenant, or any occupant at the time of the storm or at the time of application for assistance.

Section 504: A provision of the Rehabilitation Act of 1973, which provides that no qualified individual with a disability should, only by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Small Business Administration (SBA): The SBA offers disaster assistance in the form of low interest loans to homeowners located in regions affected by declared disasters.

Single-Unit Dwelling: A private residence intended for domestic use and in which occupants live as a single housekeeping unit that is not part of a multi-family dwelling.

Site-Built Home: A home with permanent construction, including a modular or site-constructed "stick-built" home. Mobile homes or homes that are movable or have a chassis, or are transportable are not considered a site-built home.

Subrogation: Repayment of duplicative assistance.

U.S. Department of Housing and Urban Development (HUD): HUD is the agency that administers the Community Development Block Grant-Disaster Recovery and Mitigation funds made available to Louisiana from congressional appropriations.

V Zone: Per FEMA and the NFIP, a V Zone is considered to be a Special Flood Hazard Area and is lower than the Base Flood Elevation.

Watershed: A watershed is a geographic area within the boundary of a drainage divide. The USGS defines a watershed as follows: “A watershed is an area of land that drains all the streams and rainfall to a common outlet such as the outflow of a reservoir, mouth of a bay, or any point along a stream channel”.

III. PROGRAM DESCRIPTION

In the Statewide Voluntary Buyout, Incentive, and Acquisition Program (Statewide Buyout Program), the state – through the LWI – will administer buyout projects for immediate implementation.

The goals of the Statewide Buyout programs are:

- To provide buyouts or acquisitions in high flood risk areas to help residents move out of harm's way
- To repurpose acquired property where feasible to improve local drainage, specifically along riverine systems

To focus benefits toward low-to-moderate income communities, vulnerable populations[2], residents living in concentrated areas of poverty, and those at highest immediate risk of flood damage[3]

Encourage land use patterns that do not encroach on natural conveyance and retention functions of the watershed

Buyout and housing incentive programs addressed herein are voluntary real property acquisition programs. Eligible property owners are not required to participate. Neither the State of Louisiana nor any other administering agencies of this program will exercise eminent domain to acquire properties through the use of expropriation, adjudication or other involuntary acquisition processes in order to implement the program.

A. BUYOUT AND ACQUISITION

The program outlined in this document includes voluntary buyouts and acquisitions and associated activities to mitigate flood risk. All projects within the subject program must be administered in conformance with sections of this document addressing buyout and acquisition processes. All projects must be administered in compliance with all local applicable zoning, building codes, flood damage prevention ordinances, and land use requirements.

B. ADMINISTRATION OF THE GRANT

OCD will administer the majority of the programs described in this document, however in some cases it may be appropriate for a public entity other than a state agency (ex: a parish government or local jurisdiction) to act as a sub-recipient grantee and administer the projects or programs funded through this program. Per the guidelines in FRN (FR-6109-N-02), OCD will evaluate the capacity of potential grantees to serve as a sub-recipient for CDBG-MIT funds, and provide oversight to ensure procedures to detect and prevent fraud, waste and abuse[4] are in place. In the event that an entity other than the state administers projects within this program, the entity administering the grant must ensure that policies and procedures in place for local administration are consistent with those listed in this document.

[2] "Vulnerable populations" in the Louisiana Hazard Mitigation Plan include those younger than 20, older than 64,

population with disabilities, population living in poverty, and population living in manufactured housing.

[3] Participating communities designate program target areas utilizing the latest data and science available to identify and analyze current and future disaster risks.

[4] FR-6109-N-02, Section (6); Page 26.

C. ELIGIBLE ACTIVITIES

The eligible activities and national objectives for this program include:

Eligible Activities:	HCDA 105(a)(1)—Acquisition of Real Property; HCDA 105(a)(4)—Clearance, Rehabilitation, Reconstruction and Construction of Buildings; HCDA 105(a)(7)—Disposition of Real Property; HCDA 105(a)(11)—Relocation Assistance; HCDA 105(a)(24)—Homeownership Assistance; and Public Law 115-123 Waivers and Alternative Requirements [FR-6109-N-02]
National Objectives:	Low-Mod Buyout (LMB), Low-Mod Housing Incentive (LMHI), Low-Mod Area Benefit, and Urgent Need Mitigation

C.1 Types of Assistance Addressed in This Document

Depending on the circumstances, program participants may be eligible for assistance under one (1) or more of the following funding categories:

1. Buyout Assistance
2. Housing Incentive Assistance
3. Relocation Assistance for Tenants

C.2 Ineligible Activities

1. Per the FRN (FR-6109-N-02), HUD prohibits the use of CDBG-MIT funds to enlarge a dam or levee beyond the original footprint of the structure that existed before the disaster event. Special requirements exist for the use of CDBG-MIT funds for levees and dams[5]. OCD approval must be obtained for submittal of any project involving the proposed construction or demolition of a dam, levee or other flood control structure
2. CDBG-MIT funds made available in this program cannot be used to assist privately owned utilities
3. CDBG-MIT funds cannot be used for ongoing maintenance or deferred maintenance projects
4. CDBG-MIT funds cannot be used for programs and projects to provide emergency response services[6]. However, CDBG-MIT funds may be used for mitigation activities to enhance the resilience of facilities used to provide emergency response services, provided that such assistance is not used for buildings for the general conduct of government as defined at 24 CFR 570.3

[5] Section V.C.2, Page 113-114 of the FRN: FR-6109-N-02

[6] Emergency Response Services are defined in Section V.C.5, page 115 of FR-6109-N-02

5. CDBG-MIT funds cannot be used to support any federal, state or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use[7]

6. CDBG-MIT funds cannot be used for reimbursement for mitigation activities undertaken before approval of a grant agreement between HUD and the State of Louisiana

[7] Must be in accordance with the public use definition in Section V.D.7, page 117 of FR-6109-N-02.

IV. PURPOSE AND BACKGROUND

A. PURPOSE

This technical document addresses comprehensive policies and procedures for buyout and acquisition projects to ensure that they are compliant with federal requirements and—to the maximum extent practical—help to support the long-term vision and mission of the Louisiana Watershed Initiative (LWI). This document applies to the Statewide Buyouts program conducted by the Louisiana office of Community Development using CDBG-MIT funding.

The Louisiana office of Community Development is the grantee and administrator of CDBG-MIT funds for the state of Louisiana. In the event of a conflict between policies and procedures contained herein and the OCD's CDBG Grantee Administrative Manual located at: http://www.doa.la.gov/Pages/OCD-dru/DRadminManual.aspx, the administrative manual will take precedence in the administration of awarded grants unless specifically noted otherwise in these policies or as required within Federal Register Notice Docket No. FR-6109-N-02, as may be amended or waived by HUD.

A.1 Administration of this Document

OCD shall administer all buyout and acquisition projects within this program, except in cases where OCD designates a local entity to administer the program or a portion of the program. In any cases where a local entity is administering these programs, the entity must perform in accordance with this document. In those cases, the local entity or grantee must issue program guidelines that align with this document.

A.2 Applicable Situations for this Document

Buyout and acquisition and associated activities described in this document will be implemented both in areas subject to recent flood or disaster damage and in areas with historic flood damage or substantial risk of future flooding. This document addresses both types of properties: damaged and intact.

This document is primarily for the use of homeowners, landlords, and tenants in a specified buyout project area. For information on buyout project area selection or State Projects and Programs, please see the State of Louisiana CDBG-MIT Comprehensive Program Policies and Procedures.

B. BACKGROUND

B.1 Louisiana Watershed Initiative (LWI)

The LWI is the state's effort to establish a sustainable, long-term framework for watershed-based collaboration, science-based decision making and best practices in floodplain management that will more comprehensively reduce flood risk and improve the quality of life for all Louisiana citizens. The LWI combines a comprehensive understanding of the state's hydrologic processes with policy-based solutions and engagement across all sectors of government to work toward addressing flood risk by aligning efforts within natural watersheds. The effort is managed by the Council on Watershed Management (Council)—currently composed of the Louisiana office of Community Development (OCD), Coastal Protection and Restoration Authority (CPRA), Governor's office of Homeland Security and Emergency Preparedness (GOHSEP), Department of Transportation and Development (DOTD), and the Department of Wildlife and Fisheries (DWF)—and created by Governor John Bel Edwards via Executive Order JBE18-16.

The LWI's mission is to "reduce flood risk, improve floodplain management throughout the state and maximize the natural and beneficial functions of floodplains." The Council actively implements this mission through a holistic approach that focuses on:

- Scientific tools and approaches
- Transparent and objective decision-making
- Maximizing natural functions of the floodplains
- Regional water management

B.2 Mitigation Activities

HUD announced a first-time allocation of nearly $16 billion in Community Development Block Grant-Mitigation (CDBG-MIT) funds, as directed by the 2018 Congressional Supplemental Appropriation (Pub. L 115-123, February 9, 2018) to be used for mitigation activities for qualifying disasters in 2015, 2016 and 2017. Mitigation activities include activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.

While HUD acknowledges that it is impossible to eliminate all risks, it will distribute CDBG-MIT funds with the intention to enable grantees to mitigate against disaster risks, while at the same time allowing grantees the opportunity to transform state and local planning. All $1,213,917,000 of CDBG-MIT funds allocated to the State of Louisiana must be spent for the specific purpose of mitigation activities, in accordance with the requirements and procedures specified in the FRN for this allocation.

B.3 Consistency with the State's CDBG-MIT Action Plan (AP)

As required by the FRN, the State of Louisiana, through the Louisiana office of Community Development (OCD), coordinated the development, review and HUD approval of the state's CDBG-MIT Action Plan #1. AP #1 incorporates extensive public outreach, uses the latest data and science available, and identifies and analyzes all significant current and future disaster risks. It highlights and elevates the state's most prevalent unmet mitigation need: Whether by flash flooding, inland rivers, storm water or coastal storm surge, Louisiana is facing increased risk—in both magnitude and frequency—of flood events.

To address the unmet mitigation needs associated with Louisiana's increased flood risk, AP #1 provides a summary of the proposed programs and activities for spending CDBG-MIT funds.

While the LWI's long-term resilience objectives are catalyzed by CDBG-MIT funds and implementation of AP #1, state activities associated with the LWI program began before CDBG-MIT funds were identified and made available and aim to continue long after CDBG-MIT grant funding deadlines expire.

V. PROCEDURAL STANDARDS FOR OWNER-OCCUPANTS AND LANDLORDS

A. GRANT EXECUTION

OCD will use the grant execution process to meet with applicants (either virtually or in person) and review all program requirements prior to receipt of grant funds. OCD Grant agreements require applicants to comply with the program requirements described within this document and noted in the grant agreement. If there are multiple property owners, only one must execute the grant agreement(s). OCD will accept properly executed Power of Attorney documents to assist property owners who cannot attend the grant execution.

1. Pre-Award Verifications: Applicants are responsible for providing truthful, accurate and complete applications to OCD. However, prior to making an award, OCD is responsible for reviewing each applicant file to verify all information is complete, applicant eligibility is verified, and all benefit calculations are completed correctly. Applicants are subject to audit and further review throughout their participation in the program and up to five years after grant execution project completion. Applicants must provide additional documentation in support of their applications as requested by the State, its representatives or agents, HUD, HUD OIG, or the Louisiana Legislative Auditor. Failure to comply with these requests may result in recapture of funds.
2. Award Acknowledgement Letter: Once the applicant has completed the application process, including submitting all required documentation, has been determined eligible and has had an award calculation conducted, an award acknowledgment letter will be issued electronically and mailed to the applicant address. The award letter provides the applicant with information about their potential eligible award, award calculation, and the appeals process.
3. Grant Agreement Documents: Prior to receiving an award, applicants will:
    a. Self-certify that they still own the subject property and that they have not received notices of default or seizure related to taxes, mortgage, or title
    b. Have an affirmative obligation to notify OCD if they receive notice of default or seizure after receipt of award from the Program
    c. Resolve all appeals issues, as there are no appeals eligible after execution of the grant agreement

Program Award Structure

All awards shall be issued as a one-time payment. For owner-occupants eligible for a housing incentive, there will be a cash sale enacted and a grant award issued.. Payment from the cash sale will be divided among all adult co-owners. Payment from the housing incentive for owner-occupants will be split among all co-owner occupants according to their individual ownership interest. Landlords eligible for a housing incentive must execute a forgivable mortgage for the amount of the incentive at closing.

Applicants to this program do not retain any mineral rights unless they specifically request to reserve mineral rights. Applicants who specifically request to reserve mineral rights prior to or with award acceptance may reserve those rights, but the Louisiana Land Trust (LLT) and any subsequent buyers retain all rights to reasonable property use and transfer.

All self-certified information may be investigated by OCD or by HUD at a later date. Applicants are under an obligation to comply with any OCD request for verifying documentation that supports a self-certification, even after awards have been granted and applicant files have been closed.

The following specific terms are used in this section:

Buyout award: That portion of a grant awarded to a program applicant for the purchase of a home and/or land. This is equal to the current fair market value of the property, subject to a cap of $250,000.

Housing Incentive award: That portion of a grant awarded to an owner-occupant or landlord who is eligible to receive the housing incentive. This is equal to the total award minus the buyout award and any DOB. This award is to enable relocation in accordance with the relocation requirements in this document (in the case of an owner-occupant) or incentivizing the purchase and maintenance of an affordable housing unit in accordance with the relocation requirements in this document (in the case of a landlord).

Total award: The total award is the total award amount that a program applicant receives.

B. DEADLINES

Throughout the life of the program deadlines will be established. These deadlines will relate to the dates upon which the survey and application periods will close, grant agreements must be executed, properties must be vacated, and construction activities must begin or be completed. Additional deadlines for other program activities not included in this list may also be established. This manual will be updated as those deadlines are established.

Applicants offered an award will have 30 days for an acceptance period after OCD's issuance of the award offer, during this time the applicant may accept, decline, or appeal the award. If the award is not accepted within these 30 days, it will be considered declined by the applicant. In the case of an owner-occupant or a landlord only seeking a buyout award, the final deadline to execute the grant agreement for a buyout or acquisition award is nine months after acceptance of the award offer by the program participant. In the case of a landlord seeking the housing incentive, the final deadline to close for a buyout or acquisition award is twelve months after acceptance of the award offer by the program participant

C. APPLICATION INTAKE

Once a person has moved from the survey stage to the application stage, they will then be considered an applicant of the program. All property owners will be considered applicants at this stage. From this point forward, applicant(s) must abide by all program policies and procedures outlined in this manual. Applicants are encouraged to complete the program application online; however, case managers will be available to help applicants complete applications. Other reasonable accommodations may be available as needed. All applicants must sign the Program's Consent and Release, Fraud Acknowledgement, IRS Form 4506-C Income Tax release, and other program-related documents as needed. All required documentation may be submitted either electronically or in person during a scheduled appointment with a case manager. All property owners should be listed on the program application. All property owners must sign all closing documents. OCD is not liable for any dispute arising between owner-occupants and non-occupant owners.

D. APPLICANT COMMUNICATIONS

OCD will ensure that all applicants have updated information regarding the status of their application and award. OCD will use various methods of communication including but not limited to the following:

- Phone calls
- Written correspondence (e-mail, direct mailings, text messages)
- Scheduled, in-person meetings or virtual meetings
- Mobile-friendly website

For applicants requiring special accommodations or who wish to inquire about accommodations, please contact the Section 504 Coordinator at 504Coordinator@restore-la.org.

E. APPLICANT RESPONSIBILITIES

Applicants are advised that additional information may be required for OCD to properly calculate the grant award and that applicants should maintain all records related to the program buyout or acquisition and purchase of replacement property for a period of five (5) years after grant execution/completion of project. OCD reserves the right to request additional documentation and the applicant is obligated to be responsive to these requests and produce such documentation, when requested. This obligation continues even after all award funds have been distributed to the applicant. Applicants applying to the program for assistance have the responsibility to keep OCD informed of their current contact information and to update their records if their income, or a household member's, changes. Applicants are responsible for actively participating in the process and providing access to their property for appraisals and other inspections as needed. OCD will make every attempt to remain in contact with each applicant and advise applicants of any additional information that may be required. However, if applicants show a demonstrated pattern of disengagement, OCD will institute a communication due diligence procedure, after which applicants will be notified that their continued participation in the program may be in jeopardy. Should an applicant be non-responsive or fail to provide OCD with necessary documentation, the following due diligence procedure will be applied:

1. Three consecutive phone calls within a 7-day time frame, where direct communication with the applicant, or their in-file designee, is not achieved
2. US Postal Service and email notification of attempted phone calls and request for applicant to contact OCD or provide necessary documentation within 30 days of the date of the letter

If after the full succession of these communication attempts an applicant still fails to contact OCD or provide necessary documentation within 30 days of the US Postal Service notification mail date, the applicant will be placed in ineligible status. The applicant will be notified by email and US Postal Service that they are in ineligible status once that status is triggered.

F. INCOME REQUIREMENTS AND DOCUMENTATION OF INCOME

The Program is open to households of all income levels, however some assistance activities are prioritized based on income. The Program will collect income information for meeting the reporting requirements related to tracking expenditures on activities that benefit low-to-moderate income households, as established by HUD. The program will use HUD's published income limits in effect at the time of the grant calculation which vary by parish and household size. An LMI applicant's household income must be less than or equal to 80% Area Median Income (AMI) adjusted for household size. The income calculation includes the annual adjusted gross income of all adult household members, including earnings and in-kind sources like social security and pensions.

1. Household Income Basis: The Program will use HUD's published income limits in effect at the time of the grant calculation for each parish or metropolitan statistical area to meet reporting requirements. Household income will be based on the household's annual income data per the most recent IRS 1040 adjusted gross income definition. Documentation verifying this information is collected from applicants who report to be low-to-moderate income before grant execution, however, documentation from other applicants may be required for verification purposes
2. The Program will use the processes for calculating income as defined by HUD, and as described in the following section. The Program certifies income at the point at which sufficient documentation is provided and remains valid for one year. Recertification of income will not be required when an applicant has executed his/her grant agreement within the one-year income certification period
3. The Process of Determining Income (For Sample Reviews): The Program will use adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual federal annual income tax purposes. Income eligibility is certified at the date of income calculation for Program eligibility and is valid for one year from that date. The applicant must execute their grant agreement within one year of the income certification date or income must be recalculated by the Program

NOTE: The Program will collect and analyze appropriate income documentation for household members through third party verification or source documentation. This process will include the most recent tax form(s).

Applicants will need to certify whether or not their household income has changed since their most recent tax return information at grant execution. If there has been a change in the applicant's household income, the Program may allow the applicant to provide additional information such as pay stubs or other proof of income to verify the income change. Documentation sufficient in this circumstance includes the last three months of pay check stubs or signed statement from employer stating the wage and frequency of payment, most recent social security and pension income statements, and any other income source documentation.

G. DUPLICATION OF BENEFITS CALCULATIONS

When calculating the eligible amount of assistance available to a property owner, OCD will deduct any duplication of benefits approved or received, as required by the applicable federal regulations and guidance.

If a homeowner received or was approved for federal or other assistance related to the replacement or buyout of a damaged property, those funds will be evaluated as a possible duplication of benefits against the final award for which a homeowner is eligible under this program. Below is a table of sample funding sources that may be duplicative with buyout program funds. This list is not necessarily comprehensive. Homeowners are required to provide information on all potentially duplicative funding sources associated with the subject property.

Source of Funding	Purpose of Funds	DOB with CDBG-MIT buyout of damaged property?	DOB with CDBG-MIT Housing incentive?
NFIP, SBA, or FEMA IA	Repairs to damaged property	No	No
NRCS	Buyout of damaged property	Yes	Yes* Program determined to be duplicative
SBA	Relocation assistance	See below	See below
Other Funding	Relocation assistance	Yes	Yes
	Repairs to damaged property	No	No
Subrogation	Relocation assistance	Yes	Yes
	Repairs to damaged property	No	No

On June 14, 2019, HUD issued updated guidance regarding Small Business Administration (SBA) loans as a duplication of benefits. SBA duplication of benefits is defined below according to FR-6169-N-01.

Federal law requires that SBA loans for relocation assistance be counted as a duplication of benefits only in limited circumstances. The SBA-approved loan for relocation will be counted as a duplication of benefits, except in the following circumstances:

1. Declined SBA Relocation Loans. Declined loan amounts are loan amounts that were approved or offered by a lender in response to a loan application, but were turned down by the applicant, meaning the applicant never signed loan documents to receive the loan proceeds

NOTE: If an applicant was approved for a loan, but did not execute a loan agreement, the offered loan amount will be considered declined and not considered a duplication of benefits

2. Cancelled SBA Relocation Loans. Cancelled loans are loans (or portions of loans) that were initially accepted, but for a variety of reasons, all or a portion of the loan amount was not disbursed and is no longer available to the applicant. The cancelled loan amount is the amount that is no longer available

If an applicant cancels all or a portion of an SBA loan related to the relocation assistance, only the accepted loan amount will be considered a duplication of benefits. The undisbursed loan amount will not be considered a DOB. Applicants may not request subsequent draws from the undisbursed portion of the loan after grant execution.

The following are sources of funding assistance that are considered a duplication of benefits and under federal law must be deducted from the grant assistance amount:

1. Other Funding: Funding received for the same purpose of a grant through this program such as relocation funding provided by a non-profit entity must be reported by applicants through the application process and must be accounted for and verified by the Program. In addition, the support documentation related to other duplicative funding sources will be provided by the applicant and verified and applied as a duplication of benefits by the Program
2. Repayment of Duplicative Assistance (Subrogation): All duplicative funding received must be remitted to or accounted for, regardless of when it is received by the applicant. If applicants receive additional funding for the same purpose as the grant award from this program (buyout) even after an award for this program is executed, the applicant is required to report the additional funding to OCD. By accepting the award, applicants agree that they will report any duplicative funds to OCD whenever received. Upon receipt of a report that benefits have been received that were not reported in the grant calculation, OCD will recalculate the applicant's award and provide instructions as to whether such funds must be used, whether the applicant's award will be reduced by such amount, or whether the applicant must remit such amounts to OCD

H. ENVIRONMENTAL REVIEW

Every project undertaken with CDBG-MIT funds and all activities related to that project is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as to the HUD environmental review regulations at 24 CFR Part 58. The HUD environmental review process must be completed before any funds are committed through a grant agreement and disbursed for Program-eligible activities. In other words, environmental review must be concluded for each project prior to the firm commitment of federal or non-federal funds to any expenses or contracts related to a project. A violation of this requirement may jeopardize federal funding to this project and disallow all costs that were incurred before the completion of the Environmental Review. The primary objectives of the HUD environmental review are to identify specific environmental factors that may be encountered at potential project sites and to develop procedures to ensure compliance with regulations pertaining to these factors. All CDBG-funded projects and activities must have documentation that they follow NEPA and all other environmental requirements.

Laws and regulations which contain environmental provisions that must be complied with include:

1. Noise
2. Historic Properties
3. Coastal Zones
4. Environmental Justice
5. Floodplains
6. Wetlands
7. Manmade Hazards
8. Water Quality
9. Air Quality
10. Endangered Species

11. Farmland Protection

I. APPEALS, COMPLAINTS, AND GRIEVANCES

A thorough process will be implemented to allow for program appeals. The appeals process will be provided on the program website, and a copy will be included with each applicant's award or ineligibility letter or notice of file closure. An appeal must be filed within thirty (30) calendar days after the date of the award determination letter or prior to the execution of the grant agreement, whichever occurs first. In the event a future policy change by OCD would positively impact the amount of the grant award, the grant will be recalculated accordingly, and the applicant will have the option to accept and sign a grant agreement with the updated grant award.

1. Program Appeals: All applicants may submit the following appeals via postal mail or electronically by emailing their case manager. All appeals must be received within 30 days of the applicant receiving their award letter. If an applicant requires assistance with filing an appeal, they can contact their case manager by email or telephone to consult on the Award Acknowledgement. A case manager will be able to file the appeal on their behalf. Applicants can file an appeal for the following reasons:

    a. Program eligibility
    b. Duplication of benefits
    c. File closure

    Applicants may not appeal policies that have been approved and incorporated by the Program, such as the process for calculating the housing incentive. In addition, applicants are not allowed to appeal the award amount after grant execution. Further, statutory and regulatory requirements/guidelines may not be appealed.

    Regardless of the reason(s) an applicant files an appeal, the entire file will undergo a full review. Applicants should be aware that this full file review may result in positive or negative changes to the eligibility status or an increase or decrease from the previous award amount. Read your award letter and grant agreement for additional requirements.

2. Complaints: A complaint can be filed by any interested party that takes issue with the programmatic, operational, or administration activities of the program. Typically, complaints originate from an individual who is experiencing some difficulty with program services, including eligibility, intake process, grant award calculation, or closing. OCD will provide a response to the interested party's complaint within fifteen (15) working days within receipt of the complaint. Complaints can be submitted in one of the following ways:

    - Via online by visiting the Program website to complete an online complaint form by going to: http://restore.la.gov/homeowner-assistance-file-a-complaint/
    - By calling the Program hotline at 866-735-2001 to receive assistance from a Customer Service Representative (CSR)
    - Via U.S. mail to Attention:
      Statewide Buyout Program (area of Buyout: ie: Greinwich Terrace)
      11100 Mead Road
      Baton Rouge, Louisiana 70816

J. RECORDS MANAGEMENT

In accordance with HUD regulations, as a grantee and recipient of CDBG-MIT funds, OCD follows the records retention as cited in 2 CFR Part 200.333-337, which includes financial records, supporting documents, statistical records and all other pertinent records are maintained for five years after closeout of the grant between HUD and OCD. OCD established requirements in its sub-recipient and contractor agreements for compliance with all HUD cross cutting requirements outlined in 2 CFR 200, including record keeping requirements.

Applicants are advised that additional information may be required for OCD to properly calculate the Grant Amount and that the applicant should maintain all records, receipts, invoices and other documentation for no less than seven (7) years from the date of the grant agreement.

1. Administrative Records: Administrative records, kept in electronic format, are files that apply to the overall administration of the CDBG-MIT funded program. They include the following:
   a. Personnel files
   b. Property management files
   c. General Program files: Files relating to the sub-grantee's, sub-recipient's, or contractor's application to the grantee, the sub-recipient agreement, Program policies and guidelines, correspondence with grantee and reports, etc.
   d. Legal files: Articles of incorporation, bylaws of the organization, tax status, board minutes, contracts and other agreements
   e. Financial records: These include the chart of accounts, a manual on accounting procedures, accounting journals and ledgers, source documentation (purchase orders, invoices, canceled checks, etc.), procurement files, bank account records, financial reports, audit files, etc.
   f. Project/applicant files: These files document the activities undertaken with respect to specific individual beneficiaries, property owners, and/or properties
2. Personally Identifiable Information: All files containing personally identifiable information (PII) must be handled in a secure manner. To protect PII, files should be given a unique identification number
3. File Security: All records will be maintained in an electronic format. Files are secured to ensure privacy of all applicant PII located within the files. Electronic files containing PII will be secured in password protect electronic folders. The vendor will backup files on a routine basis. Required reports to stakeholders may include applicant Program identification numbers or property addresses, but will not include unique identifiers such as social security numbers.
4. Record Retention: Records are maintained to document compliance with Program requirements and federal, state, and local regulations and to facilitate an audit review by HUD. Records are maintained in accordance with 24 CFR 570.3, which states they must be maintained for a period of 5 years following the closeout of HUD's grant with the state. Proper records management ensures that:
   a. The state complies with all requirements concerning records and records management practices under Federal and state regulations
   b. The state has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements and community expectations
   c. These records are managed efficiently and can be easily accessed and used for as long as they are required
   d. These records are stored as cost-effectively as possible and when no longer required they are disposed of in a timely and efficient manner based on HUD Handbook 2225.6, Records Disposition Schedules and HUD Handbook 2228.2
5. Applicant Files: The Program must maintain electronic files for each applicant funded through this program. Each file must contain at a minimum the following information:
   a. Verification of Program eligibility
   b. Determination of the national objective met
   c. Award calculation
   d. Duplication of benefits
   e. Grant Recapture documents

f. Environmental clearance
g. Grant agreement documents
h. Monitoring QA/QC
i. Appeals, if applicable
j. Complaints
k. Final Determination of Anti-fraud, waste, and abuse check, if applicable all documents submitted by the applicant
l. Correspondence from the Program

K. RECAPTURE

An applicant may be required to repay all, or a portion of the funds received. The reasons for recapture include but are not limited to the following:

- Providing false information
- Failing to close on complete buyout transaction or withdrawing from the program prior to complete transaction (and applicant has received funds prior to closing)
- Not complying with rental program requirements
- Lack of response for requested documents post grant execution may result in recapture (if funds have been disbursed)

VI. FOR OWNER-OCCUPANTS OR “HOMEOWNERS”

A. BUYOUT ONLY

A.1. Applicants Eligible for Buyout

Eligible applicants for buyout awards through this program include:

Current Property Owners

All property owners eligible for buyouts in this program must own the subject property at the time of program announcement and maintain ownership through grant execution. Eligible individuals include:

1. Current owner(s)
2. Owner-occupant(s) on non-owned land, only if the owner of the land participates

Owner-Occupants on Non-Owned Land

When the owner of a subject property has elected to transfer land for the purpose of buyout in this program, any owner-occupants of site-built homes, manufactured housing, or mobile homes inhabiting the subject property who do not own the land on which their residence is situated are eligible to apply for assistance as owner-occupants.

If the land owner in the scenario described in this section does not elect to transfer the land as a buyout through the program, the owner-occupant of the structure on the land is also not eligible for an award in this program.

Death of Property Owner

In the event that an eligible applicant passes away after application and before grant execution, successors who can prove ownership through legal process are eligible to apply for and/or continue through the subject program.

A.1.1 Documentation of Ownership Requirements:

The applicant must have been the owner of the property at the time of application to the program. OCD will order a title search to verify legal ownership of the property.

1. **<u>Special Circumstances Related to Type of Ownership:</u>**
    a. LLC: For housing incentive eligibility, LLC ownership is not an eligible form of ownership with the exception of an LLCs where a member is an occupant of the subject property. Other LLC structures will be considered on a case-by-case basis.
    b. Reverse Mortgage: Applicants with a reverse mortgage at the time of application are eligible to apply.
    c. Purchase Contracts:
        i. Contract for deed: Not eligible unless applicant converts their contract to full ownership prior to executing the grant agreement
        ii. Rent to own: Not eligible unless applicant converts their contract to full ownership prior to executing the grant agreement
        iii. Bond for deed: Not eligible unless applicant converts their contract to full ownership prior to or contemporaneous with executing the grant agreement

iv. Lease to own: Not eligible unless applicant converts their contract to full ownership prior to or contemporaneous with executing the grant agreement, subject to exceptions on a case-by-case basis

Evidence of Purchase Contracts may be furnished by the following documentation:

1. Proof that an applicant was purchasing a home on a contract as identified above may be evidenced by:
    a. The applicant presenting the notarized Contract dated and executed prior to the eligibility period for review
    b. The Program finding a notarized and executed Contract that was filed prior to the eligibility period in the conveyance records of the Parish
2. Proof that a contract has been completed and title conveyed to the purchaser is provided by:
    a. Presentation to the Program of a notarized, executed conveyance document from the seller to the contract purchaser
    b. Evidence of recordation of the title in the name of the applicant in the conveyance records of the parish

a. Trust: Property held in trust for the benefit of natural persons can be eligible for a grant if at least one of the occupants at the time used to determine eligibility for the housing incentive was a current beneficiary of the Trust. The trustee's powers must include the ability to affect the subject property. If the trustee's powers do not include the ability to affect the subject property, the beneficiaries with an interest in the subject property must sign the grant agreement documents along with the Trustee. The following is required to confirm eligibility:
    i. The applicant must provide a copy of the trust document
    ii. The trust document or an abstract or extract of the trust must be recorded in the conveyance records of the parish in which the subject property is located. This recordation in the conveyance records of the parish in which the subject property is located may be recorded post-damage if necessary
    iii. The applicable grant agreement must be executed by trustee(s) unless the trust distributes the property to a beneficiary, in which event the beneficiary receiving the property must execute the applicable grant agreement. If the property was not serving as the primary residence for the current beneficiaries or trustee, the applicant(s) is not eligible for assistance

e. Seizure of Property and Foreclosure: An applicant whose property is in active seizure will need to provide documentation to OCD in order for OCD attorneys to determine whether the default has been cured or whether a foreclosure will proceed. Applicants whose property will be foreclosed upon or whose property is foreclosed upon will not be eligible to receive program benefits

1. **<u>Special Circumstances Related to Ownership</u>**

    a. Death of eligible owner-occupant: In the event of death of an eligible owner-occupant prior to grant execution, successors who were occupants at the time of the damage event or at the time of application and can prove current ownership through legal process are eligible to apply for the program. Situations where an occupant was living in the home, but not an owner, at the time of application, will be handled on a case -by- case basis. Heirs who were not occupants at the time of the damage event are eligible for buyout proceeds only.

    b. Incapacity or infirmity of applicant: If an applicant is incapacitated due to illness or other infirmity, someone with a legal right to bind that person legally, such as is provided by a power of attorney, is eligible to apply for assistance on behalf of the applicant

c. Active Military Duty: Active duty military personnel who own a home in Louisiana but are currently assigned to duty away from their home or were assigned to duty away from their home at the time of the eligibility period are eligible to apply

3. **Transfer of Ownership Back to Eligible Owner-Occupant**: Applicants who transferred their property to an LLC or to another party by sale or act of donation and that meet all program eligibility criteria, can transfer the title back to original ownership so that they can receive Program benefits as long as one of the following conditions is met:

   a. The applicant(s) transferred property to an LLC that is held in their name

   b. The applicant(s) transferred property to an LLC that is held by an immediate family member (mother, father, son, daughter, or spouses)

   c. The applicant(s) transferred property by sale or act of donation to an immediate family member (mother, father, son, daughter, or spouse)

4. **Site-built Homes on Leased Land**: The owner of the land must participate in the buyout program in order for the structure-owner to participate in this program. The owner of the land, in this instance, would receive fair market value of the land. Under this scenario, the closing for both the structure owner and land owner must be done simultaneously, unless the closing occurs on the land prior to the structure and the documents for the first closing are held in trust pending the closing on the structure. Applicants with site-built homes on leased land must provide documentation that was recorded in the conveyance records eligible for the housing incentive which states that the applicant owned the site-built home. Examples of such documents include:

   a. Lease for land on which site-built home is located which includes reference to fact that the applicant owned the site-built home (recorded in conveyance records prior to the eligibility period)

   b. Written transfer of the home as a movable (recorded in conveyance records prior to the eligibility period)

   c. Document from the landowner creating the rights to the home as a movable (recorded in conveyance records prior to eligibility period)

   d. Notarized bill of sale which provides ownership to applicant of the site-built home (recorded in conveyance records)

   e. Tax record for the site-built home on leased land

5. **Mobile Homes on Leased Land**: Applicants of mobile homes on leased land (where a landowner is participating in the program) must provide the following ownership documentation, including one of the following dated before the eligibility period:

   a. Title from the Department of Motor Vehicles

   b. Title found in the land records for the mobile home

   c. Notarized bill of sale which provides ownership of the mobile home

   d. Tax record from a year prior to the eligibility period for the mobile home on leased land

A.2. Properties Eligible for Buyout

Eligible property types include:

1. Single and multifamily residences (both owner-occupied and rentals), subject to conditions listed below
2. Vacant lots
3. Lots occupied by mobile homes or recreational vehicles
4. Agricultural lots
5. Commercial properties
6. Nonprofit owned properties

Note: eligible property types for the housing incentive are different, please see Section VI., B.2, pages 32-33 in this document for eligibility for the housing incentive.

Connected Multi Unit Structures

All individuals with an ownership interest in a connected, multi-unit structure, including a duplex or a structure with more than two units, must agree to participate in the program in order for the entire property to be bought out within this program.

Sites with Multiple Structures

If a subject property features multiple structures and some structures are not at substantial risk of flooding, as determined by OCD, the property owner(s) may pursue re-subdivision of the land in order for that portion of the property and structures therein to participate in the program.

A.3. Buyout Awards

Buyout awards are limited to the current fair market value of the property, less any duplication of benefits, as determined by OCD. Current fair market value is determined at the time that OCD accepts an appraisal of a property conducted by an appraiser licensed in the state of Louisiana. All awards are subject to the provisions of the Robert T. Stafford Act, requiring that all funds received by the property owner for the same purpose as the CDBG-MIT award be considered a duplication of benefit and deducted from the CDBG-MIT award. The maximum total CDBG-MIT award for this program is $250,000.00.

OCD will determine the current fair market value of the subject property using the Uniform Residential Appraisal Report (Form 1004) for valuing fee simple title acquisitions.

Examples of buyout awards are listed below.

Buyout Award Example Calculation 1 - buyout only with duplication of benefits where:

Appraisal of property = **A**   Duplicative Assistance = **DOB**   Total Award = **TA**

A – DOB = TA*

Step 1	Appraisal of property	$150,000
Step 2	Less duplicative assistance received (i.e. SBA Relocation Loan)	$100,000
Step 3	Approved total award	$50,000*

*Cannot exceed program cap of $250,000

Buyout Award Example Calculation 2 - buyout only without duplication of benefits where:

Appraisal of property = **A**   Duplicative Assistance = **DOB**   Total Award = **TA**

A – DOB = TA*

Step 1	Appraisal of property	$150,000

Step 2	Less duplicative assistance received (i.e. SBA Relocation Loan)	$0
Step 3	Approved total award	$150,000*

*Cannot exceed program cap of $250,000

Buyout Award Example Calculation 3 - buyout only with FMV exceeding program cap without duplication of benefits where:

Appraisal of property = **A** Duplicative Assistance = **DOB** Program Cap = **PC** Total Award = **TA**

$$(A - DOB) \leq PC = TA^*$$

Step 1	Appraisal of property	$275,000
Step 2	Less duplicative assistance received (i.e. SBA Relocation Loan)	$0
Step 3	Approved total award	$250,000*

*Cannot exceed program cap of $250,000

Existing Mortgages and/or Liens and Clear Title

Any liens and/or mortgages on the subject property must be paid off in order to participate in the buyout. If not settled and cleared before grant execution, they must be paid off with proceeds from the buyout award. Property owners participating in this program may be required to obtain a current payoff quote for each lien and/or mortgage that remains on the subject property before closing. Should the sum of the payoffs exceed the amount of the buyout award, the property owner must provide proof of funds (e.g., bank statement) to OCD demonstrating ability to satisfy the liens and/or mortgage balances in excess of the buyout award. For example, if a property owner's mortgage payoff total is $60,000.00 and the buyout award is $50,000.00, the property owner must demonstrate they have the $10,000.00 excess in order to settle the mortgage at closing.

All owners of a property must agree to transfer their interests in the property, free and clear of all encumbrances, or must agree to grant a servitude, if applicable, in order for the property to be eligible under the program.

OCD may arrange for limited legal services necessary to proceed to closing for property owners with household incomes up to 120% AMI.

A.4. Property Disposition

Demolition and disposition of acquired property in buyout programs

The local jurisdiction (parish or municipality) where a buyout project is located must provide a disposition plan and enter into an agreement to take ownership of the acquired property prior to OCD implementing a buyout project in that area. LLT, on behalf of OCD, will demolish any structures on properties undergoing buyouts, and remove impediments to drainage and/or retention from the site. The parish or municipality where a buyout project is located is responsible for the disposition and maintenance of property long-term.

Property acquired through buyouts in this program may be disposed of in the following ways, subject to discretion of OCD in coordination with the parish or municipality:

1. Preservation by the state (note on this option: OCD will not preserve or own property)
2. Floodplain servitude granted in favor of the parish or other public entity in accordance with "Covenant and Compliance with Open Space Requirements" below

   Note: This option is only available in locations unsuitable for transfer, subject to the discretion of OCD
3. Retention and maintenance of the property by local jurisdiction or designee

The state is not required to purchase any property under this program, and preservation of buyout property under this program by the state is subject to review and approval by the state agency engaged in preservation.

Any future uses of property acquired through this program will be subject to a deed restriction provided by OCD. The deed restriction shall not be amended by the local jurisdiction.

In the event that any portion of the site is improved, the state requires high-quality, durable, sustainable, mold-resistant and energy-efficient construction methods for all activities funded with CDBG-MIT resources. All construction activities must meet all locally adopted building codes, standards and ordinances. In the absence of locally adopted and enforced building codes, the requirements of the Louisiana State Uniform Building Code will apply. For further guidance, please see FR-6109-N-02.

The state recognizes that natural or green infrastructure methods provide drainage functions to reduce storm water runoff while offering low-cost and attractive site design options. All commercial or institutional construction or retrofitting funded through programs within the CDBG-MIT AP #1 must utilize one of the following green infrastructure strategies to reduce runoff, retain water and improve water quality on the subject site:

- Retaining or planting native vegetation and trees
- Removing existing impervious surface area or using pervious pavement
- Installing bioswales, rain gardens or other retention areas
- Collecting rainwater for non-potable uses
- Installing green roofs
- Building sustainable urban drainage systems

Covenant and Compliance with Open Space Requirements

Property owners who elect to sell a servitude instead of selling their property outright will enter into a deed restriction at grant closing. This deed restriction will allow the property owner to retain ownership of the property, subject to certain use restrictions. Consent and subordination of interests of other interest holders (i.e., mortgagee) may be required by OCD. Conditions on future use of the property will be outlined in the deed restriction provided by OCD and shall not be amended by the local jurisdiction.

Note: This option is only available in locations unsuitable for transfer, subject to the discretion of OCD.

B. BUYOUT AND HOUSING INCENTIVE

The housing incentive component of this program provides a monetary inducement to owner-occupants (including those who own a structure on non-owned land, provided the land owner is participating in the buyout program) of property containing a residential structure identified for buyout to participate in the program, particularly in cases where the value of the subject property is lower than what would reasonably be required for the property owner to acquire replacement housing in a lower risk area.

The housing incentive functions to induce these property owners to relocate to safer locations, and therefore is only available to owner-occupants who relocate in accordance with the relocation requirements of this document.

B.1. Applicants Eligible for Owner-Occupant Buyout and Housing Incentive

The housing incentive will be offered to all owner-occupants (including those on non-owned land, provided the land owner participates in the buyout program) who can prove ownership and occupancy during the eligibility period for the specific area except those whose property appraisal (fair market value) exceeds $250,000.00 or whose property (fair market value) exceeds the total award the property owner would have received with the housing incentive as calculated by OCD (calculations of the housing incentive described further in this document on page 28). Eligible owner-occupants for the housing relocation incentive must submit proof that the buyout home is their primary residence in accordance with the eligibility period for their buyout project area.

Owner-Occupants on Non-Owned Land

When the owner of a subject property has elected to transfer land for the purpose of buyout and housing incentive in this program, any owner-occupants of site-built homes, manufactured housing, or mobile homes inhabiting the subject property who do not own the land on which their residence is situated are eligible to apply for assistance as owner-occupants.

If the land owner in the scenario described in this section does not elect to transfer the land as a buyout through the program, the owner-occupant of the structure on the land is also not eligible for an award in this program.

B.1.1. Housing Incentive Eligibility Period for Applicants

Eligibility periods will vary with participating communities. Please see Appendix A for community-specific eligibility periods.

B.1.2. Documentation of Ownership and Occupancy Requirements:

See "Buyout only" section (VI., A1) within this document for documentation requirements to prove ownership of a property. Occupancy as primary residence will be determined through review of the following data sources and documentation:

1. Occupancy will be primarily verified through parish records. OCD will look for a homestead exemption in the property tax records provided by the Parish directly from a data feed stored in the Program's data source from the program eligibility period. If the tax records have established ownership and the Parish has granted a homestead exemption, the property is considered occupied by the applicant
2. When the third-party data source is unable to verify occupancy, OCD will use the following hierarchy to establish occupancy (all occupancy documentation must be from the program eligibility period):
    a. Tax records from a year prior to the program eligibility period, demonstrating homestead exemption for the property
    b. Copy of electric, gas, water, trash, sewage, cable or landline phone bill. The bill must confirm that service was provided in the month preceding or the month of the program eligibility period and must match name and address on the Program application. Bills must reflect usage of services indicative of occupancy
    c. Letter from electric, gas, water, trash, sewage, cable or landline phone company. The letter must confirm that service was provided in the month preceding or month of the program eligibility period and must match name and address on the program application
    d. Voter registration records submitted together with valid driver's license (unexpired as of date of program eligibility period) must match the name and address on the Program application
    e. Copy of credit card bill sent to the subject residence in the month preceding or month of the program eligibility period and matching the name and address on the program application
    f. Copy of bank statement sent to the subject residence in the month preceding or month of the program eligibility period and matching the name and address on the program application

g. Title search results that yield proof of homestead exemption

3. Applicants execute a grant agreement certifying that the applicant was the owner-occupant at the time of the program eligibility period.

B.2. Properties Eligible for Owner-Occupant Housing Incentive

Eligible property types include:

1. Owner-occupied single and multifamily residences, note: See section of this document for rental property if a structure has both rental and owner-occupied units

2. Mobile homes that are owner-occupied, if the land owner participates

Ineligible property types include:

1. Second homes
2. Vacant land
3. Agricultural land
4. Commercial structures
5. Rental properties

B.3. Relocation Requirements for Owner-Occupant Housing Incentive

All owner-occupants (including those who own a structure on non-owned land, provided the land owner participates in the buyout) receiving the housing incentive in this program must relocate to a permanent, site-built home that is subject to lower flood risk. The home where participants relocate to must meet one of the following criteria:

1. The subject site is located outside the 0.2% annual chance (500 year) flood zone as shown on the most recent FEMA Flood Insurance Study (FIS) for the area or as indicated on an LWI model product

2. The subject site is outside the 1% annual chance (100-year) flood zone as shown on the most recent FEMA Flood Insurance Study (FIS) for the area or as indicated on an LWI model product and the first floor of the subject structure is elevated a minimum of three feet above the highest adjacent grade, BFE, or ABFE, if applicable (whichever elevation is higher) on a pier or piling foundation

   NOTE: An elevation certificate is required at the closing for the buyout property to meet the requirements of 2), however the state will only provide reimbursement for one elevation certificate per household.

The home for relocation is not required to be in Louisiana. Recipients of the housing incentive are not required to purchase a home to receive the grant award, however, the relocation address is required in order to verify that criteria for 1) and 2) have been met.

B.4. Owner-Occupant Buyout and Housing Incentive Awards

The maximum award for property owners choosing to accept buyout assistance and housing incentive assistance is $250,000.00.

Calculation Method:

OCD will use the information from the appraisal of the subject property to determine the gross living area of the home. OCD will use a methodology based on average home values outside of the SFHA within the parish, region or state to calculate the total award under this method. OCD will apply this methodology to each property to undergo a buyout with housing incentive, in order to determine the total award for each property owner participating in the program.

In order to standardize the calculation of gross living square footage, OCD will round the gross living square footage up to the next rounded 50 square feet from the square footage listed in the appraisal when calculating the housing incentive. For example, an appraisal that lists the square footage as 1,510 square feet will be rounded up to 1,550 square feet for the housing incentive award calculation purposes. Similarly, an appraisal that lists the square footage as 1,545 square feet will be rounded up to 1,550 square feet for housing incentive award calculation purposes.

For the purpose of calculating the housing incentive, mobile homes will be treated equivalent to a site-built home of 1,200 square feet.

Exception to Calculation: Household Size

OCD will consider the household size number of individuals in a family or household at the time of application to the program to calculate the housing incentive for owner-occupants. Under this exception, a household of five or more members with a gross living area of 2,000 square feet or less (regardless of the size of the home subject to buyout by the program) will receive the total award using a housing incentive calculation equivalent to that for a home measuring 2,000 square feet.

A family is defined as:

1. All the people who occupy a housing unit, including blood relatives and unrelated people, if any, such as lodgers, foster children, wards, or employees who currently share a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers
2. Two or more persons related by blood, marriage or operation of law, who occupy the same dwelling or unit[8]

Family composition will be determined through the following methodology[9]:

1. All full-time members of a family, living in a common unit at the time of application, will be counted for the purposes of housing incentive calculation
2. Anticipated children will be counted as part of a family. Anticipated children include the following:
    a. Children expected to be born to a pregnant woman
    b. Children in the process of being adopted by an adult family member
    c. Children whose custody is being obtained by an adult family member
    d. Foster children who will reside in the unit; or
    e. Children who are temporarily in a foster home who will return to the family
    f. Children in joint custody arrangements who are present in the family 50 percent or more of the time
3. OCD shall count family members that are temporarily in a correctional facility or otherwise temporarily located outside the residence (i.e., on active military duty, temporarily institutionalized or receiving medical care, or temporarily housed at an academic or training institution), provided such family members have a demonstrated legal relationship to a permanent resident of the subject property at the time of application for the program
4. OCD shall count foster adults living in a common unit
5. OCD shall not count visitors

Proof of occupancy of family or household members must be provided in accordance with the "proof of occupancy" requirements in Section B.1.2 of this document, however if there is a lack of clarity regarding a household member's occupancy status, OCD will defer to the stated occupancy from the application.

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[8] "HUD Definitions, Policy Statements and General Rulings"

[9] "Occupancy of Subsidized Multifamily Housing (Section 8)"

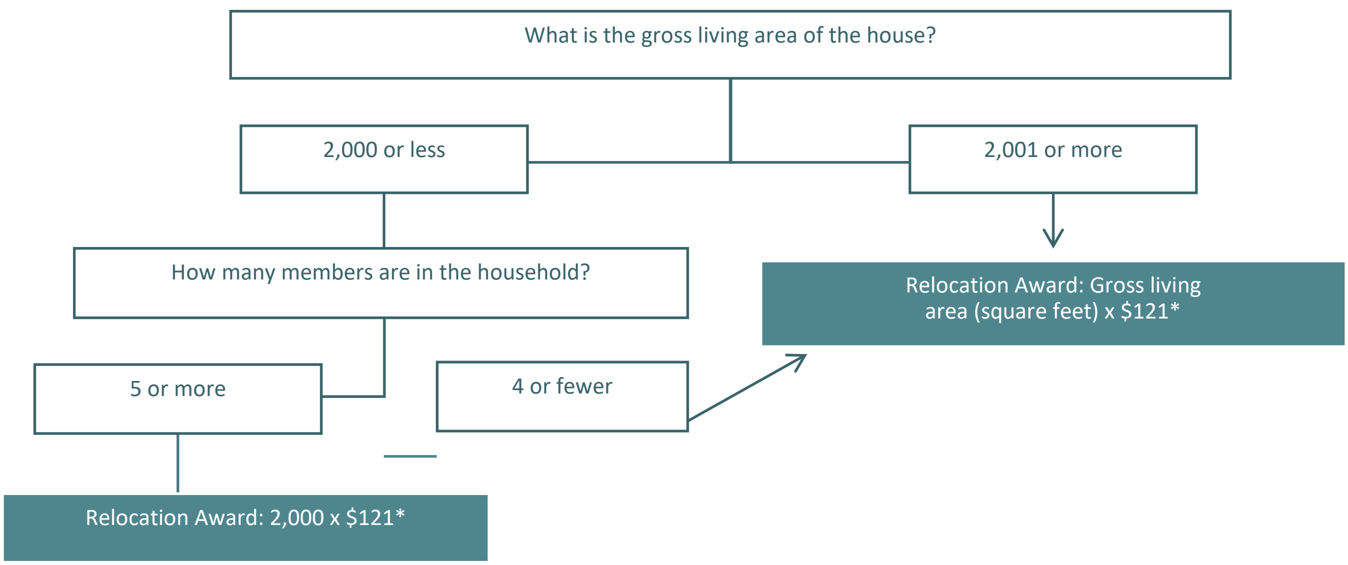
Example of Total Award Calculation Decision Tree:

Step 1: Consider housing incentive calculation for housing incentive recipients. Note: The total award refers to the amount that a property owner eligible for the housing incentive could receive in this program. The housing incentive award is equivalent to the difference between fair market value (buyout award) and the total award.

Example total award for eligible recipients	
Average home value per square foot	$121* per square foot
1,500 square feet of gross living area, 3 household members	1,500 square feet x $121 per square foot = Total award of $181,500
1,500 square feet of gross living area, 5 household members	2,000 square feet x $121 per square foot = Total award of $242,000

*Note: This is an example of an average home value per square foot. Each parish will have a different calculated average home value per square foot.

Step 2: Use the decision tree based on the example average home value per square foot amount in the table in Step 1 to determine the housing incentive award:



*Note: This is an example of an average home value per square foot. Each parish will have a different calculated average home value per square foot.

<u>Buyout Award Sample Calculation 4</u> - buyout and housing incentive where the total award does not exceed program cap without duplication of benefits and where:

Appraisal of property = **A,** Duplicative Assistance = **DOB,** Incentive Calculation = **IC,** & Total Award = **TA**

(A – DOB) + (IC-A) = TA*

Step 1	Appraisal of property	$100,000
Step 2	Less duplicative assistance received (i.e. SBA Relocation Loan)	$0
Step 3	Housing incentive calculation (home is 1,200 square feet multiplied by $121** per square foot)	$145,200
Step 4	Approved total award	$145,200* composed of: $100,000 buyout portion $45,200 housing incentive portion

*Cannot exceed program cap of $250,000

**Note: This is an example of an average home value per square foot. Each parish will have a different calculated average home value per square foot.

Buyout Award Sample Calculation 5 - buyout and housing incentive where the housing incentive award exceeds program cap without duplication of benefits and where:

Appraisal of property = **A,** Duplicative Assistance = **DOB,** Incentive Calculation = **IC,** Program Cap = **PC**, &
Total Award = **TA**

(A – DOB) + (IC-A) ≤ PC = TA*

Step 1	Appraisal of property	$100,000
Step 2	Less duplicative assistance received (i.e. SBA Relocation Loan)	$0
Step 3	Housing incentive calculation (home is 2,400 square feet multiplied by $121** per square foot)	$290,400
Step 4	Approved total award	$250,000* composed of: $100,000 buyout portion $150,000 housing incentive portion

*Cannot exceed program cap of $250,000

**Note: This is an example of an average home value per square foot. Each parish will have a different calculated average home value per square foot.

Exceptions to Buyout and Housing Incentive Cap

Exceptions to the individual award cap of $250,000 for this program may be provided at the sole discretion of OCD.

Special Circumstances: Multiple Property Owners

In instances where there are multiple property owners, awards for this program will be issued as follows:

Ownership will be handled according to Louisiana law.

The buyout portion of the award will be paid proportionately to all property owners, including in situations where there is an owner-occupant and/or multiple non-owner occupants

1. If subject site has both an owner-occupant and one or more non-occupant owners (owners who reside somewhere other than the subject property), and the owner-occupant is eligible for the housing incentive, the total award will be calculated for the owner-occupant as follows:
    a. Divide the buyout portion of the award proportionately among all property owners (for the owner-occupant this value becomes the buyout portion of their final award)
    b. Obtain the housing incentive calculation for the owner-occupant and issue the total award as shown below in Calculation 6
2. If the subject site has multiple owner-occupants who do not plan to relocate to the same household, the total award will be calculated as follows:
    a. If all occupants relocate in accordance with the relocation requirements, the total award will be split among the parties as shown below in Calculation 7
    b. If some occupants choose not to relocate in accordance with the relocation requirements and some other occupants choose to relocate in accordance with the relocation requirements, the buyout portion of the award will be split among the parties, but the housing incentive portion of the award will be awarded only to the occupant who is relocating in accordance with the relocation requirements as shown in Calculation 8

<u>Buyout and Housing Incentive Award Sample Calculation 6</u> - buyout and housing incentive where the total award does not exceed program cap without duplication of benefits, where there are multiple property owners, one of whom is an owner-occupant, and where:

Appraisal of property = **A,** Duplicative Assistance = **DOB,** Co-Owner Award = **CA**,
Percentage of Ownership = **PO**, Incentive Calculation = **IC,** Owner-Occupant Award = **OA,** & Total Award = **TA**

$$\frac{A - DOB}{PO} = CA$$

$$CA + (IC - CA) = OA$$

$$OA + CA_A + CA_B + CA_C = TA^*$$

Scenario: 4 property owners, 1 of whom occupies the home (the owner-occupant)

Step 1	Appraisal of property	$100,000
Step 2	Less duplicative assistance received (i.e. SBA Relocation Loan)	$0
Step 3	Total awards for the 3 owners who do not occupy the property (all with equal owner-ship)	$100,000 divided by 4 owners $25,000 buyout award for each property owner
Step 4	Housing incentive calculation for the owner-occupant ($121** x 1,200 sq. ft.)	$145,200
Step 5	Approved total award for owner-occupant	$145,200* composed of: $25,000 buyout portion $120,200 housing incentive portion
Step 6	Total award among all owners	$220,200 composed of: $145,200 award for the owner-occupant $25,000 for co-owner A $25,000 for co-owner B $25,000 for co-owner C

*Cannot exceed program cap of $250,000

**Note: This is an example of an average home value per square foot. Each parish will have a different calculated average home value per square foot.

Buyout and Relocation Housing Incentive Award Sample Calculation 7 - buyout and housing incentive where multiple occupants are relocating to different units, all in accordance with the relocation requirements of the program, and where:

Appraisal of property = **A,** Duplicative Assistance = **DOB,** Co-Owner-Occupant Award = **COA**,
Percentage of Ownership = **PO**, Incentive Calculation = **IC,** Owner-Occupant Award = **OA,** & Total Award = **TA**

$$\underline{A - DOB} = COA$$

PO

$$COA + \frac{IC - A}{PO} = OA$$

$$OA_A + OA_B = TA^*$$

Scenario: 2 owner-occupants, both are relocating to separate units in accordance with the relocation requirements of the program

Step 1	Appraisal of property	$100,000
Step 2	Less duplicative assistance received (i.e. SBA Relocation Loan)	$0
Step 3	Buyout awards for the owner-occupants (all with equal ownership)	$100,000 divided by 2 owners $50,000 buyout award for each property owner
Step 4	Housing Incentive calculation for the owner-occupants ($121** x 1,200 sq. ft.)	$145,200
Step 5	Total award among all owner-occupants	$145,200* is the total award, but it is divided among the two owner-occupants: $72,600 for owner-occupant A composed of: $50,000 buyout portion $22,600 housing incentive portion $72,600 for owner-occupant B $50,000 buyout portion

		$22,600 housing incentive portion

*Cannot exceed program cap of $250,000

**Note: This is an example of an average home value per square foot. Each parish will have a different calculated average home value per square foot.

<u>Buyout and Housing Incentive Award Sample Calculation 8</u> - buyout and housing incentive where multiple occupants are relocating to different units, one in accordance with the relocation requirements of the program, one not in accordance with the relocation requirements, and where:

Appraisal of property = A**,** Duplicative Assistance = **DOB**, Co-Owner-Occupant Award = **COA**,

Percentage of Ownership = **PO**, Incentive Calculation = **IC**, Incentive Owner-Occupant Award = **IOA**, &
Total Award = **TA**

$$\frac{A - DOB}{PO} = COA$$

$$COA + (IC - COA) = IOA_A$$

$$COA = COA_B$$

$$IOA_A + COA_B = TA^*$$

Scenario: Two owner-occupants, both are relocating to separate units, one location is in accordance with the relocation requirements of the program (owner-occupant A) and the other is not (owner-occupant B)

Step 1	Appraisal of property	$100,000
Step 2	Less duplicative assistance received (i.e. SBA Relocation Loan)	$0
Step 3	Buyout awards for the owner-occupants (all with equal ownership)	$100,000 divided by 2 owners $50,000 buyout award for each property owner

Step 4	Housing incentive calculation for the owner-occupants ($121** x 1,200 sq. ft.)	$145,200
Step 5	Total award among all owner-occupants	$145,200* is the total award, but it is divided into: $95,200 for owner-occupant A com-posed of: $50,000 buyout portion $45,200 housing incentive portion $50,000 for owner-occupant B $50,000 buyout portion $0 housing incentive portion

*Cannot exceed program cap of $250,000

**Note: This is an example of an average home value per square foot. Each parish will have a different calculated average home value per square foot.

VII. FOR RENTAL PROPERTY OWNERS OR “LANDLORDS”

A. BUYOUT ONLY

“Buyout only” for landlords will use the program requirements of the “buyout only” for owner-occupants, Section VI. A1 of this document.

B. LANDLORD BUYOUT AND HOUSING INCENTIVE

The housing incentive component of the program provides a monetary inducement to owners of property containing a residential structure identified for buyout to participate in the program, particularly in cases where the value of the subject property is lower than what would reasonably be required for the property owner to acquire replacement housing in a lower risk area. This housing incentive may apply to the owners of rental property within the buyout eligibility area in exchange for their agreement to purchase replacement housing units or convert owned existing market-rate units equivalent to the number of units included in the buyout (under specific conditions) in an area with lower exposure to flood risk. The housing incentive assistance functions to induce these property owners to purchase replacement housing for their tenants in safer locations, and therefore is only available to landlords who purchase a replacement housing unit or convert a market rate unit in accordance with the relocation requirements of this document.

B.1. Applicants Eligible for Landlord Buyout and Housing Incentive

Property owners who are not occupants of the unit undergoing buyout and who can offer proof of the site operating as a rental unit are eligible applicants to this program. These rental unit owners are identified as “landlords” in this document.

Relocation of Tenants

If an eligible home is purchased through the program and the property contains tenants that will be required to relocate as a result of the program, those tenants are considered displaced persons who are eligible for relocation benefits under the Uniform Relocation Act and Real Property Acquisition Policies Act (URA). Because of the voluntary nature of acquisition, property owners are not eligible for additional assistance under the URA.

B.1.1. Housing Incentive Eligibility Period for Applicants

Eligibility periods will vary with participating communities. Please see Appendix A for community-specific eligibility periods.

B.1.2. Documentation of Ownership and Occupancy Requirements for Landlord Buyout and Incentive:

Trusts or LLCs that are the owning entity for a rental property are not required to be dissolved or to transfer property to an individual for the purpose of this program, however this allowance is at the discretion of OCD.

See “Buyout only” section within this document for documentation requirements to prove ownership of a property. Occupancy by a tenant will be determined through review of the following data sources and documentation:

1. OCD will use the following hierarchy to establish occupancy by the tenant (all occupancy documentation must be from the program eligibility period):
    a. Copy of lease or rental agreement

b. Copy of electric, gas, water, trash, sewage, cable or landline phone bill. The bill must confirm that service was provided in the month preceding or the month of the program eligibility period. Bills must reflect usage of services indicative of occupancy

c. Letter from electric, gas, water, trash, sewage, cable or landline phone company. The letter must confirm that service was provided in the month preceding or month of the program eligibility period

d. Voter registration records submitted together with valid driver's license (unexpired as of date of program eligibility period)

e. Copy of credit card bill sent to the subject residence in the month preceding or month of the program eligibility period

f. Copy of bank statement sent to the subject residence in the month preceding or month of the program eligibility period

2. Applicants execute a grant agreement certifying that the unit was rented to a tenant at the time of the program eligibility period

B.2. Properties Eligible for Landlord Housing Incentive

1. Eligible property types include rental properties for residential use, including single and multifamily residences.

2. Ineligible property types include:

   a. Second homes
   b. Vacant land
   c. Agricultural land
   d. Commercial structures

B.3. Replacement Unit and Affordability Requirements for Landlord Housing Incentive

In order to be eligible for this housing incentive, a landlord must purchase a new affordable unit(s) or convert an existing market-rate unit(s) to an affordable unit(s) to replace the unit(s) undergoing buyout through this program.

The replacement unit(s) must be a permanent, site-built residential structure that is subject to lower flood risk. The home must meet one of the following criteria:

1. The subject site is located outside the 0.2% annual chance (500 year) flood zone as shown on the most recent FEMA Flood Insurance Study (FIS) for the area or as indicated on an LWI model product

2. The subject site is outside the 1% annual chance (100-year) flood zone as shown on the most recent FEMA Flood Insurance Study (FIS) for the area or as indicated on an LWI model product and the first floor of the subject structure is elevated a minimum of three feet above the highest adjacent grade, BFE, or ABFE, if applicable (whichever elevation is higher) on a pier or piling foundation

   NOTE: An elevation certificate is required at closing to meet the requirements of 2), however the state will only provide reimbursement for one elevation certificate per applicant.

If the landlord participating in the program owns multiple units that are subject to buyout through this program, they must purchase or provide replacement units in accordance with the requirements of this section equivalent to the number of units undergoing buyout.

If the landlord participating in the program is also an occupant of the structure subject to buyout through this program, they may choose to participate in this program as either an owner-occupant or a landlord, but not as both, and their total award from the program will be limited to $250,000.

In addition to the location requirements, rental property owners or "landlords" must ensure that the unit(s):

1. Is located in Louisiana
2. Is in a "move-in-ready"[10] condition to accept tenants within 6 months of purchase or conversion[11]
3. If an existing market-rate unit, it must be unoccupied at the time of grant closing, unless occupied by an LMI tenant, and rental rates must be modified immediately upon grant closing.[12]
4. Rental rates for the unit(s) remain affordable for LMI tenants for a period of time according to the amount of the Incentive award and as illustrated in the Affordability Requirements Schedule below. The unit(s) must be **occupied** by LMI tenants for the entire period to earn forgiveness. This period will begin on the date that the initial tenant moves into the unit. Within the determined period, landlords may have up to 90 day "grace periods" between tenants, where the unit is not occupied. However, if the unit is not occupied immediately at the end of a grace period, the landlord will be subject to an extended affordability period subject to OCD determination. See full grant award for requirements.

Affordability Requirements Schedule

Incentive Award Amount	Required Affordability Period
$1 - $60,000	5 Years
$60,001 - $70,000	6 Years
$70,001 - $80,000	7 Years
$80,001 - $90,000	8 Years
$90,001 - $100,000	9 Years
$100,000+	10 Years

Affordability Requirements

Tenant income (total household income adjusted for family size) must not exceed 80% of the Area Median Income. Rent and tenant-paid utilities must not exceed 30% of the adjusted monthly income AMI[13], adjusted for bedroom size. Applicants may not receive rents from any source that exceed the restricted amount specified by the program.

Warning to landlords applying for this program: HUD prohibits the commitment or expenditure of funds prior to the completion of an environmental review. No contracts can be entered committing the applicant, including but not limited to, purchase contracts or deposits and construction contracts. Purchase of the relocation property may not occur before the environmental review process is completed.

[10] "Move-in ready" condition will be determined by OCD through an inspection.

[11] OCD may grant exceptions to this time period, however any exceptions must be requested by the applicant in writing, before the initial 6 month period has ended, and determinations on exceptions are at the sole discretion of OCD.

[12] If the unit was previously occupied prior to grant closing, the owner must be able to document the property had become vacant either by voluntary relocation of the prior tenant or completion of the prior lease. Any action to evict a previous tenant for purposes of meeting this requirement will make the unit ineligible as a replacement unit.

[13] https://www.huduser.gov/portal/datasets/il.html provides AMI information.

These requirements apply if even such contracts or work is funded with non-federal dollars. Breach of this requirement results in the entire project being ineligible even for costs incurred after the environmental review.

Landlords purchasing or providing an affordable unit must maintain flood, dwelling/hazard, & liability insurance for the affordability period. Coverages must be for replacement value or maximum coverage available. Insurances will not be paid by the program.

Landlords accepting the housing incentive will be allowed 12 months from award acceptance to close on the grant and the purchase of a new property or conversion. Landlords accepting the housing incentive payment within this program will be required to close on the new unit on the date of closing with the grant, and must execute a forgivable mortgage for the amount of the incentive to be recorded and encumber the new property. Landlords participating in this program are required to complete Fair Housing training.

B.4. Landlord Buyout and Housing Incentive Awards

The maximum award for property owners choosing to accept buyout assistance and housing incentive assistance is $250,000.00.

Calculation Method:

OCD will use the information from the appraisal of the subject property to determine the gross living area of the home. OCD will use a methodology based on average home values outside of the SFHA within the parish, region or state to calculate the total award under this method. OCD will apply this methodology to each property to undergo a buyout with housing incentive, to determine the total award for each property owner participating in the program.

In order to standardize the calculation of gross living square footage, OCD will round the gross living square footage up to the next rounded 50 square feet from the square footage listed in the appraisal when calculating the housing incentive. For example, an appraisal that lists the square footage as 1,510 square feet will be rounded up to 1,550 square feet for housing incentive award calculation purposes. Similarly, an appraisal that lists the square footage as 1,545 square feet will be rounded up to 1,550 square feet for housing incentive award calculation purposes.

For the purpose of calculating the housing incentive, mobile homes will be treated equivalent to a site-built home of 1,200 square feet.

Landlords receiving the housing incentive award through this program by providing a replacement unit(s) will be issued a loan (secured by a forgivable mortgage) to purchase and/or convert and maintain an affordable rental housing unit(s), subject to the relocation requirements of this document, for the period of compliance as provided in the Affordability Requirements Schedule above, where a portion of the mortgage will be forgiven for each year the unit remains occupied at an affordable rate. If the property is sold or the owner/participant does not comply with the affordable rental requirements in the determined time period, the remainder of the loan owed will be due.

Throughout the term of the affordability period and forgivable mortgage, the landlord will also be responsible for maintaining the unit according to national Housing Quality Standards, reporting regularly to OCD, subject to inspection and monitoring by OCD, and other compliance requirements to be stipulated in the award documents.

VIII. RELOCATION ASSISTANCE FOR TENANTS

If a property owner participates in a buyout and the subject home has current tenants that will be required to relocate, the tenants are considered displaced persons who are eligible for relocation benefits under the Uniform Relocation Act (URA). Rental assistance will be capped in accordance with URA provisions – please see: https://www.govinfo.gov/content/pkg/FR-2005-01-04/pdf/05-6.pdf. OCD has a URA policy available at https://www.doa.la.gov/doa/OCD/. Assistance provided will be in addition to the program cap of $250,000.

If an eligible home is purchased through the program and the property has current tenants that will be required to relocate as a result of the program, those tenants are considered displaced persons who are eligible for relocation benefits under the Uniform Relocation Act and Real Property Acquisition Policies Act (URA). Because of the voluntary nature of acquisition, property owners are not eligible for additional assistance under the URA.

IX. REFERENCES TO CDBG-MIT AND FEDERAL CROSS-CUTTING REQUIREMENTS

HUD has approved basic waivers common to CDBG-DR that are allowed in CDBG-MIT, otherwise CDBG-DR rules preside. HUD has determined certain Alternative Requirements applicable only to the CDBG-MIT funds, as detailed in the authorizing FRN (FR-6109-N-02). The Alternative Requirements provide flexibility in program implementation while ensuring HUD CDBG requirements are met.

For a comprehensive understanding of the CDBG-DR and federal cross-cutting requirements, please refer to the Disaster Recovery CDBG Grantee Administrative Manual: http://www.doa.la.gov/Pages/ocd-dru/DRadminManual.aspx. While an applicant/project may be subject to other compliance requirements, the following have historically presented the most challenging and additional attention to detail may be required even prior to commencing:

- Labor Compliance Requirements (Davis Bacon and Related Acts)
- Uniform Relocation and Real Property Acquisition Act (URA)
- Section 3 Compliance
- Elevation Requirements
- Procurement Methods
- Environmental Review
- Duplication of Benefits
- Fair Housing

OCD will provide technical assistance to inform and assist with compliance. Failure to comply fully with the CDBG-MIT and federal cross-cutting requirements may result in project ineligibility and/or a recapture of funds.

A. LABOR STANDARDS

In general, Davis-Bacon and Related Acts (DBRA) requires payment of prevailing wages to laborers and mechanics on contracts, financed in whole or in part with CDBG-DR or CDBG-MIT funds, that involve residential construction of 8 units or more, and non-residential construction work valued in excess of $2,000. Also, all employees must be paid at least time and a half for any time they work more than forty hours per week. The Federal Labor Standards Provisions and the applicable federal wage decision(s) must be included in bid packages and contract documents as well as referenced in all bid advertisements. Prevailing wage rates are higher than regular wages in many rural areas and may affect the project budget.

Eligible applicants must comply with and will be responsible for ensuring compliance of all of its construction contracts with the following labor requirements and any other regulations issued to implement such requirements:

1. Section 110 of the Housing and Community Development Act of 1974, as amended and as set forth in 24 CFR§570.603
2. Davis-Bacon Act, as amended (40 U.S.C. §3141 et seq.) as supplemented by Department of Labor regulations (29 CFR Parts 1, 3, 5, 6 and 7)
3. Contract Work Hours and Safety Standards Act (40 U.S.C. §3701 et seq.)
4. Federal Fair Labor Standards Act (29 U.S.C. §201 et seq.)
5. Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. §874) as supplemented in Department of Labor regulations (29 CFR Part 3)

For further guidance, please see Section 7: Labor Regulations of the Disaster Recovery CDBG Grantee Administrative Manual, available at: https://www.doa.la.gov/Pages/ocd-dru/DRadminManual.aspx.

B. UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION ACT

In executing projects, OCD or grantees may need to acquire real property to complete specific activities. Prior to acquiring real property or attempting to undertake a relocation project, a determination must be made as to whether or not the requirements of the Uniform Relocation Assistance (URA) and Real Property Acquisition Act of 1970 (as amended in 1986) apply. The applicant must follow the procedures of the Uniform Relocation and Real Property Acquisition Act prior to the site acquisition. ANY acquisition of real property made by a grantee, even when financed with non-federal funds (i.e., general funds), can be subject to URA if the project's end result is a federally assisted project. Acquisition and relocation can be very time consuming. Please develop your program time schedule accordingly.

There are three major regulations that cover relocation and acquisition activities in CDBG programs:

1. URA regulations, effective February 2005, implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended (49 CFR Part 24}
2. (b} Section 104(d) of the Housing and Community Development Act of 1974 (HCDA) and the implementing regulations at 24 CFR Part 42
3. 24 CFR 570.606 of the CDBG Regulations, which requires compliance with the regulations, listed above

For further guidance, please see Section 10 Acquisition and Relocation of the Disaster Recovery CDBG Grantee Administrative Manual:

https://www.doa.la.gov/Pages/ocd-dru/DRadminManual.aspx.

C. SECTION 3 COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT, AND BUSINESS OPPORTUNITIES

To the greatest extent feasible, employment and other economic opportunities should be directed to (1) low- and very low-income persons and (2) business concerns that provide economic opportunities to low- and very low-income persons. Requirements are triggered when a recipient of CDBG-MIT assistance invests $200,000 or more into projects/activities involving housing construction, rehabilitation or other public construction. If Section 3 of the HUD Act of 1968 is triggered for the applicant, then contractors/subcontractors whose contracts exceed $100,000 must also comply. The applicant must report to OCD information on Section 3 new hires and contracts awarded to Section 3 business concerns.

Applicants must ensure they comply with

1. Section 3 of the Housing and Urban Development Act of 1968, as amended
2. 12 U.S.C. 1701u
3. 24 CFR Part 135

For further guidance, please see Section 8 Civil Rights of the Disaster Recovery CDBG Grantee Administrative Manual, available online here: https://www.doa.la.gov/Pages/ocd-dru/DRadminManual.aspx.

D. PROCUREMENT

Applicants that are state agencies may follow state procurement law pursuant to 2 CFR Part 200.317 but must additionally comply with the requirements of 2 CFR Parts 200.321-322. All others <u>must follow</u> federal procurement rules (or state when more stringent) when purchasing services, supplies, materials or equipment. The federal procurement rules establish standards and guidelines for the procurement of supplies, equipment, construction, engineering, architectural, consulting and other professional services for CDBG-MIT programs.

These standards are furnished to ensure that such materials and services are obtained efficiently and economically and in compliance with the provisions of applicable federal and state laws and executive orders.

Applicants can refer to 2 CFR Part 200 for full details of requirements. Grantees are required to adopt written procurement procedures as required in 2 CFR 200.318-326. All procurement transactions funded in whole or in part with CDBG-MIT funds, regardless of dollar amount, must be conducted to provide "maximum open and free competition." 2 CFR 200.318(i) requires that applicants maintain records sufficient to detail the significant history of a procurement. These records must include, but are not limited to, the following:

1. Rationale for the method of procurement
2. Selection of contract type
3. Contractor selection or rejection
4. The basis for the contract price

Two critical areas of compliance under 2 CFR Part 200 that all grantees should adhere to:

1. Per 2 CFR Part 200.323, the Grantee must make independent cost estimates before receiving bids or proposals
2. The contract provisions for non-federal entity contracts listed in Appendix II to 2 CFR Part 200 must be incorporated into all CDBG-MIT funded contracts. These provisions are included in the Grantee Administrative Manual as Exhibit 6-2 and Exhibit 6-16

Applicants shall maintain a contract administration system to monitor contractor's performance against the terms, conditions and specifications of their contracts or purchase orders.

For additional information, refer to Section 6 – Procurement Methods and Contractual Requirements in the OCD-DRU Grantee Administrative Manual online here: http://www.doa.la.gov/Pages/ocd-dru/DRadminManual.aspx.

E. ENVIRONMENTAL REVIEW

All activities funded by CDBG-MIT are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as to the HUD environmental review regulations at 24 CFR Part 58. Applicants cannot make any choice limiting actions prior the completion of the HUD environmental review process. **No contracts may be entered committing the applicant. This includes but is not limited to contracting for property rights or acquisition or construction contracts. Work may not commence on a project before the environmental review process is completed. These requirements apply if even such contract or work is funded with non-federal dollars. These requirements are triggered once there is a reasonable expectation that a grantee or entity may receive funds, which is no later than the date of application to the program. Breach of this requirement results in the entire project's being ineligible even for costs incurred after the environmental review.**

For additional information, refer to Section 9 – Environmental Review in the OCD-DRU Grantee Administrative Manual online here: http://www.doa.la.gov/Pages/ocd-dru/DRadminManual.aspx.

The primary objectives of the HUD environmental review are to identify specific environmental factors that may be encountered at potential project sites and to develop procedures to ensure compliance with regulations pertaining to these factors. All CDBG-MIT funded projects and activities must have documentation that they follow NEPA and all other environmental requirements.

Laws and regulations containing environmental provisions that must be complied with include:

- Noise
- Historic Properties
- Coastal Zones
- Environmental Justice
- Floodplains
- Wetlands

- Manmade Hazards
- Water Quality
- Air Quality
- Endangered Species
- Farmland Protection

The timeline for an Environmental Assessment (**EA**) level (i.e., requiring a Phase I Report for new construction or reconstruction) environmental process is 90-120 days from the receipt of a comprehensive environmental review record (**ERR**). However, the amount of information collected and required in the environmental review process is also impacted by the type of work being completed. For example, a project that only consists of rehabilitation of an existing home may only require a site-specific checklist and could be completed much more quickly than a project that includes new construction and/or reconstruction. The stated condition of the property and recognized environmental conditions (**REC**) in the vicinity of the project also dictate follow-up requirements (i.e., 404 wetlands permits or Phase 2 reports) which further prolong the review process. The range of time required to completely review an ERR for a given property varies and is largely dependent upon how well the ERR submission is compiled. There is no official HUD timeline for all of the steps of the environmental review process.

After the environmental review process is completed, there are additional steps before release of funds:

- FONSI/NOI public notice period prior to submitting the RROF (15-18 days)
- the HUD review/comment period prior to the authorization to use grant funds (AUGF) (15-18 days or more)

For additional information and more details, refer to Section 9 – Environmental Review in the OCD-DRU Grantee Administrative Manual online here: http://www.doa.la.gov/Pages/ocd-dru/DRadminManual.aspx.

F. DUPLICATION OF BENEFITS

The Supplemental Appropriations Act authorizing CDBG funding or the Stafford Act itself may include restrictions on using those program funds to provide assistance when insurance providers or other federal or state agencies have already funded all or a portion of the activity. Supplemental Appropriations Acts also include restrictions against certain types of matching requirements, share or contribution for any other federal program.

If receiving funds, an applicant (sub-recipient or grantee) must have adequate procedures to prevent the duplication of benefits. This includes: (a) verifying all sources of assistance received, as applicable, prior to the award of CDBG-MIT funds; (b) determining remaining funding need(s) for CDBG-MIT assistance before committing funds or awarding assistance; and (c) requiring beneficiaries to enter into a signed agreement to repay any duplicative assistance if they later receive additional assistance for the same purpose for which the CDBG-MIT award was provided. For a state-administered project, OCD will implement procedures to prevent the duplication of benefits.

It is required to use the best, most recently available data from FEMA, the Small Business Administration (SBA), as applicable, insurers, and any other sources of information on local, state and federal funding to prevent the duplication of benefits. Policies and procedures related to DOB should take note of FRN (FR-6109-N-02) published on June 20, 2019 entitled, "Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees" (2019 DOB Notice) (84 FR 28836). The policies and procedures must reflect the treatment of loans in a way that is consistent with the requirements of the Declined Loans Provision and the Disaster Recovery Reform Act.14 Additional reference should be made to the State of Louisiana Substantial Action Plan Amendment No.12 for the Utilization of Community Development Block Grant Funds in Response to the Great Floods of 2016 (submitted to HUD on August 14, 2019).

[14] P.L. 115-254, Division D, "DRRA "section V.A.24. of FRN FR-6109-N-02 and the 2019 DOB Notice (Pages 24-25)

G. FLOOD INSURANCE

The Stafford Act also contains eligibility requirements for recipients who have received prior disaster funding based on whether they are in compliance with requirements associated with receipt of those funds. Where applicable, recipients must be in compliance with these restrictions or individual funding will be denied. Through this FRN (FR-6109-N-02), HUD instituted an Alternative Requirement to 42 U.S.C. 5305(a)(4) for CDBG-MIT funds, as follows: There is a prohibition to providing CDBG-MIT assistance for the rehabilitation/reconstruction of a house, if (a) the combined household income is greater than 120 percent AMI or the national median, (b) the property was located in a floodplain at the time of the disaster, and (c) the property owner did not maintain flood insurance on the damaged property, even when the property owner was not required to obtain and maintain such insurance.

Section 582 also imposes a responsibility on an applicant that receives CDBG-MIT. That responsibility is to inform property owners receiving assistance that triggers the flood insurance purchase requirement

that they have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance in writing and to maintain such written notification in the documents evidencing the transfer of the property, and that the transferring owner may be liable if he or she fails to do so.

Public entities applying for CDBG-MIT funding must be in good standing with the National Flood Insurance Program (NFIP). Project submittals are advised to include consultation with local and regional floodplain administrators and managers.

H. FAIR HOUSING

Receipt of CDBG funding is accompanied by the obligations of grantees to affirmatively further fair housing (24 CFR 570.487(b)). This obligation arises even if the CDBG funded project is not a housing related project.

I. OTHER RESOURCES AND INFORMATION

Resources, reference documents and links to guidance documents and regulations related to this program and the LWI will be posted on the LWI website at www.watershed.la.gov.

APPENDIX A

LAKE CHARLES (GREINWICH TERRACE)

Updated June 18, 2021

The housing incentive for buyouts and acquisitions undertaken by OCD or local grantees as part of the State Projects and Programs will be calculated as follows:

Housing Incentive Calculation

Parish or jurisdiction	Average home value per square foot for housing incentive calculation
Lake Charles	$121

Housing Incentive Eligibility Period For Applicants

Lake Charles (Greinwich Terrace) Buyout Project Area:

Applicant must be one of the following:

1. An occupant of the subject property as of May 21, 2021 (date of announcement of this program area)
2. An occupant of the subject property as of Aug. 16, 2016 (DR-4277)
3. An occupant of the subject property for any time between Aug. 16, 2016, and May 21, 2021

To be considered an occupant for the purpose of the eligibility period, the subject property must have been the primary residence of the applicant during the eligibility period. In addition to the eligibility period requirements above, the applicant must also apply to the program within the application window as determined by OCD.

Lake Charles Program Timeline

Event	Date
Greinwich Terrace program initiated	May 21, 2021
Greinwich Terrace application period opens	8 a.m. Sept. 27, 2021
Greinwich Terrace application period closes	5 p.m. Oct. 27, 2021
Goal to complete Greinwich Terrace closings	Fall 2022

VERMILION PARISH (VICTORIA ACRES)

Updated Dec. 9, 2021

The housing incentive for buyouts and acquisitions undertaken by OCD or local grantees as part of the State Projects and Programs will be calculated as follows:

Housing Incentive Calculation

Parish or jurisdiction	Average home value per square foot for housing incentive calculation
Vermilion Parish	$118

Housing Incentive Eligibility Period For Applicants

Vermilion Parish (Victoria Acres) Buyout Project Area:

Applicant must be one of the following:

1. An occupant of the subject property as of Oct. 7, 2021 (date of announcement of this program area)
2. An occupant of the subject property as of Aug. 16, 2016 (DR-4277)
3. An occupant of the subject property for any time between Aug. 16, 2016, and Oct. 7, 2021

To be considered an occupant for the purpose of the eligibility period, the subject property must have been the primary residence of the applicant during the eligibility period. In addition to the eligibility period requirements above, the applicant must also apply to the program within the application window as determined by OCD.

Vermilion Parish Program Timeline

Event	Date
Victoria Acres program initiated	Oct.7, 2021
Victoria Acres application period opens	8 a.m. Nov. 29, 2021
Victoria Acres application period closes	5 p.m. Jan. 5, 2022
Goal to complete Victoria Acres closings	Fall 2022

DENHAM SPRINGS (SPRING PARK)

Updated March 2, 2022

The housing incentive for buyouts and acquisitions undertaken by OCD or local grantees as part of the State Projects and Programs will be calculated as follows:

Housing Incentive Calculation

Parish or jurisdiction	Average home value per square foot for housing incentive calculation
Denham Springs	$125

Housing Incentive Eligibility Period For Applicants

Denham Springs (Spring Park) Buyout Project Area:

Applicant must be one of the following:

1. An occupant of the subject property as of Nov. 9, 2021 (date of announcement of this program area)
2. An occupant of the subject property as of Aug. 16, 2016 (DR-4277)
3. An occupant of the subject property for any time between Aug. 16, 2016, and Nov. 9, 2021

To be considered an occupant for the purpose of the eligibility period, the subject property must have been the primary residence of the applicant during the eligibility period. In addition to the eligibility period requirements above, the applicant must also apply to the program within the application window as determined by OCD.

Denham Springs Program Timeline

Event	Date
Spring Park program initiated	Nov. 9, 2021
Spring Park application period opens	8 a.m. Jan. 25, 2022
Spring Park application period closes	5 p.m. Feb. 25, 2022
Goal to complete Spring Park closings	Winter 2022