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Community Development and Revitalization Division
The Texas General Land Office
PO Box 12873
Austin, TX 78711-2873

Comments on the Community Development Block Grant-Mitigation (CDBG-MIT) State Action Plan Draft Amendment 1

To Whom It May Concern,

Texas Low Income Housing Information Service (Texas Housers) submits the following comments on the Mitigation State Action Plan Draft Amendment 1 (“the Amendment”), which was released by the Texas General Land Office (GLO) on August 22, 2021. Texas Housers is a non-profit corporation with offices in Houston, Austin, and San Antonio. It is the principal statewide advocacy group focused on expanding housing opportunities for low-income residents of Texas. We have actively worked to ensure the fair and equitable treatment of Texas hurricane survivors for more than fifteen years. Additionally, the following community leaders and organizations also sign on to this letter:

Doris Brown, Co-founder, Northeast Action Collective, Houston, TX

Reverend James Caldwell, Executive Director, Coalition of Community Organizations, Houston, TX

Cecilia Fontanot, President, Fair Housing & Neighborhood Rights, Houston, TX

John Beard, Jr., CEO, Port Arthur Community Action Network, Port Arthur, TX

We object to the adoption of the Amendment because it fails to allocate funds in a fair and non-discriminatory manner. The proposed amendment will reduce GLO and its subrecipients' transparency and accountability for compliance with civil rights and fair housing laws. The GLO clearly attempts through this amendment to remedy the disastrously inequitable distribution of funds during the Harvey Round 1 competition, which excluded the largest and most impacted jurisdictions from receiving even one dollar of funding and in the process, disproportionately denied the benefit of these federal funds to African-American and Hispanic persons. However, the Amendment fails to undo the harm that has been done by the Round 1 allocation. Furthermore, the amendment compounds the harm by opening the door for Councils of Government (COGs) to engage in similar unlawful civil rights violations. With this amendment, the GLO is attempting to outsource their civil rights obligations to COGs and counties. The distribution method is so dispersed, it will be nearly impossible for impacted communities or HUD to know if civil rights and fair housing violations have occurred.

Texas Housers is a 501(c)(3) nonprofit organization founded in 1988 to work for housing justice and fair and equal treatment by government of communities. Our mission is to support low-income Texans' efforts to achieve the American dream of a decent, affordable home in a quality neighborhood of their choosing. We work toward these goals through research, policy, and collaboration with community organizations.

The direct allocation of \$750 million to Harris County partially restores funds that were improperly denied to Harris County in the round one allocation of funds. Yet GLO proposes to do nothing to remedy its denial of any funding to the cities of Beaumont, Port Arthur, and Corpus Christi, and Nueces and Jefferson counties from the Round 1 awards. In light of the failure of the Harvey Round 1 competition, this amendment should instead commit GLO to remedy the improper rejection of applications of these jurisdictions under the Harvey Round 1 competition, be completely transparent and accessible regarding scoring decisions and processes, and demonstrate that persons of color are equitably afforded access to federal funds and that low-income people are restored as the principal intended beneficiaries of the program.

It is important to be clear about what has occurred in the GLO's handling of Hurricane Harvey CDBG-MIT funds:

1. In the Round 1 competition, the GLO denied funding to the principal population centers that have suffered repetitive damage from natural disasters and remain highly vulnerable and at high risk for future disasters.
2. The GLO's improper denial of funding to these places had a disparate impact on African-American and Hispanic persons because these areas are home for the greatest numbers of African-American and Hispanic persons.
3. The GLO awarded approximately \$1 billion in federal funds to projects that served lower numbers and percentages of low- and moderate income and African-American and Hispanic populations. The GLO did this by using scoring criteria that they knew would result in a systematic denial of assistance to African-American, Hispanic and low-and moderate income households eligible for assistance.
4. The GLO's amendment proposes to let the discriminatory award of Harvey Round 1 funds stand and proposes nothing to remedy the discrimination its actions have visited on the classes of person protected under the Civil Rights Act on persons living in the major population centers of Houston, Port Arthur, Beaumont, Nueces and Jefferson counties and other areas.
5. The GLO proposes to unlawfully avoid its legal obligations to allocate and oversee the federal funds in compliance with federal regulations, including civil rights laws, through a convoluted and inefficient scheme to "devolve" its obligations to multiple lower levels of government and quasi-governmental entities. GLO is aware that these lower levels of government have an established track record of hostility to and non-compliance with federal regulations and civil rights laws.
6. GLO is proposing to carry out this devolution of responsibility and accountability in order to steer federal funds to benefit white persons, to deny federal benefits to African-American and Hispanic persons, and to frustrate the ability of both the public and HUD to monitor and ensure that funds are administered in compliance with federal regulations, including civil rights and fair housing law.

The following comments detail the unacceptable aspects of the Amendment and propose actions that the GLO can take to ensure that funds are distributed fairly and in a non-discriminatory manner.

COMMENTS:

5.4.3 HURRICANE HARVEY STATE MITIGATION COMPETITION

Issue 1: The amendment does not remedy the discriminatory impact that the existing Action Plan had on the Harvey Round 1 competition awards.

The State of Texas CDBG Mitigation Action Plan states that “At least fifty (50) percent of funds must address identified risks in the Hurricane Harvey HUD-MID¹ areas (counties and ZIP codes),” and that “up to fifty (50) percent of funds may address identified risks in the Hurricane Harvey State-MID counties.” In practice, the GLO deviated from the Action Plan by reserving 50% of available funds for State-MID areas. By separating funds for HUD-MID and State-MID counties in advance of the competition, the GLO effectively created two separate competitions, one for HUD-MID counties and one for State-MID counties. The original Action Plan indicates that up to fifty percent of funds may be used in State-MID counties, but it did not state that up to fifty percent of funds *must* be used in State-MID counties. The original Action Plan gave no indication that funding would be reserved for lower scoring State-MID projects, which is what occurred. This penalized proposals from HUD-MID counties - counties that were most severely impacted by Hurricane Harvey, and remain at higher risk for future disasters, in aggregate. The lowest scoring application from HUD-MID counties was 78.00. In the separate State-MID competition, the lowest application awarded scored 65.27, which is nearly as low as the minimum acceptable score (65.00) that the GLO states they would consider funding.² This flawed scoring process resulted in GLO’s wholesale rejection of applications for funding by the most populous and most disaster-impacted jurisdictions, including the cities of Houston, Beaumont, Port Arthur, and Corpus Christi, and the counties of Harris, Nueces, and Jefferson. The GLO’s Action Plan amendment draft does nothing to remedy this unfair and discriminatory deviation from the original Action Plan, which diverted funds away from heavily impacted and highly vulnerable low- and moderate-income communities in HUD-MID counties.

ACTION: Equitably re-score CDBG-MIT Harvey Round 1 competition in the following way.

GLO should re-score the \$1B of CDBG-MIT Harvey Round 1 applications by combining HUD-MID and State-MID counties under a unified scoring process, making awards to the highest scoring projects across HUD-MID and STATE-MID applications, while still ensuring that HUD-MID counties receive the statutory minimum 50% of funds.

Issue 2: The reallocation of CDBG-MIT Harvey Round 2 competition funds to the Regional Mitigation Program is not an appropriate use for Harvey CDBG-MIT funds.

The proposed amendment’s delegation of responsibility for the allocation and administration of Hurricane Harvey CDBG-MIT funds to regional COGs³ means that the GLO will no longer be using a single method of distribution (MOD). Instead, multiple regional COGs will each award grants to dozens of local entities. This will frustrate oversight by HUD and will improperly attempt to shift the compliance burden to these lower levels of government, many of which have an established track record of hostility to and non-compliance with these federal regulations and civil rights laws. Each COG will have its own method of distribution, rather than a unified state plan as required by federal regulations. The GLO will deny HUD’s right to direct oversight and approval of the multiple regional MODs. The proposed distribution method is so dispersed, it will be nearly impossible for impacted constituencies or HUD to know if regulations have been complied with or if civil rights and fair housing violations have occurred. In the Harvey Round 1 competition, the GLO violated the civil rights of low-income Texans of color in impacted communities. By shifting this money to the Regional Mitigation Program, the GLO is now attempting to

¹ “Most Impacted and Distressed” areas. State of Texas CDBG-MIT Action Plan, p. 2.

² State of Texas CDBG-MIT Action Plan, p. 234.

³ State of Texas CDBG-MIT Action Plan Amendment 1 Draft, p. 2-3.

outsource its civil rights obligations. Additional problems with the Regional Mitigation Program will be discussed further below.

ACTION: Award funds and identify additional sources of funding to spend in the following ways.

Allocate funds to five population centers that were excluded in the Round 1 competition (\$1.8B): GLO should reallocate a total of \$1.8 billion to projects in five major population centers requiring extensive storm mitigation to address respective flooding yet were denied funds in the Round 1 CDBG-MIT competition. To qualify for funding, within each jurisdiction, each project's service area should have a population that is at least 70% LMI. GLO should require funded jurisdictions to certify that CDBG-MIT funds awarded under this initiative will not be used to replace other available funds, including local bond funds and capital improvement spending. The GLO should maintain HUD oversight for these projects.

GLO should make direct awards in the amount specified to:

- Harris County \$750M (included in the current amendment draft)
- Jefferson County \$100M
- Nueces County \$100M
- City of Houston \$750M
- City of Port Arthur \$100M

GLO should require the City of Houston to commit all of its funding allocated under this provision to storm drainage infrastructure and flood control improvements in eight Houston neighborhoods, assuring that the infrastructure that is lacking in these neighborhoods is improved until it achieves parity with infrastructure generally provided by the City in majority white neighborhoods. The eight neighborhoods are Acres Homes, Kashmere Gardens, Trinity/Houston Gardens, East Little York/Homestead, East Houston, Sunnyside, South Park, and Greenspoint.

Round 2 CDBG-MIT Competition (\$772M): GLO should allocate \$772M under revised guidelines and scoring criteria designed to eliminate the bias in the Round 1 competition. Only HUD-MID counties should be eligible to compete in Round 2. The jurisdictions receiving a direct allocation of funds listed above should be eligible to participate in the Round 2 CDBG-MIT Competition.

5.4.5 HARRIS COUNTY MITIGATION METHOD OF DISTRIBUTION (MOD)

Issue 3: Project award guidelines for the Harris County Mitigation MOD are not well targeted.

It is appropriate for the GLO to make funds available to Harris County, given the impact of Hurricane Harvey in the county and the county's high risk of future disasters, population density, and concentration of high-risk populations. However, this direct award of over a third of the total Hurricane Harvey CDBG-MIT funds to Harris County does not yet indicate specifications for project rationale, award parameters, and how these funds will be directed to serve the most at-risk communities.⁴

The local MOD which is to be developed by Harris County is not detailed in this draft, and project development and prioritization methodology is not indicated. The GLO must provide for the criteria and scoring process for allocation of the funds by Harris County including assertive LMI targeting above and beyond the minimum required, coordination of the use of the CDBG-MIT funds with other county funds, and thorough reporting and compliance with civil rights requirements.

⁴ State of Texas CDBG-MIT Action Plan Amendment 1 Draft, p. 250-256.

ACTION: Enhance income targeting and specify eligible use of funds and guidelines for how funding can be spent by Harris County by implementing the following.

The GLO should require that in the Harris County MOD, each project's service area should have a population that is at least 70% LMI. GLO should require Harris County and subrecipient jurisdictions to certify that CDBG-MIT funds awarded under this initiative will not be used to replace other available funds, including local bond funds and capital improvement spending. This provision specifically applies because Harris County officials have directed county bond funds exclusively to non-LMI areas with the intent of using CDBG-MIT in place of bond funds in LMI areas. Harris County should reallocate local bond funds equitably or commit other local funds equitably to LMI areas because the practice of replacing local funds with CDBG funds is explicitly prohibited and a violation of HUD requirements.⁵ Harris County should commit to using these funds to meet the high known need for flood infrastructure investment in high-risk, low-income neighborhoods, home buyouts in those same neighborhoods, and other similar uses.

Issue 4: The Harris County MOD reduces direct oversight by HUD.

The Harris County MOD removes HUD's ability to approve how funds are distributed. Following the approval of the Amendment, the GLO will be solely responsible for approval of Harris County's MOD.⁶ Given the GLO's failure to enforce the civil rights of low-income Texans of color in the Harvey Round 1 awards, the removal of HUD from direct oversight is unacceptable.

ACTION: Retain oversight and approval of the Harris County MOD by HUD.

The GLO should include in the Action Plan a commitment that they will submit the MOD that is developed by Harris County to HUD for review and approval. The GLO should submit to HUD the complete record of public comments on the MOD along with GLO's and Harris County's detailed response to those comments.

Issue 5: The direct award to Harris County does not remedy the omission of awards to other highly impacted, highly-vulnerable areas in CDBG-MIT Harvey Round 1.

The changes in this amendment were developed in response to the fact that Harris County was awarded zero dollars in the MIT Harvey Round 1 competition. However, Harris County was not the only jurisdiction that suffered severe Hurricane Harvey damage and received zero dollars in the Round 1 competition. The GLO also failed to award a single dollar to directly impacted, highly vulnerable communities in the cities of Houston and Port Arthur, and Nueces and Jefferson counties.

ACTION: Allocate funds to the following population centers that were excluded in the Round 1 awards.

GLO should reallocate a total of \$1.8 billion to projects in five major population centers requiring extensive storm mitigation to address respective flooding yet were denied funds in the Round 1 CDBG-MIT competition. To qualify for funding, within each jurisdiction, each project's service area should have a population that is at least 70% LMI. GLO should require funded jurisdictions to certify that CDBG-MIT funds awarded under this initiative will not be used to replace other available funds, including local

⁵ "Bringing Communities into the 21st-Century: A Report on Improving the Community Development Block Grant Program," Report 109-365, January 31, 2006, the fifth report by the Committee on Government Reform. "Congress stated in a 2006 House Congressional report that CDBG funds were never meant "to be used to replace local general government funds on projects communities should underwrite, regardless of whether Grant dollars are available.'"

⁶ State of Texas CDBG-MIT Action Plan Amendment 1 Draft, p. 250-251.

bond funds and capital improvement spending. The GLO should maintain HUD oversight for these projects.

GLO shall make direct awards in the amount specified to:

- Harris County \$750M (included in the current amendment draft)
- Jefferson County \$100M
- Nueces County \$100M
- City of Houston \$750M
- City of Port Arthur \$100M

GLO should require the City of Houston to commit all of its funding allocated under this provision to storm drainage infrastructure and flood control improvements in eight Houston neighborhoods, assuring that the infrastructure that is lacking in these neighborhoods is improved until it achieves parity with infrastructure generally provided by the City in majority white neighborhoods. The eight neighborhoods are Acres Homes, Kashmere Gardens, Trinity/Houston Gardens, East Little York/Homestead, East Houston, Sunnyside, South Park, and Greenspoint.

Issue 6: The proposed Affirmatively Furthering Fair Housing (AFFH) review in the Harris County Mitigation MOD is insufficient.

The Amendment’s AFFH Review requirement for the Harris County Mitigation MOD is insufficient to affirmatively further fair housing. The AFFH Review as written provides an assessment of various fair housing considerations, yet this review, which is the same as the AFFH Review required by subrecipients in the Harvey Round 1 competition, has no apparent impact on project scoring and funding awards.⁷ The AFFH Review requirement must provide specific guidelines for how subrecipients must show that their projects promote civil rights and fair housing. There is no evidence that GLO uses this information in any way to determine the appropriateness of projects or for project scoring. Review of Harvey Round 1 application materials shows that the GLO did not substantively evaluate whether projects met the duty to affirmatively further fair housing. That process should not be repeated here.

ACTION: Subrecipients should produce fair housing assessments according to the following guidelines. Harris County and subrecipient jurisdictions should produce an AFFH review that conforms to the “Fair Housing Assessment — Texas Form” that GLO implemented during the Hurricane Ike recovery. The review should specifically address equity in public infrastructure, rental housing availability, affordability access to high opportunity neighborhoods, COVID-19 evictions, causes and remedies for delays in carrying out previous CDBG-DR funded housing repair and assistance programs, environmental risks faced by LMI persons on the basis of race, national origin and Limited English Proficiency (LEP). The analysis should detail specific action steps the jurisdiction will commit to undertake to overcome any impediments to fair housing. These action steps should be binding and should be included in the criteria for determination of awards.

Issue 7: The timeline for spending Harris County MOD funds is too slow.

The Amendment proposes that no less than 50% of funds must be spent by January 12, 2027 and that the full amount must be spent by January 12, 2032.⁸ According to this timeline, it may be a full fifteen years after Hurricane Harvey until the funds are spent. This is much too slow. These funds are intended

⁷ State of Texas CDBG-MIT Action Plan Amendment 1 Draft, p. 256, 242, and 241-242.

⁸ State of Texas CDBG-MIT Action Plan Amendment 1 Draft, p. 256.

for the mitigation of future disasters. It is unfortunately likely that another disaster will strike prior to the proposed end date.

ACTION: Require that Harris County funds be spent within 6 years after the start of the program, matching the Regional Mitigation Program timeline.⁹

5.4.6 REGIONAL MITIGATION PROGRAM

Issue 8: COG MODs reduce direct oversight by HUD and confuse oversight by the public.

The proposed reallocation of Harvey mitigation funds to regional COGs means that the GLO will no longer be using a single method of distribution that allows for oversight by HUD and interested parties. Instead, GLO proposes that each COG will have its own method of distribution, with no direct oversight by HUD, only the GLO. The distribution method is so dispersed, it will be nearly impossible for HUD and others to effectively monitor compliance or know if civil rights and fair housing violations have occurred. The Regional Mitigation Program MOD structure removes HUD's ability to approve how funds are distributed. Following the approval of the Amendment, the GLO will be solely responsible for approval of the COG MODs.¹⁰ Given the GLO's failure to enforce the civil rights of low-income Texans of color in the Harvey Round 1 awards, the removal of HUD from direct oversight is unacceptable.

ACTION: Retain oversight and approval of the COG MODs by HUD and reform the public comment requirements in the following ways.

The GLO should forgo administration of CDBG-MIT funds by COGs as discussed throughout this document. Should the GLO proceed with this inefficient and discriminatory method of distribution, the GLO should submit to HUD for review and approval all MODs that are developed by jurisdictions (including COGs and other political jurisdictions). Prior to submission to HUD, the GLO should conduct a supplemental single unified public hearing process for all of the MODs under a particular program, release information about the MODs as a single unified document or source, and submit the complete record of all public comments to HUD with GLO's and the jurisdiction's detailed response to those comments.

Issue 9: COGs should not be able to self-award funds without additional oversight.

COGs themselves are an eligible entity for funding in their own MODs.¹¹ If COGs can award funds to themselves, additional oversight by HUD must be required. Removing HUD from oversight of the COG MODs and awards eliminate the ability of HUD to monitor and reject self-awards on the grounds of fair housing and civil rights objections. Some COGs have historically under-prioritized programs that benefit LMI communities of color. Some COGs and their local elected board members have consistently requested waivers of LMI targeting in the past, which indicates a lack of commitment to serve LMI populations.

ACTION: Retain oversight and approval of the COG MODs by HUD and reform the public comment requirements in the following ways.

The GLO should forgo administration of CDBG-MIT funds by COGs as discussed throughout this document. Should the GLO proceed with this inefficient and discriminatory method of distribution, the GLO should submit to HUD for review and approval all Methods of Distribution (MODs) that are

⁹ State of Texas CDBG-MIT Action Plan Amendment 1 Draft, p. 263.

¹⁰ State of Texas CDBG-MIT Action Plan Amendment 1 Draft, p. 257.

¹¹ State of Texas CDBG-MIT Action Plan Amendment 1 Draft, p. 258, 5.4.6.4, "Eligible Entities."

developed by jurisdictions (including COGs and other political jurisdictions). Prior to submission to HUD, the GLO should conduct a supplemental single unified public hearing process for all of the MODs under a particular program, release information about the MODs as a single unified document or source, and submit the complete record of all public comments to HUD with GLO's and the jurisdiction's detailed response to those comments.

Issue 10: Income targeting in the Regional Mitigation Program fails to adequately serve LMI households.

In the Amendment, the Regional Mitigation Program requires that at least 50% of funds must benefit LMI persons.¹² Since this Amendment redirects Harvey mitigation funds to the Regional Mitigation Program, it is relevant that the Harvey mitigation Round 1 competition resulted in the discriminatory and unfair distribution of funds. This result is due in part to the fact that the GLO provided no additional points for projects that went above and beyond the bare minimum 50% LMI requirement in order to assertively and intentionally target LMI communities. The GLO must correct this outcome.

ACTION: For the Regional Mitigation Program, GLO should raise the LMI benefit percentage to 70%.

In order to remedy the outcome of the Round 1 competition, the GLO should raise the LMI benefit percentage to 70% for the Regional Mitigation Program and grant extra points to applicants that exceed the minimum in proportion to the increase in LMI households served.

Issue 11: The proposed AFFH review in the Regional Mitigation Program is unsatisfactory.

The Amendment's AFFH Review requirement for the Regional Mitigation Program is insufficient to affirmatively further fair housing. The AFFH Review as written provides an assessment of various fair housing considerations, yet this review, which is the same as the AFFH Review required by subrecipients in the Harvey Round 1 competition, has no apparent impact on project scoring and funding awards.¹³ The AFFH Review requirement must provide specific guidelines for how subrecipients must show that their projects promote civil rights and fair housing. There is no evidence that GLO uses this information in any way to determine the appropriateness of projects or for project scoring. Review of Harvey Round 1 application materials shows that the GLO did not substantively evaluate whether projects met the duty to affirmatively further fair housing. That process should not be repeated here.

ACTION: Subrecipients should produce fair housing assessments according to the following guidelines.

COGs and subrecipient jurisdictions should produce an AFFH review that conforms to the "Fair Housing Assessment — Texas Form" that GLO implemented during the Hurricane Ike recovery. The review should specifically address equity in public infrastructure, rental housing availability, affordability access to high opportunity neighborhoods, COVID-19 evictions, causes and remedies for delays in carrying out previous CDBG-DR funded housing repair and assistance programs, environmental risks faced by LMI persons on the basis of race, national origin and Limited English Proficiency (LEP). The analysis should detail specific action steps the jurisdiction will commit to undertake to overcome any impediments to fair housing. These action steps should be binding and should be included in the criteria for determination of awards.

Issue 12: The Regional Mitigation Program does not allocate funds to COGs based on project validity and quality, and other weighting elements used for proportionment are inappropriate.

¹² State of Texas CDBG-MIT Action Plan Amendment 1 Draft, p. 259.

¹³ State of Texas CDBG-MIT Action Plan Amendment 1 Draft, p. 263, 242, and 241-242.

The Regional Mitigation Program methodology for allocating funds to COGs¹⁴ does not take into account the quality, validity, and impact of projects (which have not yet been proposed at the time of allocation). Awards should be based on the quality, validity, and impact of projects, rather than allocating the money first and then defining projects, as evidenced by the Federal Register notice on HUD's CDBG-MIT 2017 allocation, which states that, "HUD expects that grantees will rigorously evaluate proposed projects and activities and view them through several lenses before arriving at funding decisions."¹⁵

Furthermore, the current methodology for allocating funds to COGs inappropriately utilizes the Composite Disaster Index, which includes the weighting of disaster risk for disasters that have nothing to do with Hurricane Harvey. This current methodology also inappropriately utilizes the Social Vulnerability Index, which, when used at the county level, erases highly vulnerable communities within counties that have a range of vulnerability.

ACTION: Identify projects that are high quality, valid, and have a significant, measurable impact in high vulnerability, high risk communities prior to allocating funds, and reform the use of the Composite Disaster Index and Social Vulnerability Index in the following ways.

The GLO should work with jurisdictions to identify projects that are high quality, valid, and have a high and measurable impact in high vulnerability, high risk communities prior to allocating funds. If the GLO uses the Composite Disaster Index in the distribution of Harvey mitigation funds, it should only weight Harvey-related disaster risks: (1) Repetitive Loss from Flooding and (2) Hurricane Winds. If the GLO uses the Social Vulnerability Index in distributing Harvey mitigation funds, it should account for census tract-level vulnerability and ensure that highly vulnerable areas in counties that have mixed vulnerability have fair and equitable access to funds.

5.4.13 REGIONAL AND STATE PLANNING

Issue 13: The GLO should fund infrastructure equity planning and assessment in the Regional and State Planning allocation.

The Amendment reduces the Regional and State Planning allocation amount to \$111,091,280.53.¹⁶ Despite this reduction, it is critical that the GLO directs this funding to comprehensive infrastructure equity planning and assessment to guide distribution of funds for any future disaster recovery assistance program.

ACTION: Direct funds to complete a comprehensive public infrastructure equity assessment by implementing the following.

Utilizing no less than \$21.5M of Regional and State Planning funds (ten percent of the funds earmarked in the original Action Plan by GLO for Regional and State Planning), over the next three years, the GLO should conduct for each HUD-MID county and each city in a HUD-MID county, a comprehensive assessment of public infrastructure and stormwater drainage equity on the basis of race and national origin of the population residing within each Census Tract in the jurisdiction. The study should quantify the type and degree of any infrastructure inequities, the relative level of flood protection or level of service (LOS) within each Census Tract, describe the needed corrective actions and present preliminary cost estimates for equalizing LOS to a reasonable standard across Census Tracts within the jurisdiction. GLO will use this data to prioritize allocations and adopt Action Plans and Methods of Distribution for any future disaster recovery assistance program.

¹⁴ State of Texas CDBG-MIT Action Plan Amendment 1 Draft, p. 342-345.

¹⁵ Federal Register, Vol. 84, No. 169, p. 45,840.

¹⁶ State of Texas CDBG-MIT Action Plan Amendment 1 Draft, p. 3.

OTHER PROVISION THAT SHOULD BE INCLUDED IN THIS AMENDMENT:

Issue 14: The GLO should create and implement a Limited English Proficiency (LEP) outreach and marketing plan.

ACTION: Create and implement a Limited English Proficiency (LEP) outreach and marketing plan.

The GLO and the State of Texas should create and follow a Language Access plan to monitor and report program outreach and marketing by the GLO and grantees to persons with LEP. As part of this plan, the GLO should:

1. establish and enforce a policy that ensures that vital documents including action plans, substantial amendments, and every form that the GLO and subgrantees require to be completed by individuals are translated into appropriate languages based on a local or regional analysis of linguistic use rather than a state-level analysis and which makes interpreter services available on request.
2. carry out training and monitor for compliance with that policy, by GLO, sub-recipients and contractors providing LEP outreach, marketing, client interactions and support.
3. make the LEP plan and policy available to the public for review and comment within 60 days while also considering and providing written responses to comments prior to adopting this policy.
4. conduct independent quarterly testing and prepare quarterly compliance reports pursuant to the LEP plan and policy, which the GLO will make available on its website.

Issue 15: The GLO should adopt a formal policy to ensure that future federal disaster funds, mitigation funds, and funds from any other federal grant source are administered fairly and equitably to persons regardless of their race, national origin, housing tenure status, or Limited English Proficiency.

ACTION: Commit to the following future disaster recovery policy changes.

GLO should develop and implement procedures to ensure that future CDBG and other federal disaster funds are administered fairly and equitably provided to persons regardless of their race, national origin, housing tenure status or Limited English Proficiency. This should include preparation and implementation of a ten-year plan that ensures that fund allocations, scoring, and awards using CDBG-DR and CDBG-MIT funds and any replacement federal disaster recovery programs, to the extent permitted under federal law, will proportionately benefit low- and moderate-income persons and persons on the basis of race, national origin, and disability at a minimum equivalent ratio that those groups are impacted by the disaster.

Issue 16: The GLO should improve data collection, management, and sharing.

ACTION: Improve data collection, management, and sharing in the following ways.

The GLO should improve data quality, resolution, collection, storage, and sharing practices in the following ways.

1. The GLO should consult, coordinate and share data with HUD's Office of Community Planning and Development and Office of Fair Housing and Equal Opportunity and their appropriate regional office(s) at key milestones in the process of planning CDBG-DR and CDBG-MIT programs and awarding funds, including but not limited to: during the development of action plans and methods of distribution, during the process of identifying need, during the development of scoring criteria, during the scoring process, and prior to the announcement of awards.

2. The GLO should provide monthly public reports including but not limited to income, race, national origin, disability status and benefit location area of program beneficiaries under each sub-grantee award and projects directly administered by the agencies.
3. The GLO should track data on the demographic characteristics of residents impacted by disasters, target CDBG-DR and CDBG-MIT funding to LMI beneficiaries, and should allocate funds at least proportionate to race, national origin, and housing tenure.
4. The GLO should disclose project-level data on low- and moderate-income beneficiaries in each program.
5. The GLO should provide a monthly accounting by program of the amount of CDBG-DR or CDBG-MIT assistance and number of LMI and non-LMI beneficiaries assisted.
6. For programs that provide area benefits (as opposed to an individual benefit), GLO should provide a cumulative monthly accounting by program of the amount of CDBG-DR and CDBG-MIT assistance provided along with the calculations and supporting data the GLO utilizes to determine LMI benefit and other beneficiary information.
7. The GLO should supply underlying summary data and category scores when announcing awards for CDBG-DR and CDBG-MIT programs. This data should include for all funded and non-funded projects: the applicant, funds requested, award status, individual category scores (which sum to a project's final score), and basic data that goes into scoring, such as Project Service Area population, race and national origin demographic data, LMI percent, jurisdiction population, and social vulnerability score. The GLO should collect, store, and make available mapping files of project benefit areas with the data described above included as attributes.
8. For all programs, the GLO should make data available monthly showing the program description, amount of program benefits, and funded project details, including census tract, household income, household size, race/ethnicity, disability status, and whether the GLO claims the beneficiaries as LMI beneficiaries.
9. GLO should make available to HUD and the public upon request project level details and beneficiaries, as follows:
 1. Make available all project applications, awards and contracts for all applicants and funded projects.
 2. Make available all Fair Housing and AFFH analysis related to the evaluation of applications for any project funded by the GLO.
10. The GLO should collect, store, and share all the data described above in usable formats, such as spreadsheets, databases, and map files. The GLO should stop the practice of collecting, storing, sharing, and communicating data in PDF format when spreadsheets, databases, and/or map files are more appropriate.

Sincerely,

Texas Housers

Doris Brown, Co-founder, Northeast Action Collective, Houston, TX

Reverend James Caldwell, Executive Director, Coalition of Community Organizations, Houston, TX

Cecilia Fontanot, President, Fair Housing & Neighborhood Rights, Houston, TX

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