

HEARING AGENDA
SENATE FINANCE COMMITTEE
SENATOR STEVE OGDEN, CHAIRMAN
WEDNESDAY, APRIL 28, 2010, 10:00 A.M.
CAPITOL EXTENSION E1.036

- I. Call to Order
- II. Roll Call
- III. Committee Business

Study the impact of recent hurricanes for which a federal disaster declaration was issued on local economies. Examine the basis for the distribution, including those involving Texas Department of Housing and Community Affairs and Texas Department Rural Affairs.

A. Invited Testimony

1. Hurricane Funds Overview

Legislative Budget Board - *Eduard Rodriguez, Federal Funds Analyst*
Texas Comptroller of Public Accounts - *Mike Reissig, Associate Deputy Comptroller*
Texas Department of Public Safety - *Steve McCraw, Executive Director*

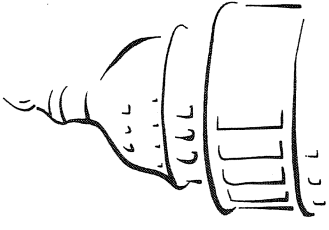
2. Administration and Distribution of Federal Emergency Funds

Texas Department of Housing and Community Affairs - *Michael Gerber, Executive Director*
Texas Department of Rural Affairs - *Charlie Stone, Executive Director*
Governor's Commission for Disaster Recovery and Renewal - *Judge Robert Eckels, Chair*

B. Public Testimony

IV. Recess/Adjourn

Legislative Budget Board



Legislative Budget Board

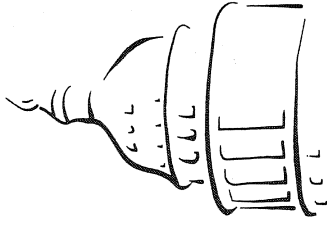
**OVERVIEW OF
FEDERAL FUNDING ASSISTANCE FOR
HURRICANES KATRINA, RITA,
DOLLY, AND IKE**

Prepared by Legislative Budget Board Staff
for the

Senate Finance Committee

April 28, 2010

SELECT HURRICANE EVENTS



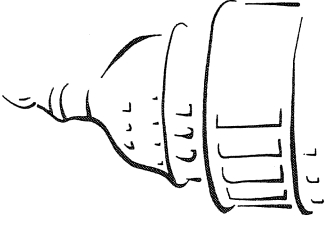
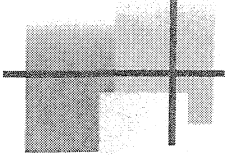
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2005 ATLANTIC HURRICANE SEASON

- Hurricane Katrina made landfall on August 29, 2005 in Southeast Louisiana.
- Hurricane Rita made landfall on September 23, 2005 in Northeast Texas near Sabine Pass.

2008 ATLANTIC HURRICANE SEASON

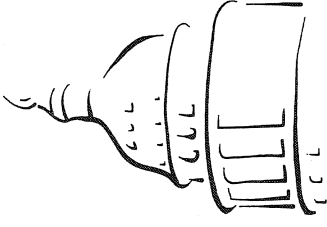
- Hurricane Dolly made landfall on July 23, 2008 in South Texas on South Padre Island.
- Hurricane Ike made landfall on September 13, 2008 in Galveston.



Legislative Budget Board

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

FEDERAL DISASTER-RELATED HOUSING APPROPRIATIONS (Community Development Block Grant)



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THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 2006

- \$11.5 billion was appropriated by Congress to be distributed to Alabama, Florida, Louisiana, Mississippi, and Texas for recovery efforts related to the 2005 hurricanes.
 - \$74.5 million was awarded to Texas.

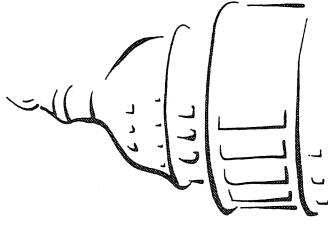
THE EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT OF 2006

- \$5.2 billion was appropriated by Congress to be distributed to Alabama, Florida, Louisiana, Mississippi, and Texas for recovery efforts related to the 2005 hurricanes.
 - \$428.7 million was awarded to Texas.

THE CONSOLIDATED SECURITY, DISASTER ASSISTANCE, AND CONTINUING APPROPRIATION ACT OF 2009

- \$6.5 billion was appropriated by Congress to be distributed nationally for all 2008 disasters.
 - \$1.3 billion was awarded to Texas in Round 1; and \$1.7 billion in Round 2.

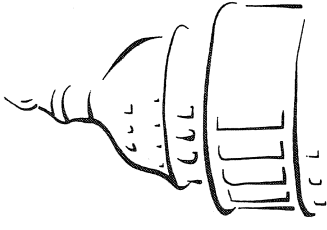
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM



Legislative Budget Board

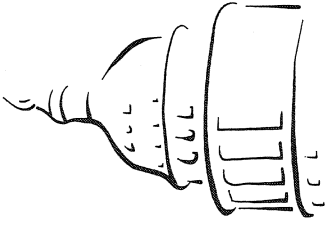
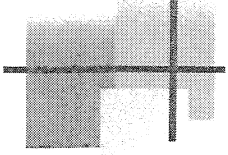
- The CDBG program is administered by the U.S. Department of Housing and Urban Development (HUD).
- Each activity funded by the CDBG program must meet one of the following national objectives:
 - Benefit low- and moderate-income families;
 - Aid in the prevention or elimination of slums or blight; or
 - Meet other community development needs having a particular urgency because conditions pose a serious and immediate threat to the health and welfare of the community.
- Funds are distributed to Entitlement and Non-Entitlement recipients.
- State grant amounts (non-entitlement) are determined by formula.
- CDBG funds can be used for a variety of purposes including acquisition, rehabilitation or construction of certain public works facilities and improvements such as streets, water and sewer facilities, as well as rehabilitation of public and private buildings, including housing.

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM: DISASTER-RELATED



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- States may use disaster-related CDBG funds in the same manner and purpose as regular CDBG funds with a few exceptions.
- Funds may only be used for recovery efforts in areas covered by a federal disaster declaration.
- Specific conditions and waivers are set by HUD for each disaster/event.
- States may request additional waivers from HUD in order to tailor recovery efforts for each event.
- Funds may not be used for activities funded or reimbursable by the Federal Emergency Management Agency or the Army Corps of Engineers.
- Unlike regular CDBG funds, disaster-related CDBG funds may be used in both entitlement and non-entitlement areas.
- States must submit an Action Plan for Disaster Recovery to HUD detailing the manner in which the state intends to expend funds and how it will meet one or more of the national objectives.

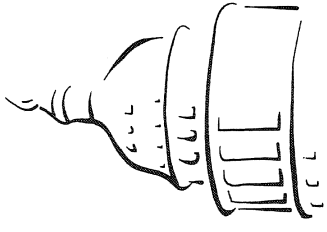


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FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

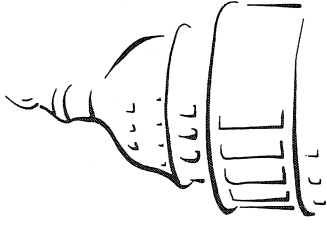
PUBLIC ASSISTANCE PROGRAM

- Public Assistance grants assist state and local governments and certain private nonprofit entities with the response to and recovery from disasters.
- Provides assistance for debris removal, emergency protective measures, and permanent restoration of infrastructure.
- Based on partnerships between FEMA, state, and local officials.
 - Federal share of eligible expenses is no less than 75% with the other 25% match from the recipient.
 - Cost shares are subject to change at the President's discretion.
- Special Considerations that may affect funding levels include:
 - Floodplain management
 - Insurance
 - Hazard Mitigation
 - Other federal laws and regulations



Legislative Budget Board

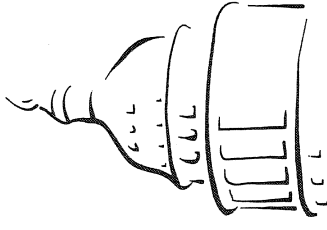
INDIVIDUAL AND HOUSEHOLDS PROGRAM



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- Provides funds and services to people in the disaster area when losses are not covered by insurance and property has been damaged or destroyed.
 - Temporary Housing: provides funds for housing rentals or government housing units when rentals are not available.
 - Repair: provides funds to homeowners to repair damage from the disaster that is not covered by insurance.
 - Replacement: provides funds to homeowners to replace their home destroyed in the disaster that is not covered by insurance.

OTHER NEEDS ASSISTANCE PROGRAM



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- For individuals whose household income is below certain levels and don't qualify for other forms of assistance, the Other Needs Assistance program provides assistance for:
 - Medical and dental care;
 - Transportation costs;
 - Household items and clothing;
 - School supplies and tools for an individual's trade;
 - Equipment to get individuals back into their home; and
 - Funeral costs (as a result of a disaster).

Texas
Comptroller of
Public
Accounts




Presentation to the
Senate Finance Committee
The Honorable Steve Ogden, Chair


April 28, 2010

Presented by:
Mike Reissig
Associate Deputy Comptroller
Texas Comptroller of Public Accounts

Introduction

-  The Comptroller's office responds to natural disasters by allowing impacted taxpayers upon request to postpone paying state taxes for up to 90 days, and by offering to advance sales tax allocations to units of local government for the next two months to keep the allocation equal to the previous year. For major hurricanes, the agency helps implement the Governor's proclamation temporarily suspending state and local hotel taxes.
- The Comptroller also issues information on various sales tax exemptions available for clean up and repairs in declared disaster areas along with other helpful information at a one-stop web location.

Introduction

-  As the state agency responsible for statewide procurement, the Comptroller puts in place contingency contracts for the DPS Division of Emergency Management to use during emergencies. For Hurricane Ike the agency procured, among other things, hand sanitizing stations, portable restrooms, hauling services for cattle, and buses for evacuations. The agency also helps staff the emergency operations center on a 24-7 basis until released.
- The agency will from time to time hear of alleged overcharges by vendors to state agencies in the aftermath of natural disasters. In these circumstances the office will either refer the allegation back to the purchasing agency or do its own follow-up. After Hurricanes Ike and Gustav, the agency assisted in a couple of investigations involving transportation companies.

Summary of Economic and Fiscal Impacts

- Most counties affected by hurricanes fully recover from economic, tax allocation, property value and tax compliance related impacts within a year.
- Taxable property values for counties in the direct line of storms usually decline the following year. These declines have been as much as 8 percent.
- Instances of delinquent tax accounts generally increase moderately after a hurricane, but due to extensions granted by the Comptroller and the diligence of taxpayers, levels either remain virtually constant or return to normal over of the following year.
- Employment and other economic indicators usually worsen then rebound over the next few months after a hurricane, but car sales and housing permits may temporarily increase.
- Tax allocations to units of local government will decline in the near-term after a hurricane, but over the following year will usually come back in line with pre-hurricane levels.



Hurricane Ike

(Texas Landfall September 13, 2008)



- In Galveston County, an estimated 53,000 jobs were either disrupted or lost, many with the University of Texas Medical Branch.
- Estimates of damage to critical infrastructure in all affected areas totaled \$1.8 billion for repairs to electricity, gas and water distribution facilities, water supply storage and facilities for education, public transportation and public safety services.
- Unemployment increased slightly over the state level just after Ike, but quickly returned to statewide level by December.
- Oil production dipped in September, but returned to normal by October

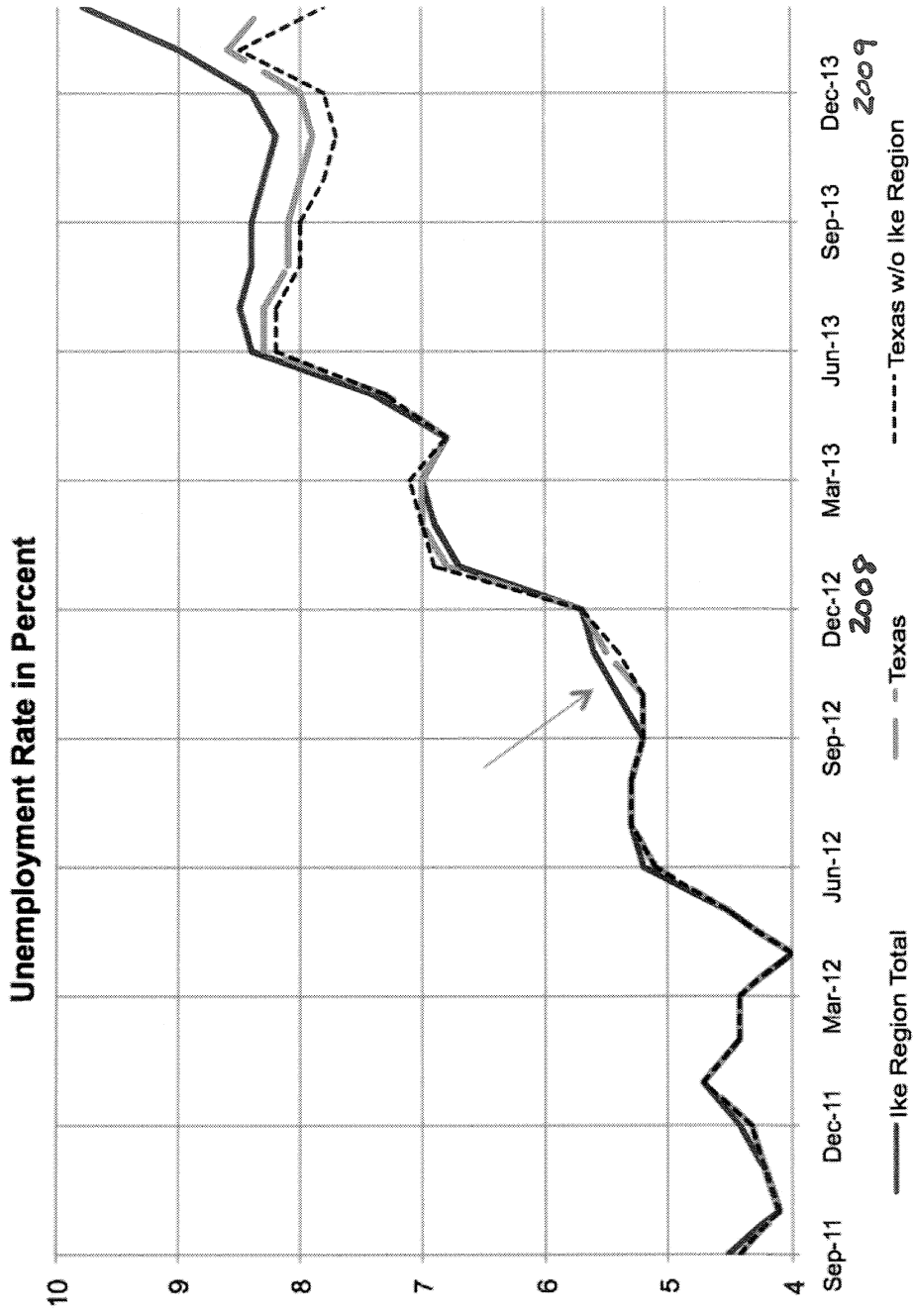
Hurricane Ike

(Texas Landfall September 13, 2008)

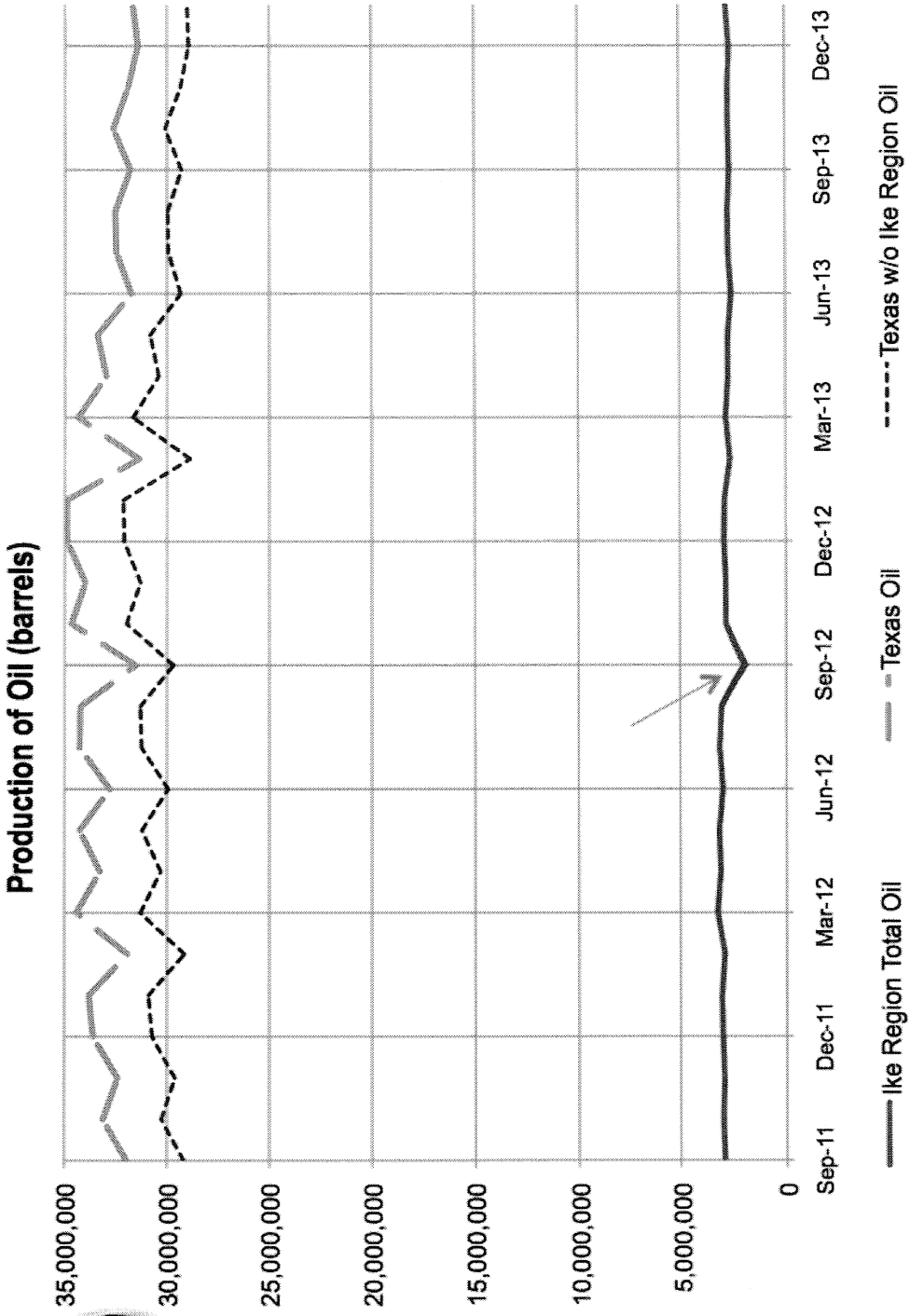


- Motor vehicle sales and single family housing permits spiked just after the hurricane but returned to levels consistent with the rest of the state by November.
- Several, but not all, affected counties saw reductions in total property values.
- Sales tax allocation was affected for the first months after the hurricane, but showed stronger growth than the rest of the state for the following year.
- The average number of delinquent sales tax accounts increased faster than the rest of the state just after Ike, but has since returned to average levels.

Unemployment Rates Ike Region and Statewide

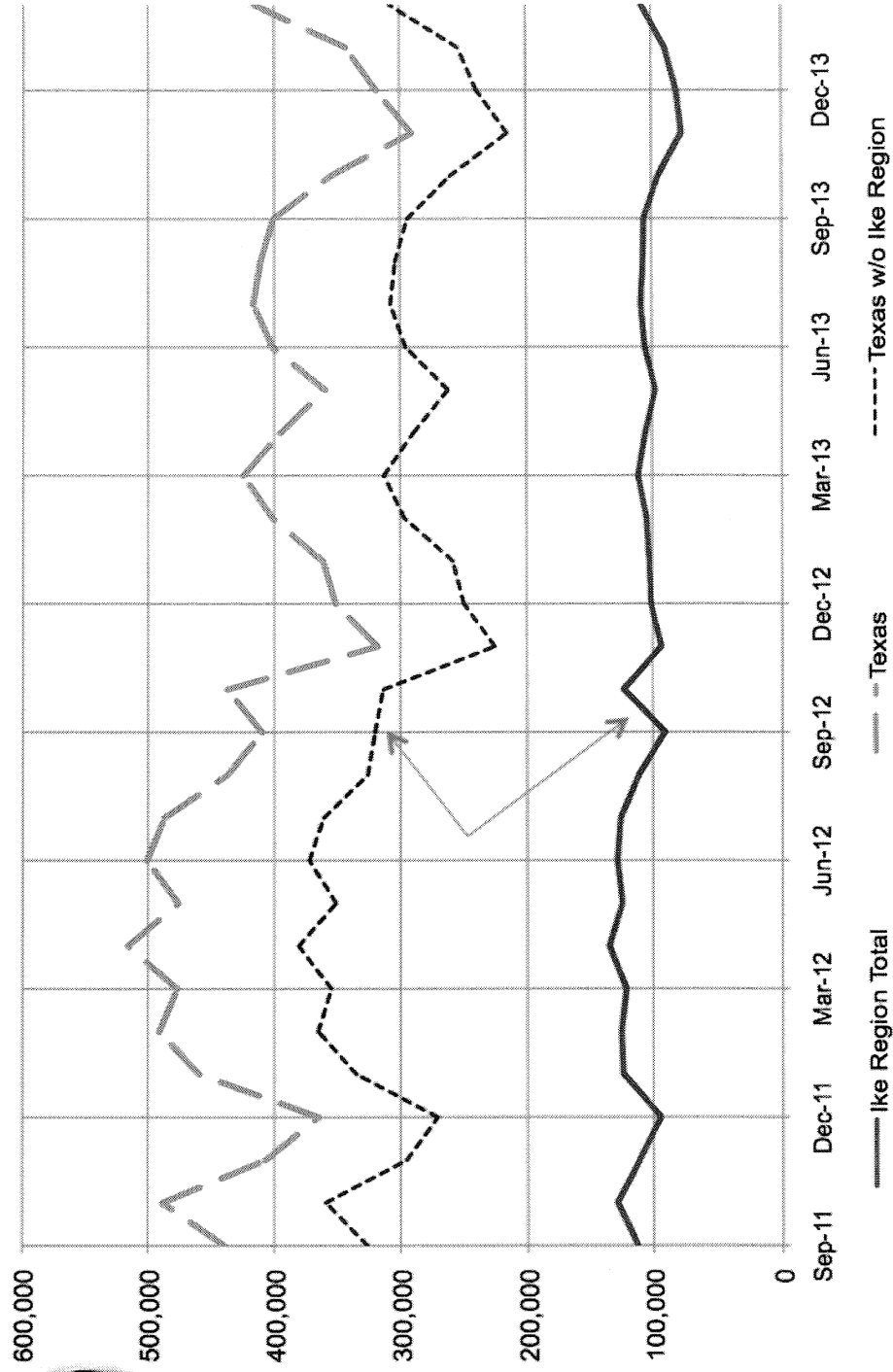


Oil Production Ike Region and Statewide

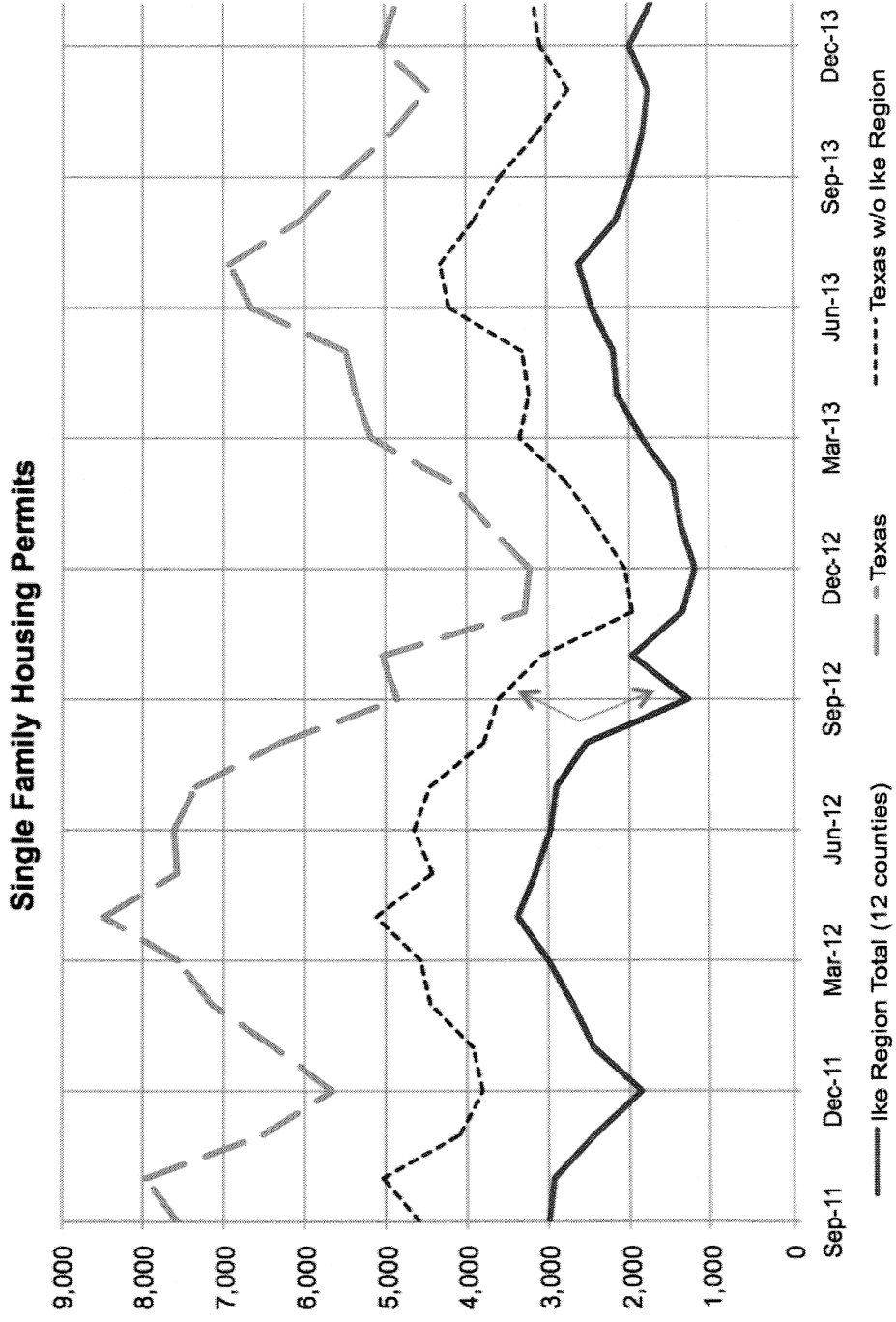


Motor Vehicle Sales Ike Region and Statewide

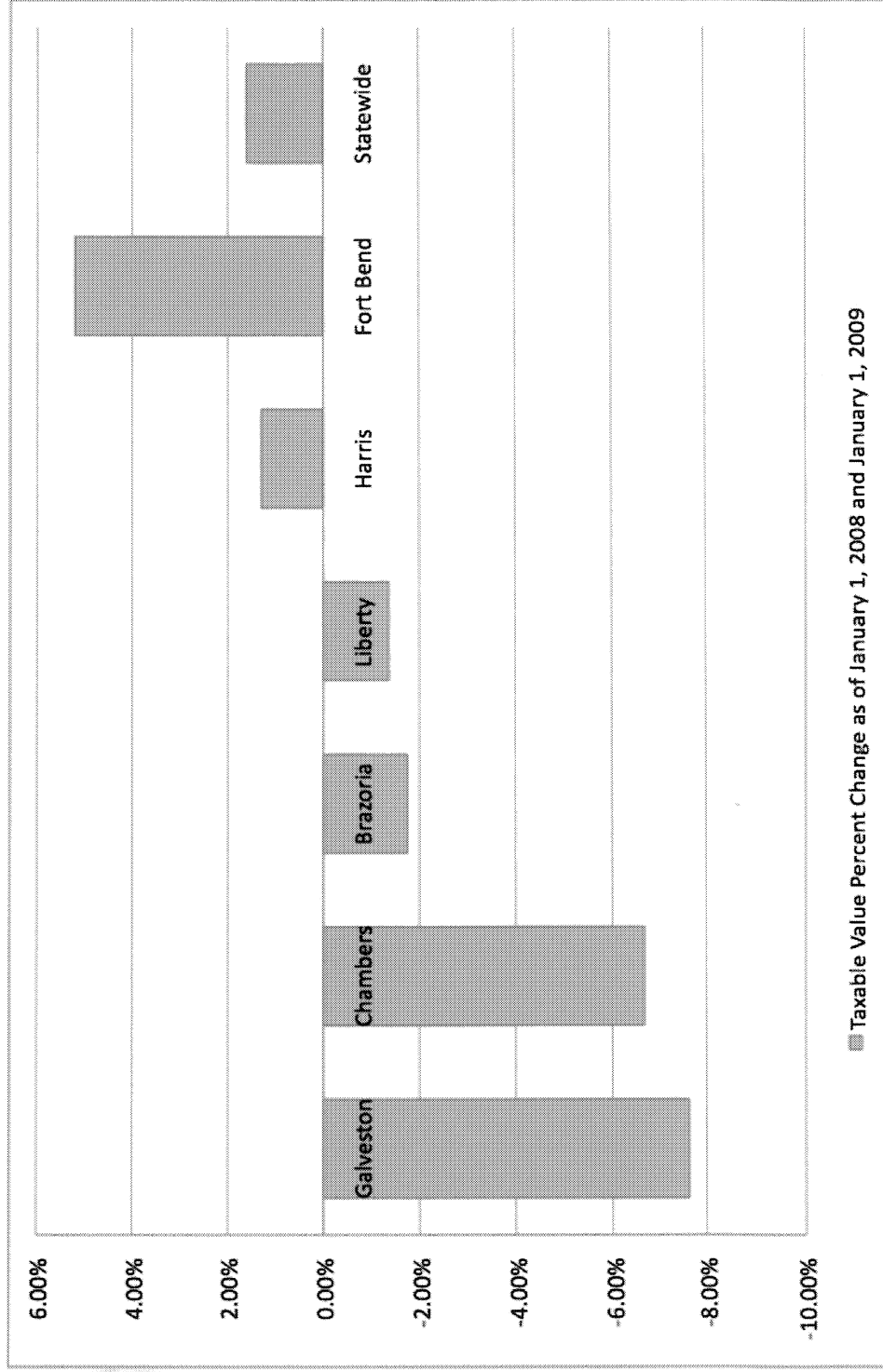
Sales of Vehicles for Highway Use



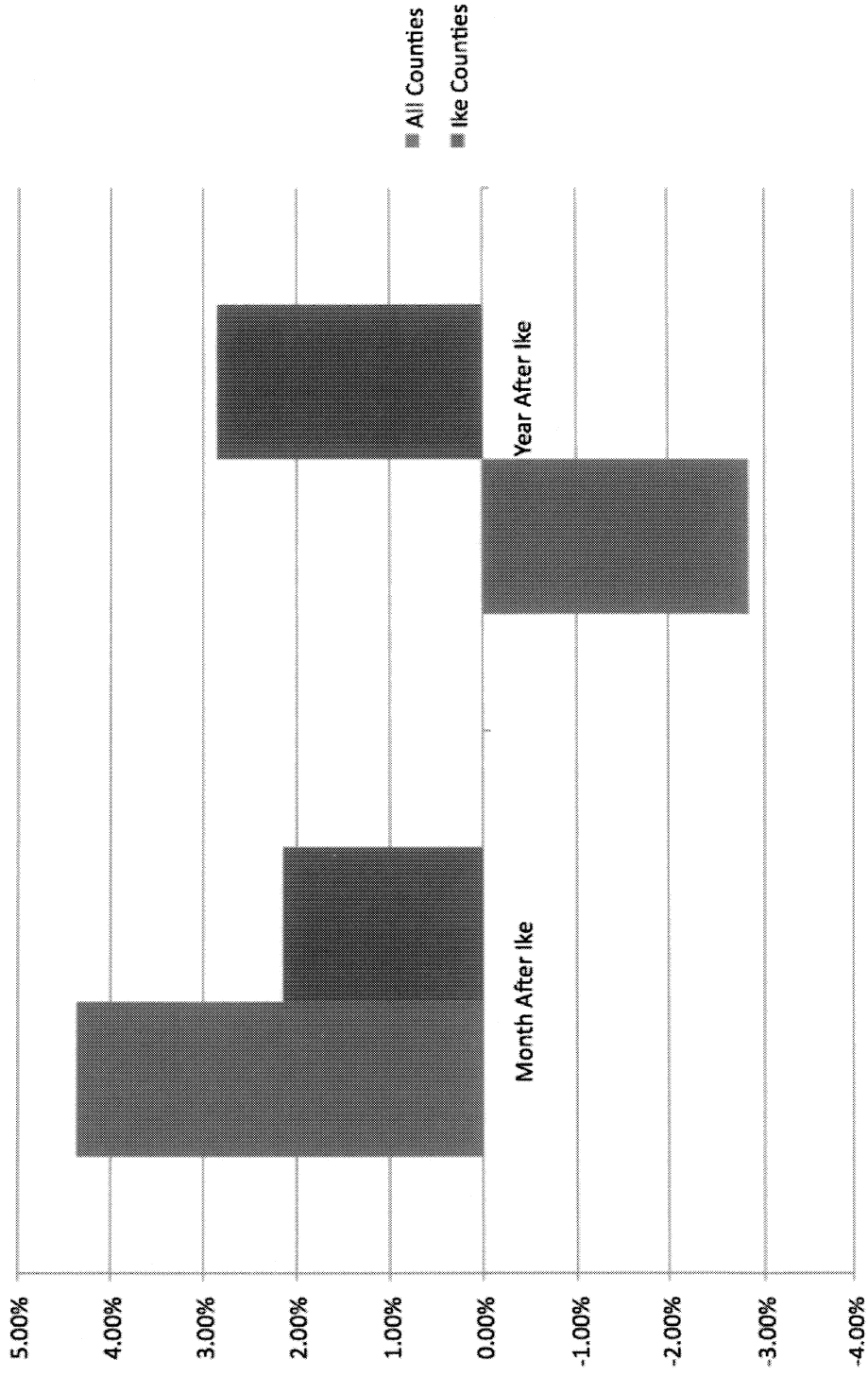
Single Family Housing Permits Ike Region and Statewide



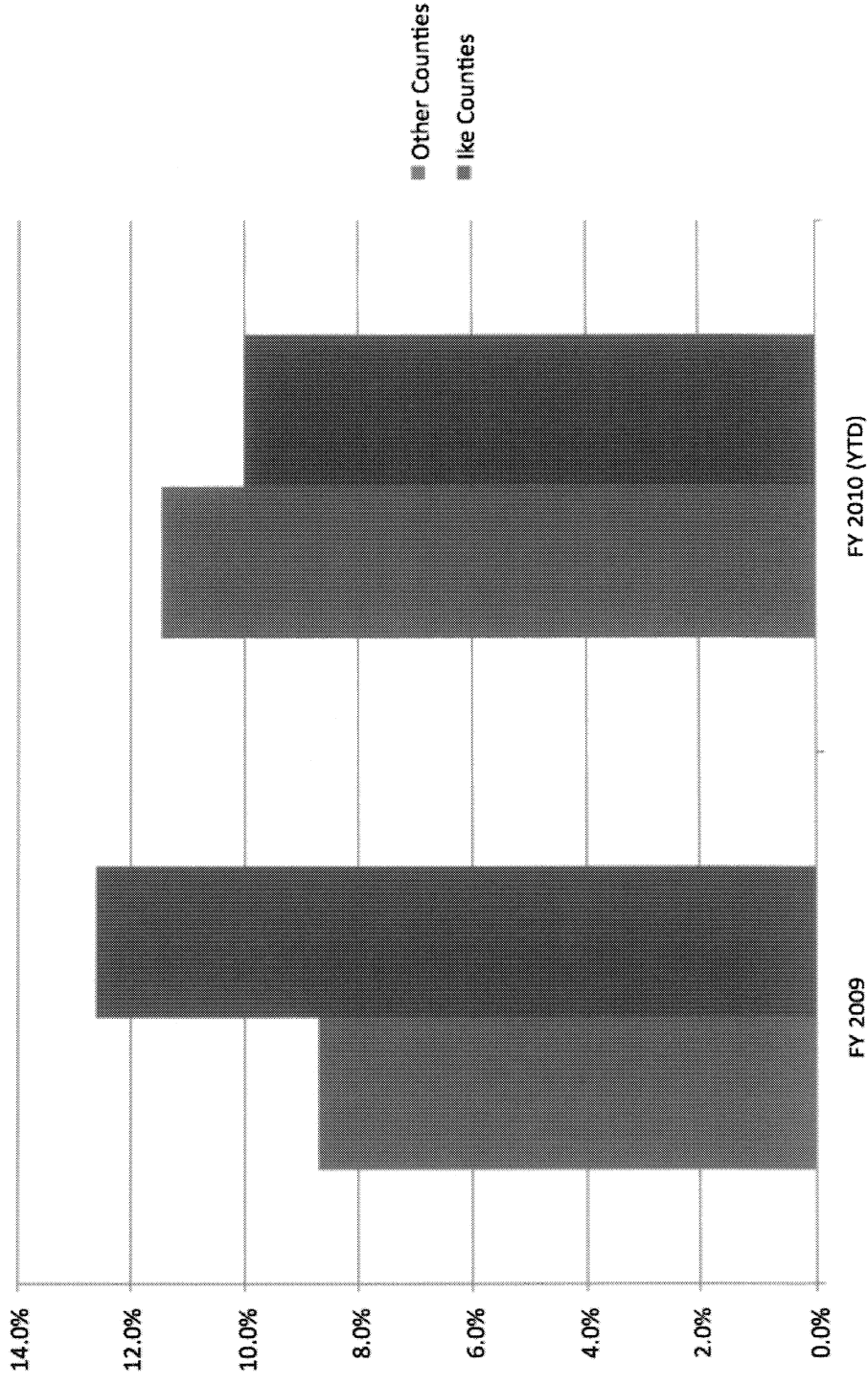
Changes in Property Values of Most Impacted Counties and Statewide After Ike



Sales Tax Allocation Percentage Change After Ike Compared to Previous Year



Percent Increase in Average Monthly Sales Tax Delinquencies After Ike



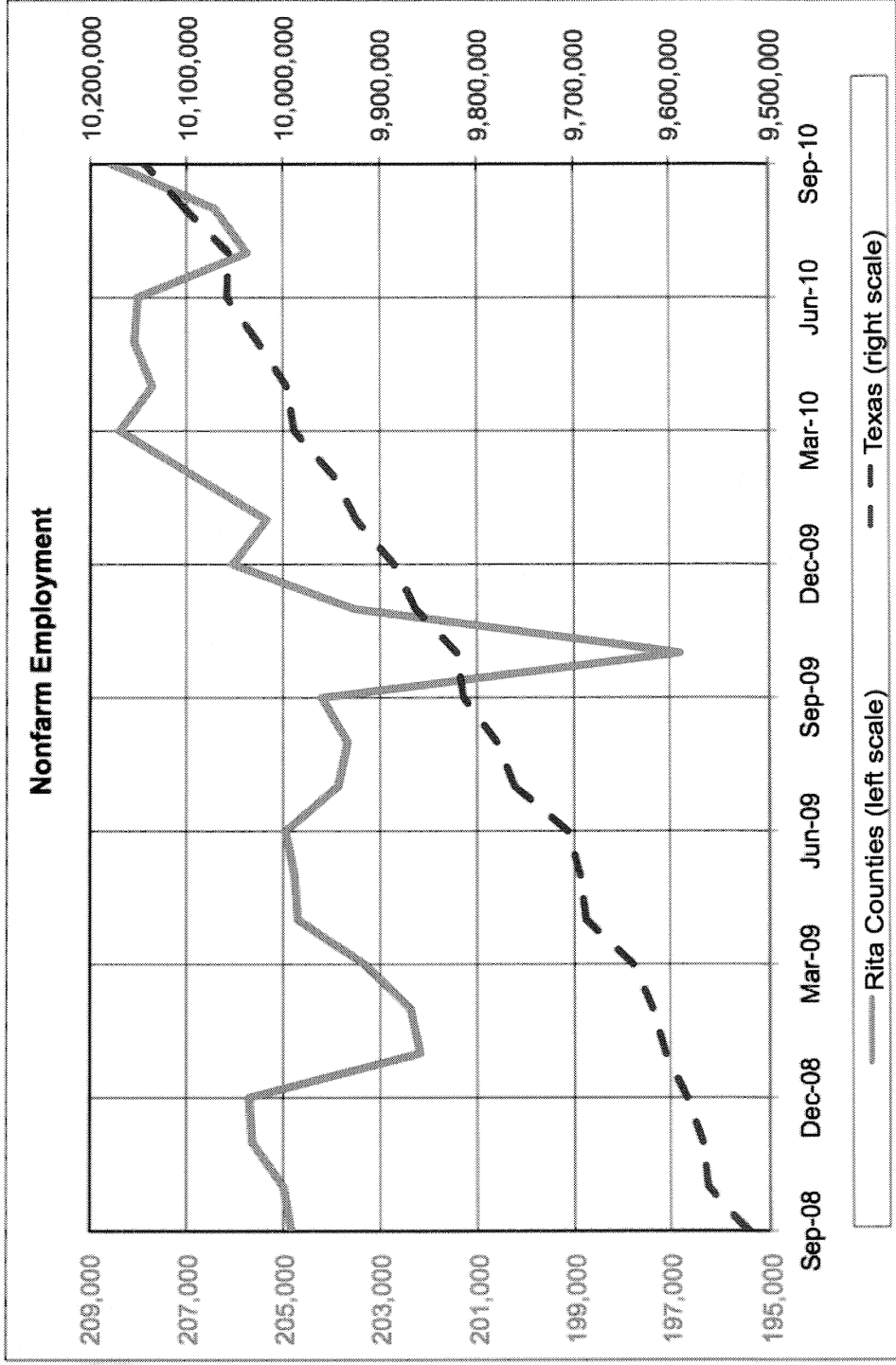
Hurricane Rita

(Texas Landfall September 23, 2005)

- Total property values in Orange County decreased by 5 percent for January 1, 2006 compared to January 1, 2005 while statewide values increased by 11 percent.
- The counties most affected had a combined 2.9 percent decrease in sales tax delinquencies during fiscal year 2006 following the hurricane.
- Non-farm employment declined by nearly 8,000 jobs in the month following the hurricane in the five county area of Chambers, Hardin, Jefferson, Liberty, and Orange Counties, but quickly rebounded within two months to exceed its pre-hurricane level.
- November sales tax allocations had localized negative impacts in city sales and use tax for Beaumont (down 9 percent) and surrounding areas, which were hit the hardest. There were increases following the immediate downturn. For example, Beaumont's monthly sales tax was up between 18 percent and 64 percent over the next year.



Employment Impact of Hurricane Rita



Hurricane Dolly

(Texas Landfall July 23, 2008)

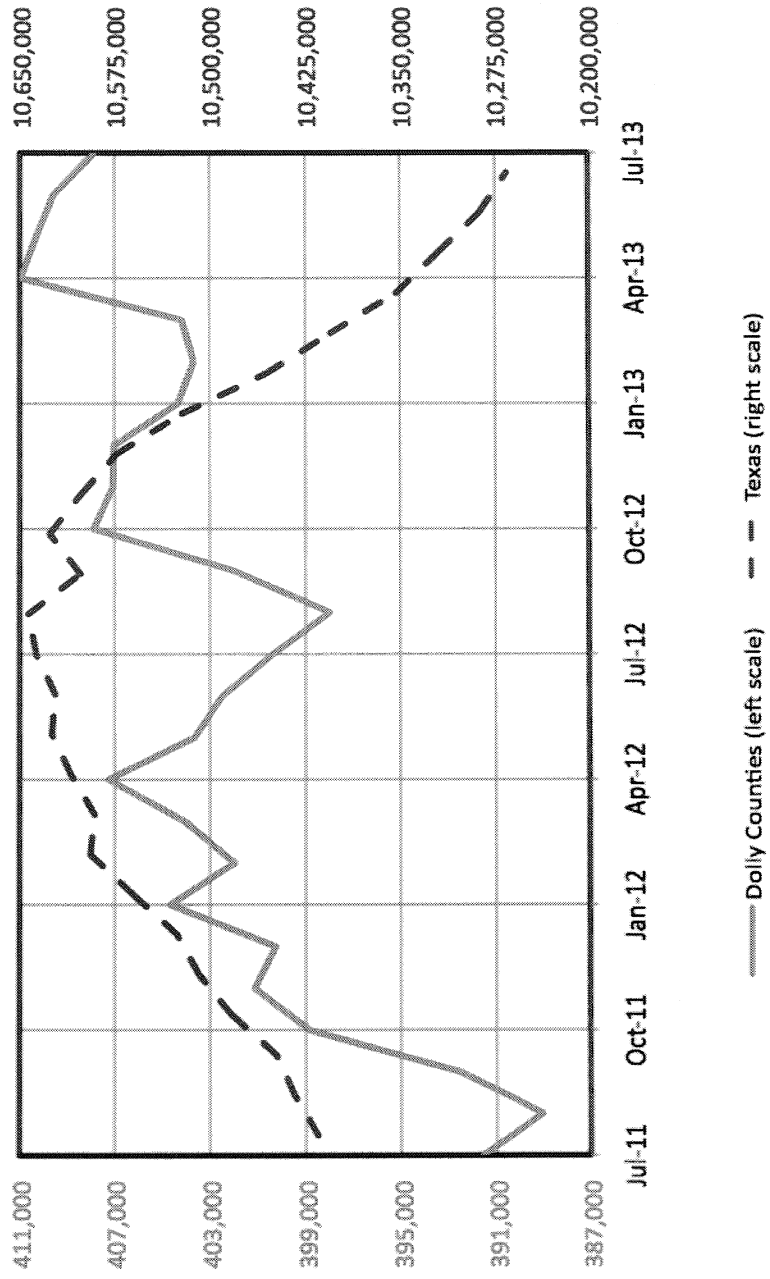


- Total Cameron County property values increased only 0.2 percent for January 1, 2009 compared to January 1, 2008 when statewide values increased by 1.6 percent.
- During the 12-month period following the hurricane, the number of delinquent sales tax accounts increased by 10 percent over the previous 12 months for taxpayers within the declared 15 county disaster area.
- Nonfarm employment in Cameron, Hidalgo, and Willacy Counties declined by a total of nearly 5,000 just after the hurricane, but exceeded pre-hurricane levels within three months.
- South Padre Island's city sales tax allocation payments in the three months after the hurricane were down (16, 14 and 12 percent) but then went to double digit increases (ranging from 11 to 61 percent) during rebuilding the following year.

Employment Impact of Hurricane Dolly



Nonfarm Employment



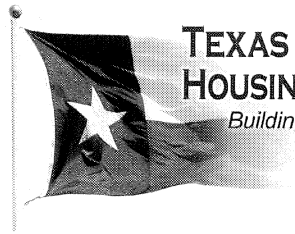
Texas
Department of
Public Safety

Department of Public Safety

HURRICANE TRANSFER SUMMARY

	HHSC TRANSFER	GOVERNOR'S TRANSFER DOLLY	GOVERNOR'S CONTINGENCY DOLLY	GOVERNOR'S TRANSFER #2	TPFA TRANSFER	GOVERNOR'S TRANSFER #3	TOTAL AWARDED
	\$145,000,000.00	\$126,317.80	\$107,160.16	\$5,600,000.00	\$5,000,000.00	\$6,144,425.61	
IKE - Dist. of Award							
Transfers out	\$145,000,000.00				\$299,279.96		\$145,299,279.96
Balance Expended	(\$57,265,891.94)				\$0.00		
Unexpended Balance	(\$70,748,900.76)				(\$213,649.62)		
	\$16,985,207.30				\$85,630.34		
DOLLY-Dist of Award							
Transfers out		\$126,317.80	\$107,160.16	\$543,279.50	\$874,595.04	\$652,031.59	\$2,303,384.09
Balance Expended		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
Unexpended Balance		(\$126,317.80)	(\$107,160.16)	(\$146,636.75)	(\$867,037.44)	(\$651,416.32)	
		\$0.00	\$0.00	\$396,642.75	\$7,557.60	\$615.27	
GUSTAV-Dist of Award							
Transfers out				\$4,891,779.50	\$3,513,000.42	\$5,127,441.81	\$13,532,221.73
Balance Expended				\$0.00	\$0.00	\$0.00	
Unexpended Balance				(\$1,800,837.56)	(\$3,513,000.42)	(\$2,546,591.81)	
				\$3,090,941.94	\$0.00	\$2,580,850.00	
EDOUARD-Dist of Award							
Transfers out				\$164,941.00	\$263,654.00	\$176,296.36	\$604,891.36
Balance Expended				\$0.00	\$0.00	\$0.00	
Unexpended Balance				(\$163,774.77)	(\$263,654.00)	(\$100,385.02)	
				\$1,166.23	\$0.00	\$75,911.34	
RIO GRANDE-Dist of Award							
Transfers out					\$15,190.58	\$165,418.52	\$180,609.10
Balance Expended					\$0.00	\$0.00	
Unexpended Balance					(\$15,190.58)	(\$165,418.52)	
					\$0.00	\$0.00	
PRESIDIO AIRCRAFT-Dist of Award							
Transfers out					\$34,280.00		\$34,280.00
Balance Expended					\$0.00		
Unexpended Balance					(\$34,280.00)		
					\$0.00		
SEVERE WEATHER-Dist of Award							
Transfers out						\$23,237.33	\$23,237.33
Balance Expended						\$0.00	
Unexpended Balance						(\$23,237.33)	
						\$0.00	

Texas
Department of
Housing and
Community
Affairs



**TEXAS DEPARTMENT OF
HOUSING & COMMUNITY AFFAIRS**
Building Homes. Strengthening Communities.

Prepared Materials for the
TEXAS SENATE COMMITTEE ON FINANCE

Disaster Recovery of Funds

April 28, 2010

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

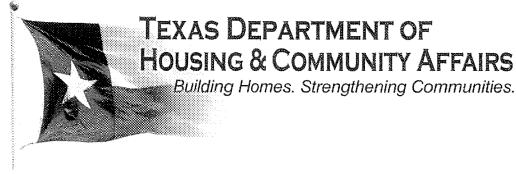
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Email: info@tdhca.state.tx.us Web: www.tdhca.state.tx.us







Information on Disaster Recovery Funds
Prepared for the Senate Committee on Finance

*Includes Information on Non-Housing-Related Disaster Recovery Activities
 Provided by the Texas Department of Rural Affairs*

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I. SUMMARY INFORMATION

Federal Disaster Recovery Funding Received by Texas

Rita Round 1 (Public Law 109-148)

- \$74.5 million made available to communities affected by Hurricane Rita.
- TDHCA designated lead agency by Governor Perry; TDRA administers funds allocated to non-housing needs.
- 95% of project funds expended; all programmatic activities anticipated to be completed by December 2010.

Rita Round 2 (Public Law 109-234)

- \$428.6 million made available to communities affected by hurricanes Katrina and Rita.
- TDHCA designated lead agency by Governor Perry; TDRA administers funds allocated to non-housing needs.
- 64% of project funds expended; all programmatic activities anticipated to be completed by March 2011

Ike/Dolly Round 1 (Public Law 110-329)

- \$1.3 billion made available to communities affected by hurricanes Ike and Dolly; of these, \$621,449,116 is budgeted for housing activities.
- TDRA designated lead agency by Governor Perry; TDHCA administers funds allocated to housing needs.
- All funds awarded.

Ike/Dolly Round 2 (Public Law 110-329)

- \$1.7 billion to be made available to communities affected by hurricanes Ike and Dolly.
- TDRA designated lead agency by Governor Perry; TDHCA administers funds allocated to housing needs.

Status of TDHCA-Administered Funds

Rita Round 1 – Public Law 109-148 (\$74.5 million)

Funding for Housing	\$40,888,788 for single family rehabilitation/reconstruction.
Funding for Non-Housing Needs	\$30,294,362 for infrastructure needs. Funds administered by Texas Department of Rural Affairs.
Delivery Model	Services delivered through three Councils of Government (COGs) acting as subrecipients.
Housing Component Achievements <i>As of April 19, 2010</i>	<ul style="list-style-type: none">▪ \$38,102,201 or 93.18% of total funding expended.▪ 516 single family homes rehabilitated or reconstructed.▪ 15 additional homes will be reconstructed by September 2010.
Anticipated Completion of Rita Round 1 Housing Component	December 31, 2010

Rita Round 1 Housing Expenditure by COG as of April 19, 2010

	Current Budget	Admin \$ Drawn To Date	Project \$ Drawn To Date	Total Drawn	% of Funds Drawn
DETCOG	\$6,674,546.00	\$674,361.00	\$6,000,185.00	\$6,674,546.00	100.00%
H-GAC	\$7,015,706.00	\$928,253.75	\$5,314,868.64	\$6,243,122.39	88.99%
SETRPC	\$27,198,536.00	\$3,105,521.68	\$22,079,011.50	\$25,184,533.18	92.60%
Totals	\$40,888,788.00	\$4,708,136.43	\$33,394,065.14	\$38,102,201.57	93.18%

Rita Round 2 – Public Law 109-234 (\$428.6 million)

Funding for Housing \$366,650,606 for owner-occupied housing rehabilitation/reconstruction and multifamily rental restoration. Includes services for Katrina evacuees.

Delivery Model Owner-occupied services delivered through use of a prime contractor, ACS; rental restoration administered by TDHCA; provision of direct funding to Harris County and the City of Houston.

Program Achievements
As of April 22, 2010

- \$235,213,142 or 64.15% of housing funds expended
- 1,365 single family homes rehabilitated or reconstructed, with an additional 166 currently under construction.
- 1,180 rental units have been rehabilitated or reconstructed with an additional 958 rental units are currently under construction.

Anticipated Completion of Rita Round 2 Housing Component March 2011.

Rita Round 2 Expenditures by Program as of April 22, 2010

	Current Budget	Cumulative Expenditures	Balance Remaining	Percentage Expended
Homeowner Assistance Program (HAP)	\$210,371,273.00	\$121,562,615.42	\$88,808,657.58	57.78%
Sabine Pass Restoration Program (SPRP)	\$12,000,000.00	\$8,044,883.58	\$3,955,116.42	67.04%
Rental Housing Stock Restoration Program (RHSRP)	\$82,779,333.00	\$64,627,796.60	\$18,151,536.40	78.07%
City of Houston	\$41,500,000.00	\$31,120,723.30	\$10,379,276.70	74.99%
Harris County	\$20,000,000.00	\$11,326,659.36	\$8,673,340.64	56.63%
Restoration of Critical Infrastructure Program (TDRA)	\$42,000,000.00	\$26,514,860.65	\$15,485,139.35	63.13%
State Administrative Funds (Admin Funds)	\$19,933,592.00	\$10,319,997.04	\$9,613,594.96	51.77%
Totals	\$428,584,198.00	\$272,992,910.84	\$155,591,287.16	63.82%

Ike/Dolly Round 1 – Public Law 110-329 (\$1.3 billion)

Funding for Housing

\$621,448,377 for owner-occupied rehabilitation/reconstruction, multifamily rental restoration, and other housing-related disaster recovery needs.

Delivery Model

A “local control” approach *administered by locally identified subrecipients.*

Program Achievements

As of April 19, 2010

- All funds awarded.
 - \$562,613,464 to 18 local subrecipients
 - \$58 million to rental developments through state administered programs
- Four subrecipients have drawn \$2.9 million for start-up expenses and \$1.7 million in project funds. Additionally, 117 projects have been approved for assistance under the City of Houston’s downpayment assistance program.
- 6,386 households anticipated to be served through local subrecipients.
- 2,181 rental units are anticipated to be rehabilitated or reconstructed under TDHCA’s rental set-aside; no rental activities were proposed in the Dolly area.

Ike/Dolly Local Subrecipients Expenditure as of April 19, 2010

Subrecipient Awards	Current Budget	Cumulative Expenditures	Balance Remaining	Percentage Expended
City of Galveston	\$160,432,233	\$0.00	\$160,432,233	0.00%
Galveston County	\$99,503,498	\$0.00	\$99,503,498	0.00%
South East Texas Regional Planning Commission	\$95,000,000	\$311,202.78	\$94,688,797	0.33%
City of Houston	\$87,256,565	\$2,208,000.00	\$85,048,565	2.53%
Harris County	\$56,277,229	\$2,618,325.12	\$53,658,903	4.65%
Houston-Galveston Area Council of Governments	\$11,076,980	\$0.00	\$11,076,980	0.00%
Liberty County	\$8,878,923	\$0.00	\$8,878,923	0.00%
Montgomery County	\$6,909,237	\$0.00	\$6,909,237	0.00%
Deep East Texas Council of Governments	\$5,931,070	\$4,589.61	\$5,926,480	0.08%
Cameron County	\$3,093,750	\$0.00	\$3,093,750	0.00%
Hidalgo County	\$2,000,000	\$0.00	\$2,000,000	0.00%
City of Brownsville	\$1,635,318	\$0.00	\$1,635,318	0.00%
Fort Bend County	\$1,582,107	\$0.00	\$1,582,107	0.00%
Brazos Valley Affordable Housing Corporation	\$948,930	\$0.00	\$948,930	0.00%
Willacy County	\$541,287	\$0.00	\$541,287	0.00%
East Texas Council of Governments (ETCOG)	\$415,117	\$0.00	\$415,117	0.00%
City of Mission	\$209,638	\$812.80	\$208,825.20	0.39%
Chambers County	\$20,921,582	\$0.00	\$20,921,582	0.00%
Totals	\$562,613,464	\$5,142,930.31	\$557,470,533	0.91%

Ike/Dolly Round 2 – Public Law 110-329 (\$1.7 billion)

Overview of Events Related to Ike/Dolly Round 2 Funding

Planning for Ike/Dolly Round 2 began as fundamentally identical to Round I (*administered by locally identified subrecipients*) except that the allocation was to have been based on a new damage model developed by a contractor, HNTB, engaged by TDRA. A very protracted and complex process has unfolded surrounding the use of CDBG disaster recovery funds for efforts to recover from the effects of hurricanes Ike and Dolly. Below are key dates.

Key Dates Related to Ike/Dolly Funding:

September 30, 2008	Congress enacts legislation (PL 110-329) to appropriate funding for CDBG disaster recovery efforts in impacted states.
February 13, 2009	HUD announces initial funding of \$1.3 billion for Texas (Ike/Dolly Round 1) and publishes requirements to access Ike/Dolly Round I through the submission of an Action Plan in the <i>Federal Register</i> .
March 4, 2009	TDRA, as the agency identified by Governor Perry to administer the State of Texas grant, submits its Action Plan to HUD. TDRA oversees infrastructure and economic development programs, and TDHCA is assigned oversight of housing programs. The Action Plan: <ul style="list-style-type: none"> ▪ Allocates funds to eligible Councils of Governments (COGs) and allows them to develop, based on public input, how the funds will be used. The allocation is based predominantly on FEMA data regarding levels of damage sustained in different areas, but it is adjusted to address the fact that the FEMA data in the Lower Rio Grande Valley was incomplete; additional funds are taken out of the project planning funds available to the state and reprogrammed to recovery activity in that area. ▪ Requires the COGs to develop methods of distribution (MODs) that identify who the subrecipients will be that will be charged with line administration of the recovery funds and what activities they will administer.
March 19, 2009	HUD approves the state's Action Plan for Ike/Dolly Round I.
July 24, 2009	All MODs for Ike/Dolly Round I have been approved.
August 14, 2009	HUD publishes in the <i>Federal Register</i> notice of its requirements to access additional \$1.7 billion in funds available to Texas (Ike/Dolly Round 2). This requires submission of an amendment to the Action Plan that had been previously submitted in connection with Ike/Dolly Round 1.
September 30, 2009	TDRA files an Action Plan Amendment with HUD to access Ike/Dolly Round 2 funds. This amendment allocates Ike/Dolly Round 2 funds based on a new methodology developed for TDRA by a contractor, HNTB
October 28, 2009	Texas Low Income Housing Information Service (TXLIHIS) and Texas Appleseed file an administrative complaint with HUD, alleging that: <ul style="list-style-type: none"> ▪ The state's allocation model was not a proper basis for allocation ▪ The state had not submitted a fully compliant action plan. ▪ The state had not given the public proper opportunity for comment ▪ The state's subrecipients could not all certify that they were meeting their obligation to affirmatively further fair housing. ▪ HUD takes no direct action with the state on the Complaint
November 10, 2009	HUD sends a letter withholding approval, citing the allocation model and public participation and expressing concerns over the age of the state's analysis of impediments to fair housing choice (AI), as required by Fair Housing to receive HUD funds so that a HUD recipient may certify that it is affirmatively furthering fair housing

<p>December 1, 2009</p>	<p>TXLIHIS (later joined by Texas Appleaseed) files a Fair Housing Complaint with HUD alleging that:</p> <ul style="list-style-type: none"> ▪ The state's allocation model was fatally flawed and did not provide funds to the most impacted areas. ▪ The state's analysis of impediments to fair housing choice (AI) was dated and failed to incorporate data, making it insufficient and inadequate and, therefore, the state's required certification that it was complying with its statutory obligation to affirmatively further fair housing was a potential false claim under federal False Claims Act. <p>As a result of the complaint, HUD was required to withhold approval of the Action Plan Amendment until these issues had been corrected.</p>
<p>From December 2009 through April 10, 2010</p>	<p>Discussion that became negotiations occurred on a conciliation agreement involving TXLIHIS, Texas Appleaseed, and the state (TDRA, TDHCA, OAG and Governor's Office) attempting to resolve the Fair Housing Complaint and its precursor administrative complaint. Although these complaints are the responsibility of one arm of HUD (overseen by Asst. Sec. John Traviña) and the approval of the Action Plan amendment for Ike/Dolly Round II funds (the allocation to regions) is the responsibility of another arm of HUD (overseen by Asst. Sec. Mercedes Marquez) there it appeared that there was a linkage of the issues. Both areas of difference will need to be resolved in order for the state to access Round 2 funds.</p>
<p>April 10, 2010</p>	<ul style="list-style-type: none"> ▪ A final conciliation agreement is executed and submitted to HUD for approval. The agreement provides the blueprint for how funds will be used once the allocation is agreed to by HUD. ▪ HUD has verbally committed that the funding allocation issue has been resolved in principle by negotiations with Asst. Sec. Marquez. <p>The state concluded that negotiating an acceptable conciliation agreement and adjusting the funding allocation would be necessary if the state wanted to access these funds without litigation that would be expensive and time intensive and lead to multi-year delays.</p>

Status of Ike/Dolly Funds as of April 20, 2010:

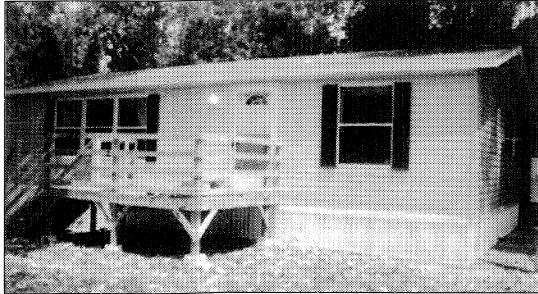
1. \$1.3 billion in Ike/Dolly Round 1 funds are being administered in accordance with the state's action plan.
2. Before the \$1.7 billion in Ike/Dolly Round 2 funds may be accessed:
 - a. The state must engage a qualified consultant to perform an interim analysis of impediments to fair housing choice (AI) for the areas to be served by these funds.
 - b. An Action Plan amendment will be developed to afford the public opportunity to comment on the allocation. Features of the conciliation agreement will be in the amendment.
 - c. Once the AI is complete the state will provide extensive training on the AI and what it means to affirmatively further fair housing. The COGs will develop methods of distribution (MODs) informed by the AI.

These processes are anticipated to be complete and Round 2 funds to become available in early 2011. In the meantime, Round 1 funds will continue to be administered.

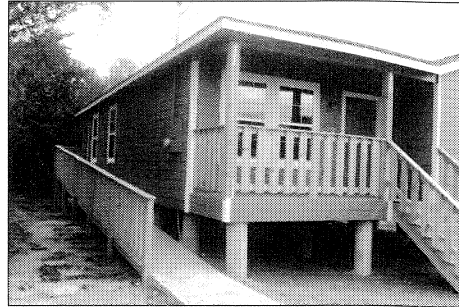
More detailed information will be provided by the Texas Department of Rural Affairs, who will be presenting Ike/Dolly Material Requested.

Sample Housing: Rita Round 1

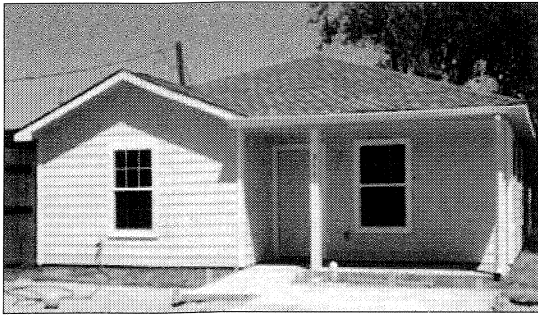
516 Single family homes rehabilitated or constructed to date



Daisetta, TX



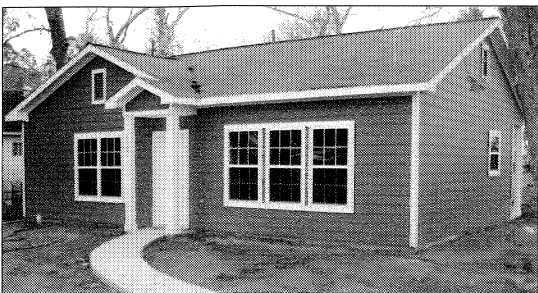
Port Arthur, TX



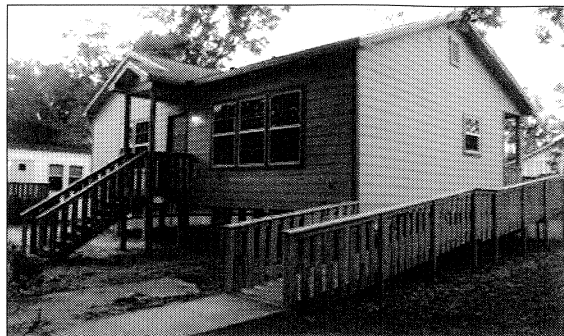
Orange, TX



Orange, TX



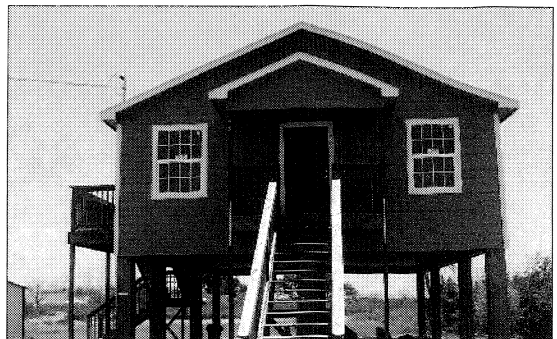
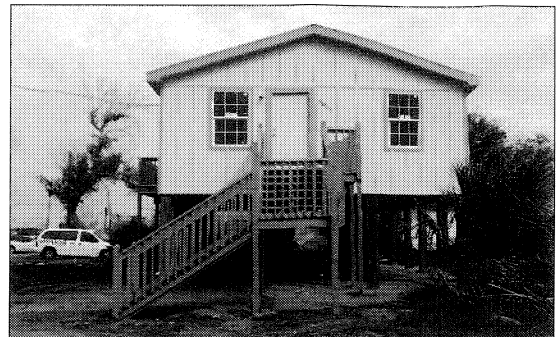
Sour Lake, TX



Orange, TX

Sample Housing: Rita Round 2 - Sabine Pass Restoration Program (SPRP)

69 Households served to date

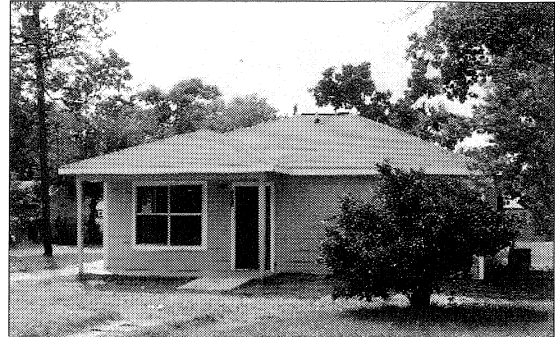


Sample Housing: Rita Round 2 - Homeowner Assistance Program (HAP)

1,296 Homes rehabilitated or constructed to date



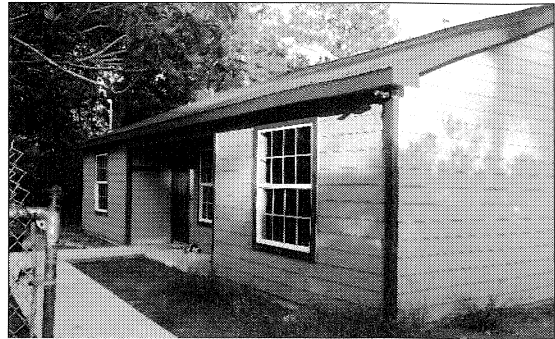
Jasper, TX



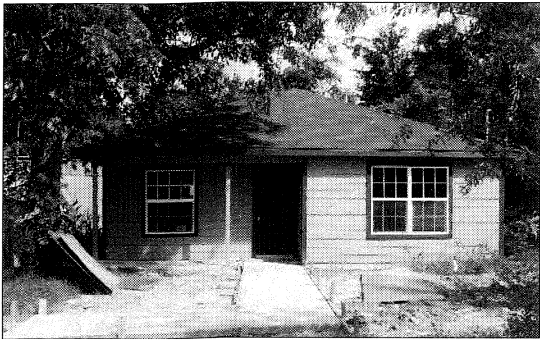
Port Arthur, TX



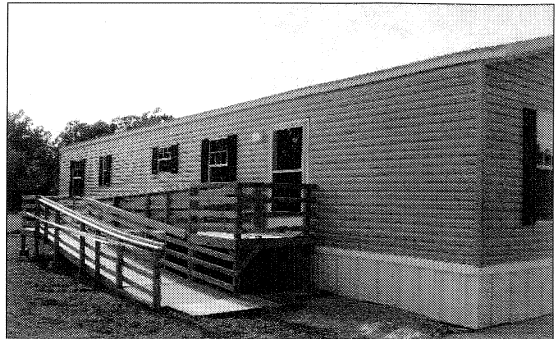
Jasper, TX



Beaumont, TX



Nederland, TX



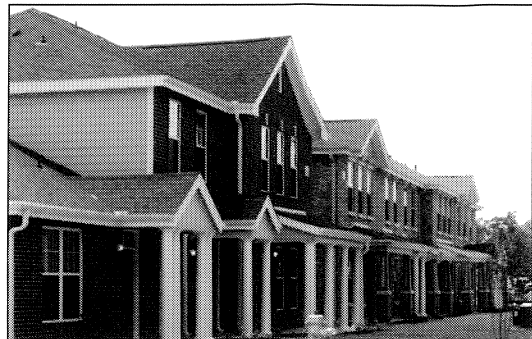
China, TX

Sample Housing: Rita Round 2 - Rental Development Activity

1,180 Rental units rehabilitated or constructed to date



Orange, TX



Beaumont, TX



Port Arthur, TX



Port Arthur, TX



Port Arthur, TX



Beaumont, TX

II. RITA ROUND 1 (\$74.5 MILLION)

1. Timeline of Hurricane and Recovery From Start to Present

Hurricane date

September 24, 2005

Legislation Funding Hurricane Recovery

Title of legislation: Hurricane Rita First Supplemental, Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, Public Law 109-148

When legislation was enacted: December 30, 2005

Federal agency responsible for issuing funds

U.S. Department of Housing and Urban Development

Federal Registry Dates

February 13, 2006 Notice of Action Plan and Standard Waivers
(Volume/Page 71FR7666, Docket No. FR-5051-N-01)

August 1, 2006 Notice of HUD Approval of Additional Waivers Requested by State
(Volume/Page 71FR43622, Docket No. FR-5051-N-05)

See Appendix B for a list of waivers granted.

Action Plan Due Date

April 13, 2006

Federal Responses

June 9, 2006 HUD Grant Agreement Letter

Requests for extensions

Not Applicable

Action Plan Amendment and Modification Requests

- The State requested and HUD approved one Action Plan Amendment on October 24, 2006.
- The TDHCA Governing approved two Action Plan Modifications, the first on October 12, 2006 and the second on September 4, 2008.

See Appendix C for list and summary information on Rita Round 1 Action Plan Amendment and Modifications.

Final Plan Approved

May 22, 2006

2. Distribution Factors (Rita Round 1)

FEMA Damage Estimates

Housing 222,394 households approved for home repair and replacement assistance as of February 2006

Non-Housing \$239,146,582 in estimated infrastructure damage as of March 2006

Texas Rebounds Estimates

\$1.274 billion for housing and non-housing needs (minimum)

TDHCA/TDRA Damage Estimates

Factors

Housing FEMA data
Non-housing FEMA data

Total Amounts Reserved for Texas Storms

\$74,523,000 (Budget)

Amounts Distributed As of April 19, 2010

	Budgeted/Obligated	Expended	Percent
Housing	40,888,788	\$38,102,201	93.18%
Infrastructure	\$30,537,574	\$29,365,342	96.93%

See Appendix D for more detailed information on Rita Round 1 Funding.

Application of Funds Housing/Non-Housing for each Region

Administrative Totals

\$3,726,150 or 5% of total funds. (Shared among TDHCA, TDRA, and subgrantees.)

Waivers

HUD made certain standard waivers available to all eligible states through the initial Federal Register funding announcement. Texas requested additional waivers, which were subsequently granted.

A list of standard program waivers and the additional waivers requested in Appendix B.

Rules and Restrictions

Primary Federal and State Regulations Governing Funds

Federal 24 CFR 570.480

Includes extensive reporting, environmental review, income restriction, flood insurance other requirements

Other Important Federal Requirements and Restrictions:

- Non-Duplication of Benefits (42 U.S.C. 5155)
- Davis Bacon Labor Standards
- Relocation Requirements (49 CFR part 24)

Primary State Regulations: 10 Texas Administrative Code

- TDHCA – Part 1
- TDRA – Part 6

New Construction Mandates/Housing Rehab Mandates

Rehabilitation:

- Local Codes and Ordinances and Housing Quality Standards

Reconstruction/New Construction:

- International Residential Code (comparable to Texas Minimum Construction Standards)
- Texas Government Code §2306.514

55/45 Housing/Non-Housing

Announced in Secretary of HUD's January 25, 2006, News Release (No. 06-011)

Total Applications by Citizens Needing Housing Help

4,180 as of November 2007 (Total applications received from Councils of Government (COGs))

Total Families Still Living in Emergency Housing

None. All FEMA travel trailers and temporary housing units have been deactivated and DHAP (Disaster Housing Assistance Program) assistance for Rita has expired.

Total Applications by Cities or Counties

Housing Not Applicable. TDHCA subcontracted with three Councils of Government serving 22 counties to make funds available.

Non-Housing Councils of Government (COGs) selected projects for submittal to TDRA for Round 1 grants. Ninety-six (96) projects were submitted from the four COGS

See Appendix F for a breakdown of applications received by COG Region.

Total Applications by Business Community

Not Applicable.

3. Allocation of Funds (Rita Round 1)

Eligible Counties by Council of Government (COG)

See page 16 for map of eligible counties by assistance type

Counties Eligible for Both Housing and Infrastructure Funds (29 counties)

<u>DETCOG Region</u>	<u>H-GAC Region</u>	<u>SETRPC Region</u>
Angelina	Brazoria	Hardin
Houston *	Chambers	Jefferson
Jasper	Cherokee *	Orange
Nacogdoches	Fort Bend	
Newton	Galveston	
Polk	Gregg *	
Sabine	Harris	
San Augustine	Harrison *	
San Jacinto	Liberty	
Shelby	Marion *	
Trinity	Montgomery	
Tyler	Panola *	
	Rusk *	
	Walker	

* Counties eligible for infrastructure funds only

Disbursement

Funding by COG Region

	Housing Allocation	Non-Housing Allocation
SETRPC	\$26,498,536	\$12,468,656
DETCOG	\$6,745,034	\$12,278,209
H-GAC	\$7,015,706	\$3,690,712
ETCOG	\$0	\$2,099,998
TOTAL	\$40,259,276.00	\$30,537,574

See Appendix D for more detailed information on Rita Round 1 Funding

Uses of Housing and Non-Housing Funds

Housing

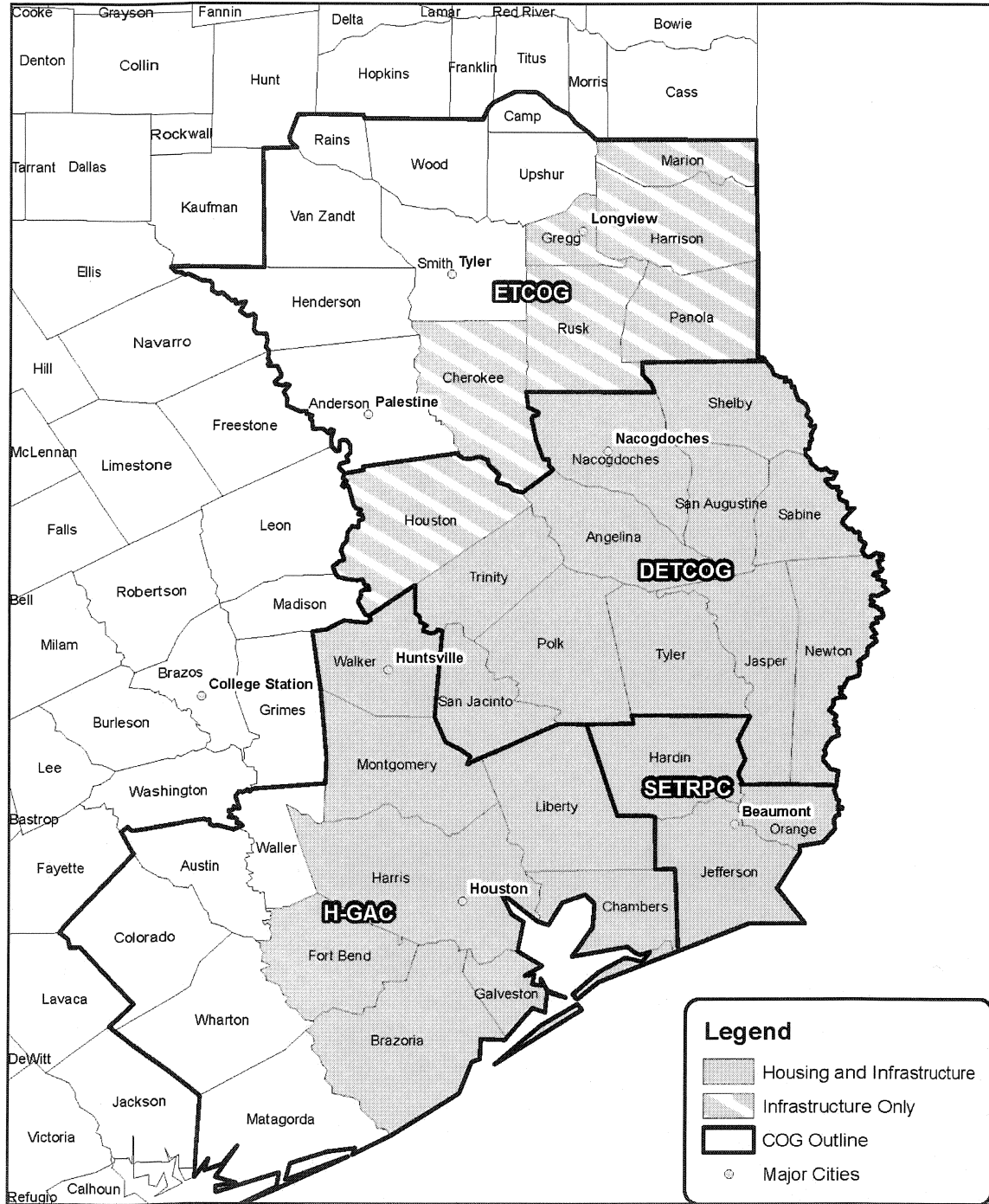
Single family owner-occupied repair, rehabilitation, reconstruction, and new construction; and demolition activities

Non-Housing

Eligible activities included: FEMA Infrastructure Grant Program match, FEMA Hazard Mitigation Grant Program match (including drainage projects, flood buyouts in which the property is converted into open, undeveloped land, and safe-room and community storm shelters), Natural Resource and Conservation Service (NRCS-USDA) flood and drainage projects, roads and bridges, water control facilities, water and waste water facilities, buildings and equipment, debris removal, and public/community shelters

Hurricane Rita Disaster Recovery Assistance Map

Map of Eligible Counties



III. RITA ROUND 2 (\$428.6 MILLION)

1. Timeline of Hurricanes and Recovery from Start to Present

Hurricane Dates

Hurricane Katrina August 29, 2005
Hurricane Rita September 24, 2005

Legislation Funding Hurricane Recovery

Title Hurricanes Rita and Katrina Second Supplemental, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, Public Law 109-234
Enacted June 15, 2006
Federal Agency U.S. Department of Housing and Urban Development

Federal Registry Dates

October 30, 2006 Action Plan and Standard Waivers
(Volume/Page 71FR63337, Docket No. FR-5089-N-01)
a. Action Plan Additional Elements
b. Rollover of Waivers received 2/13/2006 and 8/1/2006
August 27, 2007 Notice of HUD Approval of Additional Waivers Requested by State
(Volume/Page 72FR48804, Docket No. FR-5089-N-05)
a. Section 414 of the Stafford Act waiver and additional requirements

See Appendix B for more information on waivers.

Action Plan Due Date

December 20, 2006

Federal Responses Including HUD response/rejection letters

May 9, 2007 HUD Grant Agreement letter

Requests for Extensions

Not Applicable

Requests for extensions

Not Applicable

Plans for Amending Action Plan

The State requested and HUD approved (7) Action Plan Amendments between August 29, 2007 and April 17, 2009.

See Appendix C for list and summary information on all Rita Round 2 Action Plan Amendments.

Final plan approved

April 13, 2007

2. Distribution Factors (Rita Round 2)

FEMA Damage Estimates

Housing 222,394 households approved for home repair and replacement assistance as of February 2006

Non-Housing \$239,146,582 in estimated infrastructure damage as of March 2006

Texas Rebounds Estimates

\$1.274 billion for housing and non-housing needs (minimum)

TDHCA/TDRA damage estimates for Hurricane Rita

Factors Informing Rita Round 2 Distribution

Housing FEMA Data
 Non-housing FEMA Data

Total amounts reserved for Texas storms (Budget)

\$428,671,849

Amounts distributed to date

See Appendix E for more detailed information on Rita Round 2 funding.

	Budgeted/Obligated	Expended	Percent
Housing <i>Inclusive of Harris County and City of Houston Rental Programs</i>	\$366,650,606	\$236,158,053.15	64.41%
Non-housing	\$42,000,000	\$26,514,861	63.13%

Application of Funds Housing/Non-Housing for each Region

Administrative Totals

- \$19,933,592 or 4.6% of total funds.
- Shared among TDHCA, TDRA, City of Houston, Harris County and subgrantees

See Appendix E for breakdown of administrative totals by activity.

Waivers

HUD made certain standard waivers available to all eligible states through the initial Federal Register funding announcement. Texas requested additional waivers, which were subsequently granted.

Information on standard program waivers and the additional waivers requested by the State can be found in Appendix B.

Rules and Restrictions

Primary Federal and State Regulations Governing Funds

Primary Federal Regulations: 24 CFR 570.480

- Includes extensive reporting, environmental review, income restriction, flood insurance other requirements.

Other Important Federal Requirements and Restrictions:

- Non-Duplication of Benefits (42 U.S.C. 5155)
- Davis Bacon Labor Standards
- Relocation Requirements (49 CFR part 24)

State: 10 Texas Administrative Code

- a. TDHCA – Part 1
- b. TDRA – Part 6

New Construction Mandates/Housing Rehab Mandates

Rehabilitation:

- Local Codes and Ordinances and Housing Quality Standards

Reconstruction/New Construction:

- International Residential Code (comparable to Texas Minimum Construction Standards)
- Texas Government Code §2306.514
- Texas Government Code §2306.188

55/45 Housing/Non-Housing

Not Applicable

Total Applications by Citizens Needing Housing Help

7,830 applications were received for Rita Round 1 and Round 2 combined. Applications not served under Round 1 were turned over to Round 2 for assessment. Additional applications were taken since many applicants were not eligible or no longer needed or wanted assistance.

Total Families Still Living in Emergency Housing

None. All FEMA travel trailers and temporary housing units have been deactivated and DHAP (Disaster Housing Assistance Program) assistance for Rita has expired.

Total Applications by Cities/Counties

Housing Not applicable. The housing programs were managed by either the subgrantee or the State. (Houston administered its own funds directly.)

Non-Housing TDRA held a competition for funds not set aside. A total of 27 applications were received and 5 were selected. (See Appendix F for applications by COG Region)

Total Applications by Business Community

Not Applicable

3. Allocation of Funds (Rita Round 2)

Counties & COGs involved in respective hurricanes

The same cities and counties eligible for assistance under Rita 1

Disbursement of Funds

See Appendix E for additional information on Rita Round 2 funding.

Program	County Eligible/ Assisted	Activities	Program Budget
Homeowner Assistance Program (HAP)	All 22 housing-eligible counties	Rehabilitation and reconstruction of single family homes, mitigation in a flood zone	\$210,371,273
Sabine Pass Restoration Program (SPRP)	Jefferson County	Rehabilitation and reconstruction of single family homes; elevation assistance; storm mitigation; accessibility-related costs; relocation outside of floodplain	\$12,000,000
Rental Housing Stock Restoration Program (RHSRP)	Jefferson and Orange Counties	Rehabilitation or reconstruction of affordable rental properties	\$82,779,333
City of Houston	Harris County	Address needs of persons displaced by Hurricane Katrina via public safety programs, rehabilitation of affordable housing properties, and other community assistance services	\$41,500,000
Harris County	Harris County		\$20,000,000

Program	County Eligible/ Assisted	Activities	Program Budget
Restoration of Critical Infrastructure Program (TDRA)	Hardin, Jasper, Jefferson, Orange, and Tyler Counties	Funded activities range from the restoration of the only emergency care hospital in Orange County to the repair or replacement of 20+ bridges to wide ranging debris removal and drainage clearance activities	\$42,000,000

APPENDIX A: LINKS TO RELEVANT FEDERAL AND STATE DOCUMENTS AVAILABLE ON THE INTERNET

Rita Round 1

Public Law 109-148 (First Supplemental Funding)

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ148.pdf

Secretary of HUD's January 25, 2006, News Release Announcing Funds (No. 06-011)

<http://www.hud.gov/news/release.cfm?content=pr06-011.cfm&CFID=34914406&CFTOKEN=70952312>

Federal Register Notices

See Appendix B

State of Texas Rita Round 1 Action Plan, Amendment, and Modifications

<http://www.tdhca.state.tx.us/cdbg/first-supplemental/documents.htm>

Rita Round 2

Public Law 109-234 (Second Supplemental Funding)

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ234.109.pdf

Federal Register Notices

See Appendix B

State of Texas Rita Round 2 Action Plan and Amendments

<http://www.tdhca.state.tx.us/cdbg/second-supplemental/action-plan.htm>

APPENDIX B: FEDERAL WAIVERS

There are two kinds of waivers associated with Community Development Block Grant Disaster Recovery funds. Standard waivers are included in the initial Federal Register Notice to help provide flexibility to the funds. Additional waivers may be requested by states in the Action Plan.

Rita Round 1

Standard Waivers Included with Announcement of Funds

February 13, 2006, Volume/Page 71FR7666, Docket No. FR-5051-N-01

<http://frwebgate6.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=990985194705+0+2+0&WAIAction=retrieve>

Additional Waivers

August 1, 2006, Volume/Page 71FR43622, Docket No. FR-5051-N-05

<http://frwebgate5.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=991111264384+0+2+0&WAIAction=retrieve>

Action Plan and Standard Waivers

- Action Plan for Disaster Recovery and Allocation
- Overall Benefit
- Direct Action
- Consistency with Consolidated Plan
- Citizen Participation
- Consultation with Local Governments
- Pre-Agreement Costs
- Environmental Release Clarification
- Duplication of Benefits
- Distribution to Entitlement Communities/Urban Counties
- Administration Limitation
- Reporting
- Use of Subrecipients
- Record Keeping
- Control of Real Property
- State-run Activities
- Certifications

Additional Waivers Requested in Action Plan

- Program Income Alternative
- Housing-related Eligibility
- Planning Requirements
- Anti-Pirating
- One-for-One Replacement
- Timely Distribution of Funds
- Flood Buyout Activities
- Non-federal Cost Share Core of Engineers

Rita Round 2

Standard Waivers Included with Announcement of Funds

October 30, 2006 - Volume/Page 71FR63337, Docket No. FR-5089-N-01
<http://frwebgate3.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=99313131181+1+2+0&WAISaction=retrieve>

Additional Waivers

August 27, 2007 - Volume/Page 72FR48804, Docket No. FR-5089-N-05
<http://frwebgate6.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=991427190234+0+2+0&WAISaction=retrieve>

Waivers

- Standard Waivers: Waivers provided under Rita Round 1 are provided to Rita Round 2 recipients
- Additional Waiver: Section 414 of the Stafford Act waiver and additional requirements

APPENDIX C: SUMMARY OF ACTION PLAN AMENDMENT AND MODIFICATION REQUESTS FOR RITA ROUND 1 AND RITA ROUND 2

Requested changes to the Action Plan affecting allowable activities, program beneficiaries or funding allocations must be approved by HUD. All other changes must be can be approved by the administering entity's Governing Board.

Rita Round 1 Action Plan Amendment and Modification Requests

Action Plan Amendment # 1

The amendment removes the requirement that each Council of Government (COG) requirement that 50 percent of the grant funds must assist activities producing benefit to low and moderate income persons. Instead, this requirement will apply to all funds.

Requested: September 25, 2006
HUD Approved: October 24, 2006

Action Plan Modification #1

The modification requires that assistance to homeowners in floodplains be provided in the form of a loan. This modification was requested to address requirements under the Flood Protection Disaster Act of 1973.

TDHCA Governing Board Approved: October 12, 2006

Action Plan Modification #2

Allows TDHCA to access unobligate funds and apply these to continued case management in affected counties to make certain that the people in the community fully understand the award process.

TDHCA Governing Board Approved: September 4, 2008

Rita Round 2 Action Plan Amendment Request

Action Plan Amendment # 1

Previously adopted action plan was only a partial plan. Amendment adds proposed use of funds by the City of Houston and Harris County

HUD Approved: August 29, 2007

Action Plan Amendment # 2

Allows TDRA to fund additional assistance in Hardin County through Critical Infrastructure Restoration Program

HUD Approved: April 21, 2008

Action Plan Amendment #3

Allows TDHCA to increase maximum allowable benefit under Housing Assistance Program and Sabine Pass Restoration Program

HUD Approved: May 22, 2008

Action Plan Amendment #4

Amendment relates to use of Harris County and City of Houston funds to meet needs of Katrina evacuees

HUD Approved: May 22, 2008

Action Plan Amendment #5

Amendment to Harris County plan to direct additional funding to housing and lower income populations

HUD Approved: November 21, 2008

Action Plan Amendment #6

Adjusts maximum allowable benefit under Housing Assistance Program and Sabine Pass Restoration Program

HUD Approved: February 9, 2009

Action Plan Amendment #7

Adjusts assistance provided through Harris County funding.

HUD Approved: April 17, 2009

APPENDIX D: RITA ROUND 1 FUNDING STATUS AND DETAIL

Status of Rita Round 1 Housing Funds

As of April 19, 2010:

- \$40,888,788 budget for housing.
- \$38,102,201 or 93.18% of this expended as of April 19, 2010.
- 516 single family homes rehabilitated or reconstructed as of April 19, 2010.
- 15 additional homes will be reconstructed by May 2010.

Rita Round 1 Housing Expenditure by COG

	Current Budget	Admin \$ Drawn To Date	Project \$ Drawn To Date	Total Drawn	% of Funds Drawn
DETCOG	\$6,674,546.00	\$674,361.00	\$6,000,185.00	\$6,674,546.00	100.00%
H-GAC	\$7,015,706.00	\$928,253.75	\$5,314,868.64	\$6,243,122.39	88.99%
SETRPC	\$27,198,536.00	\$3,105,521.68	\$22,079,011.50	\$25,184,533.18	92.60%
Totals	\$40,888,788.00	\$4,708,136.43	\$33,394,065.14	\$38,102,201.57	93.18%

Status of Rita Round 1 Non-Housing Funds as of March 15, 2010

Information Provided by Texas Department of Rural Affairs

- Of the \$30,537,574 of the round 1 funds available \$29,365,342 or 96.93% have been expended.
- 76 grants have been closed.
 - 18 of those have grant funds remaining which will ultimately be de-obligated.
 - Five grants have completed all activities with no funds remaining and are awaiting closeout.
 - Four grants have no funds remaining but must stay open for completion of recovery activities funded by other sources.
 - One grant has only final administrative costs left to draw and six are going through final closeout steps and will de-obligate funds.
 - Two of these grants have been extended and will continue to spend grant funds.

Rita Round 1 Non-Housing Expenditure by COG Region

COG Region	Total Funded	Drawn to Date	% Drawn to Date	Due to be Paid	Amt. to Deobligate	% to Deobligate
DETCOG	\$12,178,209	\$11,978,514	98.36%	\$113,253	\$86,442	.71%
ETCOG	\$2,049,997	\$2,000,731	97.60%	\$46,935	\$2,331	.11%
HGAC	\$3,616,156	\$3,091,252	85.48%	\$1,125	\$523,779	14.48%
SETRPC	\$12,450,000	\$12,294,845	98.75%	\$0	\$155,155	1.24%
Totals	\$30,294,362	\$29,365,342	96.93%	\$161,313	\$767,707	2.53%

APPENDIX E: RITA ROUND 2 FUNDING STATUS AND DETAIL

Rita Round 2 Expenditures by Program as of April 22, 2010

	Current Budget	Cumulative Expenditures	Balance Remaining	Percentage Expended
Homeowner Assistance Program (HAP)	\$210,371,273.00	\$121,562,615.42	\$88,808,657.58	57.78%
Sabine Pass Restoration Program (SPRP)	\$12,000,000.00	\$8,044,883.58	\$3,955,116.42	67.04%
Rental Housing Stock Restoration Program (RHSRP)	\$82,779,333.00	\$64,627,796.60	\$18,151,536.40	78.07%
City of Houston	\$41,500,000.00	\$31,120,723.30	\$10,379,276.70	74.99%
Harris County	\$20,000,000.00	\$11,326,659.36	\$8,673,340.64	56.63%
Restoration of Critical Infrastructure Program (TDRA)	\$42,000,000.00	\$26,514,860.65	\$15,485,139.35	63.13%
State Administrative Funds (Admin Funds)	\$19,933,592.00	\$10,319,997.04	\$9,613,594.96	51.77%
Totals	\$428,584,198.00	\$272,992,910.84	\$155,591,287.16	63.82%

Distribution of Rita Round 2 Administrative Funds

Activity	Admin
Homeowner Assistance Program (HAP)	\$10,053,685
Sabine Pass Restoration Program (SPRP)	\$529,141
Rental Housing Stock Restoration Program (RHSRP)*	\$0
City of Houston and Harris County**	\$1,500,000
Restoration of Critical Infrastructure Program (TDRA)	\$2,100,000
TDHCA Admin	\$5,750,765
Total Admin	\$19,933,591

*Administered through TDHCA.

**Houston converted \$1.5 million of their original administrative allocation for project delivery

Status of Rita Round 2 Housing Funds as of April 22, 2010

- \$366,650,606 budgeted for housing (includes City of Houston and Harris County project funds)
- \$236,158,053 or 64.41% of this has been expended as of April 22, 2010
- 1,365 single family homes rehabilitated or reconstructed as of April 22, 2010 with an additional 166 currently under construction.
- 1,180 rental units have been rehabilitated or reconstructed with an additional 958 rental units are currently under construction

Status of Rita Round 2 Non-Housing Funds

- Of the \$42 million available \$26,338,856 or 60.82% has been expended. These projects are well underway, with several communities in the construction phase, proceeding with procurement processes or addressing special clearances required by the Corp of Engineers, Texas Historical Commission, and the Texas Department of Transportation.
- Funded activities range from the restoration of the only emergency care hospital in Orange County to the repair or replacement of 20+ bridges to wide ranging debris removal and drainage clearance activities as follows

List of Non-Housing Award by location

Location	Award
Memorial Hermann Baptist Orange Hospital	\$6,000,000.00
Hardin County	\$10,000,000.00
Bridge City	\$3,800,000.00
Jefferson County	\$4,750,000.00
Tyler County	\$4,994,540.00
Lumberton	\$5,000,000.00
Silsbee	\$4,895,000.00
Jasper County	\$2,560,460.00
Total	\$42,000,000.00

APPENDIX F: RITA ROUND 1 AND 2 NON-HOUSING APPLICATIONS BY COG REGION

Non-Housing Applications – Round 1

(All Applications Funded)

COGs	Number of Applications
DETCOG	48
ETCOG	9
H-GAC	16
SETRPC	23
Total Applications	96

Non-Housing Applications - Round 2

(Eight Applications Funded)

COGs	Number of Applications
DETCOG	7
H-GAC	12
SETRPC	8
Set Aside	3
Total Applications	30

APPENDIX G: RITA ROUND 1 AND 2 NON-HOUSING PROJECTS FUNDED ACTIVITY TYPE

Note: Multiple projects can be included in a single application.

Rita Round 1 Non-housing Projects by Activity

58	Water Facilities
39	Sewer Facilities
17	Flood and Drainage Improvements (dike/ dam/ riverbank)
24	Street Improvements
18	Fire Protection Facilities and Equipment
28	Community Centers/ Shelters
10	Acquisition
9	Specially Authorized Public Facilities and Improvements
2	Planning and Urban Environmental Design
8	Clearance/Demolition Activities
22	Debris Removal
5	Other Public Utilities (gas, et al)
1	Senior Centers
3	Public Services
1	Interim Assistance
245	Total number of Projects

Rita Round 2 Non-housing Projects by Activity

1	Water Facilities
1	Sewer Facilities
6	Flood and Drainage Improvements (dike/ dam/ riverbank)
4	Street Improvements
1	Community Centers/ Shelters
4	Acquisition
2	Planning and Urban Environmental Design
1	Clearance/Demolition Activities
4	Debris Removal
24	Total number of Projects

Texas
Department of
Rural Affairs



State of Texas
Senate Finance Committee

Texas Department of Rural Affairs

Texas Department of Housing and Community Affairs

Requested Hearing Materials



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I. INTRODUCTION

The requested material regarding disaster recovery funds for hurricanes Dolly and Ike is provided by and presented to the Committee by the lead agency appointed by the Governor; The Texas Department of Rural Affairs (TDRA).

In addition to its responsibility as lead agency, TDRA is responsible for administering all non-housing grant activities. The Texas Department of Housing and Community Affairs (TDHCA) is the administrator responsible for all housing funds and associated activities. As such they have provided information regarding their appropriate areas of responsibility.

The report is further divided into three sections. The first covers General Information that is applicable to both rounds of funding. Each round of funding is then presented and includes information provided by both agencies detailing issues relevant to housing and non housing activities.

II. GENERAL INFORMATION

A. TIMELINE OF HURRICANES AND RECOVERY FROM START TO PRESENT

1. Hurricane Dates

Hurricane Dolly – July 21, 2008

Hurricane Ike – September 13, 2008

2. Legislation For Hurricane Recovery Funding

Title of legislation creating funding for presidential disasters is the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, (Public Law 110-329). This legislation was enacted on September 30, 2008 and specified the Department of Housing and Urban Development as the Federal Agency responsible for issuing funds

B. DISTRIBUTION FACTORS

1. Texas Rebounds Estimates

Six weeks following Hurricane Ike the Governor’s Office published the Texas Rebounds report as a preliminary estimate of the financial impacts on the areas impacted by Hurricanes in 2008.

CATEGORY OF NEED	ESTIMATED COST
Housing Assistance	\$ 3.4 billion
Critical Infrastructure	\$ 1.9 billion
Economic Development	\$ 545.0 million
Economic Development - Gulf Opportunity Zone	\$ 14.3 billion
Forestry, Agriculture, and Fisheries	\$ 1.1 billion
Social Services	\$ 1.4 billion
Transportation	\$ 536.5 million
Workforce Services	\$ 570.0 million
Educational Services	\$ 712.7 million
Navigation and Waterways	\$ 3.2 billion
Health Care and Mental Health Services	\$ 209.4 million
Utility Infrastructure	\$ 1.6 billion
Total Unreimbursed 2008 Hurricane Cost	\$ 29.4 billion

2. FEMA Damage Estimates For Each Hurricane

FEMA damage estimates are classified into Public Assistance (PA) and Individual Assistance (IA). Administration of the damage assessment process proved to be a significant point of contention in the approval process for the recovery action plan and its amendment. Extensive criticism of the use of FEMA data was heard during the public comment process for the initial Action Plan and throughout the first round application process. FEMA staffs were abruptly reassigned from areas impacted by hurricane Dolly

to work on Hurricane Ike leaving much damage without assessment or full documentation. Additionally, FEMA's policy of disallowing (not including as damaged) property with extensive deferred maintenance reduces its validity as a tool to determine unmet needs. This policy has resulted in a law suit which is still under litigation. Furthermore, FEMA has reopened certain metropolitan counties to additional damage applications while limiting most areas to the initial application period.

FEMA's progress toward completion of assessments was slow, with 40 pages of data in December 2008 to 377 pages in December of 2009. Neither the action plan nor its amendment could reliably use this information as a valid indicator of unmet needs. The lack of continuity in assessing damages across all affected counties and the slow progress toward releasing damage estimates were serious deficits in using FEMA data in an allocation model at the regional level. The State chose to utilize a storm impacts model rather than inconsistent and incomplete FEMA data for the basis of allocating round 2 funding to regions in the declaration area.

3. TDRA Damage Estimates For Each Hurricane

Following Hurricane Ike, HNTB was contracted by TDRA to conduct preliminary damage assessments of the 29-county area that was most impacted by that storm. This effort focused on identifying infrastructure projects that were eligible for CDBG disaster recovery funds, and developing a scope and fee estimate for each project to assist communities in preparing the application for grant funds. This effort served as a snapshot of the types and extent of damage to the region's public infrastructure. Between December 2008 and April 2009, the HNTB team met directly with community leaders and staff to assess the damage in non-entitlement communities across the 29-county region.

Quick Facts -

- Hurricane Ike's high impact area covered 29 counties and 26,700 square miles. For this area, the estimated population was 6.5 million.
- 2,751 potentially eligible projects were assessed with an estimated cost \$2.8 billion.
- 1,414 generator projects were identified. These generators were associated with both buildings and water and wastewater facilities.
- 848 wastewater lift stations were damaged.

Project Types and Cost Summary -

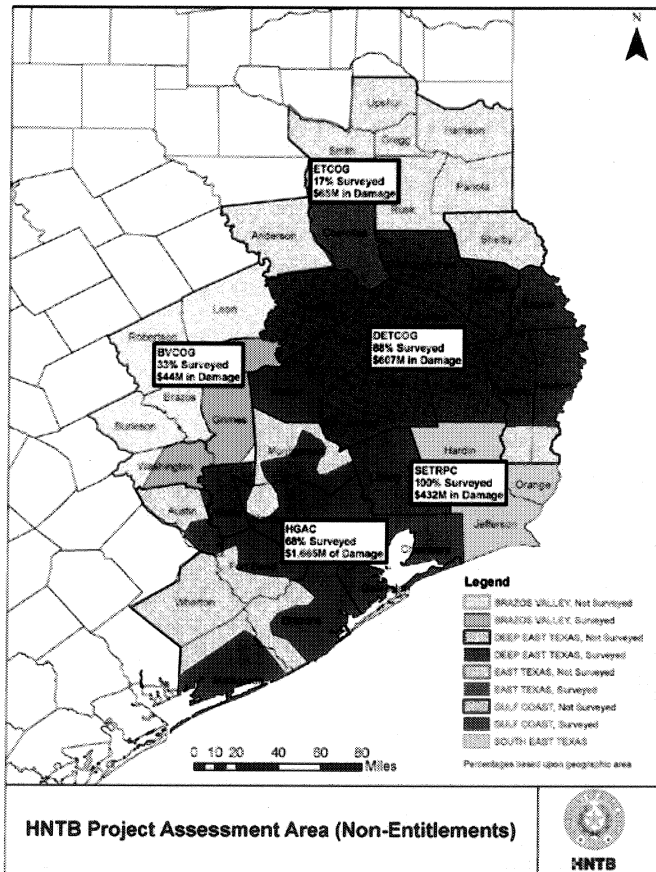
Drainage: A total of 183 drainage projects were identified with a total estimated cost of \$356 million. Of these, 122 are general drainage improvement projects totaling \$134.7

million or 37.8% of total damage costs. The average cost for drainage projects was \$1.9 million.

Transportation: A total of 811 transportation projects were identified with an estimated cost of \$828 million. Road projects totaled 672 at an estimated cost of \$699.6 million or 84.5% of the total damage costs. Three hundred and sixty (360) road miles of total damage were identified with an average cost per mile of \$1.7 million (adjusted for inflation). Additionally, 79 bridge projects were identified with approximately \$40 million in estimated cost.

Water & Wastewater: A total of 1,389 projects totaling \$1.34 billion were identified. These included 367 water plants, wells, and storage projects totaling \$312 million or 23.3% of the total damage costs. The average cost for each was approximately \$1 million.

Buildings: A total of 357 projects estimated at \$277 million were identified for building facilities such as community shelters/centers, fire/health/police, public works, and other eligible facilities (court houses and other general government buildings are not eligible for CDBG funds). Of these, 140 function as shelters. Of the 1,414 generators identified, approximately 300 were for buildings.



4. **TDHCA Assessment of Housing Need:**

In assessing housing need resulting from the storm, TDHCA utilized the damage assessments provided by FEMA and the Office of the Governor and took into consideration the limitation of FEMA data in particular. As previously stated, the general limitations of FEMA data were accentuated with respect to assessment of damage incurred as a result of Hurricane Dolly: FEMA crews in the area departed prematurely in order to assess damages due to floods in the Midwest. In addition, there was concern that the colonia population had been substantially overlooked, further distorting damage assessment.

C. RULES AND RESTRICTIONS

Federal/TDHCA/TDRA rules

As defined in the February 13, 2009 Federal Register, Supplemental Disaster Recovery Funds may solely be used for, “necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in areas covered by a declaration of major disaster under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) as a result of natural disasters that occurred and were declared in 2008.” In Texas, activities must therefore demonstrate a clear connection to damage or failure to function as a result of Hurricane Dolly or Ike. Within this framework, activities must also be eligible under Community Development Block Grant (CDBG) program regulations identified elsewhere in this report.

Several of the primary rules and restrictions relevant to the application of round 1 funds are as follows:

FEDERAL	TDRA
<p>Duplication of Benefits In general, 42 U.S.C. 5155 (section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act, as amended) prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster as to which he has received financial assistance under any other program or from insurance or any other source. The Second 2008 Act stipulates that funds may not be used for activities reimbursable by or for which funds have been made available by FEMA or by the Army Corps of Engineers.</p>	<p>Action Plan The State was required to prepare and submit an Action Plan for disaster recovery in accordance with the Federal Register. The statute directs that the Action Plan for Disaster Recovery describe criteria for eligibility and how the use of the grant funds will address long-term recovery and infrastructure restoration, housing, and economic revitalization.</p>
<p>Environmental All CDBG environmental regulations</p>	<p>Methods of Distribution Methods of distribution much be based</p>

<p>remain in place. Grantees must complete the environmental review(s) pursuant to 24 CFR part 58 and, as applicable, receive from HUD or the state an approved Request for Release of Funds and certification in order to draw down funds.</p>	<p>on a verifiable and consistent basis. Round 1 MODs utilized formulas for direct allocation of funds or competitive criteria to select grantees. Any funds set aside, outside of these processes must be justified by data proving eligibility of the proposed use of funds.</p>
<p>Davis Bacon Labor Standards Each Grantee is required to oversee compliance with Davis-Bacon Labor Standards and related laws and regulations. Regulations require all laborers and mechanics employed by contractors or subcontractors on CDBG funded or CDBG assisted public works construction contracts in excess of \$2,000, or residential construction or rehabilitation projects involving eight or more units be paid wages no less than those prescribed by the Department of Labor and in accordance with Davis Bacon Related Acts.</p>	<p>Performance & Audits Grantees must comply with all TDRA contractual agreements in order to receive funding. Poor performance in current TxCDBG funded projects may result in a hold being placed on contract execution until the performance issue is resolved to the satisfaction of TDRA. Grantees must also be current in their single audit, when applicable, in order to receive funding.</p>
<p>Relocation Requirements Supplemental disaster recovery programs or projects are subject to the Uniform Relocation Act (URA) and the government-wide implementing regulations at 49 CFR part 24. The URA's protection and assistance apply to acquisitions of real property and displacements resulting from the acquisition, rehabilitation, or demolition of real property for CDBG-assisted programs or projects.</p>	<p>Economic Development Economic Development projects are defined as forgivable loans for the first round funds or as a rotating Loan program for the second round funds.</p>
<p>Program Income CDBG rules limit the use and flexibility of income earned on disaster recovery grants, otherwise known as program income, in certain ways. Income generated by grant activities retains its federal identity and its use must be monitored and regulated for compliance with federal rules.</p>	
<p>Flood Insurance Grantees, in certain circumstances, must maintain flood insurance in accordance with applicable federal law.</p>	

<p>Overall Benefit to Low-and-Moderate Income Persons The aggregate use of CDBG disaster recovery funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 50 percent of the amount is expended for activities that benefit such persons during the designated period. Low and moderate income is defined at below 50% and 80%, respectively, of median family income for the county.</p>	
<p>Reporting Various aspects of the uses of funds and on the activities funded with the supplemental recovery grants are required to be reported online using the Disaster Recovery Grant Reporting (DRGR) system.</p>	

New Construction Mandates/Housing Rehab Mandates:

Rehabilitation projects must conform to local codes and ordinances, as well as housing quality standards. All construction must meet the International Residential Code (comparable to Texas Minimum Construction Standards).

D. WAIVERS

HUD issued consolidated waivers for Dolly/Ike 2008 Disaster Recovery Funding in July 2009. These waivers affected 24 specific elements of HUD regulations and include waivers, granted as per the Federal Register of February 13, 2009 and August 14, 2009.

(Awards as of April 22, 2010 are provided in support material A)

E. ALLOCATION OF FUNDS

1. Counties & COGs Involved In Respective Hurricanes

Sixty-five counties were included in the disaster declaration. Bexar county reported that all of their storm related needs had been met and their not participating in the MOD process. The following counties were designated for Disaster Recovery Supplemental assistance funds:

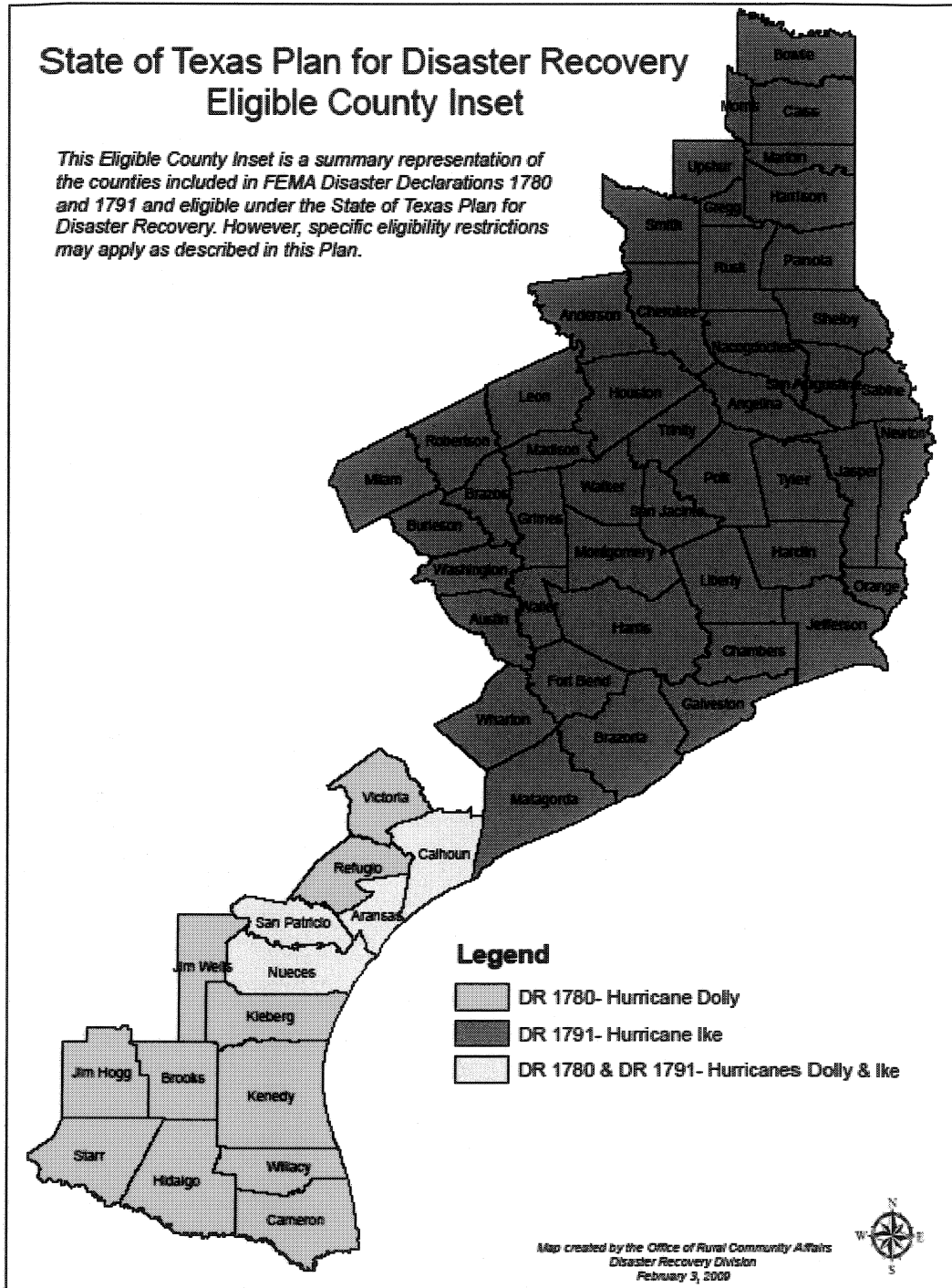
ELIGIBLE COUNTIES:

Hurricane Dolly (FEMA-1780-DR) and Hurricane Ike (FEMA-1791-DR)

Anderson	Hidalgo	Polk
Angelina	Houston	Refugio

Aransas	Jasper	Robertson
Austin	Jefferson	Rusk
Bowie	Jim Hogg	Sabine
Brazoria	Jim Wells	San Augustine
Brazos	Kenedy	San Jacinto
Brooks	Kleberg	San Patricio
Burleson	Leon	Shelby
Calhoun	Liberty	Smith
Cameron	Madison	Starr
Cass	Marion	Trinity
Chambers	Matagorda	Tyler
Cherokee	Milam	Upshur
Fort Bend	Montgomery	Victoria
Galveston	Morris	Walker
Gregg	Nacogdoches	Waller
Grimes	Newton	Washington
Hardin	Nueces	Wharton
Harris	Orange	Willacy
Harrison	Panola	

The following map indicates which counties were impacted by the two storm events:





2. Uses Of Housing and Non-Housing Funds

Uses of Housing Funds

TDHCA provides funding for the following activities:

- Single-family and multifamily repair, rehabilitation and / or new construction;
- Down payment assistance;
- Acquisition;
- Elevation;
- Demolition; and,
- Code enforcement.

Uses of Non-Housing Funds

As defined in the February 13, 2009 Federal Register, Supplemental Disaster Recovery Funds may solely be used for, "Necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in areas covered by a declaration of major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) as a result of natural disasters that occurred and were declared in 2008." Therefore activities must demonstrate a clear connection to damage or failure to function as a result of Hurricane Dolly or Ike.

Within this framework, activities must also be eligible under Community Development Block Grant (CDBG) program regulations. These activities include, but are not limited to:

Water Facilities	Specially Authorized Public Facilities and Improvements
Sewer Facilities	Public Services
Other Public Utilities (gas, et al)	Clearance/Demolition Activities
Street Improvements	Code Enforcement
Flood and Drainage Improvements (dike/ dam/ riverbank)	Acquisition (buyouts)
Debris Removal	Economic Development
Community Centers/ Shelters	Relocation Payments and Assistance
Senior Centers	Engineering/Architectural Services
Parks, Playgrounds, and other Recreational Facilities	Planning and Urban Environmental Design
Fire Protection Facilities and Equipment	Planning/ Project Delivery
Specially Authorized Assistance to	Privately Owned Utilities

F. TOTAL AMOUNTS RESERVED FOR TEXAS STORMS (BUDGET)

The federal government did not allocate funds to states for individual disaster events, but made allocations for disasters during a set period of time. The State of Texas received \$ 1,314,990,193 in the initial round of funding. The second round allocation to the State was \$1,743,001,247.

Round 1 & Round 2

Regions	Housing	Affordable	Total Housing	Non-housing	Total Non-housing	Total Allocation	%
HGAC	\$974,100,714	\$126,095,018	\$1,100,195,732	\$ 746,265,142	\$746,265,142	\$1,846,460,874	65.85%
SETRPC	\$252,007,878	\$ 33,096,235	\$ 285,104,113	\$ 222,387,946	\$222,387,946	\$507,492,059	18.10%
LRGVDC	\$114,405,780	\$ 15,108,600	\$ 129,514,380	\$111,001,535	\$111,001,535	\$ 240,515,915	8.58%
DETCOG	\$ 25,931,070	\$ -	\$ 25,931,070	\$ 138,849,214	\$ 138,849,214	\$ 164,780,284	5.88%
Pool	\$ 1,364,046	\$ -	\$ 1,364,046	\$43,221,988	\$ 43,221,988	\$44,586,034	1.59%
Total	\$1,367,809,488	\$174,299,853	\$1,542,109,341	\$1,261,725,825	\$1,261,725,825	\$2,803,835,166	

55.0%

45.0%

Subject to the round 2 allocations remaining in place, the above table illustrates the complete allocations of funds to the regions. The pool includes funding available to the 7 less impacted regions (ATCOG, BVCOG, CTCOG, CBCOG, ETCOG, GCRPC and STC).

III. ROUND 1 FUNDING

A. NOTICE OF FUNDING AVAILABILITY

1. Federal Registry Dates

Round 1 Funding – February 13, 2009 (Release of Round 1 Funding)

2. Action Plan Due Dates

Round 1 Funding - None specified

3. Date Submitted

Round 1 Funding - March 4, 2009

4. Federal Responses (including HUD response/rejection letter)

Round 1 Funding - Action Plan was approved as submitted with release of funds conditioned on satisfactory completion of Methods of Distribution to units of local government developed by regional COGs and in some cases by county.

- March 19, 2009 - HUD approval of Action Plan and partial release of funds for 3 COGs
- July 2, 2009 - HUD letter for partial release of funds to 7 COGs
- July 24, 2009 - HUD letter of final release of funds to for the remaining COG

5. Request For Extensions

Round 1 Funding - None required

6. Plans For Amending Action Plan

Round 1 Funding - Not applicable

7. Final Plan Approved

Round 1 Funding - March 19, 2009

B. TOTAL AMOUNTS RESERVED FOR TEXAS STORMS (BUDGET)

The federal government did not allocate funds to states for individual disaster events, but made allocations for disasters during a set period of time. The State of Texas received \$ 1,314,990,193 in the initial round of funding.

C. AMOUNTS DISTRIBUTED TO DATE

Round 1

Regions	Housing	Affordable	Total Housing	Non-housing	Total Non-housing	Total Allocation	%
HGAC	\$ 452,839,093	\$ -	\$ 452,839,093	\$ 361,294,399	\$ 361,294,399	\$814,133,492	70.56%
SETRPC	\$ 95,000,000	\$ -	\$ 95,000,000	\$ 95,000,000	\$ 95,000,000	\$190,000,000	16.47%
LRGVDC	\$ 7,479,993	\$ -	\$ 7,479,993	\$ 47,520,007	\$ 47,520,007	\$ 55,000,000	4.77%
DETCOG	\$ 5,931,070	\$ -	\$ 5,931,070	\$ 64,068,930	\$ 64,068,930	\$70,000,000	6.07%
Pool	\$ 1,364,046	\$ -	\$1,364,046	\$ 23,348,990	\$ 23,348,990	\$ 24,713,036	2.14%
Total	\$ 562,614,202	\$ -	\$ 562,614,202	\$ 591,232,326	\$ 591,232,326	\$1,153,846,528	

48.8%

51.2%

1. Housing Amounts Distributed (Allocated) To Date:

The regions designated a total allocation of \$562,613,424 for housing activities in round 1. The State retained a set-aside of \$58,834,914 from first round funding for low income rental assistance.

2. Non-Housing Amounts Distributed (Allocated) To Date:

The use of all non-housing funds in round 1 were determined through the regional Methods of Distribution process which set the housing/non-housing split. Round 1 non-housing funding was \$591,232,326 or 51.2% of the total. The following table illustrates funding to all regions including the *pooled* regions.

Council of Government (COG)	Total Round I Allocations to Communities
ATCOG	\$1,164,673.00
BVCOG	\$8,003,235.00
CTCOG	\$250,000.00
CBCOG	\$3,121,376.00
DETCOG	\$64,068,930.00
ETCOG	\$8,809,706.00
GCRPC	\$1,000,000.00
HGAC	\$361,294,399.00
LRGVDC	\$47,520,007.00
SETRPC	\$95,000,000.00
STDC	\$1,000,000.00
TOTALS	\$591,232,326.00

D. ADMINISTRATIVE TOTALS

Round 1 funds for administration were capped at 5%. This is well below the 15% amount allowed in HUD guidelines. State planning and project delivery costs were set at 2.78%. Planning and project delivery costs include funding for the Project Management Consultant and Environmental Service Providers that would otherwise come directly out of program grants to communities.

The September submittal of the amended Action Plan for Round 2 originally projected 5% and 2.06% for administration and planning and project delivery costs. However, as a result of HUD required transfers into set asides for housing in Orange, Galveston and Harris counties the proposed round 2 percentages are now 3.68% and 1.66% respectively.

	Round 1	Percent of total
Administration	\$ 65,749,510	5.00%
Planning & Project Delivery	\$ 36,559,240	2.78%
Total	\$102,308,750	7.78%

E. APPLICATION OF FUNDS (HOUSING/NON-HOUSING FOR EACH REGION)

1. Total Applications by Citizens Needing Housing Help

Records indicate 6,058 individuals applied for housing assistance related to the disaster events.

2. Total Families Still Living in Emergency Housing -

As of April 2010, 304 people are living in temporary housing units and a total of 6,605 individuals are receiving rental assistance

3. Total Applications by Cities

Applications were received by grantees determined in the locally developed MODs. Of 233 communities that were allocated funds, 11 did not file an application and 7 withdrew. To-date 207 applications have been awarded projects in 335 communities. These awards have funded 595 project activities that may each encompass as many as 35 project sites.

4. Total Applications by Business Community

Use of Round 1 funds were determined by each council of governments and their respective grantees. Two regions decided to set aside funds for region wide economic development activity. Only one grantee chose to fund local economic development activities within their jurisdiction.

South East Texas Regional Planning Commission	
Economic Development Activity	Deferred Forgivable Business Loans
Award Amount:	\$1,900,000
Total number of Beneficiaries:	76

Number of LMI Beneficiaries:	A minimum of 39 (51%)
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The SETRPC will use these funds to facilitate a Deferred Forgivable Business Loan Program for economic development activities. It is anticipated that the majority of these loans will be for working capital. SETRPC will utilize the South East Texas Economic Development Foundation to administer the program. SETRPC will be able to either preserve or create 76 jobs through the use of these funds. The number of LMI jobs created or preserved will be 39 (51%). The forgivable loans will have two year terms and will be forgiven at 50% per year as long as the borrower is in compliance with the terms of the loan and performance requirements. These loans have an interest rate of 0%.

Deep East Texas Council of Governments	
Economic Development Activity	Deferred Forgivable Business Loans
Award Amount:	\$802,994
Total number of Beneficiaries:	29
Number of LMI Beneficiaries:	A minimum of 15 (51%)

The DETCOG will utilize their funds to facilitate a Deferred Forgivable Business Loan Program. It is anticipated that the majority of these loans will be for working capital and will carry a two year term at 0% interest. The goal is to preserve or create new jobs by providing existing businesses an opportunity to utilize low cost working capital funding to build up inventories, purchase new equipment or make other capital improvements. These funds will also be made available to new businesses wishing to locate in the DETCOG service area.

City of Galveston	
Economic Development Activity	Deferred Forgivable Business Loans
Award Amount:	\$1,000,000
Total number of Beneficiaries:	40
Number of LMI Beneficiaries:	A minimum of 21 (52%)

The City of Galveston is slated to use their funding to facilitate a Deferred Forgivable Business Loan Program. It is anticipated that the majority of these loans will be for working capital. The goal is to preserve or create new jobs by providing existing businesses an opportunity to utilize low cost working capital funding to build up inventories, purchase new equipment or make other capital improvements. These funds will also be made available to new businesses wishing to locate in the DETCOG service area.

F. DISBURSEMENT

1. Method of Disbursement

Texas, unlike most States, relies heavily on local officials who work through their COGs to determine the final allocation of funds to units of local government. The MOD process guidelines require a formal public participation process as well as development of a statistically sound allocation model and justification of any specific set asides outside of that model.

2. Which Counties/COGS Get How Much

The MOD process for the round 1 funds allowed for local control of 95% of programmatic funds. Each region produced their own MOD, structured as they chose, producing a total of 11 regional and 16 county MODs. Allocations were made to cities, counties or other eligible entities.

Non-Housing allocations showing the total of all grantees within a County are provided as follows.

Round 1 Non-housing Allocations					
COG	County	Total of Allocations	COG	County	Total of Allocations
ATCOG	Bowie	\$ 1,164,673.00	ETCOG	Anderson	\$ 445,995.00
BVCOG	Brazos	\$ 214,830.00	ETCOG	Cherokee	\$3,392,764.00
BVCOG	Burleson	\$ 1,738,154.00	ETCOG	Gregg	\$2,592,290.00
BVCOG	Grimes	\$ 2,123,839.00	ETCOG	Harrison	\$ 874,780.00
BVCOG	Leon	\$ 1,365,100.00	ETCOG	Marion	\$ 121,282.00
BVCOG	Madison	\$ 989,767.00	ETCOG	Panola	\$ 512,438.00
BVCOG	Robertson	\$ 822,723.00	ETCOG	Rusk	\$ 275,909.00
BVCOG	Washington	\$ 748,822.00	ETCOG	Smith	\$ 260,175.00
CBCOG	Aransas	\$ 155,403.00	ETCOG	Upshur	\$ 334,073.00
CBCOG	Brooks	\$ 75,000.00	GCRPC	Calhoun	\$ 666,666.00
CBCOG	Jim Wells	\$ 252,270.00	GCRPC	Victoria	\$ 333,334.00
CBCOG	Kleberg	\$ 185,117.00	HGAC	Austin	\$ 31,003.00
CBCOG	Nueces	\$ 1,956,352.00	HGAC	Brazoria	\$8,704,745.00
CBCOG	Refugio	\$ 75,000.00	HGAC	Chambers	\$65,491,168.00
CBCOG	San Patricio	\$ 422,234.00	HGAC	Fort Bend	\$22,868,879.00
CTCOG	Milam	\$ 250,000.00	HGAC	Galveston	\$68,675,807.00
DETCOG	Angelina	\$ 8,165,001.00	HGAC	Harris	\$72,356,379.00
DETCOG	Houston	\$ 2,401,659.00	HGAC	Liberty	\$13,019,848.00
DETCOG	Jasper	\$ 7,285,768.00	HGAC	Matagorda	\$ 4,787,320.00
DETCOG	Nacogdoches	\$ 7,712,367.00	HGAC	Montgomery	\$ 4,606,158.00
DETCOG	Newton	\$ 2,449,656.00	HGAC	Walker	\$ 622,320.00
DETCOG	Polk	\$ 8,811,612.00	HGAC	Waller	\$ 130,279.00
DETCOG	Sabine	\$ 1,082,613.00	HGAC	Wharton	\$ 493.00
DETCOG	San Augustine	\$ 2,664,262.00	LRGVDC	Cameron	\$20,020,932.00
DETCOG	San Jacinto	\$11,009,263.00	LRGVDC	Hidalgo	\$22,540,362.00
DETCOG	Shelby	\$ 780,943.00	LRGVDC	Willacy	\$ 4,958,713.00
DETCOG	Trinity	\$ 2,471,506.00	SETRPC	Hardin	\$13,294,680.00
DETCOG	Tyler	\$ 9,208,659.00	SETRPC	Jefferson	\$49,418,240.00
DETCOG	Zavala	\$ 25,621.00	SETRPC	Orange	\$32,287,080.00
			STDC	Jim Hogg	\$138,097.00
			STDC	Starr	\$ 861,903.00

(See a summary of the adopted MOD allocations for each grantee provided in the Support Materials B).

Housing allocations were made by the COG rather than at the County level are provided as follows.

G. AMOUNTS OBLIGATED TO DATE

1. Housing Amounts Obligated (Awarded) To Date:

TDHCA has awarded 562,613,424 or %100 of available funds for housing activities in 8 contracts.

Round 1 Housing Awards	
Sub Recipient	Amount of Award
City of Galveston	\$160,432,233
Galveston County	\$99,503,498
SETRPC	\$95,000,000
City of Houston	\$87,256,565
Harris County	\$56,277,229
Houston-Galveston Area Council	\$11,076,980
Liberty County	\$8,878,923
Montgomery County	\$6,909,237
DETCOG	\$5,931,070
Cameron County	\$3,093,750
Hidalgo County	\$2,000,000
City of Brownsville	\$1,635,318
Fort Bend County	\$1,582,107
BVAHC	\$948,930
Willacy County	\$541,287
ETCOG	\$415,117
City of Mission	\$209,638
Chambers County	\$20,921,582

2. Non-Housing Amounts Obligated (Awarded) To Date:

Each COG determined what methodology to use in allocating funds to units of local government. Some regions employed a competitive process while others chose to develop additional county level MODs. These decisions extended submittal of the MODs from February to July. While TDRA posted for acceptance of grant applications in March 2009, none were received until May. The majority of applications were received by July 31st. During the following nine months \$489,496,105 of non-housing funds were awarded constituting a rate of \$12,551,182 week.

Council of Government (COG)	Total Round I Allocation	Total Funds Received (awarded)	% of Funds Awarded
ATCOG	\$1,164,673.00	\$1,164,673.00	100.00%
BVCOG	\$8,003,235.00	\$6,407,379.00	80.06%
CTCOG	\$250,000.00	\$250,000.00	100.00%
CBCOG	\$3,121,376.00	\$3,120,995.00	99.99%
DETCOG	\$64,068,930.00	\$55,862,175.00	87.19%
ETCOG	\$8,809,706.00	\$8,750,061.00	99.32%
GCRPC	\$1,000,000.00	\$1,000,000.00	100.00%
HGAC	\$361,294,399.00	\$ 285,799,658.00	79.10%
LRGVDC	\$47,520,007.00	\$ 46,557,323.00	97.97%
SETRPC	\$95,000,000.00	\$81,259,561.00	85.54%
STDC	\$1,000,000.00	\$999,566.00	99.96%
TOTALS	\$591,232,326.00	\$ 491,620,939.00	83.15%

NOTE: Award amounts are as of April 22, 2010

(Awards as of April 22, 2010 are provided in support material C)

H. USES OF HOUSING AND NON-HOUSING FUNDS

1. Uses of Housing Funds

TDHCA provides funding for the following activities from round 1 funding. The figures below represent the contracted minimum requirements:

Total Housing Projects by Activity				
Rehabilitation & Reconstruction	Affordable Rental Housing	Clearance and Demo	Down Payment Asst (DPA)	Acquisition Buyout (ACQ)
Total Units	Total Units	Total Properties	Total Properties	Total Properties
4,656	1,365	604	365	20

2. Uses of Non-Housing Funds

TDRA has provided funding to the following activities from round 1 funds.

Total Non-housing Projects by Activity	
158	Water Facilities
156	Sewer Facilities
88	Flood and Drainage Improvements (dike/ dam/ riverbank)
57	Street Improvements
42	Fire Protection Facilities and Equipment
42	Community Centers/ Shelters
34	Acquisition
31	Specially Authorized Public Facilities and Improvements
12	Planning and Urban Environmental Design
4	Clearance/Demolition Activities
4	Parks, Playgrounds, and other Recreational Facilities
3	Debris Removal
2	Economic Development
2	Other Public Utilities (gas, et al)
2	Senior Centers
1	Public Services
1	Solid Waste Disposal Facility
1	Relocation Payments and Assistance
640	Total number of Projects

IV. ROUND 2 FUNDING

A. NOTICE OF FUNDING AVAILABILITY

1. Federal Registry Dates

Round 2 Funding - August 14, 2009

2. Action Plan Due Dates

Round 2 Funding - September 30, 2009

3. Date Submitted

Round 2 Funding - September 30, 2009

4. Federal Responses Federal Responses (including HUD response/rejection letter)

Round 2 Funding - HUD reversed its policy and process for approval of action plan from that used for round 1. Approval of an overarching plan followed by release of funds, as individual regional methods of distribution or program guidelines were completed, was no longer acceptable. This shift in policy along with a concurrent fair housing compliant has dictated all subsequent activities described as follows:

September 2009 - Agency Meets HUD Deadline for Round 2 Submittal

The State of Texas has been working with HUD since September 2009 to obtain release of the round 2 funding dedicated for disaster recovery of communities impacted by Hurricanes Ike and Dolly. These funds are desperately needed to provide for the continued disaster recovery efforts of the State. Many communities continue to struggle to put in place the needed infrastructure and housing for their residents that were devastated by the impacts of Hurricanes Ike and Dolly. HUD has yet to approve the amended Action Plan that will allow the State to proceed with unveiling of application cycles and other procedures to allow funds to flow to communities. Action Plan Amendment No. 1 for Round 2 funding submitted on September 30, 2009 to HUD provided \$1.7 billion for disaster recovery related to Hurricanes Ike and Dolly.

November 2009 – HUD Does Not Accept Action Plan Amendment No. 1 for Round 2 Funding

In a letter dated November 10, 2009, HUD submitted correspondence to the State indicating that the Action Plan Amendment No. 1 submitted in September would not be accepted because it lacked the regional methods of distribution and a citizen participation process that allowed for comments to the overall amended plan. HUD also expressed concerns regarding complaints filed by two housing advocacy groups and the State's analysis of impediments to fair housing that was completed in 2003. HUD

required resubmission of the amendment within 45 days of the November 10th letter (December 25th). The State requested that the COGs begin approving Methods of Distribution (MOD) and developed scoring criteria for the state run set-asides.

December 2009 – HUD Demands Movement of Funds to Impacted Regions Based on HUD Formula

In December in a rushed process, the COGs finalized their MODs and held their public hearings using the allocations reflected in the Action Plan Amendment No. 1 submitted to HUD on September 30th. On December 18, 2009, Mercedes Marquez, HUD Assistant Secretary, sent Governor Rick Perry a letter in response to the Governor's letter dated November 16, 2009 regarding the amended Action Plan for Round 2 funding and restated HUD's concerns. In addition, Secretary Marquez December 18th letter requested that Texas consider using HUD's allocation methodology in developing methods of distribution for Round 2 funding that would have ultimately resulted in considerable reductions to the allocations directly to local communities located in certain regions and impeding the recovery efforts of those regions. HUD's letter dated December 18th, referencing the Texas model for allocation of funds, was based on the incorrect assumption that the Texas allocation model was to be used by the regions in distributing funds to the county level. The HUD model did not include FEMA Public Assistance values for infrastructure and provided no funding to 22 impacted counties.

January 2010 - State Meets with HUD

After receiving HUD's December 18th correspondence, the State met with HUD officials in Washington D.C. on January 8, 2010 to discuss the Texas approach in development of the revised amended plan. After the meeting, a new deadline of February 8, 2010 for amendment submission was established by HUD. Based on feedback that HUD staff better understood the Texas approach, the State moved forward and made revisions to the amended Action Plan, incorporating among other items, the methods of distribution approved in December by the four Councils of Governments (COG) most impacted by Hurricanes Ike and Dolly, including the Houston-Galveston Area Council (H-GAC), South East Texas Regional Planning Commission (SETRPC), Lower Rio Grande Valley Development Council (LRGVDC) and Deep East Texas Council of Governments (DETCOG). The other revision to the plan provided language establishing a *fire wall* that would maintain funds at a 50/50 split between housing and non-housing and would prevent the movement of housing and non-housing funds from their designated categories.

The revised draft amended plan was submitted to HUD January 21st for a pre-review and comments. Initial indication from HUD was favorable. HUD staff assigned to review the revised amended plan indicated that the revised amended plan met all the Federal Register and other program requirements and encouraged the State to submit the revised amended plan as a formal submittal to HUD by the deadline of February 8, 2010.

Four public hearings were held on January 28-29, 2010 in anticipation of a formal submittal by TDRA on February 8, 2010.

February 2010 – HUD Demands Shifting of \$400 Million to H-GAC and SETRPC, Devastating DETCOG and the Pooled COGs

However, prior to the February 8th submittal, two events occurred that resulted in another delay in submitting the final revised plan to HUD. These are as follows:

1. Comments Received By HUD Regarding the Revised Action Plan Amendment No. 1

The State received mixed messages from HUD related to the revised amended Action Plan amendment. While the State received favorable comments from HUD staff, Assistant Secretary Mercedes Marquez communicated with the Governor's Office, TDRA and TDHCA staff on February 5, 2010, just days before the deadline, and indicated that the amendment, even as revised, would not be approved until certain regions received even larger allocations. Ms. Marquez directed the State to move \$400 million to the H-GAC and the SETRPC regions. It was made clear by Ms. Marquez that Amendment No. 1, as revised, would not be approved by HUD. The directives prescribed by Ms. Marquez would have devastated certain regions, and communities, impacted by Hurricanes Ike and Dolly. An extension to February 23rd was granted by HUD to make all directed changes.

2. Housing Advocates Initiate Negotiations Impacting the Administrative Complaint and Fair Housing Complaint Submitted to HUD

Texas Low Income Housing Information Services (TxLIHIS) and Texas Appleseed, the two organizations that filed the Administrative Complaint and the Fair Housing complaint with HUD, initiated meetings with the State to negotiate agreements that would settle their complaints. After TDHCA's preliminary discussions with the housing advocates, a number of agreements were proposed that impact both allocations and administrative processes. Discussions with the housing advocates continue to iron out additional details of the agreement.

Based on prescribed directives by HUD, the State moved forward to communicate with the COGs to develop an approach that would address multiple demands. The regions were receptive and worked with the State to develop a proposed solution aimed at meeting HUD's demands and result in an approved revised amended plan to allow recovery funding to be released. The State has also committed to completing a new state-wide Analysis of Impediments (AI) to Fair Housing that will take more than several months to complete. The housing advocates are pressing for an interim AI to be completed prior to any of the Round 2 funds being released and reallocated of Round 1 funds.

Compromise of \$340 Million Reached with COGs

The following proposals were agreed to by the State and the COGs:

1. The Texas model will be used to allocate funds between Hurricanes Ike and Dolly.
2. The allocation model will be revised to incorporate a 50/50 weighing of the FEMA IA & PA/SBA data (as of December 2009), and the Texas model for allocation of funds. Certain allocation adjustments will be made to meet the amount of funds agreed by the State and the COGs.
3. The funding split between housing and non-housing (all funds round 1 and round 2) will be revised from an equal split of 50%/50% between housing and non-housing to a 55% housing and 45% non-housing split.
4. A housing set-aside of \$205,482,585 will be directed toward the H-GAC and SETRPC regions at a 90%/10% split respectively. The specific housing set-aside is allocated to H-GAC and SETRPC but is to be earmarked to Harris, Galveston and Orange counties and will come from DETCOG, LRGVDC, Pool regions and State planning and administration allocations. The adjustments also include \$134 million to LRGVDC that was not included in the HUD model.
5. The DETCOG region, being the most impacted by the new revisions, as proposed, will contribute over \$122 million from housing funds originally allocated in the amended plan to this region, while the Pool regions will contribute over \$59 million. These funds will be reallocated to the H-GAC and SETRPC at a 90%/10% split respectively. An increase in the DETCOG funding for non-housing activities in the amount of \$10,000,000 is proposed. The State proposes to give up \$30 million in funds set-aside for planning and state administration as a contribution to the agreements reached by the State with the COGs.

Each of the four impacted COGs sought approval of the proposed revisions to the allocations during their next scheduled board meetings. Texas anticipated additional public hearings by the COGs as MODs are adjusted and the State to incorporate the substantial changes made to the revised Action Plan Amendment No. 1. These were planned to be scheduled in the near future.

A summary of the compromises was sent to HUD in a letter dated February 23, 2010.

March 2010 - HUD Not Satisfied With \$340 Million Shift and Demands an Additional \$30 Million

For the fourth time, HUD Assistant Secretary Marquez during a call to the Governor's Office, on March 10, 2010 indicated that the proposed reallocated funds are inadequate. HUD Assistant Secretary Marquez stated that the new allocation continues to over fund the pooled regions and DETCOG. To address HUD's concerns, Ms. Marquez stated that the State would be required to allocate an additional \$30,000,000 to other areas most impacted by storm and, for first the first time, raised concerns and questions over healthcare funding in South East Texas, reallocation provisions, and elements of the conciliation agreement with Texas Appleseed and TxLIHS. If the State agrees with HUD, this would represent a cumulative **\$370,000,000** shift from the September 30th document submitted to HUD.

(See summary of shifts in funding at the \$340 Million compromise with the COGs in Support Materials D.)

April 2010 – Texas signs Conciliation Agreement and begins process of inclusion into a revised Amended Action Plan

On April 9, 2009 the housing Advocates agreed to the terms of a conciliation agreement regarding their Fair Housing complaint. The TDRA signed on April 14, 2009. This document sets out requirements for numerous program changes and activities to be completed prior to resubmission of the states Action Plan Amendment. The result of these preceding actions and the resulting agreement is to delay final approval of the amendment until February 2011 pushing acceptance of applications and award of grants out an additional year from the original schedule.

5. Request For Extensions

Round 2 Funding - After the February 8, 2010 submittal formal discussion of extensions stopped.

6. Plans For Amending Action Plan

- Formal amendment 1 submitted to HUD - September 2009
- Revised amendment adopted by TDRA board but not formally submitted to HUD – February 5, 2010
- Second revision of amendment without MODs proposed for submission – Early June 2010
- Final revised amendment with MODs and reflecting AI proposed for submission – Mid January 2011

7. Final Plan Approved

Round 2 Funding - Final approval including revised MODs anticipated in mid-February 2011.

B. TEXAS ALLOCATION MODEL

In order to establish a uniform methodology for distribution of Round 2 funding the State engaged HNTB to model storm impacts based on complete data sets independent of programmatic management decisions. Both storms were modeled utilizing wind, surge and rainfall data to assess variable impacts and assure an unbiased distribution of funds. The original model weighted these factors equally. Low /moderate income (LMI) data was added to account for the federal requirement that 51% of funds be spent for areas meeting the LMI criteria as a national objective and weighting changed to account for the extensive damage attributed to Hurricane Ike's surge.

(A detailed report on the Texas Allocation Model is available on request.)

C. TOTAL AMOUNTS RESERVED FOR TEXAS STORMS (BUDGET)

The second round allocation to the State was \$1,743,001,247. While the federal government did not designate relative amounts for areas impacted by each storm the Texas Impact model used for the round 2 amendment to the action plan indicated Hurricane Ike was associated with 87% of the damage and Hurricane Dolly with 13%.

D. REQUIREMENTS OF THE CONCILIATION AGREEMENT

Two housing advocacy groups; Texas Appleseed and the Texas Low Income Housing Information Service, submitted a Complaint On December 1, 2009 to HUD alleging the State had violated elements of the Fair Housing Act in its administration of certain Hurricane Block Grant Funds. Certain concessions were made to these parties in order for them to withdraw and for HUD to dismiss the complaint. The conciliation agreement has created additional requirements for the program; repealed waivers already granted by HUD and extended the timeline for awarding second round projects by at least one year. Additionally, in order to satisfy HUD changes in already adopted allocations were made. These issues are presented a follows:

1. 55/45 Housing/Non-Housing

Other than the required Affordable rental housing set-aside the first round of funding did not have any stipulation as to how housing and non housing funding was to be divided. Local governments determined how to use their funds resulting in a housing/ non-housing split of 49%/51%. In response to TDHCAs requests an overall ratio of housing to non housing was agreed to at 50%-50% for all funds. The housing advocates had asserted that 75% of the funds should go to housing activities. The Conciliation Agreement obligates 55% of the funds to housing. HUD stipulations have entirely removed housing from the Pooled regions and reduced DETCOG housing to \$20 million.

2. Mandated Allocations and Restrictions on Use of Funds

Specific allocations, totaling \$100 million were made to Harris, Galveston and Orange counties for reconstruction of subsidized housing. \$18 million were required to be set aside for buy-out assistance for LMI homeowners. \$5 million over five years is designate by the agreement for a public housing voucher program for renters to relocate from

“vulnerable areas”. A \$6 million dollars in disaster recovery demonstration projects was divided equally between SETPRC, HGAC and LRGVDC.

3. Changes to Program Requirements and Waivers

Numerous changes in program regulations were required by the Conciliation agreement in particular regulations regarding reporting of project information, criteria for various housing programs and several modifications to rules previously waived or afforded alternative requirements by HUD. The latter changes include:

- Increasing percentage of funds benefitting LMI populations from 50% to 55%;
- Requiring an Interim Analysis of Impediments to Affirming Fair Housing, for the disaster declared area, prior to submitting a final amended action plan which had previously been satisfied if the State either “Has or will conduct an analysis of impediments.”
- Instituting several additional publication and public comment periods lengthening the approval process; and,
- Reversing the waiver for one-to-one replacement of public housing units.

The most significant impact of this agreement is the additional time required to carry out all aspects of the program. This includes extending monitoring of some programs for an additional ten year period. The resulting increase in responsibilities raises concerns over the adequacy of the now reduced administrative and planning budget.

(Copy of the Conciliation Agreement can be found in support material E.)

E. DISBURSEMENT

Due to the HUD required transfers to specific jurisdictions for round 2 funds, distribution of funds by region does not follow any model of damage assessment or storm impact but rather reflects specified transfers of funds by HUD officials to identified counties and cities

Round 2

Regions	Housing	Affordable	Total Housing	Non-housing	Total Non-housing	Total Allocation	%
HGAC	\$521,261,621	\$126,095,018	\$647,356,639	\$384,970,743	\$ 384,970,743	\$1,032,327,382	62.57%
SETRPC	\$157,007,878	\$ 33,096,235	\$ 190,104,113	\$127,387,946	\$ 127,387,946	\$ 317,492,059	19.24%
LRGVDC	\$106,925,787	\$15,108,600	\$ 122,034,387	\$ 63,481,528	\$ 63,481,528	\$ 185,515,915	11.24%
DETCOG	\$ 20,000,000	\$-	\$ 20,000,000	\$ 74,780,284	\$ 74,780,284	\$ 94,780,284	5.74%
Pool	\$ -	\$ -	\$ -	\$ 19,872,998	\$ 19,872,998	\$ 19,872,998	1.20%
Total	\$805,195,286	\$174,299,853	\$979,495,139	\$670,493,499	\$ 670,493,499	\$ 1,649,988,638	

59.4%

40.6%

The current distribution has not been formally accepted by HUD officials and may be subject to further alterations.

F. APPLICATION OF FUNDS

1. Administrative totals

The September submittal of the amended Action Plan for Round 2 originally projected 5% and 2.06% for administration and planning and project delivery costs. However, as a result of HUD required transfers into set asides for housing in Orange, Galveston and Harris counties the proposed round 2 percentages are now 3.68% and 1.66% respectively.

Comparison of Administrative and Planning/ Program Delivery Costs						
	Round 1	Percent of total	Round 2 as of September 2009	Percent of total	Round 2 current proposed amount	Percent of total
Administration	\$ 65,749,510	5.00%	\$ 87,150,060	5.00%	\$ 64,150,060	3.68%
Planning & Project Delivery *	\$ 36,559,240	2.78%	\$ 35,862,547	2.06%	\$ 28,862,547	1.66%
Total	\$102,308,750	7.78%	\$123,012,607	7.06%	\$93,012,607	5.34%

*Planning and project delivery costs include funding for Project Management Consultant and Environmental Service Providers that would otherwise come directly out of program grants to communities.

1. Obligation of Funds

Round 2 was initially structured differently from round 1 to allow for a simpler process and expedite the submittal of MODs. The four regions, most impacted by the storms, would utilize locally developed regional MODs while eligible entities in the seven lesser impacted COGs could access funds via a competitive funding pool. In addition, activity-specific competitions were created for generators, health care facilities and economic development projects. None of these activity specific funds remain as a result of HUD's directives. HUD has threatened to withhold funds if the State does not allocate to specific areas and uses as directed or if the State does not reach an agreement with the housing advocates.

The outcome of the conciliation agreement and directed transfers by HUD officials will require the four regions to provide TDRA with a second MOD and abandon the adopted MODs from December 2009. Specified programs and allocations will further restrict local control, particularly in housing activities and places the housing advocates in a controlling role to dictate State actions.

2. Use of Housing and Non-housing Funds

In addition to uses allowed in round 1 housing activities will include new targeted programs as described in the conciliation agreement.

Non-housing activities will remain as stated previously with the addition of the use of CDBG funds as match, providing all CDBG regulations are followed, for other grant programs.

SUPPORT MATERIALS

- A. WAIVERS
- B. TIMELINE FOR ROUND 2 EVEN SUMMARY OF ROUND 1 MODS
- C. AWARDS AS OF APRIL 22, 2010
- D. SUMMARY OF SHIFTS OF FUNDING IN ROUND TWO NEGOTIATIONS
- E. CONCILIATION AGREEMENT

State of Texas Consolidated Waivers for Ike/Dolly 2008 Disaster Recovery (P.L. 110-329)

1. Waive overall benefit from 70 percent to allow 50 percent low/mod overall.
2. Waive requirement to distribute all funds to local governments. Replace with permission for the State to carry out activities directly. Do conforming changes below:
 - Waive recordkeeping requirement. Replace with a conforming change to waiver 2.
 - Waive change of use of real property requirement. Replace with a conforming change to waiver 2.
 - Waive State review and handling of noncompliance. Replace with a conforming change to waiver 2.
3. Waive the Consolidated Plan and consistency with it until grantee updates the plan priorities.
4. Waive Annual Action Plan and use of IDIS. Replace with Action Plan for Disaster Recovery using Disaster Recovery Grant Reporting (DRGR) system.
5. Waive hearings if they are not feasible and streamline citizen participation to allow "reasonable" notice.
6. Waive consultation with non-entitlement local governments. Replace with consultation with all disaster-affected governments including entitlements.
7. Waive pre-agreement costs, to the extent it applies. Replace with HUD permission for the State to reimburse eligible costs incurred back to the incident date.
8. Waive prohibition on funding entitlement communities and Indian tribes. Replace with permission to do so.
9. Waive annual performance report (CAPER) in IDIS. Replace with quarterly reports (per appropriations Act) in DRGR.
10. Waive standard certifications. Replace with a disaster recovery set.
11. Replace the State CDBG planning related requirements of 570.483(b)(5) and (c)(3) with the entitlement CDBG presumption at 24 CFR 570.208(d)(4).
12. Waive provisions necessary to allow the State to determine disposition of program income, whether to State or local use and whether for regular CDBG or retaining disaster recovery waivers. Current law and rule requires local government retention and regular CDBG program.
13. Waive provisions necessary to allow new construction of housing.
14. Waive provisions necessary to allow homeownership assistance to persons whose incomes are up to 120 percent of median income (supports mixed income housing).
15. Limited waiver of anti-pirating to allow a business to return to any labor market within the same State that the business was located in before the disaster.
16. Waive the one-for-one replacement of housing requirement.
17. Waive provisions necessary to allow the state to implement voluntary flood buyouts to help communities affected by flooding to move in whole or in part out of a floodplain.
18. Waive the provisions of 42 U.S.C. 5305(a) to the extent necessary to remove the 50 percent down-payment assistance cap for direct homeownership assistance to low-and moderate-income homebuyers (42 U.S.C. 5305(a)(24)(D)). This waiver is required to

provide additional assistance to low to moderate income disaster victims in instances in which direct homeownership assistance with 50 percent of a down payment is insufficient. In many cases, low to moderate income individuals in need of direct homeownership assistance had all of their personal property as well as improvements to real estate destroyed, creating barriers to recovery that would, absent this assistance, be insurmountable. In addition, these individuals have often been without work for an extended period due to the destruction of their employers' facilities. Thousands of families continue to struggle with finding places to live near their jobs and their children's schools, in an effort to restore some normalcy to their lives. As a result, potential beneficiaries of direct homeownership assistance often lack the resources at times to recover within the constraints of the 50 percent down-payment assistance cap. This waiver will allow down-payment assistance up to the amount needed to purchase a home primarily for low to moderate income families and will be provided through a mechanism that will ensure the homeowner has a vested interest in the property, as established through requirements and stipulations of a published program design. Furthermore, this flexibility will provide an effective tool to promote return and resettlement of affected neighborhoods.

19. Under Stafford Act Section 414, waive the occupancy requirements for any person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 on the basis of him/her being unable, because of a Presidentially-declared disaster, to meet the occupancy requirements. In many cases entire regions were decimated by the impacts of Hurricanes Ike and Dolly, which were Presidentially-declared disasters, rendering entire neighborhoods and cities uninhabitable. Many evacuees were required to relocate over 200 miles away from their homes to find replacement housing and employment opportunities. For housing activities, property owners will make reasonable efforts to locate persons displaced by the storm that were scattered across the country and often did not provide forwarding addresses.
20. Waive restrictions in order to allow housing incentives for disaster-related losses or to remain in Texas, which may include incentives to certain homeowners whose homes were destroyed or damaged during the covered disasters, if the homeowners agree to meet the requirements and stipulations of a published program design. The state may also allow disaster recovery or mitigation housing incentives to promote housing development or resettlement in particular geographic areas. This waiver request is submitted based on the public comment received on the Action Plan, wherein certain units of local government expressed the strong desire to run incentive programs. This waiver will allow the development of a program that will encourage disaster victims to return to their communities in the hurricane Ike impacted area so that they remain viable in their communities, will provide an incentive to create a livable environment for them, and may be used in conjunction with a rehabilitation program. Program requirements and stipulations will be included in a published program design. The program would also provide for mechanisms to address adherence to requirements such as compliance with floodplain elevation requirements and maintenance of required insurance. Furthermore, this flexibility will provide an effective tool to promote return and resettlement of affected neighborhoods. As additional justification, this would allow flexibility at the regional and State level to meet a wide range of needs in the disaster impacted areas.
21. Waive restrictions on the repair or reconstruction of buildings used for the general conduct of government as described in 42 USC 5305(a)(2) and (a)(14) and 24 CFR 570.207(a)(1). Instead, the State of Texas will approve use of funds for general conduct of government on a case-by-case basis providing documentation of need is provided. The State will emphasize the need for communities to first seek assistance from FEMA. Thousands of acres in southeast Texas were inundated by a surge up to 20-foot in conjunction with the high tide. Entire cities were inundated with the muck, mud and debris that accompanied Ike's surge. Hurricane Dolly, the most destructive storm to hit the Rio Grande Valley in 41 years, leveled a similar blow to the southern portion of the Texas

Gulf Coast. In both cases, buildings used for the general conduct of government were not immune to impacts, with many rendered completely uninhabitable or destroyed completely. These units of government experienced extensive widespread destruction throughout their community, causing a catastrophic financial loss of property and sales-tax base relied upon for supporting bonds necessary to construct administrative buildings. Entities are unable to function sufficiently in such situations to provide effective recovery leadership and resources for their citizens. In many cases, these general government function buildings were the only meeting places available where government can conduct business and provide even the most basic services.

22. Waive 24 CFR 570.489(j) which applies to a change in use of real property acquired or improved in whole or in part utilizing CDBG funds. This provision requires the new use of acquired properties to meet a national objective or reimbursement to the state's CDBG program in the amount of the fair market value of the property less certain non-CDBG expenditures. The purpose of this waiver is to allow acquisition when the end use may not be known. The State intends for all end uses to be consistent with one of the three national objectives, but desires flexibility in defining the final use. Due to the level of destruction and inordinate amount of property that may be transferred to the state or local government for redevelopment, the State of Texas is requesting that a waiver be granted to permit the state to qualify the national objective for property acquisition at the time the incentive is provided to homeowners who voluntarily sell their property in order to relocate. This will compliment a systematic approach to moving people out of flood-prone areas to provide for enhanced stability and reduction of risk. This will enable the state to expedite redevelopment initiatives in the Ike impacted area, better coordinate the reuse of properties that are located in higher risk and environmentally sensitive areas. The state will ensure that priority is placed on utilizing the acquired properties for affordable housing. In addition, policies governing the redevelopment of properties will include plans to minimize the displacement of residents affected by the disaster. This waiver request is submitted based on the public comment received on the Action Plan, where localities expressed the strong desire to run incentive programs. As additional justification, this would allow flexibility at the regional and State level to meet a wide range of needs in the disaster impacted areas.
23. Waive the provision of 24 CFR 570.3 defining "income" used by the CDBG program as it pertains to job creation and retention under the benefit to low/moderate income persons national objective. In lieu of documenting income to determine a worker's low/moderate income status, grantees will presume that all jobs created or retained that have a stated salary or wage rate consistent with low/moderate income limits for single-person households can be counted toward the 51 percent benefit to low/moderate income persons national objective. From the high estimates of businesses and jobs lost, it is clear that large numbers of persons will have been out of work and experiencing severe financial hardships by the time CDBG assistance will be made available. Many of the areas affected by the hurricanes relied heavily on tourism as an economic base. Based on a three year report on Hurricane Katrina, 55 percent of the jobs lost were in industries related to tourism. Without assistance from outside the normal financial communities, many businesses will not be able to recover due to the extent of repairs and the length of time they will be closed.
24. Waive the provisions of 24 CFR 570.482(f)(all subsections) related to the public benefit test for economic development activities designed to create or retain jobs and 24 CFR 482(g) related to amendments to economic development projects after review determinations. The catastrophic losses for businesses in the hurricane-affected regions are such that restricting economic development assistance to not exceed in the aggregate \$35,000 per permanent job created or retained or no more than \$350 per low-moderate income person to which goods are provided by the activity is not sufficient to affect economic recovery in the region. In one community alone, 100 percent of businesses were substantially damaged or destroyed. Galveston Island officials estimate that more than 80 percent of the business community suffered a devastating impact.

State of Texas Consolidated Waivers for Ike/Dolly 2008 Disaster Recovery (P.L. 110-329)

Without substantial assistance from outside the normal financial communities, many businesses will not be able to recover due to the extent of repairs and the length of time they will be closed. Numerous businesses have also learned their insurance coverage does not include loss of revenue due to this type of event or for such an extended period of time, necessitating increased flexibility in economic development activities under CDBG disaster recovery supplemental funding. The waiver introduces the following alternate requirement: the grantee shall report and maintain documentation on the creation and retention of (a) total jobs, (b) number of jobs within certain salary ranges, (c) average amount of assistance provided per job by activity or program, and (d) types of jobs. Allowing the waiver to 24 CFR 570.482(f) would negate the need for a re-evaluation of a project as a result of amendment, since the public benefit test would be waived. The State will maintain a list describing the economic development activities using this waiver.

September 13, 2008
Hurricane Ike hit Texas. Was declared disaster by federal government.



February 2009
Action plan which included a focus on local control submitted to HUD for review and approval.

March 4, 2009
HUD approved action plan.

July 2009
• All applications accepted.
• Last application received.

July 23, 2008
Hurricane Dolly hit Texas coast. Was declared disaster by federal government.

September 30, 2008
President signed the public law for disaster. Identified \$3 Billion for CDBG funding for Texas.

TDRA hired HNTB to help identify, assess, scope and estimate projects in the hardest hit (29 county) area.

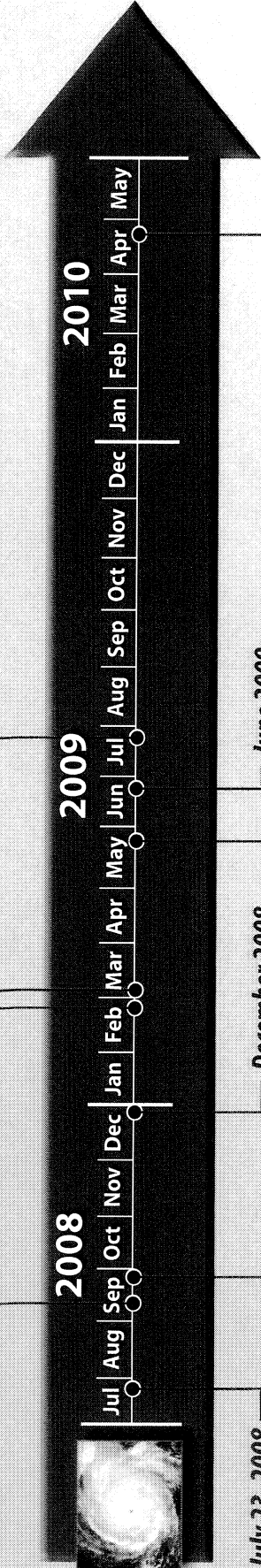
December 2008
Texas Rebounds report was released by State. Estimated Dolly and Ike damages of \$29 billion.

December 2008
State developed an action plan and held public hearings.

June 2009
First award made.

May 2009
First Application received.

April 2010
Award of 83 % of funds complete.



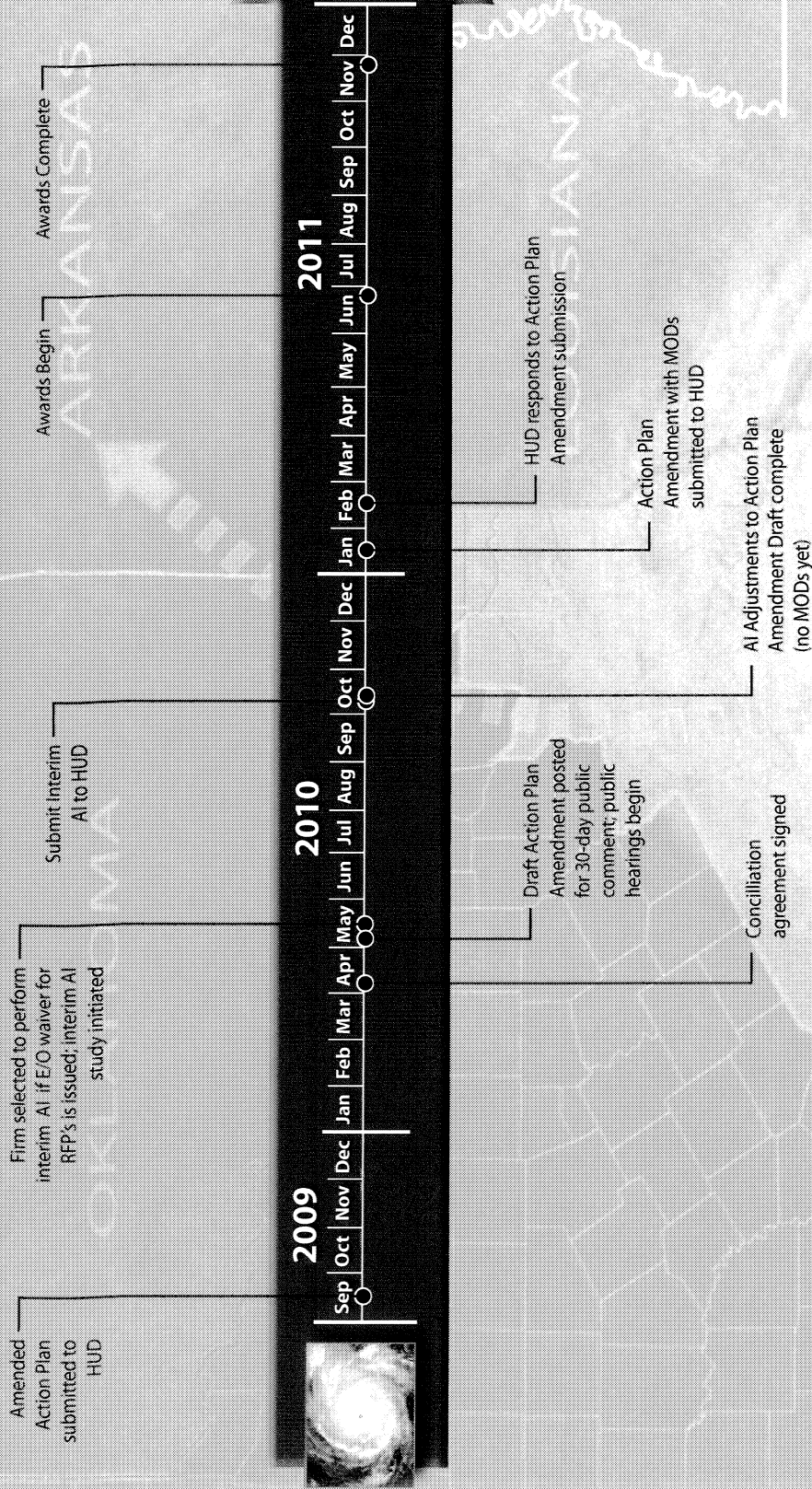
**Timeline - Round 1
HURRICANE DOLLY AND HURRICANE IKE
MODEL DEVELOPMENT**



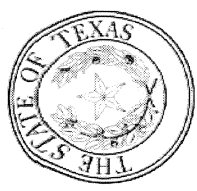


Interim AI and Conciliation-Related Processes

IDRA Application Process



Action Plan Amendment Process



**Timeline - Round 2
HURRICANE DOLLY AND HURRICANE IKE
ACTION PLAN AMENDMENT AND MOD PROCESS**





Round 1 Allocations

REGION	COUNTY	GRANTEE NAME	TOTAL GRANT AMOUNT	TOTAL BY COUNTY	TOTAL BY COG
ATCOG	Bowie	Ark-Tex Council of Governments	\$ 1,164,673.00	\$ 1,164,673.00	\$ 1,164,673.00
BVCOG	Brazos	Wickson Creek Special Utility District	\$ 214,830.00	\$ 214,830.00	
BVCOG	Burleson	Burleson County	\$ 1,738,154.00	\$ 1,738,154.00	
BVCOG	Grimes	Grimes County	\$ 2,123,839.00	\$ 2,123,839.00	
BVCOG	Leon	Leon County	\$ 1,305,700.00		
		Marquez	\$ 59,400.00	\$ 1,365,100.00	
BVCOG	Madison	Madison County	\$ 510,230.00		
		Madisonville	\$ 416,837.00		
		Midway	\$ 62,700.00	\$ 989,767.00	
BVCOG	Robertson	Robertson County	\$ 822,723.00	\$ 822,723.00	
BVCOG	Washington	Washington County	\$ 748,822.00	\$ 748,822.00	\$ 8,003,235.00
CBCOG	Aransas	Fulton	\$ 155,403.00	\$ 155,403.00	
CBCOG	Brooks	Brooks County	\$ 75,000.00	\$ 75,000.00	
CBCOG	Jim Wells	Jim Wells County	\$ 252,270.00	\$ 252,270.00	
CBCOG	Kleberg	Kleberg County	\$ 185,117.00	\$ 185,117.00	
CBCOG	Nueces	Nueces County	\$ 1,551,016.00		
		Port Aransas	\$ 405,336.00	\$ 1,956,352.00	
CBCOG	Refugio	Refugio County	\$ 75,000.00	\$ 75,000.00	
CBCOG	San Patricio	San Patricio County	\$ 422,234.00	\$ 422,234.00	\$ 3,121,376.00
CTCOG	Milam	Milam County	\$ 250,000.00	\$ 250,000.00	\$ 250,000.00
DETCOG	Angelina	Angelina County	\$ 7,670,585.00		
		Diboll	\$ 228,682.00		
		Hudson	\$ 170,326.00		
		Huntington	\$ 83,238.00		

Round 1 Allocations

		Burke	\$ 12,170.00	\$ 8,165,001.00	
DETCOG	Houston	Crockett	\$ 767,191.00		
		Grapeland	\$ 155,292.00		
		Houston County	\$ 1,350,749.00		
		Kennard	\$ 33,292.00		
		Latexo	\$ 28,656.00		
		Lovelady	\$ 66,479.00	\$ 2,401,659.00	
DETCOG	Jasper	Browndell	\$ 43,369.00		
		Jasper	\$ 1,461,424.00		
		Jasper County	\$ 4,687,856.00		
		Kirbyville	\$ 403,827.00		
		DETCOG Economic Development	\$ 689,292.00	\$ 7,285,768.00	
DETCOG	Nacogdoches	Garrison	\$ 36,623.00		
		Nacogdoches	\$ 1,404,736.00		
		Nacogdoches County	\$ 6,204,385.00		
		Appleby	\$ 19,079.00		
		Chirena	\$ 17,895.00		
		Cushing	\$ 29,649.00	\$ 7,712,367.00	
DETCOG	Newton	Newton	\$ 406,651.00		
		Newton County	\$ 2,043,005.00	\$ 2,449,656.00	
DETCOG	Polk	Alabama Coushatta Indian Reservation	\$ 76,256.00		
		Corrigan	\$ 355,164.00		
		Goodrich	\$ 50,329.00		
		Livingston	\$ 1,258,420.00		
		Onalaska	\$ 269,757.00		
		Polk County	\$ 6,775,758.00		

Round 1 Allocations

		Seven Oaks	\$ 25,928.00	\$ 8,811,612.00	
DETCOG	Sabine	Hemphill	\$ 202,776.00		
		Pineland	\$ 96,206.00		
		Sabine County	\$ 783,631.00	\$ 1,082,613.00	
DETCOG	San Augustine	Broadus	\$ 57,474.00		
		San Augustine	\$ 785,463.00		
		San Augustine County	\$ 1,821,325.00	\$ 2,664,262.00	
DETCOG	San Jacinto	Coldspring	\$ 405,938.00		
		Point Blank	\$ 301,759.00		
		San Jacinto County	\$ 9,196,913.00		
		Shepherd	\$ 1,104,653.00	\$ 11,009,263.00	
DETCOG	Shelby	Center	\$ 177,276.00		
		Huxley	\$ 9,285.00		
		Joaquin	\$ 29,490.00		
		Shelby County	\$ 500,939.00		
		Tenaha	\$ 30,920.00		
		Timpson	\$ 33,033.00	\$ 780,943.00	
DETCOG	Trinity	Groveton	\$ 199,636.00		
		Trinity	\$ 513,350.00		
		Trinity County	\$,758,520.00	\$ 2,471,506.00	
DETCOG	Tyler	Chester	\$ 117,582.00		
		Colmesneil	\$ 302,355.00		
		Tyler County	\$ 7,724,124.00		
		Woodville	\$ 1,064,598.00	\$ 9,208,659.00	
DETCOG	Zavala	Zavala	\$ 25,621.00	\$ 25,621.00	\$ 64,068,930.00
ETCOG	Anderson	Anderson County	\$ 178,000.00		
		Elkhart	\$ 267,995.00	\$ 445,995.00	

Round 1 Allocations

ETCOG	Cherokee	Alto	\$ 372,610.00		
		Cherokee County	\$ 1,258,228.00		
		Cuney	\$ 275,411.00		
		Jacksonville	\$ 363,055.00		
		New Summerfield	\$ 498,876.00		
		Rusk	\$ 127,394.00		
		Troup	\$ 247,190.00		
		Wells	\$ 250,000.00	\$ 3,392,764.00	
ETCOG	Gregg	Easton	\$ 121,348.00		
		Gladewater	\$ 500,000.00		
		Gregg County	\$ 1,001,500.00		
		Kilgore	\$ 249,300.00		
		Lakeport	\$ 121,348.00		
		Longview	\$ 428,000.00		
		White Oak	\$ 170,794.00	\$ 2,592,290.00	
ETCOG	Harrison	Harrison County	\$ 349,912.00		
		Marshall	\$ 317,500.00		
		Waskom	\$ 207,368.00	\$ 874,780.00	
ETCOG	Marion	Jefferson	\$ 72,769.00		
		Marion County	\$ 48,513.00	\$ 121,282.00	
ETCOG	Panola	Carthage	\$ 104,400.00		
		Panola County	\$ 134,425.00		
		Tatum	\$ 273,613.00	\$ 512,438.00	
ETCOG	Rusk	Mount Enterprise	\$ 56,100.00		
		Rusk County	\$ 219,809.00	\$ 275,909.00	
ETCOG	Smith	Smith County	\$ 202,946.00		
		Winona	\$ 57,229.00	\$ 260,175.00	

Round 1 Allocations

ETCOG	Upshur	Gilmer	\$ 119,995.00		
		Ore City	\$ 80,449.00		
		Upshur County	\$ 133,629.00	\$ 334,073.00	\$ 8,809,706.00
GCRPC	Calhoun	Calhoun County	\$ 166,667.00		
		Point Comfort	\$ 166,666.00		
		Port Lavaca	\$ 166,666.00		
		Seadrift	\$ 166,667.00	\$ 666,666.00	
GCRPC	Victoria	Victoria	(reallocated to County)		
		Victoria County	\$ 333,334.00	\$ 333,334.00	\$ 1,000,000.00
HGAC	Austin	Wallis	\$ 31,003.00	\$ 31,003.00	
HGAC	Brazoria	Brazoria County	\$ 8,704,745.00	\$ 8,704,745.00	
HGAC	Chambers	Anahuac	\$ 6,000,000.00		
		Baytown	\$ 12,059,464.00		
		Chambers County	\$ 6,265,723.00		
		Mont Belvieu	\$ 4,071,375.00		
		Old River-Winfree	\$ 2,479,926.00		
		Texas City	\$ 4,614,680.00	\$ 65,491,168.00	
HGAC	Fort Bend	Fort Bend County	\$ 1,054,738.00		
		Houston	\$ 1,814,141.00	\$ 22,868,879.00	
HGAC	Galveston	Bayou Vista	\$ 2,101,656.00		
		Clear Lake Shores	\$ 1,393,934.00		
		Dickinson	\$ 3,119,091.00		
		Friendswood	\$ 2,555,358.00		
		Galveston	\$ 106,954,822.00		
		Galveston County	\$ 34,592,801.00		
		Hitchcock	\$ 2,888,164.00		
		Jamaica Beach	\$ 2,195,385.00		

Round 1 Allocations

		Kemah	\$ 2,012,002.00		
		La Marque	\$ 3,265,797.00		
		League City	\$ 3,135,392.00		
		Santa Fe	\$ 2,738,741.00		
		Tiki Island	\$ 1,722,664.00	\$ 68,675,807.00	
HGAC	Harris	Pasadena	\$ 15,518,429.00		
		Harris County	\$ 56,837,950.00	\$ 72,356,379.00	
HGAC	Liberty	Ames	\$ 201,482.00		
		Cleveland	\$ 1,917,110.00		
		Daisetta	\$ 193,079.00		
		Dayton	\$ 1,439,156.00		
		Devers	\$ 77,680.00		
		Hardin	\$ 140,981.00		
		Liberty	\$ 2,025,003.00		
		Liberty County	\$ 6,832,838.00		
		Plum Grove	\$ 173,659.00		
		Dayton Lakes	\$ 18,860.00	\$ 13,019,848.00	
HGAC	Matagorda	Matagorda County	\$ 4,787,320.00	\$ 4,787,320.00	
HGAC	Montgomery	Magnolia	\$ 673,411.00		
		Montgomery	\$ 486,743.00		
		Montgomery County	\$ 486,622.00		
		Oak Ridge North	\$ 625,000.00		
		Panorama Village	\$ 224,440.00		
		Patton Village			
		Roman Forest			
		Shenandoah	\$ 455,677.00		
		Splendora	\$ 659,200.00		

Round 1 Allocations

		Willis			
		Woodbranch Village	\$ 40,153.00	\$ 4,606,158.00	
HGAC	Walker	Walker County	\$ 622,320.00	\$ 622,320.00	
HGAC	Waller	Waller County (G&W WSC)	\$ 130,279.00	\$ 130,279.00	
HGAC	Wharton	Wharton County	\$ 493.00	\$ 493.00	\$ 361,294,399.00
LRGVDC	Cameron	Bayview	\$ 13,359.00		
		Brownsville	\$ 3,815,743.00		
		Cameron County	\$ 10,831,683.00		
		Combes	\$ 88,362.00		
		Harlingen	\$ 2,190,385.00		
		Indian Lake	\$ 17,369.00		
		La Feria	\$ 243,611.00		
		Laguna Vista	\$ 121,521.00		
		Los Fresnos	\$ 176,408.00		
		Los Indios	\$ 42,128.00		
		Palm Valley	\$ 41,497.00		
		Port Isabel	\$ 166,271.00		
		Primera	\$ 127,458.00		
		Rio Hondo	\$ 70,772.00		
		San Benito	\$ 819,164.00		
		Santa Rosa	\$ 98,594.00		
		South Padre Island	\$ 1,095,436.00		
		Rancho Viejo	\$ 61,171.00	\$ 20,020,932.00	
LRGVDC	Hidalgo	Alamo	\$ 500,000.00		
		Alton	\$ 500,000.00		
		Donna	\$ 500,000.00		
		Edcouch	\$ 450,534.00		

Round 1 Allocations

		Edinburg	\$ 2,224,325.00		
		Elsa	\$ 500,000.00		
		Hidalgo	\$ 500,000.00		
		Hidalgo County	\$ 5,000,000.00		
		La Joya	\$ 405,866.00		
		La Villa	\$ 177,502.00		
		McAllen	\$ 4,027,591.00		
		Mercedes	\$ 500,000.00		
		Mission	\$ 1,886,739.00		
		Palmhurst	\$ 500,000.00		
		Palmview	\$ 408,927.00		
		Penitas	\$ 150,132.00		
		Pharr	\$ 2,061,114.00		
		San Juan	\$ 600,000.00		
		Sullivan City	\$ 500,000.00		
		Weslaco	\$ 600,000.00		
		Granjeno	\$ 35,176.00		
		Progreso	\$ 500,000.00		
		Progreso Lakes	\$ 12,456.00	\$ 22,540,362.00	
LRGVDC	Willacy	Lyford	\$ 511,086.00		
		Raymondville	\$ 2,003,225.00		
		San Perlita	\$ 300,358.00		
		Willacy County	\$ 2,144,044.00	\$ 4,958,713.00	\$ 47,520,007.00
SETRPC	Hardin	Hardin County	\$ 2,011,743.00		
		Kountze	\$ 87,745.00		
		Lumberton	\$ 618,203.00		
		Sour Lake	\$ 576,989.00	\$ 13,294,680.00	

Round 1 Allocations

SETRPC	Jefferson	Beaumont	\$ 4,328,912.00		
		Bevil Oaks	\$ 760,292.00		
		Jefferson County	\$ 9,062,156.00		
		Port Arthur	\$ 13,010,493.00		
		Taylor Landing	\$ 356,387.00		
		Southeast Texas Eco. Dev. Foundation	\$ 1,900,000.00	\$ 49,418,240.00	
SETRPC	Orange	Bridge City	\$ 9,689,353.00		
		Orange	\$ 7,768,271.00		
		Orange County	\$ 12,304,606.00		
		Pine Forest	\$ 290,584.00		
		Pinehurst	\$ 51,659.00		
		Rose City	\$ 723,231.00		
		West Orange	\$ 1,459,376.00	\$ 32,287,080.00	\$ 95,000,000.00
STDC	Jim Hogg	Jim Hogg County	\$ 138,097.00	\$138,097.00	
STDC	Starr	Escobares	\$ 83,934.00		
		La Grulla	\$ 98,052.00		
		Rio Grande City	\$ 138,728.00		
		Roma	\$ 124,867.00		
		Starr County	\$ 416,322.00	\$ 861,903.00	\$ 1,000,000.00
		ALLOCATION GRAND TOTAL	\$ 591,232,326.00	\$ 591,232,326.00	\$ 591,232,326.00

Round 1 Allocations

Round 1 Awards Through April 22, 2010

Name	# of Cities/ Communitie s (in award)	# of Project s (in award)	Date(s) Awarded	Amount of all Awards (to-date)
Bridge City	1	5	6/5/09	\$ 9,689,353.00
Hardin County	1	1	6/5/09	\$12,011,743.00
Diboll	1	1	7/30/09	\$ 228,682.00
Garrison	1	1	7/30/09	\$ 36,623.00
Hudson	1	1	7/30/09	\$ 170,326.00
Texas City	1	3	7/30/09	\$ 4,614,680.00
Trinity County	1	4	7/30/09	\$ 1,758,520.00
Point Comfort	1	2	8/7/09	\$ 166,666.00
Seadrift	1	1	8/7/09	\$ 166,667.00
Anahuac	1	2	8/14/09	\$ 6,000,000.00
Cleveland	1	3	8/14/09	\$ 1,917,110.00
Fulton	1	1	8/14/09	\$ 155,403.00
Pineland	1	1	8/14/09	\$ 96,206.00
Shepherd	1	2	8/14/09	\$ 1,104,650.00
Brownsville	1	1	8/21/09	\$ 3,815,743.00
Devers	1	1	8/21/09	\$ 77,679.00
Grapeland	1	2	8/21/09	\$ 155,292.00
Onalaska	1	2	8/21/09	\$ 269,757.00
Smith County	2	2	8/21/09	\$ 202,946.00
Calhoun County	1	1	8/27/09	\$ 166,667.00
Hardin	1	1	8/27/09	\$ 140,981.00
Hidalgo County	1	3	8/27/09	\$ 5,000,000.00
Houston County	2	10	8/27/09	\$ 1,350,749.00
Huntington	1	1	8/27/09	\$ 83,238.00
Marion County	1	1	8/27/09	\$ 48,513.00
Marquez	1	1	8/27/09	\$ 59,400.00
McAllen	1	1	8/27/09	\$ 4,027,591.00
Pine Forest	1	1	8/27/09	\$ 290,584.00
Upshur County	2	2	8/27/09	\$ 133,629.00
Elkhart	1	2	8/31/09	\$ 267,995.00
Harlingen	1	1	8/31/09	\$ 2,190,385.00
Kennard	1	2	8/31/09	\$ 33,292.00
Liberty	1	3	8/31/09	\$ 2,025,000.00
Santa Fe	1	2	8/31/09	\$,738,741.00
White Oak	1	2	8/31/09	\$ 170,794.00
Alamo	1	1	9/9/09	\$ 500,000.00
Bayou Vista	1	3	9/9/09	\$ 2,101,656.00
Dayton	1	1	9/9/09	\$ 1,439,156.00
Lovelady	1	1	9/9/09	\$ 66,479.00
Midway	1	1	9/9/09	\$ 62,700.00
New Summerfield	1	1	9/9/09	\$ 498,876.00
Refugio County	1	1	9/9/09	\$ 75,000.00
Hidalgo	1	1	9/21/09	\$ 500,000.00
League City	1	1	9/21/09	\$ 3,135,392.00
Longview	1	2	9/21/09	\$ 428,000.00
Milam County	1	1	9/21/09	\$ 250,000.00
Robertson County	5	6	9/21/09	\$ 792,891.00
Alton	1	1	9/30/09	\$ 500,000.00

Round 1 Awards Through April 22, 2010

Angelina County	4	5	9/30/09	\$ 7,670,585.00
Broaddus	1	1	9/30/09	\$ 57,474.00
Clear Lake Shores	1	2	9/30/09	\$ 1,393,934.00
Colmesneil	1	3	9/30/09	\$ 302,355.00
Mission	1	1	9/30/09	\$ 1,886,739.00
Nacogdoches	1	1	9/30/09	\$ 1,404,736.00
Plum Grove	1	1	9/30/09	\$ 173,659.00
Port Lavaca	1	1	9/30/09	\$ 166,666.00
South Padre Island	1	1	9/30/09	\$ 1,095,436.00
Weslaco	1	2	9/30/09	\$ 600,000.00
Carthage	1	1	10/13/09	\$ 104,400.00
Center	1	1	10/13/09	\$ 177,276.00
Groveton	1	1	10/13/09	\$ 199,636.00
Jacksonville	1	2	10/13/09	\$ 363,055.00
Jim Hogg County	1	1	10/13/09	\$ 138,097.00
Kilgore	1	1	10/13/09	\$ 249,300.00
Kleberg County	1	1	10/13/09	\$ 185,117.00
La Feria	1	1	10/13/09	\$ 243,611.00
Mount Enterprise	1	1	10/13/09	\$ 56,100.00
Port Arthur	1	5	10/13/09	\$ 3,010,493.00
Tatum	1	2	10/13/09	\$ 273,613.00
Taylor Landing	1	2	10/13/09	\$ 356,387.00
Willis	1	3	10/13/09	\$ 954,912.00
Dickinson	1	4	10/22/09	\$ 3,119,091.00
Gilmer	1	1	10/22/09	\$ 119,995.00
Gladewater	1	2	10/22/09	\$ 500,000.00
Jefferson	1	1	10/22/09	\$ 72,769.00
Kemah	1	2	10/22/09	\$ 2,012,002.00
Lakeport	1	2	10/22/09	\$ 121,348.00
Los Fresnos	1	1	10/22/09	\$ 176,408.00
Los Indios	1	1	10/22/09	\$ 42,128.00
Mercedes	1	1	10/22/09	\$ 500,000.00
Newton	1	2	10/22/09	\$ 406,651.00
Ore City	1	1	10/22/09	\$ 80,449.00
Rusk County	2	2	10/22/09	\$ 219,809.00
San Benito	1	1	10/22/09	\$ 819,164.00
Santa Rosa	1	1	10/22/09	\$ 98,594.00
Sour Lake	1	5	10/22/09	\$ 576,989.00
Sullivan City	1	1	10/22/09	\$ 500,000.00
Timpson	1	1	10/22/09	\$ 33,033.00
Wells	1	1	10/22/09	\$ 250,000.00
Winona	1	1	10/22/09	\$ 57,229.00
Combes	1	1	10/30/09	\$ 88,362.00
Elsa	1	4	10/30/09	\$ 500,000.00
Fort Bend County	2	3	10/30/09	\$ 1,054,737.00
Joaquin	1	1	10/30/09	\$ 29,490.00
Lyford	1	3	10/30/09	\$ 511,086.00
Roma	1	1	10/30/09	\$ 124,867.00
San Patricio County	2	2	10/30/09	\$ 422,234.00
Shenandoah	1	2	10/30/09	\$ 455,677.00
Starr County	4	4	10/30/09	\$ 416,322.00
Brooks County	1	1	11/6/09	\$ 75,000.00
Magnolia	1	1	11/6/09	\$ 676,000.00

Round 1 Awards Through April 22, 2010

Panorama Village	1	1	11/6/09	\$ 224,440.00
Penitas	1	1	11/6/09	\$ 150,132.00
Troup	1	1	11/6/09	\$ 247,190.00
Woodbranch Village	1	1	11/6/09	\$ 40,153.00
Nacogdoches County	1	1	11/12/09	\$ 6,204,385.00
Browndell	1	1	11/13/09	\$ 43,369.00
Chester	1	2	11/13/09	\$ 117,582.00
Daisetta	1	2	11/13/09	\$ 193,079.00
La Marque	1	3	11/13/09	\$ 3,265,797.00
Newton County	1	1	11/13/09	\$ 2,043,005.00
Panola County	2	2	11/13/09	\$ 134,425.00
Primera	1	1	11/13/09	\$ 127,458.00
San Augustine	1	3	11/13/09	\$ 785,463.00
San Perlita	1	2	11/13/09	\$ 300,358.00
Waskom	1	1	11/13/09	\$ 207,368.00
Cameron County	11	17	11/24/09	\$10,831,683.00
Easton	1	2	11/24/09	\$ 121,348.00
Indian Lake	1	1	11/24/09	\$ 17,369.00
Madison County	1	3	11/24/09	\$ 483,872.00
Nueces County	1	1	11/24/09	\$ 1,550,635.00
Oak Ridge North	1	1	11/24/09	\$ 625,000.00
San Augustine County	1	1	11/24/09	\$ 1,821,325.00
Leon County	9	10	12/9/09	\$ 1,213,683.00
Madisonville	1	1	12/9/09	\$ 416,837.00
Port Aransas	1	2	12/9/09	\$ 405,336.00
Waller County (G&W WSC)	1	1	12/9/09	\$ 130,279.00
Washington County	2	2	12/9/09	\$ 711,485.00
Wickson Creek SUD	1	1	12/9/09	\$ 214,830.00
Alabama Coushatta	1	1	12/11/09	\$ 76,256.00
Lumberton	1	2	12/11/09	\$ 618,203.00
Marshall	1	2	12/11/09	\$ 317,500.00
Alto	1	2	12/17/09	\$ 372,606.00
Beaumont	1	2	12/17/09	\$ 4,328,912.00
Kirbyville	1	4	12/17/09	\$ 403,827.00
Pharr	1	1	12/17/09	\$ 2,061,114.00
Donna	1	3	12/23/09	\$ 500,000.00
Palmview	1	3	12/23/09	\$ 408,927.00
West Orange	1	3	12/23/09	\$ 1,459,376.00
Corrigan	1	2	1/6/10	\$ 355,164.00
Escobares	1	1	1/7/10	\$ 83,500.00
Harrison County	1	2	1/8/10	\$ 349,912.00
Latexo	1	1	1/9/10	\$ 28,656.00
Rusk	1	1	1/10/10	\$ 127,394.00
Tiki Island	1	2	1/11/10	\$ 1,722,664.00
Palmhurst	1	4	1/14/10	\$ 500,000.00
Rio Grande City	1	1	1/22/10	\$ 138,728.00
Tenaha	1	1	1/22/10	\$ 30,920.00
Trinity	1	2	1/22/10	\$ 513,350.00
Walker County	6	9	1/22/10	\$ 622,320.00
Crockett	1	2	1/29/10	\$ 767,191.00

Round 1 Awards Through April 22, 2010

Grimes County	4	4	1/29/10	\$ 639,761.00
Jim Wells County	1	1	1/29/10	\$ 252,270.00
Point Blank	1	2	1/29/10	\$ 301,759.00
Rio Hondo	1	1	1/29/10	\$ 70,772.00
Ark-Tex Council of Governments	12	13	2/8/10	\$1,164,673.00
La Joya	1	2	2/8/10	\$ 405,865.00
Edcouch	1	4	2/12/10	\$ 450,534.00
Hemphill	1	1	2/12/10	\$ 202,776.00
Mont Belvieu	1	4	2/12/10	\$ 4,071,375.00
La Grulla	1	1	2/26/10	\$ 98,052.00
Port Isabel	1	1	2/26/10	\$ 166,271.00
Raymondville	1	3	2/26/10	\$ 2,003,224.00
Kountze	1	1	3/5/10	\$ 87,745.00
Pinehurst	1	1	3/5/10	\$ 51,659.00
Splendora	1	1	3/5/10	\$ 659,200.00
Victoria County	1	1	3/5/10	\$ 333,334.00
Ames	1	2	3/12/10	\$ 201,481.00
Liberty County	1	3	3/12/10,4/22/10	\$ 3,928,936.00
Orange County	1	3	3/12/10	\$2,304,606.00
San Jacinto County	1	3	3/12/10	\$ 9,196,913.00
San Juan	1	2	3/12/10	\$ 600,000.00
Cherokee County	7	9	3/19/10	\$ 1,258,228.00
Livingston	1	4	3/19/10	\$ 946,055.00
Montgomery County	2	4	3/19/10	\$ 486,622.00
Seven Oaks	1	1	3/19/10	\$ 25,928.00
Woodville	1	5	3/19/10	\$ 1,064,598.00
Sabine County	2	5	3/29/10	\$ 783,631.00
Willacy County	3	11	3/29/10	\$ 2,144,044.00
Jasper	1	2	4/5/10	\$ 1,461,424.00
Southeast Texas Eco Dev Found.	1	1	4/5/10	\$ 1,900,000.00
Tyler County	1	5	4/12/10	\$ 7,724,124.00
Edinburg	1	6	10/13/09, 3/19/10	\$ 2,224,325.00
Matagorda County	1	4	10/22/09, 3/5/10	\$ 4,787,320.00
Cuney	1	2	10/30/09, 1/14/10	\$ 275,411.00
Hitchcock	1	3	10/30/09, 1/22/10	\$ 2,888,164.00
Baytown	1	6	11/24/09, 1/29/10,4/22/10	\$10,373,038.00
Rose City	1	1	11/24/09, 2/8/10	\$ 723,231.00
Friendswood	1	4	11/24/09, 3/5/10	\$ 2,555,358.00
Pasadena	1	4	11/6/09, 4/5/10	\$10,920,000.00
Coldspring	1	3	12/17/09, 1/22/10	\$ 405,938.00
Harris County	35	51	12/23/09, 1/14/10, 1/29/10, 2/8/10, 2/26/10, 3/5/10	\$32,862,080.00
Jefferson County	3	7	12/23/09, 3/5/10, 4/5/10	\$15,321,717.00
Montgomery	1	2	12/9/09,	\$ 375,525.00
Old River-Winfree	1	2	2/12/10, 3/5/10	\$ 2,479,926.00
Jasper County	1	6	2/26/10, 4/12/10, 4/22/2010	\$ 4,687,856.00
Anderson County	1	1	2/8/10,	\$ 118,359.00
Burleson County	2	7	2/8/2010, 2/26/10, 3/12/10, 4/22/2010	\$ 1,573,562.00
Bevil Oaks	1	2	7/30/09, 3/5/10	\$ 760,292.00

Round 1 Awards Through April 22, 2010

Galveston County	5	12	8/21/09, 2/8/10, 3/5/10, 4/12/10	\$ 6,305,195.00
Galveston	1	11	8/27/09, 12/09/09, 1/6/10, 1/29/10, 2/12/10, 3/19/10	\$99,700,278.00
Jamaica Beach	1	2	8/31/09,	\$ 1,805,086.00
Chambers County	1	8	8/7/09, 1/14/10, 3/19/10	\$32,218,521.00
Orange	1	14	8/7/09, 10/30/09	\$ 7,768,271.00
Houston	1	3	8/7/09, 12/09/09	\$21,814,141.00
Brazoria County	23	26	8/7/09, 8/31/09, 10/22/09, 2/8/10, 3/5/10	\$ 7,175,004.00
Gregg County	1	5	9/30/09, 12/17/09	\$ 1,001,500.00
DETCOG Eco. Dev.	1	1	4/22/2010	\$ 802,994.00
Goodrich			Pending	
La Villa			Unawarded (on hold)	
Laguna Vista			Pending	
Palm Valley			unawarded	
Polk County			unawarded	
Shelby County			unawarded	
Bayview			unawarded (on hold)	

Round 1 Awards Through April 22, 2010

HUD Directed Allocation Model

\$222M (Set-aside) + \$133M (LRGVDC) = \$355M

Round 2 Action Plan

Action Plan Amendment No. 1 (pg. 18 of 45)						
Regions	Housing	Affordable	Total Housing	Nonhousing	Health	Total Allocation
HGAC	\$ 323,942,484	\$ 104,408,172	\$ 428,350,656	\$ 405,574,774	\$ 9,912,404	\$ 843,837,834
SETRPC	\$ 133,305,751	\$ 30,686,585	\$ 163,992,336	\$ 129,677,284	\$ 3,628,738	\$ 297,298,358
LRGVDC	\$ 104,925,787	\$ 15,108,600	\$ 120,034,387	\$ 63,481,528	\$ 1,404,245	\$ 184,920,160
DETCOG	\$ 124,714,561	\$ 17,560,241	\$ 142,274,802	\$ 64,780,284	\$ 1,796,417	\$ 208,851,503
Pool	\$ 47,264,736	\$ 6,536,255	\$ 53,800,991	\$ 24,591,584	\$ 688,208	\$ 79,080,783
Total	\$ 734,153,319	\$ 174,299,853	\$ 908,453,172	\$ 688,105,454	\$ 17,430,012	\$ 1,613,988,638

Set-aside, Admin & Planning	
Texas Rapid Housing	\$ 6,000,000
Admin	\$ 87,150,060
PPD	\$ 35,862,547
Total	\$ 129,012,607

Round 2 HUD Directed Allocation Model - \$222M set-aside + \$133M LRGVDC = \$355M (with \$30M from Admin & Planning)

Regions	Housing	Affordable	Total Housing	Nonhousing	Total Nonhousing	Allocation	Net Increase	Net Decrease
HGAC *	\$ 521,261,621	\$ 126,095,018	\$ 647,356,639	\$ 384,970,743	\$ 384,970,743	\$ 1,032,327,382	\$ 188,489,548	
SETRPC *	\$ 157,007,878	\$ 33,096,235	\$ 190,104,113	\$ 127,387,946	\$ 127,387,946	\$ 317,492,059	\$ 20,193,701	
LRGVDC	\$ 106,925,787	\$ 15,108,600	\$ 122,034,387	\$ 63,481,528	\$ 63,481,528	\$ 185,515,915	\$ 595,755	
DETCOG	\$ 20,000,000	\$ -	\$ 20,000,000	\$ 74,780,284	\$ 74,780,284	\$ 94,780,284		\$ (114,071,219)
Pool	\$ -	\$ -	\$ -	\$ 19,872,998	\$ 19,872,998	\$ 19,872,998		\$ (59,207,785)
Total	\$ 805,195,286	\$ 174,299,853	\$ 979,495,139	\$ 670,493,499	\$ 670,493,499	\$ 1,649,988,638	\$ 209,279,004	\$ (173,279,004)

*\$222 million is set-aside for Galveston, Harris and Orange counties.

	Set-aside, Admin & Planning	
	Before	After
Texas Rapid Housing	\$ 6,000,000	\$ -
Admin	\$ 87,150,060	\$ 64,150,060
PPD	\$ 35,862,547	\$ 28,862,547
Total	\$ 129,012,607	\$ 93,012,607

HUD Directed Allocation Model
\$222M (Set-aside) + \$133M (LRGVDC) = \$355M

United States Department of Housing and Urban Development
HUD Case No. 06-10-0410-8

Texas Low Income Housing Information Service,
Complainant

Texas Appleseed,
Complainant

v.

The State of Texas, by and through
The Texas Department of Rural Affairs and
The Texas Department of Housing and Community Affairs,
Respondent

CONCILIATION AGREEMENT

Approved by the Assistant Secretary for Fair Housing and Equal Opportunity on
behalf of the United States Department of Housing and Urban Development

Effective Date: _____, 2010

Conciliation Agreement

CASE NAME: Texas Low Income Housing Information Service and Texas Appleseed v. State of Texas

CASE NUMBER: 06-10-0410-8

I. PARTIES, DEFINITIONS, AND STATEMENT OF FACTS

A. Parties and Issues in Controversy

Complainants:

Texas Low Income Housing Information Service
508 Powell Street
Austin, Texas 78703-5122

Texas Appleseed
1609 Shoal Creek, Suite 201
Austin, Texas 78701

Representing Complainants:

Michael Allen, Esq.
RELMAN, DANE, & COLFAX, PLLC
1225 19th Street, N.W., Suite 600
Washington, D.C. 20036-2456
Phone: (202) 728-1888
Fax: (202) 728-0848
E-mail: mallen@relmanlaw.com

Respondent:

State of Texas, by and through:

Texas Department of Rural Affairs
Charlie Stone
Executive Director
Texas Department of Rural Affairs
1700 North Congress Avenue, Suite 220
Austin, Texas 78711
E-mail: charlie.stone@tdra.state.tx.us

Texas Department of Housing and Community Affairs
Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
P.O. BOX 13941
Austin, TX 78711-3941
(512) 475-3800
E-mail: michael.gerber@tdhca.state.texas.us

Conciliation Agreement

CASE NAME: Texas Low Income Housing Information Service and Texas Appleseed v. State of Texas

CASE NUMBER: 06-10-0410-8

Representing Respondent:

Barbara Deane
Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
P. O. Box 12548
Austin, Texas 78711
E-mail: barbara.deane@oag.state.tx.us

Issues in Controversy:

Complainants allege the State has violated 42 U.S.C. §§3604(a), 3604(b), and 3608 in connection with its administration of funds under P.L. 110-329 (see Complaint)

B. Definitions

For purposes of this Conciliation Agreement, the following terms shall have the meanings indicated below:

1. "Agreement" means this Conciliation Agreement.
2. "AFFH" means, as the context may indicate, either affirmatively furthering fair housing or to affirmatively further fair housing.
3. "Amendment" means the amendment to the State's Action Plan submitted by the State to HUD on September 30, 2009 describing the proposed use of an additional \$1.7 billion made available under P.L. 110-329.
4. "CDBG" means Community Development Block Grant.
5. "Complaints" means HUD Case No. 06-10-0410-8, submitted to HUD by Texas Low Income Housing Information Service on December 1, 2009, deemed filed by HUD on January 21, 2010, and joined by Texas Appleseed as a Complainant on February 7, 2010, and the Administrative Complaint filed with HUD by Texas Low Income Housing Information Service and Texas Appleseed on October 28, 2009.
6. "Council of Governments" or "COG" means a regional planning commission or similar regional planning agency as described in Chapter 391, Texas Local Government Code.
7. "FEMA" means the Federal Emergency Management Agency.
8. "HUD" means the U.S. Department of Housing and Urban Development.

Conciliation Agreement

CASE NAME: Texas Low Income Housing Information Service and Texas Appleseed v. State of Texas
CASE NUMBER: 06-10-0410-8

9. "Hurricane Block Grant Funds" means \$3.1 billion in supplemental Community Development Block Grant disaster recovery funds allocated by HUD to the State to respond to the needs of Texans affected by The Hurricanes pursuant to Public Law 110-329.
10. "Hurricane Recovery Funds" means any Round I funds that are reallocated during the Term of this Agreement and Round II funds.
11. "LMI" means persons of low or moderate income as defined by HUD for purposes of the Hurricane Recovery Funds.
12. "LURA" means a land use restriction agreement, being a recorded agreement setting forth, among other things, income and rent restrictions applicable to units of affordable rental housing and constituting, with respect to the specific affordable rental housing identified therein, a covenant running with the land.
13. "MODs" means methods of distribution, as provided for in HUD's rules governing the CDBG disaster recovery program.
14. "Program" or "Programs" means any program, programs, or project funded by Hurricane Recovery Funds.
15. "Revised Amendment" means the revised amendment to the State's Action Plan describing the use of Hurricane Recovery Funds to be prepared by the State pursuant to Section II.B. of this Agreement. The Revised Amendment may be submitted to HUD as a series of partial amendments, and this term may refer to the revised amendment as a whole or in part as context may indicate.
16. "Round I" refers to Hurricane Block Grant Funds made available to the State under its Action Plan for CDBG Disaster Recovery Funds pursuant to notice in the *Federal Register* published by HUD on February 13, 2009.
17. "Round II" refers to Hurricane Block Grant Funds allocated to the State pursuant to notice in the *Federal Register* published by HUD on August 14, 2009.
18. "Recipient" means any entity that receives or administers any Hurricane Recovery Funds. The term does not include TDHCA or TDRA, unless the context clearly indicates otherwise.
19. "State" means the State of Texas.
20. "Term of this Agreement" means the period commencing on the Effective Date and ending on the Expiration Date.

Conciliation Agreement

CASE NAME: Texas Low Income Housing Information Service and Texas Appleseed v. State of Texas

CASE NUMBER: 06-10-0410-8

21. "TDHCA" means the Texas Department of Housing and Community Affairs.

22. "TDRA" means the Texas Department of Rural Affairs.

23. "The Hurricanes" means Hurricanes Dolly and Ike.

Terms used in HUD regulations and not specifically defined herein have the meanings ascribed to them in such HUD regulations.

C. Statement of Facts

Pursuant to Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, Public Law 110-329 (2008), Congress appropriated \$6.5 billion in supplemental CDBG funds, of which HUD allocated \$3.1 billion in funding to respond to the needs of Texans affected by The Hurricanes. Thereafter, HUD published two notices of allocations, waivers, and alternative grant requirements in the *Federal Register*. The State designated TDRA its lead agency for administration of programs funded under P.L. 110-329. On May 14, 2009, HUD issued a general conditional approval of the State's Action Plan for use of Hurricane Block Grant Funds of approximately \$1.3 billion, and supplemental approvals thereof on July 2, 2009, and July 24, 2009.

On September 30, 2009, the State submitted the Amendment describing the proposed use of an additional \$1.7 billion made available under P.L. 110-329. By letter of October 28, 2009, to HUD Secretary Shaun Donovan, Texas Low Income Housing Information Service ("TxLIHIS") and Texas Appleseed lodged objections to the Amendment. On November 10, 2009, HUD informed the State that it had determined the Amendment to be "substantially incomplete," and directed the State to revise and resubmit the Amendment within forty-five (45) days.

On December 1, 2009, Complainant TxLIHIS submitted a Complaint to HUD alleging the State had violated 42 U.S.C. §§3604(a), 3604(b) and 3608 in its administration of certain Hurricane Block Grant Funds. HUD deemed that Complaint officially filed on January 21, 2010. Texas Appleseed requested to be added as a Complainant on February 7, 2010. That Complaint provides the basis for this Conciliation Agreement.

- D. With the approval of this Conciliation Agreement, the Parties commit themselves to affirmatively furthering fair housing for survivors of The Hurricanes in an expeditious manner.

The Parties commit themselves to honor the terms of this Agreement and to work together to obtain HUD approval of this Agreement, a Revised Amendment that will provide for allocation of funds consistent with this Agreement, an Interim AI consistent with the region's needs, the law, and guidance of HUD, and MODs for each COG informed by the Interim AI

and respectful to public input and the dignity of people and communities these funds are intended to assist.

II. TERMS OF AGREEMENT

In approving this Agreement as an acceptable conciliation of the Complaints, HUD is making a finding that the terms and conditions of this Agreement adequately address all issues urged in the Complaints, including, without limitation, the substantive and legal issues. To facilitate the efficient delivery of Hurricane Recovery Funds to eligible Texans affected by The Hurricanes, and without admission of liability by the State, TDHCA, or TDRA with respect to the allegations of the Complaints, TDHCA, TDRA and Complainants commit to the following terms:

A. Analysis of Impediments to Fair Housing

1. **Interim AI.** Within one-hundred-twenty (120) days of HUD's approval of this Agreement, plus such reasonable time as may be necessary for a lawful procurement, TDHCA shall produce for public comment a materially complete draft of an Interim Analysis of Impediments to fair housing limited in scope and application to those areas of Texas in which Hurricane Recovery Funds may be expended ("Interim AI").
 - a. TDHCA acknowledges that the Interim AI must conform to federal requirements. The Interim AI must be drafted by a qualified consultant or organization with experience in the development of AIs.
 - b. The Interim AI shall inform the decisions of TDHCA, TDRA, and Recipients with respect to applicable Hurricane Recovery Funds only and ensure compliance with their obligations to AFFH in the administration of applicable Hurricane Recovery Funds.
 - c. The Interim AI shall provide separately for the identification and analysis of impediments to fair housing in each of the following areas and shall recommend appropriate actions utilizing applicable Hurricane Recovery Funds to overcome the effects of the impediments identified in each area:
 - 1) The geographic area represented by the Houston-Galveston Area Council (hereafter, "H-GAC"). The Interim AI shall assess, among other factors, any fair housing impediments related to:
 - (i) the impact of the hurricane evacuee population within the City of Houston and Harris County; and
 - (ii) rebuilding public, assisted, and affordable housing on Galveston Island that was destroyed by The Hurricanes.

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- 2) The geographic area represented by the South East Texas Regional Planning Commission (hereafter, "SETRPC").
 - 3) The geographic area represented by the Deep East Texas Council of Governments (hereafter, "DETCOG").
 - 4) The geographic area represented by the Lower Rio Grande Valley Development Council (hereafter, "LRGVDC"), specifically including impediments to fair housing faced by farmworkers and residents of colonias.
 - 5) The geographic area represented by the remaining areas eligible as Recipients.
- d. After TDHCA produces the draft Interim AI for public comment, pursuant to Section II.A.1. of this Agreement, the public shall have thirty (30) days, pursuant to applicable law, to provide comments on the draft Interim AI. After the close of the public comment period, TDHCA shall submit the Interim AI to HUD for review, together with TDHCA's written responses to any public comments as part of the submission, and seek confirmation from HUD that the Interim AI complies with federal requirements. TDHCA will timely respond to any questions raised by HUD. TDHCA will copy the Complainants on written responses it provides to HUD in response to HUD's questions under this subparagraph.
 - e. TDHCA shall appoint an advisory committee to advise THDCA on the development of the Interim AI and to assist TDHCA with the evaluation of the Interim AI and associated work products.
 - f. HUD's release of Round II funds will be deemed by TDHCA, TDRA, and the Complainants to constitute confirmation that HUD has found that the Interim AI complies with law and constitutes a lawful basis for releasing such funds.
2. **Application of Interim AI.** TDHCA and TDRA will review the substance and effect of all Programs funded with applicable Hurricane Recovery Funds for consistency with the Interim AI. Such Programs shall be funded and undertaken in a manner that affirmatively furthers fair housing consistent with this Agreement and federal law and regulations. TDHCA and TDRA shall require Recipients to review expenditures of Hurricane Recovery Funds to ensure they will be consistent with the Interim AI that has been developed. In the event of noncompliance by a Recipient with its AFFH obligations (as defined by the Interim AI), TDHCA or TDRA shall impose progressive sanctions, which TDHCA and TDRA shall promulgate by rule, up to and including termination of funding to a non-compliant Recipient.
 3. **Use of Funds and Planning Activities Prior to Production of Interim AI.** For Hurricane Block Grant Funds for which MODs have already been reviewed and

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approved, TDHCA, TDRA, and Recipients may proceed to expend such funds. In order to expedite the provision of Round II funds, TDHCA, TDRA may submit to HUD a Revised Amendment providing for allocation to Recipients of Hurricane Recovery Funds. After the Interim AI has been developed and implemented, TDHCA, TDRA, and each Recipient shall require that their Programs and Program expenditures of Hurricane Recovery Funds are informed by the findings and recommendations of the Interim AI. Before any MOD is finalized, it shall be posted on the applicable agency's website so that it may be reviewed for a period of not less than fifteen (15) days by the public and Complainants.

4. **AFFH Training.** TDHCA and TDRA shall provide mandatory training to Recipients on AFFH and civil rights compliance.
 - a. TDHCA or TDRA, as appropriate, shall promptly provide mandatory training to each Recipient's designee(s) concerning the Recipient's obligations to AFFH and to comply with civil rights certifications and the reporting requirements required by this Agreement.
 - b. Upon HUD's release of Round II funds, TDHCA and TDRA shall conduct additional mandatory training with respect to Hurricane Recovery Funds to review with Recipients the impediments identified in the Interim AI, to provide guidance and assistance on how to use the Interim AI to inform their recovery activities regarding The Hurricanes, to help prepare them to carry out their responsibilities to AFFH, and to prepare them to meet their compliance requirements in administering their Programs in a manner consistent with this Agreement.
 - c. TDHCA and TDRA shall separately approve training curricula for the AFFH training described in Section II.A.4. of this Agreement after a public notice and comment period of at least fifteen (15) days.
5. **Reporting On AFFH.** TDHCA and TDRA, by rule, shall establish procedures to collect data relevant to actions to AFFH for any Programs and shall require each Recipient to collect and report to TDHCA or TDRA, as applicable, on a quarterly basis, data relevant to actions to AFFH and ensure compliance with civil rights certifications. Upon written request by Complainants, TDHCA or TDRA, as applicable, will make available free of charge and within ten business days, data including but not limited to the following (unless such data can not be produced within such ten business days, in which case the applicable agency shall certify that fact in writing to the Complainants, and set a date within a reasonable time when the data will be available):
 - a. For each Program activity requiring a direct application by an individual or a non-institutional entity: the applicant household's income, the household's income as a percentage of area median family income as defined by HUD, the race and ethnicity

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of the head of the household, the household's familial status, and the presence or non-presence of a household member with a disability.

- b. For each non-housing Program activity directly linked to an individual beneficiary: the beneficiary household's income and that household's income as a percentage of area median family income as defined by HUD, the race and ethnicity of the beneficiaries using census or survey data.
- c. For each activity providing housing or housing assistance that is not directly linked to a specific beneficiary: the cost of the housing unit to the applicant and to the occupant, the maximum qualifying household income as a percentage of area median family income as defined by HUD, restrictions regarding the age or familial status of occupants, the presence or non-presence of design or services that make the housing unit accessible to an individual with a disability, and the number of fully accessible units.
- d. For each non-housing activity that is identified as principally benefitting low- and moderate-income persons, a description detailing the methodology used for the determination of the LMI benefit that permits an independent evaluation of that determination, including a detailed geographic description of the households benefited with the census geographies used to make the determination or, if other methodology was utilized to make the determination, a clear and complete description of the methodology and data. This description shall include surveys, survey tabulations, correspondence, sampling methodology, and other material documentation on which TDHCA or TDRA, as applicable, has relied in making its LMI certification.
- e. TDHCA and TDRA, as applicable, shall collect and maintain, until at least the Expiration Date of this Agreement, all final documents listed in Section II.A.5. of this Agreement.
- f. Final Program applications shall be posted on TDHCA's or TDRA's website, or linked to a single website, as appropriate, from the time of award through a period of six months following the applicable Program's closeout.
- g. For purposes of monitoring compliance with this Agreement and applicable law, TDHCA and TDRA agree to provide information to Complainants as follows:
 1. TDCHA and TDRA are each state agencies subject to the Texas Public Information Act, Texas Government Code, Chapter 552 ("Act"). Except as provided herein, nothing in this Agreement shall obligate TDHCA or TDRA to provide any information which it may not lawfully provide or is not required by law to provide. If any information is requested by Complainants that TDHCA or TDRA believes may be excepted from disclosure under the Act, the information

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may not be withheld unless the procedures and requirements of the Act are followed.

2. The Complainants acknowledge that the Act does not require TDRA or TDHCA to create new documents, information or reports to respond to information requests under the Act. Should Complainants request documents, information or reports that do not exist or that TDHCA and TDRA do not possess, TDHCA and TDRA agree to so notify Complainants within the timeframes established under the Act.
3. TDHCA and TDRA shall provide public information requested by Complainants within ten (10) business days of request, unless the applicable agency seeks an opinion from the Attorney General in good faith under the Act, or unless the information can not be produced within such ten business days, in which case the applicable agency shall certify that fact in writing to the Complainants, and set a date within a reasonable time when the information will be available.
4. To the extent Complainants request information that is available in electronic form, TDHCA and TDRA shall provide such information without charge or other fee. TDHCA and TDRA agree to provide such information in the electronic format used by TDHCA or TDRA. TDHCA and TDRA shall, without charge to Complainants, collectively provide Complainants up to 10,000 pages of information that is available only in paper form. When information is kept electronically and in paper form, Complainants have the option to elect the form in which the information that is to be provided.
5. Within thirty (30) days after the Effective Date, and upon written request by the Complainants (which requests shall in no event be more frequent than quarterly during the term of the Agreement), TDHCA and TDRA shall provide Complainants reports containing all data reported in the HUD Disaster Recovery Grant Reporting System with respect to Hurricanes Ike, Dolly and Rita.
6. **Statewide AI.** Within one-hundred-eighty (180) days of HUD's issuance of its forthcoming guidance on the preparation of AIs, TDHCA shall produce for public comment a materially-complete draft of a statewide analysis of fair housing impediments (the "Statewide AI"). Such Statewide AI must be developed by a qualified consultant or organization with experience in the development of AIs. After TDHCA produces the Statewide AI for public comment; the public shall have thirty (30) days, pursuant to applicable law, to provide comments on the Statewide AI. After the close of the public comment period, TDHCA shall submit the Statewide AI to HUD for review, including written responses to any public comments as part of the submission. TDHCA shall seek confirmation that the Statewide AI complies with federal requirements. TDHCA will timely respond to any questions regarding the Statewide AI raised by HUD. TDHCA will copy the Complainants on written

responses it provides to HUD in response to HUD's questions under this subparagraph. TDHCA shall also submit to HUD a new certification on behalf of the State regarding its obligations to AFFH.

B. Allocation of Funds to Affirmatively Further Fair Housing

1. **Action Plan Amendment.** TDRA and TDHCA shall prepare a Revised Amendment and submit it to HUD. TDRA and TDHCA acknowledge that prior to such submission they are responsible for satisfying applicable federal statutes and regulations governing public participation, as well as the provisions for public participation as announced in the February 13, 2009, and August 14, 2009 *Federal Registers*.

After the Revised Amendment is developed by TDRA and TDHCA, TDHCA and TDRA will produce the Revised Amendment for public comment, and the public shall have thirty (30) days, pursuant to applicable law, to provide comments on the Revised Amendment. After the close of the public comment period, TDRA and TDHCA shall submit the Revised Amendment to HUD for review. TDHCA and TDRA shall include written responses to any public comments as part of the submission. TDHCA and TDRA shall submit the Revised Amendment to HUD, seeking confirmation that it complies with federal requirements. TDHCA and TDRA will timely respond to any questions regarding the Revised Amendment raised by HUD. TDHCA and TDRA will copy the Complainants on written responses it provides to HUD in response to HUD's questions under this subparagraph.

Subject to applicable federal requirements for public comment, the Revised Amendment shall include the following:

- a. **Methods of Distribution.** MODs shall be proposed that describe each Recipients' Programs, including a description of the funding levels, eligibility requirements, intended beneficiaries, and maximum and minimum benefit levels. For each Program listed in a MOD, TDRA and TDHCA, as applicable, shall describe how the Program will address identified impediments and AFFH in accordance with the Interim AI. TDHCA and TDRA shall not release Hurricane Recovery Funds for any Program until a MOD as described above is proposed, published for public comment, submitted to the appropriate state agency for review, and thereafter submitted to and approved by HUD.
- b. **LMI Allocation.**
 - i. TDHCA and TDRA shall expend at least 55 percent of Hurricane Block Grant Funds and Program income on Programs to benefit low- and moderate-income persons.

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- ii. TDHCA and TDRA may administer a Program directly if, at any point, in TDHCA's or TDRA's sole determination, there is no acceptable provider capable of serving the needs of low- and moderate-income persons residing in the locality or region in a competent and efficient manner.
- iii. TDHCA and TDRA shall regularly report on their websites or link to a single website, and require regular reporting by Recipients, to ascertain and ensure compliance with the requirement in this Section II.B.1.b.
- c. **Housing Allocation.** TDHCA and TDRA shall expend at least 55 percent of Hurricane Block Grant Funds on housing Programs.
- d. **Recipient Performance.** TDHCA shall require Recipients to adhere to expenditure performance requirements with respect to the applicable Hurricane Recovery Funds used for housing, and to submit to performance evaluations of their expenditure rates every six months during the term of this Agreement. TDHCA's proposed performance standards shall be set at a level of incremental expenditure to reasonably assure that, within a period of no more than eighteen months from the date of the commencement of the Program, each Recipient will have identified sufficient eligible beneficiaries such that the Recipient will be able to provide reasonable assurance that the Recipient will be able to expend all applicable Hurricane Recovery Funds utilized for housing in compliance with TDHCA-established benchmarks. TDHCA will require each Recipient to ensure that expenditure of those committed funds is in compliance with TDHCA-established benchmarks. If a Recipient is unable or unwilling to administer its allocated Hurricane Recovery Funds in compliance with TDHCA's benchmarks, the COG in which the Recipient is located will determine, in a manner acceptable to TDHCA, whether the COG or another eligible provider with demonstrated capacity will assume responsibility for the administration of those Hurricane Recovery Funds for the same purposes and for the benefit of the same beneficiaries. If the COG and TDHCA cannot find a mutually agreeable administrator, TDHCA agrees to administer a Program to carry out those responsibilities.
- e. TDHCA shall provide the proposed expenditure performance requirements for public review and comment fifteen (15) days before they are approved by TDHCA. TDHCA will provide a written response to any public comment.
- f. **Housing Program Guidelines.** TDHCA shall create a task force comprised of representatives of TDHCA and the COGs, that shall in one or more posted public meetings, develop criteria governing all housing Programs to be carried out with Hurricane Recovery Funds. Such recommendations, upon adoption by TDHCA, will direct the available scope of housing activities Recipients may carry out and will be reflected in an amendment. TDHCA must consider these

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recommendations and approve guidelines which shall include and address but not be limited to:

- i. A list of housing Program activities (including appropriate relocation and buyout activities) from which Recipients may select housing Programs that they will offer;
- ii. The cost and benefit criteria for each housing Program;
- iii. The Program participant eligibility and qualification criteria for each housing Program;
- iv. Housing quality standards for housing funded with Hurricane Recovery Funds;
- v. The priority factors that Recipients must consider in administering their overall housing Program, including prioritization for persons at various income levels, persons with special needs, and relocation Programs;
- vi. An evaluation of the income levels of disaster survivors and the establishment of reasonable guidelines to ensure that the housing needs of low-, very low- and extremely low-income households are assisted with housing in no less than the proportion to their relative percentages of the overall populations which suffered housing damage within the community being served by the Program;
- vii. Appropriate outreach and public awareness measures for housing Programs;
- viii. The recommendations will provide and allow for objectively determined regional adjustments for these criteria to reflect differences in the costs of delivery for benefits and the economic profile of local target populations.

2. **Housing Initiatives.** Subject to applicable federal requirements for public comment, TDHCA shall establish and fund from Hurricane Recovery Funds the following housing initiatives as part of its Revised Amendment:

- a. **Affordable Rental Housing Program.** Set asides from the Hurricane Block Grant Funds for affordable rental housing Programs administered by TDHCA, sufficient to ensure that TDHCA will meet the mandate of P.L. 110-329, and addressing multifamily rental housing, single family rental housing, and public housing needs arising from The Hurricanes. Such funds relating to affordable multifamily rental housing and owners of 20 or more single family or duplex private rental housing units constructed, repaired, or reconstructed using Hurricane Recovery Funds will be governed by appropriate use restrictions, to be evidenced by duly-recorded LURAs having terms of ten (10) years. TDHCA

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shall require all owners of affordable multifamily rental housing units and owners of 20 or more single family or duplex private rental housing units receiving assistance under this Program to accept Housing Choice Voucher holders under the same substantive provisions as those in place in the Texas Low Income Housing Tax Credit program established by Internal Revenue Code §42, Texas Government Code, Chapter 2306, and rules and guidelines promulgated by TDHCA relating thereto.

If, and only if, prior to the execution of the first such LURA applicable to an affordable multifamily property or owner of 20 or more single family or duplex private rental properties constructed, repaired, or reconstructed using Hurricane Recovery Funds, HUD has provided TDHCA written confirmation, in form and substance reasonably acceptable to TDHCA, that TDHCA shall have no responsibility to monitor or enforce any such LURA or the ownership and operation of the property to which it relates after ten (10) years from the date such LURA is executed and recorded, a subsequent ten (10) year period shall be included in the LURA, which shall expressly provide that such additional ten (10) year period shall be enforceable under the same substantive provisions as those in place in the Texas Low Income Housing Tax Credit program established by Internal Revenue Code §42, Texas Government Code, Chapter 2306, and rules and guidelines promulgated by TDHCA relating thereto.

- b. **One-For-One Replacement.** From TDHCA's affordable housing set aside out of the Hurricane Recovery Funds, no less than \$50 million shall be available for use in the City of Galveston for the one-for-one replacement of all family and elderly public housing units damaged or destroyed in Hurricane Ike. Of the remaining funds, no less than \$25 million shall be provided for the construction, reconstruction, replacement, or rehabilitation of family and elderly public housing units damaged or destroyed by The Hurricanes, with priority being given to activities which include one-for-one replacement of family and elderly public housing units within a Public Housing Authority jurisdiction, or federally funded farm labor housing.
- c. **Disaster Housing Demonstration Program.** TDHCA shall administer \$6 million in Hurricane Recovery Funds for the disaster housing pilot program required by HB 2450 (81st Legislature, regular session). This funding shall be administered with \$2 million available in each of the following areas Lower Rio Grande Valley Development Council, Harris County, and Galveston County. TDHCA will publish the criteria under which interested parties may compete to administer such pilot projects.
- d. **Title Clearance and Legal Assistance Program.** A title clearance and legal assistance Program funded from Hurricane Recovery Funds at \$500,000.

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- e. **Rebuilding Subsidized Housing.** In furtherance of the objective of restoration of subsidized housing damaged or destroyed by The Hurricanes and to ensure funds are available to address issues identified in the Interim AI, TDHCA shall create a Program , to be administered by the appropriate COG, funded at \$100 million, for the sole benefit of low- and moderate-income persons with unmet housing needs resulting from The Hurricanes, with priority given to addressing issues identified with public housing and affordable rental housing damaged or destroyed by The Hurricanes. Of this amount, \$90 million shall be made available in the Counties of Harris and Galveston, and \$10 million shall be made available in the County of Orange. Such Program shall require:
- i. The one-for-one replacement or rehabilitation of all family and elderly public housing units that were damaged or destroyed as a result of The Hurricanes within the local jurisdictions in a manner that affirmatively furthers fair housing in compliance with the Interim AI. Twenty million dollars shall be reserved specifically to support the one-for-one replacement of family and elderly public housing damaged or destroyed by The Hurricanes in the City of Galveston. Once all public housing units damaged or destroyed by The Hurricanes in Galveston have been addressed the reservation shall be released for other rental housing activities under this section.
 - ii. The rehabilitation, reconstruction or construction of single-family and multi-family rental housing units damaged or destroyed by The Hurricanes within the jurisdictions or surrounding regions in a manner that affirmatively furthers fair housing in compliance with the Interim AI in sufficient numbers and at appropriate rents to affordably house an equal number of Housing Choice Voucher holders as were living within each jurisdiction at the time of The Hurricanes.
 - 1) TDHCA will work with units of local government in the areas where applicable Hurricane Recovery Funds are to be administered requiring that zoning and permitting in connection with the use of Hurricane Recovery Funds are addressed in a manner which is consistent with AFFH and other applicable laws.
 - 2) TDHCA shall require all Recipients for multifamily and owners of 20 or more units of single family or duplex private rental housing to accept Housing Choice Voucher holders under the same substantive provisions as those in place in the Texas Low Income Housing Tax Credit program established by Internal Revenue Code §42, Texas Government Code, Chapter 2306, and rules and guidelines promulgated by TDHCA relating thereto, for a period of ten (10) years. Such provisions shall be evidenced by duly-recorded LURAs. Furthermore, such housing shall be subject to the same use restrictions as those described in Section II.B.2.a.

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- f. **Impacted Area Buyout Criteria.** TDHCA shall set aside \$18 million of Hurricane Recovery Funds to fund relocation and buyout assistance for low and moderate income victims of The Hurricanes living in FEMA designated "High Risk Areas" and areas of high minority and poverty concentration as approved by TDHCA. These activities will be administered by the COGs under policies developed by TDHCA, and will use relocation counselors and licensed real-estate professionals.
- g. **Moving To Opportunity Program.** TDHCA and Complainants shall work together to prepare a request to HUD for an allocation of additional Housing Choice Vouchers, or assistance in developing alternative tenant-based rental assistance for eligible households. Contingent on securing federal appropriations to fully fund Housing Choice Vouchers or equivalent tenant-based rental assistance to assist up to 2,500 eligible households, TDHCA shall propose to establish a Moving to Opportunity Program, funded at \$1 million per year for five years and operated by Public Housing Authorities, to permit eligible renter households in areas affected by The Hurricanes to locate alternative rental housing in higher opportunity areas. Such funds shall be expended to provide relocation counseling, security and utility deposits, moving expenses, and reasonable Program administrative expenses under criteria developed by TDHCA.
3. **Tax Issues.** In addition to other requirements described in this Agreement, TDHCA shall prohibit the denial of assistance to applicants who are elderly or disabled based upon an election to defer property tax payments as permitted under Texas law, or to applicants who have property tax debt so long as the applicant has entered or agrees to enter into a plan with the appropriate local taxing authority to pay such taxes. TDHCA shall require contractors for the State, COGs, and Recipients being paid from Hurricane Recovery Funds to properly state these criteria in all public notices and media communications regarding their Programs, and to use a TDHCA-approved disclosure form to inform potential beneficiaries and applicants of their right to enter into a payment plan or defer taxes as provided in Texas law. This disclosure will be in clear language, understandable to a layperson. TDHCA shall approve the proposed disclosure and instructions after a 15 day public comment period.
4. **Ownership.** TDHCA shall provide Recipients with clear instructions concerning the standards that must be used to establish property ownership as provided under Texas Government Code §2306.188, and prohibit Recipients' use of standards that are more onerous than those in Texas Government Code §2306.188. TDHCA shall approve the proposed instructions after a fifteen (15) day public comment period.
5. **Access to Housing for Persons with Disabilities.** TDHCA shall establish clear standards under which all housing constructed or rehabilitated with Hurricane Recovery Funds shall be designed to be visitable by people with disabilities.

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- a. TDHCA shall create a task force, appointed in consultation with Complainants, to develop a practical policy for the waiver of requirements allowed under Texas Government Code §2306.514(b) related to new construction and rehabilitation of properties using Hurricane Recovery Funds. No such waiver would be granted where the property being constructed was being built specifically for an applicant with special needs. TDHCA shall provide full consideration to Hurricane Recovery Funds applications for LMI households with special needs and will give such applications funding priority.
 - b. Visitability standards set forth in Texas Government Code §2306.514(b) shall apply to all housing constructed with Hurricane Recovery Funds except if a waiver is granted under Section II.B.5.a. of this Agreement.
 - c. TDHCA and TDRA shall establish rules, procedures and funding guidelines requiring their contractors and Recipients to (i) adequately assess the needs of survivors of The Hurricanes with disabilities for funding to be carried out with Hurricane Recovery Funds and (ii) assign the highest funding priority to Programs serving low and moderate income households within this population.
6. **Eligibility.** In the administration of Hurricane Recovery Funds, TDHCA shall prohibit COGs and Recipients from refusing housing assistance to applicants solely on the basis that the applicants were denied assistance by FEMA. TDHCA shall include in each Hurricane Recovery Funds grant contract provisions to require the Recipient to accept reasonable alternative proof of damage from The Hurricanes in the event a homeowner has been denied FEMA assistance. TDHCA will promulgate clear standards to be used for establishing whether an applicant's home is eligible for housing benefits out of Hurricane Recovery Funds because of damage related to The Hurricanes and shall require all COGs and Recipients to adhere to these standards. TDHCA shall issue proposed instructions for compliance with this provision after a 15 day public comment period.

III. REPORTING

TDHCA and TDRA shall increase the accountability and transparency for Hurricane Recovery Funds by posting on their respective websites, or linking to a single website, the HUD-approved Interim AI, Revised Amendment, and Statewide AI, all final MODs, all final Program applications, all project status and fund expenditure reports provided to HUD, and reporting data required in Sections II.A.5 and II.B.1.b.iii of this Agreement.

- A. TDHCA and TDRA shall require each Recipient to submit to TDHCA or TDRA, as applicable, all notices of any public hearings or requests for public comment the Recipient may have that relates to the administration of Hurricane Recovery Funds that are provided to

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such Recipient. TDHCA and TDRA agree to post on their respective websites, or link to a single website, all such notices that TDRA or TDHCA, as applicable, receives from any such Recipient. Such postings will not fulfill the Recipients' responsibility under Chapter 551 of the Texas Government Code.

- B. Assistance with Document Location. If TDHCA or TDRA receives a request for information under the Act that the agency does not possess, then in response to the request for information, the applicable agency will, within ten business days, provide the Complainants with a list of governmental bodies that the agency, reasonably and in good faith, believes may have the information.
- C. In the event of noncompliance by a Recipient with the applicable terms of this Agreement or with federal law or regulation governing the administration of Hurricane Recovery Funds, TDHCA and TDRA shall by rule provide for the imposition of progressive sanctions, consistent with the requirements of applicable state and federal law, up to and including a termination of funds to that non-compliant Recipient.

IV. OTHER

A. Withdrawal and Dismissal of Complaints

Upon the Effective Date of this Agreement, the Complaints will be deemed to have been withdrawn and dismissed without need of any further action by any party with the express understanding that neither such Complaints nor any issue or allegation urged in either such Complaints may be re-filed, in whole or in part by, on behalf of or at the request of any Complainant.

B. Miscellaneous Terms

- 1. **Notice.** If any legal notice is provided concerning this Agreement, notice shall be given at the following:

For TxLIHIS:

John Henneberger, Co-Director
Texas Low Income Housing Information Service
508 Powell Street
Austin, Texas 78703-5122

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For Texas Appleseed:

M. Madison Sloan, Staff Attorney
Texas Appleseed
1609 Shoal Creek, Suite 201
Austin, Texas 78701
msloan@texasappleseed.net

For TDRA:

Charles Stone
Executive Director
Texas Department of Rural Affairs
P. O. Box 12877
Austin, Texas 78711
charlie.stone@tdra.state.tx.us

For TDHCA:

Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, Texas 78711
michael.gerber@tdhca.state.tx.us

Notice shall be sent either electronically or, in compliance with the "mailbox" rule, when sent first class, return receipt required.

2. **Venue.** The parties, and by approving this Agreement HUD, agree that venue for any suit brought by the Department of Justice to enforce the terms of this Agreement should be brought in the federal district court for the Southern, Eastern, or Western District of Texas in which one or more of the defendants in such suit resides or has its principle place of business. Except as otherwise provided in this paragraph, any action to enforce the terms of this Agreement shall be brought in a State District Court for Travis County, Texas.
3. **Headings.** Headings are included solely for the ease of locating subjects and shall not be considered for purposes of interpreting this Agreement, nor do they enlarge or limit any term of this Agreement.
4. **Plural and Gender.** Every singular word may be read as a plural and vice versa. Any reference to gender herein may be read as either masculine, feminine, or neuter and should not be interpreted as a limitation.

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5. **Remedies for Breach.** Each party agrees that, in the event of a breach of this Agreement, the harmed party is limited to seeking injunctive relief to compel compliance with this Agreement.
6. **Use of Funds.** Notwithstanding anything contained in this Agreement: (a) the State represents that state law does not prohibit TDHCA and TDRA from entering into this Agreement and complying with its terms; (b) this Agreement applies solely to Hurricane Block Grant Funds and does not and shall not be construed to apply to any other federal funds or to any State funds; (c) State funds may not be used in a manner inconsistent with Texas law, including without limitation, the General Appropriations Act and the Texas Constitution; and, (d) this Agreement shall not control or compel appropriation of any State funds.
7. **Severability.** If any section of this Agreement is determined by a court to be in violation of the laws of the State, federal law or regulation, or against public policy, the remainder of the Agreement shall continue to operate in full force.
8. **Entire Agreement.** This Agreement contains the entire Agreement and understanding between the parties. With respect to this Agreement, no representations, promises, agreements or understandings, written or oral, not herein contained shall be valid or binding unless the same is in writing and signed by the party intended to be bound.
9. **Construction.** This Agreement is the result of conciliation negotiations undertaken in good faith and in that regard the rule of contractual construction that an ambiguous term shall be construed against the drafter shall not be employed.
10. **Review by Counsel.** Each of the Parties represents and warrants to the others that it has had this Agreement reviewed by counsel prior to execution.
11. **Notice and Cure.** An action by Complainants or either of them for breach of this Agreement may not be commenced until and unless TDHCA or TDRA or both, as appropriate, have been given written notice specifying the basis for the assertion of a material breach, a reasonable opportunity to cure, and have failed to cure or take steps to cure.
12. **Force Majeure.** "Force Majeure event" means an event beyond the control of the State, TDHCA, or TDRA which prevents or delays compliance with one or more of their obligations under this Agreement, such events including but not limited to the following:
 - a. an act of God (such as, but not limited to, hurricanes, tornadoes, and floods);
 - b. war, hostilities (whether war be declared or not), invasion, or embargo;

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- c. rebellion, revolution, insurrection, or military or usurped power, or civil war;
- d. contamination by radioactivity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component of such assembly;
- e. contamination by any other hazardous materials or substance;
- f. riot, commotion, strikes, work stoppages or slowdowns, lock outs or disorder, or
- g. acts or threats of terrorism.

Upon the occurrence of a force majeure event a party to this Agreement shall not be considered in breach of this Agreement for failure to perform any obligation hereunder to the extent that such performance is prevented by that force majeure event. Upon occurrence of a force majeure event the party or parties whose performance is affected shall, as promptly as reasonably possible, provide notice of the facts and circumstances to the other parties hereto. The parties will work in good faith to resume performance as soon as is reasonably possible once such force majeure event no longer impairs or affects their ability to do so.

C. Effective Date and Expiration Date

The Effective Date of this Agreement is the last date on which it is signed by each signatory for the State and each Complainant, and approved by each signatory for the U.S. Department of Housing and Urban Development. If this Agreement, the Revised Amendment, the Interim AI, or the ultimate release of funds based on approved MODS—as each may be amended by agreement of the Parties or by agreement between The State and HUD—are not approved by HUD, this Agreement shall be null and void *ab initio* without need of any further action by any party even if it has been executed by each Complainant, TDHCA and TDRA. The Expiration Date of this Agreement is six (6) months following the date of the close out of the Hurricane Block Grant Funds grant.

D. Relief for Complainants

Complainants seek no monetary award of damages. They are, however, entitled to payment of actual and reasonable attorneys' fees and costs in the amount of \$120,000.

E. Monitoring

Complainants and TDHCA and TDRA agree that HUD shall monitor compliance with the terms and conditions specified in this Agreement. As part of such monitoring, HUD may, upon reasonable notice and at reasonable times, inspect TDHCA's and TDRA's records, examine witnesses and copy pertinent records. TDHCA and TDRA agree to provide their

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cooperation in any monitoring review undertaken by HUD to ensure compliance with this Agreement.

F. Reporting and Record Keeping

All required certifications and documentation of compliance with the terms of this Agreement shall be submitted to:

U.S. Department of Housing and Urban Development
Fair Housing Enforcement Center
ATTENTION: CONCILIATION REVIEW
801 Cherry Street, Unit #45, Suite 2500
Fort Worth, Texas 76102

G. Consequences of Breach


The parties acknowledge that in the event of an uncured breach of this Agreement, 42 USC §3610(c) will apply.

H. Signatures

This Agreement is being signed by TDRA and TDHCA by individuals acting in their official capacity. They have the requisite authority to sign this Agreement on behalf of their respective agencies. These other signatures to this Agreement attest to the approval and acceptance of this Conciliation Agreement by the signatories.

Complainants:

By:  Date: April 9, 2010
John Henneberger, Co-Director, TxLIHIS

By:  Date: April 9, 2010
M. Madison Sloan, Staff Attorney,
Texas Appleseed


By:  Date: April 9, 2010
Michael Allen, Esq.,
Counsel for TxLIHIS and Texas Appleseed

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The Texas Department of Housing and Community Affairs:

By:  Date: April 12, 2010

Name: MICHAEL GERBER

Title: EXECUTIVE DIRECTOR

The Texas Department of Rural Affairs:

By:  Date: April 14, 2010

Name: Jerry T. Walker

Title: Deputy Executive Director

RECOMMEND APPROVAL OF THIS AGREEMENT:

Name _____ Date _____
Investigator
Enforcement Branch
Office of Fair Housing and Equal Opportunity

Name _____ Date _____
Branch Chief
Enforcement Branch
Office of Fair Housing and Equal Opportunity

Name _____ Date _____
Director
Program Center
Office of Fair Housing and Equal Opportunity

Name _____ Date _____
Director
Office of Fair Housing and Equal Opportunity

Conciliation Agreement

CASE NAME: Texas Low Income Housing Information Service and Texas Appleseed v. State of Texas

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John Trasvifia

Date

Assistant Secretary

Office of Fair Housing and Equal Opportunity

APPROVED:


Assistant Secretary for Fair Housing and Equal Opportunity
on behalf of the United States Department of Housing and
Urban Development

Date

Governor's
Commission for
Disaster
Recovery and
Renewal

No written
testimony
submitted
at this time.

MEMORANDUM

TO: CHAIRMAN OGDEN AND MEMBERS, SENATE FINANCE COMMITTEE
FROM: ROBERT ECKELS 
SUBJECT: HURRICANE RECOVERY
DATE: 4/28/2010

IKE RECOVERY OBSERVATIONS

Hurricane Ike was the most damaging storm ever to strike Texas. Governor Rick Perry appointed the Governor's Commission on Disaster Recovery and Renewal in the wake of Hurricane Ike and the four storms that placed, for the first time, the entire Texas gulf coast under a disaster declaration in 2008. The commission conducted formal hearings and less formal meetings with community groups and officials throughout the coastal region. That report has previously been forwarded to the Senate. Many of the recommendations were accommodated in the 2009 legislative session and others have been acted upon by the appropriate state agencies and in some cases, federal agencies. My comments today reflect the work of that commission as well as personal observations from years of practice and response to disasters as County Judge of Harris County.

The challenges of a disaster on the scale of a Hurricane Ike evolve over time.

Everyone's immediate concern is protecting the lives and property of Texans in harm's way. In this effort, the lessons of Hurricanes Katrina and Rita were taken to heart. The evacuation worked much more smoothly and the Texas DPS Division of Emergency Management (DEM) and other state and local forces did an excellent job of moving folks to shelters and pulling several thousand souls who did not get the word or who were late to evacuate from the surge zones to safety. Over 3,500 Texans owe their lives to this effort.

Regional shelters were set up across the state; many in your districts. The evacuees knew where they were going and the shelters knew who was coming. Special needs shelters could accommodate special needs. Local receiving communities did an outstanding job of accommodating evacuees and they each deserve our heartfelt thanks and recognition for their effort.

One observation from both Hurricane Rita and Hurricane Ike as well as of other storms is that special needs evacuees offer unique challenges and high transport costs. The shorter the distance to move special needs evacuees to safety, the better the outcome. I encourage you to support the DEM as they work with local communities to develop a plan to substantially reduce evacuation costs, simplify evacuation logistics and reduce stress on a more fragile population.

After the storm passes, our attention turns to the immediate recovery.

Ike was a storm like no other to hit our coast and combined with the other storms, it taxed our system of response. Chief Colley and the Texas Team advanced cash from FEMA to begin debris removal and clean up well before any paperwork began to work through the process. This is a

common practice recognizing that the FEMA process and the Stafford Act are designed to accommodate a “State Centric” response and in Texas we generally follow a State Supported “Local Centric” response relying heavily on County Judges and Mayors in local communities. In a county like Harris or city like Houston, accommodations can be made to pay contractors while waiting for reimbursement from FEMA. But in smaller jurisdictions, delay or a match requirement could mean no help at all as the budget simply cannot accommodate a match or “float” an invoice until they are reimbursed by FEMA. The Chief is able to deal with these individual issues as they come up and he will advance partial funds based on early estimates.

The sheer volume of claims caused some early delays and you addressed that issue with new positions to build up a core competency within the office to be able to more quickly turn around requests in most disasters.

You also added the capacity for the DEM to add reserves that can be called up as the volume of claims rise as scale of disaster grows.

Stand by contracts for assistance to the state and local jurisdictions with Public Assistance / Project Worksheets as well as Audits will be available for filling the holes when major events like Hurricane Ike strike.

Finally, you recognized the inability of some smaller jurisdictions that are hit particularly hard to meet the required match and provided some state funds to allow us to pull down the 90% and 75% federal match from FEMA.

Texas is capable of managing the Stafford Act and, while it is not in the purview of this committee, the process would be streamlined, money and help would flow much more quickly and Texans and America would be better served if FEMA were to turn the program over to the state, with sufficient audit and monitoring of the effort, and allow Texas to do what it does best on the Public Assistance / Public Worksheet programs.

On immediate needs that fall outside of any single jurisdiction, there needs to be a means to draw funds outside of regional allocations. A prime example is the McFadden Marsh in Jefferson County where Hurricane Ike eroded a barrier island/sand bar and saltwater intrusion is destroying tens of thousands of acres of marshland. This will lead to a worse impact to the coast in the next storm and the loss of valuable marshland for marine life. The solution is there and relatively easy to implement. What is missing is about \$60 million to do the job.

The six counties on the upper Texas Coast, Jefferson, Orange, Galveston, Brazoria, Chambers and Harris have come together to create a local government corporation, The Gulf Coast Community Protection and Recovery District, to study the surge of Hurricane Ike and offer solutions to protect the lives and property of residents of the coast. With over \$1 billion in damages to UTMB alone and untold environmental damage to the bay and estuaries, a proactive creative approach like that of Texans after the Galveston Storm of 1900, using modern storm and surge data and environmental studies, could offer a solution that protects homes, industry, strategic national assets and the environment of Galveston Bay and the upper Texas Coast. The district is going into the study with an open agenda to look at ideas ranging from building standards and individual facility protection to regional infrastructure projects. They will be seeking HUD funds for this study.

Shelter housing has traditionally been apartments or hotels where available in mostly urban areas and FEMA trailers. Trailer and immediate shelter needs are more closely related to the work of the DEM, while longer term replacement housing and repairs fit more closely with the mission of the Texas' Housing Agency. Those agencies are now working together to allow each to do what it does best.

As the state moves from the FEMA response model to HUD funding for longer term recovery efforts, different issues arise.

One of the challenges you have heard about frequently is the damage estimate model used by the state and FEMA. These models differed this year and the solution would seem to develop a state model that FEMA will approve so that as both FEMA disaster recovery funds flow and HUD funds follow, everyone is working off the same numbers. The estimates need to be completed within days, not months as is too often the case. The Harris County Housing and Community Development Authority demonstrated such a system where hundreds of thousands of homes and businesses were inspected in a matter of days with a high confidence of actual damages. They have demonstrated the system in most coastal counties and in other states. Such a system should be developed statewide. This could help eliminate issues which came up this year as a new administration took a different look at our state disaster damage estimates that were based on a formula that was more complicated than most folks could understand.

Local Councils of Governments are capable of planning for distribution of funds within their regions based on the damage of individual storms.

The scale of the disasters of 2008 challenged the agencies involved. Unlike DEM with FEMA funds which is accustomed to a quick response and understands the need to get support and cash into affected communities, HUD funding seems to be much more "process" driven, which may be required by HUD, but which could surely be expedited. Additionally, the change in administration in Washington changed the rules for the state in mid course as new management at HUD had new priorities and expectations.

The newer HUD requirements for housing and percentage impact to low to moderate income areas will complicate the longer term recovery efforts, but the appropriate state agencies are capable of making it work as directed by HUD.

The Governor should be given broad authority for the distribution of all funds, particularly for projects that are of significant environmental impact like the McFadden Marsh or which transcend a single region like the surge study and solutions which may emerge from the Gulf Coast Community Protection and Recovery District. Similar issues of river flooding impact the Rio Grande Valley and much of the state has no reliable surge or flood elevation maps as this is normally a the type of project which is locally sponsored.

HUD funds should be considered as critical for recovery as the FEMA funds and the legislature should commit the resources, both process and funding, to help move these funds more quickly to the communities which need them.

Some private insurance issues remain and the issue of flood and windstorm insurance conflict is unresolved. The Commission recommended that a program be coordinated between the Federal

Flood Insurance Program and the Texas Windstorm Pool to make it easier for Texans who lose their homes to a hurricane to get the protection they thought they paid for when they bought insurance.

We noted as well much confusion in the Texas Windstorm Pool claims offices as different adjusters would give different answers to coverage questions.

In the end, every storm has stories of heroes and lessons to be learned. The 2008 hurricane season is no exception. Lessons learned have been applied and with the support of your committee last session, Texas is better prepared for the 2010 hurricane season than at any time in its history.

I look forward to working with you as you move forward to help the agencies of the state provide better service to Texans and the communities in which they live.

Thank You.