

St. Johns County Community Development Block Grant — Disaster Recovery Buyout Program Policies and Procedures

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PURPOSE

The purpose of the St. Johns County Community Development Block Grant (CDBG) Voluntary Property Acquisition Buyout Program is to assist property owners with relocating their homes outside the threat of flooding. In order to be eligible for assistance through the Buyout Program, Applicants must own property that (1) is located in a floodway or floodplain, and (2) that sustained substantial damage during the Hurricane Matthew storm event that took place on October 7, 2016.

St. Johns County will provide the Buyout Program to eligible Applicants who own homes in areas prone to flooding events, where a site inspection has determined that elevation of the home would not substantially mitigate the threat of a future flooding. St. Johns County will purchase properties through a voluntary acquisition process. The maximum sales price paid by St. Johns County is an amount not to exceed the pre-flood Fair Market Value (FMV) for the land and structure. Properties purchased by the County through the Buyout Program will be deed-restricted to remain green space in perpetuity. The goal of the program is to acquire contiguous properties to be used for open space, recreational, natural floodplain functions, other ecosystem restoration, or wetlands management practices.

The Buyout Program is voluntary; therefore, owner occupants are not eligible to make claims under the Uniform Relocation Assistance (URA) and Real Property Acquisition Policies Act. Tenant occupants who are occupying the home at the time of the application for the Buyout Program are entitled to assistance in accordance with URA. All awards are subject to the Robert T. Stafford Act, requiring that all funds used for disaster-related purpose must be deducted as a duplication of benefit.

VERSION HISTORY

Version	Date	Page	Description
#1	01/31/2019	NA	NA
#2	09/26/2019	NA	NA
#3			

VERSION POLICY

Version history is tracked in the table above, with notes regarding version changes. The date of each publication is also tracked in this table. The first version of this document is 1.0.

Substantive changes within this document that reflect a policy change will result in the issuance of a new version 2.0, an increase in the primary version number. Future policy changes will result in additional revision and issuance of a new primary version number.

Non-substantive changes within this document that do not affect the interpretation or applicability of the policy (such as minor editing or clarification of existing policy) will be included in minor version updates denoted by a sequential number increase after the primary version number. Such changes would result in a version number such as 2.1, 2.2, etc.

POLICY CHANGE CONTROL

Policy review and changes for the St. Johns County Appeals Process Policies and Procedures are considered through a change control process.

1. When policy clarifications, additions, or deletions are needed to more precisely define the rules by which the Appeals Process for the Homeowner Repair, Elevation, and Reconstruction and the Buyout Programs will operate, Program staff will discuss potential changes with the Program and Policy Review Committee (Review Committee). The Review Committee will determine whether the change is a **policy change** or a **process change**.

The Review Committee includes the following representatives:

- Housing Program Supervisor
 - CDBG-DR Grant Administrator (who will be the Vice Chair)
 - CDBG-DR Project Specialist.
2. Policy changes require review and determination by the Review Committee. The Review Committee will discuss the policy change at an internal committee meeting. The Review Committee will approve the change, deny the change, or defer action on the request.
 - a. If the change is approved, the Review Committee will communicate its decision to the Program Manager. The Program Manager will disseminate the new policy in a communication via email to all Program staff and instruct the Policy Analyst/Planner, or other designee, to reflect the change in the next revision to written policies and procedures.
 - b. If the change is denied, no further action is taken.
 - c. If a change is deferred, the Review Committee will request additional supporting information as necessary and place the item on the agenda for consideration at the next meeting

The Review Committee meets biweekly, as needed, to consider all pending requests but may meet as frequently as necessary to consider critical policy decisions.

The Review Committee will provide recommendations to the Chair (Disaster Recovery Director) for final approval. The Review Committee has authority to review and approve policy changes, render decisions on individual case appeals, and review waiver requests to the existing program cap to be submitted to the Department of Economic Opportunity (DEO) for review and consideration.

DEFINITIONS

- **CDBG** – Community Development Block Grant.

- **100-Year Flood Plain** – The geographical area defined by the Federal Emergency Management Agency (FEMA) as having a one percent chance of being inundated by a flooding event in any given year.
- **500-Year Flood Plain** – The geographical area defined by FEMA as having a 0.2 percent chance of being inundated by a flooding event in any given year.
- **Pre-Flood Fair Market Value** – The land and dwelling value for parcels, as determined by each County, prior to the disaster.
- **Eligible Receipts** – Proof of payment for items that are strictly for rebuilding the disaster affected structure. Receipts must consist of permanent fixtures only such as wood panels, drywall, paint, carpet, etc.
- **Ineligible Receipts** – Repairs that are completed on detached buildings such as garages or sheds. Personal items such as food and clothing, gasoline, tools, and equipment are ineligible receipts as well.
- **Eligible Property** – A property that is located in designated areas or is located outside of the designated area and is substantially damaged/a health and safety risk.
- **Designated Area** – The land determined by the State that is eligible for the Buyout Program.
- **Low-Moderate Income** – A household whose income is at or below 80% of the local area median income.
- **County** – A city or a county that has applied for and been awarded with a CDBG buyout contract.

NATIONAL OBJECTIVES

The Buyout Program will meet one of two National Objectives.

- **L/M Income Housing (Direct Benefit)** – If the household to be assisted is L/M Income and is occupying replacement housing.
- **L/M Income Area Benefit** – If the final use of the land is available for the use of an L/M Income area.

DIRECT BENEFIT

Owners interested in the Buyout Program will be required to submit a registration through the Restore St. Johns Intake Center. The registration includes self-reporting information on household size and income to be used as part of a preliminary review for eligibility. Applicants that are within the low-moderate household income limits will be invited to submit an application through the mailing of a Registration Approval Letter. An application interview will be scheduled to verify information. As part of the application process, the Applicant provides documentation of household income. Restore St. Johns staff verifies income and whether the Applicant meets L/M Income requirements. The Applicant's national objective is the same for all activities associated with the Applicant's parcel (acquisition, clearance and demo, relocation assistance).

Buyout files will also include documentation on the replacement housing that the assisted household is occupying, if applicable for any tenant occupied unit, for all cases where the participant receives the replacement housing award. Documentation will

include the information on the current address of the replacement housing to which the household relocated.

Activity Types in DRGR		National Objective: L/M Income Housing Direct
Acquisition-Buyout of Residential Property		X X
Clearance and Demolition		X
Relocation Payment and Assistance		X

L/M INCOME AREA BENEFIT

A County may utilize the national objective of L/M Income Area in addition to a direct benefit. A County may purchase commercial real estate, and the final use of the commercial property will be available as green space to benefit a residential L/M Income Area.

- **L/M Income Area** – (The area will be maintained as green space and the residential service area which will benefit from the green space is LMI. Activity Type: Acquisition of nonresidential property.
- **L/M Income Housing Direct** – (If any other Applicants are L/M and located outside of the residential service area). Activity Type: Acquisition of residential property.

Activity Types in DRGR	National Objective: L/M Income Area
Acquisition-buyout of residential property	X
Clearance and demolition	X
Relocation payment and assistance	X

ENVIRONMENTAL REQUIREMENTS FOR CDBG FUNDING

It is required that all approved Applicants for the Buyout Program follow all CDBG environmental regulations prior to receiving a release of funds. Additional information on CDBG environmental regulations can be found in the 24 CFR Part 58.

ELIGIBILITY REQUIREMENTS OF PROPOSED BUYOUT PROPERTY/OWNER

To be considered an eligible property for the Buyout Program, the buyout property must satisfy one or more of the three following requirements:

- The property is located in the designated areas; or
- The property is located outside of the designated area and satisfies one of the following requirements:

- The property has sustained major damage and the cost to repair is estimated at more than 51% of the pre-storm FMV of the damaged structure; or
- The property is considered a health/safety risk.

Eligible property types are:

- Single family residences of 1-4 units (both owner occupied and rentals)
- Vacant lots

ACQUISITION AWARD DETERMINATION

The methodology used to determine the FMV of a property is a decision that is made at the local level. St. Johns County will obtain a certified appraisal to determine the pre-disaster FMV of the property.

Each appraisal report will undergo a review appraisal by an independent appraisal contractor to ensure the report contains all the required data and the value determined is a logical conclusion based upon the information available. The review appraisal will be procured and paid for by St. Johns County.

BUYOUT APPLICANTS WHO OWNED THE PROPERTY PRIOR TO THE DISASTER

Owners receive an offer to purchase the property based on the pre-disaster FMV of the property minus any duplication of benefits documented.

DUPLICATION OF BENEFITS PROCESS

The program is required to conduct a duplication of benefits (DOB) check for each eligible property (as provided by the Robert T. Stafford Act) prior to providing the funding necessary to acquire the property. Restore St. Johns County staff will conduct the review of DOB to ensure that any assistance provided to the seller to ensure that any implication of a DOB has been addressed. In accordance with the guidance provided by Federal Register Volume 81, No. 224, dated November 21, 2016, the County will offer the pre-disaster value, as determined by a certified appraisal conducted at the expense of the County, which may constitute an amount higher than the FMV. Any amount paid to the seller over the FMV will be considered assistance to the seller and is subject to the duplication of benefit calculation.

Sources of DOB compensation include sources of funding assistance provided for structural damage and loss related to the disaster. The following sources are deducted from the award amount for the property:

- FEMA payments for structural damage
- U.S. Department of Agriculture (USDA) loans and/or Small Business Administration (SBA) loans
- National Flood Insurance Program (NFIP) Insurance Payments
- Private insurance: All private insurance settlement amounts for loss to structures are considered in the award calculation. Private insurance payments for contents or other expenses are not considered.

The Case Manager will collect the source documentation at the time of the application interview and calculate the amount of assistance that could constitute a DOB. This information will then be reviewed after the appraisal has been completed, and a DOB analysis will be conducted and processed for approval prior to any assistance being provided to the seller.

Tax adjustments resulting from filings related to losses to the rental property are not considered DOB and do not affect awards.

SUBROGATION

All duplicative funding received must be remitted to the Program, regardless of when it is received. The applicant will be required to enter into a Subrogation/Assignment instrument upon acceptance of the Program's offer to purchase, to be signed at time of the closing, which requires applicant to return duplicative assistance received after the transfer of property ownership has been completed. By accepting the Program's offer to purchase the property, applicants agree to remit any duplicative funds to the Program, whenever received. A copy of the Program's subrogation agreement can be found in Appendix C.

The Program will develop procedures for recovering funds subject to recapture.

STAFFORD ACT POLICY

Section 414 of the Robert T. Stafford Act, 42 USC 5181 provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the [Uniform Act] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such [Uniform Act]."

49 CFR 24.403(d) reflects this 414 requirement. That section provides that "No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations for a reason beyond this or her control, including: (1) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President."

Also, *Section 24.2(a)(15)(iv) Initiation of negotiations (Tenants.)* states, If a tenant is not readily accessible, as a result of a disaster or emergency, the Agency must make a good faith effort to provide these notifications and document its efforts in writing.

The Section 414 references only replacement housing payments, therefore nonresidential occupants are not eligible under this provision. To comply with Section 414 provisions, Restore St. Johns staff will County identify if any properties proposed for acquisition were tenant-occupied as of the date of the disaster, or at the time of application to the Buyout Program, prior to making a written purchase offer.

Restore St. Johns staff County will document reasonable efforts to locate such tenants for rental properties under contract/negotiation where title has not already been transferred to the City/County. Upon location of the tenants, notifications will be made in accordance with URA requirements, including: The City/County proceed with closings;

however, property files must clearly document efforts to locate tenants for these properties. Any person who makes a claim for relocation assistance under Section 414 must receive reasonable consideration of the merits of their eligibility.

For acquisitions, where Section 414 of the Stafford Act applies to activities subject to the URA, the County will take reasonable steps to identify current occupants of proposed sites as well as those who were in occupancy as of the date of the disaster. Per U.S. Department of Housing and Urban Development (HUD) Handbook 1378, efforts to locate former occupants may include notice in a local newspaper, posting notice in project locations, checking post office records, and various other means reasonably available to the County.

REPLACEMENT HOUSING AWARD DETERMINATION

Because of the voluntary nature of acquisition, property owners are not eligible for assistance under the Uniform Relocation Assistance (URA) and Real Property Acquisition Policies Act. However, displaced tenants (occupants present at the date of the disaster and/or “initiation of negotiations”) are entitled to assistance under the URA. Proper steps must be followed to comply with URA.

GUIDANCE ON PROPERTY USE/DISPOSITION

Qualifying an acquisition activity under one of the CDBG National Objectives depends entirely on the use of the acquired real property following its acquisition. A preliminary determination of compliance may be based on the planned use. The final determination must be based on the actual use of the property, excluding any short-term, temporary use. Where the acquisition is for the purpose of clearance that will eliminate specific conditions of blight or physical decay, the clearance activity may be considered the actual use of the property. However, any subsequent use or disposition of the cleared property must be treated as a “change of use,” under 24 CFR 570.489(j), as applicable.

If property is to be acquired for a general purpose, such as housing or economic development, and the actual specific project is not yet identified, the grant recipient must document the general use it intends for the property and the national objective it expects to meet. The County must also make a written commitment to use the property only for a specific project under that general use that will meet the specified national objective.

- The identified “use of the property” is the expected CDBG identity of that property. The County has 5 years after the grant closeout to fulfill the expected CDBG identity of that property. Within that time period, the County may change the use of the property if:
 - A. The County gives reasonable notice to affected citizens and allows them an opportunity to comment, and the new use meets one of the National Objectives; or
 - B. If the new use will not meet one of the National Objectives, the County must reimburse DEO’s CDBG program of the FMV of the property.

LOGISTICS OF DISPOSITION OF PROPERTIES AFTER A BUYOUT

1. The property must be disposed of at FMV and by competitive process. The County can establish FMV of the property by having the property appraised or by selling the property at a public auction. (See below for details.) Once the sale proceeds have been returned to the State, the CDBG identity has been removed.
 - The County may have the property appraised to determine FMV. Once appraised, the opportunity to purchase the home (for no less than FMV) must be publicly advertised. The County must accept the highest offer.
 - The County may sell the property at public auction. The highest bidder determines the FMV of the property.

NOTE: All proceeds from the sale of a property must be returned to DEO, even if the property is sold for more than the appraised value.

While St. Johns County does not intend of disposing of any properties acquired through this Buyout Program, this section provides clarification on the procedure the County will follow if disposition becomes necessary.

2. Donate the property to a 501(c) (3) non-profit organization that is purposed in its charter to supply housing to low-moderate income households. The property maintains the CDBG identity.
 - The non-profit organization must provide documentation to support that:
 - It is purposed in its charter to supply housing to low-moderate income individuals, and
 - It qualifies under the purview of Section 105(a)(15) of the Housing and Community Development Act of 1974, and
 - The project it will undertake is eligible under Section 105(a)(15).
 - Neighborhood Revitalization
 - Activities undertaken under this provision must be of sufficient size and scope to have an impact on the decline of a designated geographic location within the jurisdiction of the community (but not the entire jurisdiction of an entitlement community unless it has a population of 25,000 or less.) The activities to be considered for this purpose are not limited to those funded with CDBG assistance.
 - Community Economic Development
 - This type of project must include activities that increase economic opportunity principally for low-moderate income persons, or that are expected to create or retain businesses or permanent jobs within the community. Housing activities may be included within this project type if they can clearly link the need for affordable housing accessible to existing or planned jobs, or otherwise address the Consolidated Plan's definition of "expanded economic opportunity" at 24 CFR Part 91.1(a)(1)(iii).

24 CFR 91.1 - Purpose:

(a) Overall goals. (1) The overall goal of the community planning and development programs covered by this part is to develop viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities principally for low- and moderate income persons. The primary means towards this end is to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and non-profit organizations, in the production and operation of affordable housing.

(iii) Expanded economic opportunities includes job creation and retention; establishment, stabilization and expansion of small businesses (including microbusinesses); the provision of public services concerned with employment; the provision of jobs involved in carrying out activities under programs covered by this plan to low-income persons living in areas affected by those programs and activities; availability of mortgage financing for low-income persons at reasonable rates using nondiscriminatory lending practices; access to capital and credit for development activities that promote the long-term economic and social viability of the community; and empowerment and self-sufficiency opportunities for low-income persons to reduce generational poverty in federally assisted and public housing.

- To satisfy the LMI Housing national objective, the non-profit organization must document that the new housing is occupied by low- or moderate-income persons at affordable rents pursuant to 24 CFR 570.482(b)(3).
 - If the County donates the property to a non-profit organization that is purposed to supply low-moderate income housing, the property is rehabilitated with non-CDBG funds, and occupied by low-moderate income persons, the rental/sale proceeds is not considered program income and may be kept by the non-profit organization to further supply low-moderate income housing. The property maintains the CDBG identity.
 - If the County donates the property to a non-profit organization that is purposed to supply low-moderate income housing and the non-profit then sells/rents the property to a non-income qualified household, the proceeds are considered program income and must be returned to DEO's CDBG program. The CDBG identity has then been removed.
3. Rehabilitate the property utilizing funds other than CDBG Disaster funds and sell the property as low-income housing. Because the property has a CDBG identity, the rehabilitation must meet all the federal standards for housing. The property maintains the CDBG identity.
 4. The lot may be sold to a developer/homeowner to be used for redevelopment through the CDBG Single Family New Construction program. The lot must be located in the 500 year flood plain.
 - The property maintains the CDBG identity. Sale proceeds are not considered program income.