
2019 CDBG-DR VOLUNTARY BUYOUT PROGRAM GUIDELINES

Oklahoma Department of Commerce



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OKLAHOMA DEPARTMENT OF COMMERCE
900 N Stiles Avenue, Oklahoma City, OK 73104

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Introduction

Accessibility Statement from the Oklahoma Department of Commerce

The Oklahoma Department of Commerce is committed to making its electronic and information technologies accessible to individuals with disabilities in accordance with both Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as well as Oklahoma's Oklahoma Electronic and Information Technology Accessibility law, or EITA.

Oklahoma works to make its government more transparent, available, and useful. Making State technology resources accessible to people with disabilities helps the State to meet its goal of creating a more transparent government. Complete information can be found at <https://www.ok.gov/accessibility/>.

Commerce posts many documents to our websites in Adobe PDF format to provide enhanced document features and preserve design. The ability to open PDF documents is built into most popular web browsers and Adobe Reader is provided for free by Adobe at adobe.com. Commerce posts PDFs in text format so that documents can be read by screen readers.

Commerce posts some documents to our websites in Microsoft Office formats including Word, Excel, and PowerPoint format. Microsoft provides viewer applications for these formats for free on their website at microsoft.com.

Disaster Recovery Website

ODOC/CD maintains a website specifically for the 2019 CDBG-DR program. Please visit: <https://www.okcommerce.gov/reporting-compliance/cdbg-disaster-recovery-2019/> and check back often because the website is frequently updated.

Notifications for Public Hearings will be published in English and Spanish.

Read the 2019 CDBG-DR Action Plan, Citizen Participation Plan, Quarterly Reporting, and more.

The website can easily be translated by clicking the “Translate This Page” button at the top of the screen.

If you need assistance with the website, or encounter any technical difficulties with the website, please contact hello@okcommerce.gov.

Staff Contacts for Questions, Comments, or Assistance

Please contact either Jade Shain or Taylor Huizenga if you have any questions, comments, or if in need of assistance for disability accommodations, translation, or interpretation services. The agency contacts for this 2019 CDBG-DR Voluntary Buyout Program Guidelines are:

<p>Jade Shain Programs Planner Community Development (CDBG-DR) Oklahoma Department of Commerce jade.shain@okcommerce.gov</p> 	<p>Taylor Huizenga Programs Representative Community Development (CDBG-DR) Oklahoma Department of Commerce taylor.huizenga@okcommerce.gov</p> 
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The remaining funding will be available for CDBG eligible disaster related activities in eligible counties as defined by Disaster Declaration 4438. Applicants from Alfalfa, Canadian, Cherokee, Craig, Creek, Delaware, Garfield, Kay, Kingfisher, Le Flore, Logan, Mayes, Noble, Nowata, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pottawatomie, Rogers, Wagoner, Washington, and Woods are also eligible to submit applications related to the aforementioned disaster.

Oklahoma's 2019 CDBG-DR Voluntary Buyout Program Guidelines

Overview of the Voluntary Buyout Program

The 2019 CDBG-DR Voluntary Buyout Program (VBP) is intended to help eligible Oklahoman applicants whose housing was directly impacted by the 2019 storm events. The goal of this program is to voluntarily buyout properties located in the 100-year floodplain and floodway for uses compatible with open space, green space, recreational, and floodplain management. Properties purchased with CDBG-DR funds shall be deed-restricted to remain green space, recreational, or floodplain management areas in perpetuity; residential or commercial development on properties acquired through the is prohibited.

Eligible applicants, referred to as "Subrecipients" in this document, include county and city governments, state agencies, non-profit organizations, Councils of Government (COGs), and tribal nations.

Subrecipients participating in this program can purchase properties at the current fair market value of the home plus a housing incentive for a total of

\$110,000. If a homeowner has a mortgage on their home, funds can be spent to pay off the mortgage up to \$110,000. The sum of the mortgage payoff, current fair market value and the housing incentive cannot exceed \$110,000. Please note that forced mortgage payoffs are ineligible expenses for the VBP (83 FR 5858).

Demolition and clearance fees will not count towards the \$110,000 cap. Instead, subrecipients may use up to \$25,000 for demolition and clearance of acquired properties. Subrecipients are strongly advised to combine demolition and clearance services across multiple parcels in order to lower demolition costs. In the event that a demolition and clearance fee costs more than \$25,000 per parcel, the subrecipient must advise ODOC and request approval to ensure this is a fair and reasonable cost. The demolition contractor must adhere to all federal, state, and local laws pertaining to the safe demolition and disposal of materials.

The intent of this program cap is meant to support Low-to-Moderate-Income persons when purchasing a new home outside of the 100-year floodplain. Persons who do not qualify as Low-to-Moderate Income must meet the Urgent Need objective and can only be purchased for the current fair market value up to a maximum of \$110,000. Properties purchased with CDBG DR funds must be deed-restricted to remain green space in perpetuity.

ODOC will prioritize VBP applications that come from applicants that reside in the HUD Most Impacted and Distressed Areas (Muskogee, Sequoyah, and Tulsa counties).

Please note that 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.

Eligibility Requirements

The following conditions must be met:

1. The housing structure (single-family, multifamily, or mobile home) must be located in one of the 27 DR-4438 eligible counties.
2. The property is required to have been the primary residence at the time of the disaster.

3. The housing structure must have documented damage from the storm events during the DR-4438 incident period. The incident period is defined as May 7, 2019, to June 9, 2019.
4. The housing structure must be located within either the 100-year floodplain or floodway per the most current Federal Emergency Management Agency (FEMA) flood maps.
5. The property owner (referred to as a “Beneficiary” in this document) must meet at least one of the National Objectives:
 - a. Low-to-Moderate income household; or
 - b. Urgent Need (limited cases pre-approved by ODOC)
6. Demolished housing structures remain eligible if the homeowner demolished the building *after* the May 7, 2019, to June 9, 2019 storm event.
7. The homeowner must demonstrate a clear title of the housing structure. Failure to provide this information will result in VBP ineligibility.
 - a. Subrecipients are advised to contract out or seek input from a local title company that can perform title searches and procure a title commitment letter after the applicant applies to the VBP.
8. The homeowner must provide documentation that property taxes are current or that the property is otherwise lawfully exempt.
9. The property will be deed-restricted to remain green space, recreational, or floodplain management areas in perpetuity; residential or commercial development on properties acquired through the is prohibited.

Deadline for Voluntary Buyout Program

Subrecipients must have an application deadline for when they will accept VBP applications that is within the 5 year contract with ODOC. Subrecipients should consider a deadline that is within the first 18 months of their applications being open to ensure the Subrecipient can meet all requirements of their contract with ODOC. Applications received after the specified deadline should not be considered.

National Objectives

The primary focus of CDBG-DR funding is to help communities recover from disasters. In order for communities to be eligible for funding, the U.S. Housing and Urban Development (HUD) requires that every CDBG-DR funded activity

must qualify as meeting one of the three national objectives of the program. ODOC will only consider the following National Objectives for the VBP:

1. Benefiting Low-to-Moderate Income (LMI) households
 - a. Low-to-Moderate-Income Housing; and/or
 - b. Low-to-Moderate-Income Buyout.
2. Urgent Need (Limited basis with ODOC pre-approval)

For the purposes of the 2019 CDBG-DR VBP, the Oklahoma Department of Commerce will consider only those applications that satisfy either as benefiting LMI households or, on a limited basis and with approval from ODOC, addressing Urgent Need. Therefore, the VBP will meet one of the following National Objectives:

- Urgent Need (direct benefit) – if the activity addresses the serious threat to community welfare following the disaster and the household assisted is above 80% AMI.
- Low-to-Moderate Income (direct benefit) if the household to be assisted is Low-to-Moderate Income and is occupying their current legally-owned home or are in low-income temporary/transitional housing, deemed homeless (such as a homeless/domestic violence shelter, family or other person’s legally-owned residence, living without any permanent or temporary shelter), or are currently seeking permanent/temporary replacement housing.

Direct Benefit

As part of the application process, the property owner must provide documentation of household income. Subrecipient verifies income and whether the applicant meets Low-to-Moderate Income or Urgent Need. The applicant’s national objective is the same for all activities associated with the applicant’s parcel (acquisition, clearance and demo, housing incentive). Applicants are also required to be current on all taxes they owe (The VBP will not pay back taxes owed by the applicant). Beneficiary files should contain documentation of all of the aforementioned information.

Activity Types in DRGR	National Objective: Urgent Need Direct	National Objective: Low-to-Moderate Income
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Acquisition-buyout of residential property	X	X
Clearance and Demolition	X	X
Housing Incentive	X	X

Application and Administration of the Buyout

For CDBG-DR VBP funding, eligible applicants are Units of General Local Government (UGLG), which include incorporated towns, cities, counties, and certain non-profits. Eligible applicants can also be tribal nations, other State agencies, and Councils of Governments. Applicants must have proposals that tie-back to the disaster period (May 7, 2019 through June 9, 2019) and geographic area described in the Presidential Declared Disaster (DR-4438).

At the time of application, properties are identified by the subrecipient that would qualify for the program. A budget is determined based on program cap (\$110,000) for LMI beneficiaries and the current fair market values for non-LMI beneficiaries of all homes identified as eligible for the program. If awarded, the subrecipient contracts with the Oklahoma Department of Commerce to administer and oversee their jurisdiction in which the program applies. The subrecipient receives applications for the buyout program directly from the property owner (methodology for specific application requirements will depend on the subrecipient and their beneficiaries' needs). Approved applicants at the local level will be submitted to the Oklahoma Department of Commerce for final verification of the acquisition award and benefits received by the property owner.

Environmental Requirements for CDBG funding

It is required that all approved subrecipients for the VBP 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. For more information, refer to the Policies and Procedures (PnP) Manual (Section III. Requirement No. 403 Environmental Review) supplied by the Oklahoma Department of Commerce.

The demolition contractor must adhere to all federal, state, and local laws pertaining to the safe demolition and disposal of materials.

Eligibility Requirements of Proposed Buyout Property/Owner

To be considered an eligible property for the buyout, the buyout property must be located in one of the FEMA identified DR-4438 affected counties and in the 100-year floodplain.

Eligible property types are:

- Owner-occupied single family homes. Please note that single family homes that are uninhabitable, but still legally owned by the beneficiary will qualify as an owner-occupied single family home. Those residing in temporary or transitional housing or are considered homeless can still be offered a buyout.
- Mobile homes (Note that the owner of the land the MHU sits upon will need to participate in the VBP as well and the activity may count as 2 separate buyouts)

Acquisition Award determination

The methodology used to determine the current fair market value of a property is a decision that is made at the subrecipient level. Subrecipients should base their determination based on a qualified assessor (typically the county assessor or an assessment by FEMA). If there was not a pre-flood assessment within 2 years before the flood event, the post-flood fair market value of the property plus 8% can be used as the buyout price (this is a last resort option and subject to pre-approval by ODOC).

Buyout applicants who owned the property prior to the disaster

Legal owners may receive an offer to purchase the property based on the pre-disaster fair market value of the property (or the \$110,000 cap) minus any duplication of benefits documented.

Buyout applicants who purchased the property after the date of disaster

Post flood owners may receive an offer to purchase the property based on the following limitations and duplication of benefit review:

- Individuals that purchased property post-disaster are eligible for a buyout only if they are LMI persons. Persons above the LMI threshold are not eligible to receive any CDBG-DR funds for a buyout if they purchased a post-disaster property. Such applicants will only be offered the Current Fair Market Value of the property.
- Individuals that purchased property post-disaster are eligible for a buyout only if this is their primary and sole residence. Assistance for second homes are ineligible.
- Banks that have been deeded the property on a post flood basis will be limited to the amount of the mortgage balance (amount to pay-off the mortgage). This is the amount that the bank would have received had the owner participated in the buyout.
- Properties that are in foreclosure where the pre-flood owner receives any remaining proceeds of the sale of the property after sale expenses, taxes and liens, can receive an award based on the current fair market value of the property.
- Contract sellers are limited to the amount of the contract balance. This is the amount that the contract seller would have received had the contract buyer participated in the buyout, provided the contract balance is less than the current fair market value. If the contract balance is more than the current fair market value, the contract seller will be limited to the current fair market value.
- Trusts, probates and living wills receive an offer based on the current fair market value as if the pre-flood owner is participating and subject to a duplication of benefits review. This is the same amount that the trust/probate would have received had the creation of the trust/probate been after the owner themselves signed all the documents necessary to participate in the buyout.
- If a non-profit has received the property by donation on a post flood basis, they are limited to the value it was appraised at, at the time of donation.
- If the property has been acquired by a bankruptcy trustee, the bankruptcy trustee provides the valuation documentation that was used to value the property at the time of the bankruptcy. The award amount is limited to the maximum of the current fair market value. Or alternatively, if the property is being held in trust with the homeowner remaining the current deed holder, documentation must be provided to demonstrate that the property is still deeded to homeowner but held in

trust. If documentation is provided, the file receives an award based on the current fair market value of the property.

Duplication of Benefits Process

The subrecipient is required to conduct a duplication of benefits (DOB) check for each eligible property owner (as provided by the Robert T. Stafford Act) prior to providing the funding necessary to acquire the property.

Sources of duplication of benefits 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
- 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.

Uniform Relocation Assistance:

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. More information can be found in ODOC’s URA Plan.

Floodplain Retention

Once a property has been purchased within the 100-year floodplain with CDBG-DR funds, the space must remain as open greenspace and retained by the subrecipient. The property will be deed-restricted to remain green space, recreational, or floodplain management areas in perpetuity; residential or commercial development on properties acquired through the is prohibited.

Appendix

Version History

Version Number	Date	Notes	Page(s)
1	09-01-2021	Submitted to HUD.	Cover – 12
2	12-28-2021 JDS	Significant changes were made to this document per the requirements of the Oklahoma Department of Commerce's Style Guide. For example, Headings and Subheadings are now using Arial instead of Times New Roman. The typeface used in the body text is now Google's Montserrat instead of Times New Roman. All colors in the Headings and Subheadings were chosen from the Style Guide. The following Colors are used in this document. a. Heading 1 = HEX #464646 b. Heading 2 = HEX #0066A6 c. Heading 3 = HEX #000000 d. Body/Normal = HEX #000000	Entire document