

Disaster Recovery Initiative
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**Louisiana Office of Community Development/
Disaster Recovery Unit (OCD-DRU)
Division of Administration**

**First and Third Appropriation
Substantial Action Plan Amendment No. 65
Clarification of Road Home Policies:
Road Home Homeowner Assistance Program**

- Duplication Modification (APA 58) —Interim Housing Expense
- Principal Loan Grant Payment Assistance (APA 59)
- Shared Equity Return of Grant

Public Comment Period: Wednesday, Sept. 23, 2015 – Tuesday, Oct. 6, 2015

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Bobby Jindal
Governor

Jay Dardenne
Lieutenant Governor

Stafford Olivia Palmieri
Commissioner of Administration

Office of Community Development
150 N. 3rd Street, Suite 700
Baton Rouge, LA 70801
P.O. Box 94095
Baton Rouge, LA 70804-9095
<http://www.doa.louisiana.gov/cdbg/cdbg.htm>

Substantial Action Plan Amendment Number 65 to Katrina/Rita First and Third Appropriation -- Policy Clarification: Road Home Homeowner Assistance

- **Duplication Modification (APA 58) — Interim Housing Expense**
- **Principal Loan Grant Payment Assistance (APA 59)**
- **Shared Equity Return of Grant**

Activity Amount: No additional funds are added by this Action Plan Amendment (APA)

I. Introduction

Through Action Plan Amendment (APA) 58, the State modified its duplication of benefits policies for the Road Home program with respect to unmet needs caused by grant funds, insurance proceeds, or other financial assistance being diverted from use by the homeowner to satisfy the obligations of the Road Home covenants and grant obligations due to circumstances beyond the control of the homeowner. Section III of APA 58 provided a non-exclusive listing of such circumstances. APA 58 provided that additional circumstances could be considered on a case-by-case basis in consultation with HUD.

Through this amendment, the State proposes that under certain circumstances interim housing costs that were not covered by insurance or other assistance programs may serve as an unmet need, as set forth in APA 58. Under policies to be implemented by OCD-DRU, when Road Home grant funds, insurance proceeds or similar financial assistance – received due to damage to the home – were expended on interim housing costs, the homeowner may utilize the processes offered by APA 58 and 59.

Further, through this amendment, as detailed below in Section V, the State proposes that homeowners (1) participating in rehabilitation or construction under APA 59 or under the Nonprofit Rebuilding Program established under APA 33, who have not re-occupied their homes, (2) whose housing rehabilitation, reconstruction or new construction needs require resources in excess of the prior assistance received through the Road Home program, and (3) who cannot obtain commercial financing (including through Road Home's Loan Principal Repayment Grant, under APA 59), the Road Home Program can make funds available to the Road Home grant recipient in the form of a shared equity agreement requiring, upon sale of the house, repayment to the State of the sale proceeds issued in excess of the Road Home funds. This additional funding is subject to a duplication of benefits analysis of other financial assistance received for damages to or repair or reconstruction of the home as the result of hurricanes Katrina or Rita.

This APA 65 is a clarification to the Homeowner Assistance program, as described in First Allocation APA's 1, 7, 14 and other submitted clarifications to the Road Home Homeowner Assistance Program, as well as budget revisions in APA's 9, 15 and 17.

II. The Basis for the Interim Housing Expense

Hurricanes Katrina and Rita were unique not just in their scope of regional devastation but also in the nature of insurance and recovery issues to be addressed in the aftermath.

In the public sector, appropriating funds for designing and implementing the largest recovery programs in U.S. history and coordinating multiple recovery sources had inherent lag times in the distribution of assistance.

Similarly, in the private sector, the breach of the man-made levee system on the southeastern side of the state, as well as the lack of physical evidence for coastal area homes – entirely swept away by the storms – gave rise to atypical insurance coverage issues. This bottle-necked ultimate resolution of insurance claims, until completion of lengthy judicial processes, and in April 2008 the Louisiana Supreme Court coverage decisions that were needed to guide the industry.

Against this backdrop, the 2008 financial crisis further set back the hurricane victims still seeking to return home and rebuild their lives. The reaction of and increased regulatory restrictions on the finance industry increased the lack of resources needed for those least able to absorb the impact of the hurricanes Katrina and Rita.

At the individual level of the homeowner trying to plan their recovery and rebuild, the issues described here created uncertainties with respect to both amount and timing of funds available for rebuilding, greatly increasing the likelihood that additional resources would be required for interim living expenses. In addition, the complete devastation suffered in southeast Louisiana meant that, for many or even most RH applicants, their jobs, like their homes, had been lost, further increasing the need.

Following the storms, insurance policies and various federal programs provided funding for temporary housing costs or actual alternative housing options, but those resources had limited time frames in which they were available. Under the above described circumstances, it is not unreasonable that once those temporary housing programs were concluded, a homeowner uncertain whether sufficient funds existed to complete the work necessary to return home, would consume resources on interim housing.

III. Applicability of Interim Housing Expense

The use of interim housing expense is an allowed Unmet Need as implemented under APA's 58 and 59 for those Road Home grant recipients that have closed on their Option 1 grant but have not fulfilled all the terms of their grant agreement and/or covenant for re-occupying the property.

IV. Circumstances under which Interim Housing Expenses may be utilized

- A. Eligibility Thresholds (each of the following must be met):
 - i. Must be an Option 1 Road Home grant recipient or the heir(s) of the original grant recipient who have inherited and own the damaged property; heirs may seek to have the interim housing expenses of the deceased Road Home grant recipient allowed as an Unmet Need.

Eligible Road Home applicants who did not receive any funding from the program are not eligible.

- ii. The damaged property has not been re-occupied or the terms of the grant/covenant otherwise have not been met.
- iii. Not residing in a trailer provided by FEMA to the Road Home grant recipient during the period of interim housing claimed.
- iv. Grant recipient may not have had an ownership interest in the interim housing location.

B. Period of Eligibility: Interim housing expenses incurred after August 29, 2008.

C. Amount of reevaluation: If the homeowner can demonstrate interim housing expenses through evidence of payment, as allowed by the program policies and procedures, the amount of expenditure shall constitute the unmet need.

If the homeowner cannot demonstrate the amount of interim housing expense due to lack of documentation, the homeowner will certify the monthly rental amount through a notarized affidavit. The interim housing expense shall not exceed the applicable Fair Market Rent (FMR) as reflected by the annual FMR summaries at <http://www.huduser.org/portal/datasets/fmr.html> for the location, number of rooms and relevant time period for a maximum of three years.

The period of interim housing expense based on FMR may be used in conjunction with other periods of interim housing based on documentation.

D. Duplication of Benefits: The Period of Eligibility threshold eliminates the need to check insurance and several FEMA programs. The State will confirm participation in HUD's Disaster Housing Assistance Program (DHAP) and Section 8 Assistance Program to determine payment of housing support during the period of interim housing expense claimed. The homeowner's sworn affidavit shall further identify any r source of interim housing assistance during the interim housing expense period claimed.

E. Documentation: The Road Home grant recipient, through notarized statement under penalty of perjury, must detail the information upon which the request for interim housing expense credit is requested, including the amount expended. Any request for interim housing expense is subject to the potential of requests further information and post-award investigation of the information submitted. Preferred evidence includes executed leases and cancelled checks. Voter's registration and drivers licenses showing interim address may be used. In the absence of such evidence of interim housing location, an ACCURINT (or similar location program) check should be used to corroborate interim housing location.

F. Anti-Fraud Waste and Abuse: In addition to the use of ACCURINT or similar program, the program staff shall cross check assessor/tax collector website or similar resource to confirm that the applicant is not listed as the owner of the tax parcel of address. In addition, the state will perform thorough investigations on a sampling of those receiving interim housing expense credit to confirm validity. Cases of suspected fraud will be referred to appropriate law enforcement agencies and are subject to prosecution.

V. Shared Equity Agreement for Construction Expenses Exceeding the Road Home Grant

In the event a Road Home grant recipient receiving rehabilitation or construction assistance under APA 59 or under the Nonprofit Rebuilding Pilot Program (APA 33) has rehabilitation, reconstruction or new construction expenses requiring funds in excess of the Road Home grant, as well as other financial benefits received as a result of damage from hurricanes Katrina or Rita, and demonstrates that loan financing is not available, (including through Road Home's LPRG under APA 59), the Road Home program can make such funding available to the Road Home grant recipient in the form of a shared equity agreement requiring, upon sale of the house, repayment to the State of the Road Home funds issued through the shared equity agreement. Funding under the shared equity agreement may exceed the \$150,000 aggregate limit.

The shared equity agreement shall be filed in the mortgage record and contain a self-operating subordination to subsequent mortgages. The obligation to repay the shared equity amount shall be limited to the net sale proceeds of the home after payment of any superior mortgages, liens or other secured obligations. If the homeowner utilizes non-CDBG resources for rehabilitation or construction of the home, the portion of the net proceeds that shall be remitted will be in proportion to the Road Home grant for the property in proportion to the construction cost in the applicable construction program and any subsequent capital improvements documented by the homeowner. The repayment obligation shall constitute a lien on the property and survive in the event of (1) any inter vivos donation or inheritance of the property, or (2) transfer of the property for less than fair market value, other than through a superior mortgage/lien holder's foreclosure or a *dation en paiement* to that creditor (transfer to superior mortgage holder in lieu of payment).

The funding shall only be available, as part of the Road Home grant, in conjunction with the respective construction program and as paid toward construction on behalf of the grant recipient. The amount shall be based upon the scope of work allowed under the construction program, and is subject to a duplication of benefits analysis. For the purposes of the Road Home program only, funds received by the State from repayment of the shared equity amount through the closeout of the Road Home program shall be treated as return of grant rather than program income.

VI. Finality of Determination

The determination of:

- A. any type or amount of unmet need;
- B. funding available under APA 59;
- C. amount of reclassification under APA 60; or
- D. amount of shared equity in excess of the Road Home grant, as provided for in this APA

Shall be final and non-appealable.

VII. Funding Impact

As no additional funds are being made available to recipients through this Action Plan Amendment, there is no associated funding impact.

VIII. Public Comment:

This Amendment will be posted for public comment on Wednesday, Sept. 23, 2015 and may be obtained via the Internet at:

http://www.doa.la.gov/Pages/ocd-dru/Action_Plans.aspx, or by contacting: Janice Lovett, Office of Community Development, Post Office Box 94095, Baton Rouge, Louisiana, 70804-9095. The Proposed Action Plan Amendment will be published in Vietnamese and Spanish translations at the same website.

Written comments on the proposed Action Plan Amendment will be accepted for 10 business days from the date it is posted. Comments may be submitted beginning Wednesday, Sept. 23, 2015 and must be received no later than Tuesday, Oct. 6, 2015.

Comments may be sent to the attention of Janice Lovett at the above address or sent via facsimile to (225) 219-9605 to the attention of Janice Lovett. Comments may also be submitted via email at ocd@la.gov or through the online form at http://www.doa.la.gov/Pages/ocd-dru/Action_Plans.aspx.

Appendix: Summary of Public Comments and Responses

Substantial Action Plan Amendment 65, “Clarification of Road Home Policies: Road Home Homeowner Assistance Program” was published for public comment from Wednesday, Sept. 23 through Tuesday, Oct. 6, 2015. The majority of the received comments came from the following non-profit organizations: The Greater New Orleans Housing Alliance; Lower 9th Ward Homeownership Association; Homeowner Rehabilitation Program Working Group; and Louisiana Appleseed. The written comments from three of the non-profit organizations are attached, and summarized below.

Two individual Road Home applicants submitted comments related to their specific applications. These applicants were contacted and provided assistance related to their homeowner file. For the homeowners’ privacy protection, their written submissions and information is not being published.

Louisiana Appleseed provided the following comment: *“The community is still struggling with title issues as a barrier for rebuilding or even selling property and homes. Our pro bono-focused nonprofit has worked to make the legal procedure less complicated and less costly. OCR-DRU should consider allocating funds, as Texas has in the past, to cover legal fees for this title work. Legal aid organizations, such as SLLS, are overwhelmed by these cases - involving succession and title issues. OCR-DRU should allocate funds to these organizations and others providing legal representation. Please contact me with any questions.”*

Response: The Road Home Program continues providing Limited Legal Assistance for applicants with related title issues preventing a file from closing as an option two or three within the Post-Closing option change process.

On Oct. 7, 2015, OCD-DRU participated in a Special Policy Committee Meeting with a number of interested entities, including the four non-profit organizations that submitted written comments. See the attached sign-in sheet from the meeting. The purpose of the meeting was to gather ideas, as well as provide clarification related to questions and comments provided during the public comment period.

The following adjustments were made to APA 65 in response to the written comments and discussion from the meeting:

1. Allowance for rental assistance to Section 8 participants. The Road Home Program will reduce the assistance amount by the amount of assistance provided through Section 8.
2. Affidavit of the persons receiving funds for interim housing was removed. An applicant’s proper evidence of payment will be sufficient.
3. An additional clarification statement was added allowing for periods of interim housing expenses based on FMR and documented expenses to be used in conjunction provided the time periods are different.

4. Clarification regarding the shared equity agreement was provided in the meeting. The shared equity agreement is not limited to low to moderate income, as previously stated in the press release.
5. Clarification for Section IV. A. i., specifying that heirs and assignees are eligible to use the interim housing process.

All other written comments and input from the Oct. 7 meeting were duly noted and considered by OCD-DRU, and may either be implemented into policies and procedures where eligible and beneficial, or may be considered for future implementation, as appropriate.