

Disaster Recovery Initiative
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**Louisiana Office of Community Development/Disaster Recovery Unit,
Division of Administration**

First and Third Appropriations

***Proposed - Action Plan Amendment No. 59 –
Construction Financing Assistance for Non-Compliant Applicants under the Road Home
Homeowner Assistance Program***

Public Comment Period: May 15 - 29, 2013

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Action Plan Amendment 59 to Katrina/Rita First and Third Appropriation: *Construction Financing Assistance for Non-Compliant Applicants under the Road Home Homeowner Assistance Program*

I. Introduction

This amendment provides for additional assistance under the Homeowner Assistance program to accomplish the goal of enabling homeowners to repair and re-occupy their homes. This goal also serves to rebuild neighborhoods and reduce the devastating impact of blight. Action Plan Amendment (APA) 59 provides additional assistance to qualified applicants in the form of a grant dedicated to the repayment of the loan principal of a construction/rehabilitation loan that will be used to complete repairs to the home so that it can be re-occupied.

II. Purpose

The Loan Principal Repayment Grant (LPRG) is being established to assist Road Home applicants that have not yet complied with the terms of their grant agreement/covenant due to unmet recovery needs, have either been unable to reoccupy their pre-storm dwelling or the home still doesn't meet habitability standards

The assistance will provide additional funds to leverage commercial loans for reconstruction. The LPRG will substantially reduce the lenders' risk, thus enabling them to make larger loans to homeowners and approve those that may not otherwise qualify under normal market criteria. LPRG assistance will also reduce the homeowner's loan payments. The purpose of APA 59 is to maximize the number of homeowners that are able to fulfill the intent of the program and comply with their covenant by reoccupying their home.

The funds allocated within this APA are dedicated to completing the purpose of the Road Home Homeowner Assistance program. The eligible program expenditures include the loan principal payments and project delivery costs (including, but not limited to: closings, title searches, environmental reviews, remediation and costs associated with case management).

III. Eligibility

Eligibility for LPRG assistance is limited only to existing Road Home Option 1 grant recipients that have closed on their grants but have not yet met the terms of their grant agreement/covenant as determined by OCD (i.e., occupied their homes as a primary residence). "Zero award" applicants – applicants who were eligible but had a benefit calculation of \$0 – are not eligible at this time.

LPRG recipients whose project cost exceeds the amount of the LPRG must have the ability to assume additional debt to repair their home in accordance with the underwriting standards of the respective participating lending institutions. In some cases, the LPRG may provide sufficient funding to complete the recovery without a commercial loan. Applicants for which the latter applies will have funds administered through a construction monitoring process, by disbursements as the work is completed. All properties receiving LPRG assistance must have the appropriate required environmental clearance for the property.

IV. Maximum Assistance

A file review will be conducted for all eligible applicants seeking LPRG assistance to determine and validate genuine duplicative amounts resulting from an unmet need in accordance with Road Home Unmet Needs Policy established in APA 58. Once approved, the applicant's net

award is calculated then adjusted to include the LPRG: (1) Net Award equals actual RH disbursement minus validated unmet needs amount, and (2) LPRG equals current calculated RH award minus the net award. The maximum amount of assistance (LPRG plus net award amount) is \$150,000.

Recognizing the original Estimated Cost of Damage (ECD) was projected from the *2006 Gulf Coast Reconstruction Cost Estimator*, and that there has been an increase in the cost of materials and/or labor over the last seven years, an adjustment will be factored into the ECD. The maximum current Road Home compensation remains at \$150,000.

V. Case Management

All LPRG recipients will be included in the case management process to ensure that they are aware of all resources available to them, as well as their compliance responsibilities. Additional resources include counseling, legal services, construction management and assistance applying for a construction loan in connection with the LPRG.

VI. Outreach

Potentially eligible applicants will be identified through a variety of ways, including: program correspondence, flyers, media announcements, self-identification, non-profit interaction (including surveys), program monitoring/compliance procedures, local code enforcement and other means. As interested applicants are identified, they will be assigned to a case manager who will, in cooperation with a non-profit organization, verify eligibility and assist the applicant through the loan application/qualification process.

VII. Lender and CDFI Participation

The Louisiana Office of Community Development's Disaster Recovery Unit (OCD-DRU) will solicit the participation of lending institutions and community development financial institutions (CDFIs) that primarily serve low-income communities and individuals that otherwise may not be able to qualify for traditional financing. OCD-DRU will coordinate through instructive and outreach meetings with the Louisiana Bankers Association, as well as other appropriate outlets, to identify interested partners. Emphasis will be placed on community-based lending institutions with the ability to assist applicants in economically distressed areas throughout the state by providing construction management, permanent financing and loan servicing. Lenders/CDFIs agreeing to participate will work closely in partnership with OCD-DRU to streamline the applicant referral process and implement the proposed lending products.

VIII. Type of Assistance

As previously noted, LPRG assistance will be a grant dedicated as a down payment of the loan principal on a construction loan made by a participating lender or CDFI. The loan must be for a scope of work adequate to enable the homeowner to re-occupy his or her home and meet the terms of his or her Road Home grant agreement/covenant.

The amount of the loan may be greater than the amount of LPRG assistance the applicant is eligible to receive; in which case, the lending institution will convert any unpaid amount of the construction loan over to a permanent loan upon completion of repairs and following receipt of all LPRG assistance payments. The applicant will be wholly responsible for repayment of any permanent financing that may follow the construction loan.

Loan application, approval, disbursement and servicing will all occur directly with the lending institution. Terms of the loan will be based on the standard underwriting criteria of the participating banks. Grant funds will be disbursed directly to lenders in an escrow account for disbursement on lender-approved construction draws. Funds will be disbursed by lenders as construction milestones are completed. Each lender will provide construction management and determine the basis for making draws. The LPRG award amount shall not exceed the actual project cost as determined in the scope of work.

IX. Monitoring

This activity is considered to be a medium-risk activity. Monitoring will be performed by the OCD-DRU staff in accordance with the Homeowner Assistance Program Monitoring Plan.

Public Comment:

This Amendment will be posted for public comment on Wednesday, May 15, 2013, and may be obtained via the Internet at:

<http://doa.louisiana.gov/cdbq/DRactionplans.htm>, 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, May 15, and must be received no later than 5:00 PM (CST) on May 29, 2013.

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.louisiana.gov/cdbq/dractionplans.htm>.

Appendix: Summary of Public Comments and Responses

As Action Plan Amendments 58, 59 and 60 work in concert and were distributed for public comment at the same time, the comments received also overlap. Therefore, all public comments and responses will be recorded in each Action Plan Amendment.

This document summarizes the 60 comments received about Action Plan Amendments 58, 59 and 60 during the public comment period beginning May 15 and ending May 29, 2013.

The majority of the comments came from individual citizens, mostly homeowners. Also contributing comments were Common Ground Relief, Inc., the Greater New Orleans Fair Housing Action Center, the Lower 9th Ward Homeownership Association and the Greater New Orleans Housing Alliance.

All comments are listed by type in the table below. As the nonprofit organizations commented on several areas, the comment total is greater than 60.

Comment Type	Number of Comments
Use of Funds	10
Elevation Funds	7
Zero Awards	3
Increased Costs	2
Documentation Verification	3
Lender Participation	3
Case Management/Nonprofit Organizations	2
Pre-Storm Value	1
Homeowners Living in Homes Considered Uninhabitable	
Living Expenses	1
Award Calculation	1
Legal Services	1
Option Changes	1
Case-By-Case Determination Protocol	2
Elevation Compliance	1
Lead Paint/Asbestos	2
Individual Cases that May Be Helped	25
Individual Cases that Do Not Qualify	10
In Favor of APAs	3
More Information Requested	1

Major Issues Raised in Comments

I. Use of Funds

Ten (10) comments questioned the use of the funds associated with APA 59 in further helping Road Home participants who want to repair and return to their homes. One individual suggested that enough funds have been distributed to Road Home participants, while others called for funds to go to senior citizens outside of the program or to those who rebuilt without the aid of federal grant funds.

Response: The goal of Action Plan Amendment 59 is to bring Road Home participants into compliance and repair homes to reduce blight. Any funds disbursed through APA 59 will come from Louisiana's Third Appropriation of Disaster Community Development Block Grant Funds from HUD, which are designated specifically for the Road Home program. Therefore, funds cannot be disbursed to homeowners who are outside of the program.

II. Elevation Funds

Seven (7) comments expressed interest in receiving additional funds for elevation, because these individuals used their elevation funds for home repairs, were victims of contractor fraud or expressed the need for additional funds to complete their elevations.

Response: The state Office of Community Development-Disaster Recovery Unit recognizes the importance of elevating homes to prevent future damage from flooding, and we will review and research possible solutions to address these issues pending the availability of Road Home funds.

III. Zero Awards

Two individuals who were Zero Award applicants asked to be considered for these Action Plan Amendments. The Greater New Orleans Fair Housing Action Center (GNOFHAC) and the Greater New Orleans Housing Alliance (GNOHA) also included in their comments that Zero Award applicants should be considered for review.

Response: The comments are noted but, as the purpose of the Action Plan Amendments is to assist those who are already in the Road Home program reoccupy their homes and/or become compliant, there is no plan to include Zero Award applicants at this time.

IV. Individual Cases

The majority of comments, 34, were from individuals requesting assistance from the Action Plan Amendments. Questions regarding personal eligibility will be responded to individually by Road Home program staff.

The individual comments fell into two categories: those who might be helped through the APAs and those who do not qualify.

A. May Be Helped

A total of 25 comments fell into this category. Sixteen (16) homeowners who expressed interest in utilizing APA 58 and APA 59 cited contractor fraud as the reason for needing re-evaluation of their benefits and additional funds. Five (5) are interested because some or all of their original Road Home grant went to forced mortgage payoff, and one has experienced contaminated drywall after repairing her home, which now cannot be reoccupied because of insufficient funds to replace the tainted drywall.

Response: Action Plan Amendment 58 addresses the re-evaluation of benefits for homeowners who either owe money back to the program or who closed on their grant but have not fulfilled

the terms of their grant agreement due to unforeseen circumstances. APA 59 provides additional assistance to qualified Option 1 grantees in the form of a Loan Principal Repayment Grant, which will be applied to the principal of a construction or rehabilitation loan.

If the Action Plan Amendments are approved, case managers would guide eligible applicants through the process of verifying their unforeseen circumstance and, if necessary, obtaining a construction loan.

B. Do Not Qualify

Ten (10) comments were from homeowners who expressed a need for financing that did not qualify under the conditions of the Action Plan Amendments. Six (6) of those were from individuals who did not receive Road Home funding, while one individual was seeking assistance as part of the Small Rental Property program. Two (2) comments included requests for reimbursement for loans or grants that were disbursed outside of the Road Home program.

Response: Any funds disbursed through APA 59 will come from Louisiana's Third Appropriation of Disaster Community Development Block Grant Funds from HUD, which are designated specifically for the Road Home program. Therefore, funds cannot be disbursed to homeowners who are outside of the Road Home program. Additionally, the Road Home program may not accept any new applicants beyond the application deadline of July 31, 2007.

V. Topics Raised by Nonprofit Organizations

The four nonprofit organizations that provided comments had similar areas of concern, which are listed below.

A. Increased Costs

GNOHA and the Lower Ninth Ward Homeownership Association (LNWHA) noted that homeowners who were first victimized by circumstances beyond their control found that the resulting delays in returning home left them with significant additional costs. Similarly, building codes and permit requirements have changed meaning that work previously done on a home must be torn down and redone.

Response: **OCD-DRU recognizes that the original Estimated Cost of Damage (ECD) was projected from the 2006 Gulf Coast Reconstruction Cost Estimator, and that there has been an increase in the cost of materials and/or labor over the last seven years. Therefore, we are going to add language within Action Plan Amendment 59 stating that an adjustment will be factored into the ECD for applicants who are rebuilding with a Loan Principal Repayment Grant.**

B. Documentation Verification

The GNOFHAC, the LNWHA and GNOHA all support greater flexibility in the documentation allowed to verify the circumstances outlined in APA 58 and the work done to repair homes in APA 60.

Response: In writing the APAs, OCD-DRU made every effort to provide flexibility in the documentation allowed to verify circumstances. We must verify all claims as written in order to adequately document claims and avoid repayment of funds.

1. Contractor/Builder Fraud

GNOHA stated in its comments, “the one year filing limit is too strict for people who may have been living in Texas or Georgia and who were not aware of any statutes of limitations. The time restriction should be eliminated or, at the very least, lengthened.”

Response: OCD-DRU agrees to change the time limit for reporting contractor/builder fraud to before Dec. 31, 2012, or within a year of the date the homeowner signed a contract with the contractor/builder, whichever is later. The language in APA 58 will be changed to reflect this.

C. Lender Participation

The GNOFHAC, the LNWHHA and GNOHA all commented on the role of the lenders in APA 59, suggesting that OCD-DRU stipulate requirements that the banks must meet to participate. Some of the requirements listed include: requiring lenders to include the value of the LPRG when performing underwriting and calculating Loan to Value ratios; promoting reasonable interest rate caps and assisting “unbankable” households in accessing gap capital. There was particular concern noted that some homeowners may not qualify for traditional loans.

Response: OCD-DRU has worked to both make local lending institutions aware of the proposed construction financing through APA 59 and also to solicit participation. OCD-DRU is providing the greatest flexibility for applicants by allowing any lender to participate based on applicant choice. This broadens the participation of lenders with the most appropriate portfolio available to homeowners based on their unique needs. Lenders will follow the regulations established by state and federal laws.

D. Case Management/ Nonprofit Organizations

GNOHA requested that determination of eligibility within APA 58 be done by nonprofit organizations. Additionally, both GNOHA and LNWHHA want OCD-DRU to clearly state that the case management associated with APA 59 will be conducted by community-based nonprofit organizations.

Response: Comments have been noted.

E. Other Circumstances Beyond a Homeowner’s Control

1. Pre-Storm Value

The LNWHHA commented that grant amounts constrained by pre-storm value should be added to the list of circumstances beyond a homeowner’s control in APA 58.

Response: The PSV constraint was addressed with the implementation of the Blight Reduction Grant Adjustment in 2011. Eligible applicants would have been contacted by program staff at that time to make the adjustment. If the BRGA was not enough for the homeowner to complete repairs, and if an unmet need can be verified, then APA 58 would be applicable.

2. Homeowners Living in Homes Considered Uninhabitable

The LNWHHA commented that homeowners who are reoccupying homes that are considered uninhabitable should be also added to the list of circumstances beyond a homeowner’s control in APA 58.

Response: These situations will be evaluated and decided on a case-by-case basis.

3. Living Expenses

GNOHA would also like living expenses to be considered as a circumstance in APA 58.

Response: HUD regulations do not allow living expenses as an eligible cost; therefore it cannot be included.

F. Award Calculation

GNOHA requested that the formula for calculating Net Awards in APA 58 and LPRG amounts in APA 59 be clearly stated, while also suggesting that the new Scope of Work be used as the basis for calculating the LPRG.

Response: The Scope of Work cannot be the basis for the calculation: it must come from the original Road Home calculation as part of the existing program. The Net Award in APA 58 equals the total amount of Road Home Grant funds received minus the validated unmet need. The LPRG in APA 59 equals the current calculated Road Home grant minus the Net Award.

G. Legal Services

GNOHA commented on the complicated legal services that may be needed for some homeowners, including help obtaining successions, foreclosure defense and tax delinquencies. The nonprofit organization recommends OCD-DRU fund this type of legal work as a project delivery cost, dedicating staff at a legal services organization to deliver the service.

Response: The Road Home program has and will continue to provide reasonable legal services to LMI homeowners and will provide reasonable legal services for all other applicants as needed for implementation of APA 59.

H. Option Changes

GNOHA made the following comment about option switches: "Homeowners who decide not to return to their homes should be counseled about switching to Option 2 or 3. Repayment plans for them should be reasonable and based on the income of the homeowner, as most lack the resources to secure funds to rebuild. In the event that an overpayment has been made by the Road Home program, this is a circumstance beyond the homeowner's control, and these funds should not be subject to recapture."

Response: The Road Home program currently allows for an option change for those Option 1 grantees who have, for one reason or another, decided not to return to their original home. Repayment plans are also part of our grant recapture process. As part of case management for these APAs, all homeowners will be provided with options available to them, including an option change. Any verified unmet need will not be subject to recapture.

I. Case-By-Case Determination Protocol

GNOFHAC and GNOHA both requested the assessment guidance issued to OCD-DRU staff in determining eligibility within APA 58 be publicly available and posted on OCD-DRU's website.

Response: All actions in determining eligibility will follow Road Home policies, which are posted on the Road Home website, www.road2la.org.

J. Elevation Compliance

GNOHA commented that homeowners who qualify for APA 60 will no longer have to comply with their agreement to elevate, which should be stated explicitly in Section IV of the APA.

Response: OCD-DRU agrees that the homeowners will no longer be obligated to elevate and that such language should be included in the APA. Section IV of APA 60 will be amended to include that note before OCD-DRU submits it to HUD for final approval.

K. Lead Paint/Asbestos

Common Ground Relief, Inc. and GNOHA both expressed support that the costs of lead paint testing, inspection, remediation and abatement will be included as project delivery costs. However, both expressed concerns that there is potential for conflict of interest if the same contractor who does the assessment also does the repair work.

Response: The assessment contractor will be different from the abatement contractor.

VI. Support/More Information

Two comments simply expressed the individual's approval of and support for the Action Plan Amendments, and one individual merely requested more information.

Response: The support for these APAs is appreciated, as OCD-DRU hopes they will make more Road Home participants compliant and reduce blight. Road Home staff members will respond to the request for more information.