

**GLO Testimony for US House Financial Services Subcommittee on Oversight and Investigations
Virtual Hearing - CDBG Disaster Recovery: States, Cities, and Denials of Funding
Thursday, July 15, 2021 at 12pm EST**

Good afternoon Chairman Green, Ranking Member Emmer and members of the committee. My name is Heather Lagrone. I am the Senior Deputy Director for Community Development and Revitalization at the Texas General Land Office (GLO). Thank you for having me here today. I am grateful for the opportunity to help clarify the record on our recent mitigation allocation and, in so doing, hopefully provide information that will be helpful in removing some of the restrictions that limit state's options when disbursing these kinds of funds.

On February 8, 2018, Congress passed Public Law 115-123, directing the U.S. Department of Housing and Urban Development (HUD) to make available no less \$12 billion dollars in Community Development Block Grant Mitigation (CDBG-MIT) funds to specific grantees that received Community Development Block Grant for Disaster Recovery (CDBG-DR) allocations for 2015, 2016 or 2017 disasters in the same proportion as received in CDBG-DR funds. With no further congressional intent provided and more than 1.5 years later, HUD published Federal Register Vol 84, No 169, dated Friday, August 20, 2019, named the State of Texas as the grantee responsible for administering almost 4.3 billion dollars in mitigation funding in 140 total eligible counties.

I want to emphasize here that the federal register specifically indicated mitigation funds were provided to **mitigate** disaster risks and **reduce future loss** in areas impacted by recent disasters, in contrast to some public statements, none of this money could be used for recovery from past events. HUD was very specific that CDBG-MIT funds are to be used for distinctly different purposes than CDBG-DR funds. *84 FR 45839 (August 30, 2019)*

The *State of Texas CDBG Mitigation Action Plan: Building Stronger for a Resilient Future* outlines the use of funds, programs, eligible applicants, and eligibility criteria in accordance with HUD rules, requirements, and extensive guidance. The plan included competitions for eligible entities of each of the three disaster years, and eight additional programs for mitigation projects and resilient housing totaling nearly 4.3 billion dollars.

The plan was sent to HUD on February 3, 2020, after an extraordinary public outreach effort including a 50-day public comment period and eight regional public hearings, more than doubling HUD's federal requirements. HUD approved the plan, including the mitigation competition scoring criteria, on March 31, 2020. HUD and the State of Texas executed a grant agreement allowing Texas to begin CDBG-MIT programs January 12, 2021

Of the \$4.3 billion dollars allocated to the State of Texas, the GLO set aside \$2.3 billion to fund local mitigation projects through a competitive process. In May of 2020, the GLO launched the first round of the competition for nearly \$1.2 billion of the competition funding. Applications were submitted by cities, counties, and special purpose districts in eligible Texas counties impacted by Hurricane Harvey and severe flooding in 2015 and 2016 – as required by the Federal Register. The GLO received more than \$6.5 billion in requests for mitigation project funding, underscoring the urgent need for increased resiliency throughout the eligible area. Applications closed for the first round of funding October 28, 2020, and the GLO evaluated all 290 submitted applications in accordance with the HUD-approved scoring criteria and CDBG-MIT eligibility. Eligible applications with the highest scores were awarded funds.

The GLO conducted three competitive application programs:

2015 Floods State Mitigation Competition – GLO awarded \$31 million to four grantees on March 2, 2021.

2016 Floods State Mitigation Competition – GLO awarded 21 grantees with \$135 million on Mar 11, 2021.

Hurricane Harvey State Mitigation Competition Round 1 – GLO awarded 81 grantees with \$975 million in May 2021.

To understand the shift in focus from HUD’s CDBG-DR program to this new CDBG-MIT program, it is important to note HUD’s definition of mitigation, which is defined as:

Those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters. —84 FR 45838 (August 30, 2019)

HUD further noted:

Unlike CDBG-DR funds where grantees must demonstrate that their disaster recovery funds “tie back” to a specific disaster and address a specific unmet recovery need for which CDBG-DR funds were appropriated. CDBG-MIT funds do not require such a “tie back” to the specified qualified disaster that has served as the basis for the grantee’s allocation of CDBG-MIT funds. —84 FR 45849 (August 30, 2019)

Based on this definition and clarifying statement the GLO was not able to use damage assessments from previous storms when developing the competition scoring criteria.

In a letter to the GLO on June 14, 2021, HUD stated, “Unlike CDBG-DR allocations, which are allocated based on a long-established damage-based formula, CDBG-MIT was made available in Public Law 115-123” confirming that the GLO could not consider previous damages in administering the funds. While drafting the action plan, GLO staff was repeatedly reminded by HUD staff that previous damage was not to be a consideration for funding. If we had been able to use the Federal Emergency Management Agency (FEMA) damage assessment, which is used to score Hazard Mitigation Grant Program

applications, then those who received the most damage during their applicable event could have scored the highest for that criteria.

The federal government, not the GLO, forbade damage from any previous disaster from being included as a scoring criterion in the funding competition. The GLO was required to develop a methodology to quantify risk without using damage from previous storms or other disaster events. Since mitigation is an entirely new CDBG program for HUD, there was no standard model for the GLO to use. Composite Disaster Index (CDI) was the GLO's quantification of risk. Projects that scored well on CDI, but were not awarded, did not score well on other criteria required – and prioritized – by HUD.

Harris County is 1 of 28 counties impacted by all three eligible events. The county government, Harris County Flood Control District and the City of Houston did not submit applications that were competitive against the higher scoring projects submitted by other eligible entities and, as such, did not directly receive funding from the Hurricane Harvey mitigation competition.

However, several projects within Harris County received awards totaling \$117,213,863 in the first round of the mitigation competition. Harris County projects were awarded \$90.4 million from the Harvey allocation and \$26.7 million from the 2016 storms allocation. This is in addition to the \$61,884,000 direct HUD allocation to the City of Houston for 2015 flooding.

Composite Disaster Index, Social Vulnerability, Per Capita Market Value were all worth 10 points. Higher point values were applied to HUD's Low to Moderate Income (LMI) National Objective and Project Impact worth 20 and 25 points respectively, as they were noted by HUD in the Federal Register and other guidance as major priorities.

For the first time, HUD also required a benefit-to-cost ratio, or Project Impact. In training sessions, HUD specified that the benefit cost analysis did not need to mirror those of FEMA or the United States Army Corp of Engineer's (USACE) but the factor did need to be considered. HUD also recognized in the Federal Register the challenges aligning CDBG-MIT funds and a benefit to LMI persons. The methodology for Project Impact included the total project application amount per total project beneficiaries and the percentage of project beneficiaries out of the total population within the applying jurisdiction.

The GLO set clearly defined scoring criteria that was made available to all eligible applicants for more than 6 months before the application opened. These scoring criteria were made in consultation with HUD to ensure the state action plan would be approved. No part of the action plan was unknown to HUD program staff. The process was transparent, and applicants were scored equally based on the information they provided in their applications.

For the record, Texas Land Commissioner George P. Bush was, by design, recused from the scoring committee and the scoring process. The commissioner was informed of the competition results only after the projects had been through eligibility review and scored in accordance with the federally approved action plan.

The GLO now plans to subaward \$750 million in mitigation funding for Harris County. The GLO in coordination with Harris County has drafted an action plan amendment that will include a set aside of \$750 million in CDBG-MIT funding for the County to develop a method of distribution. The remaining funds in the Mitigation Competition, HMGP: Supplemental, Coastal Resiliency, and Planning Programs will be reprogrammed to direct at least \$500 million in additional funds into the Regional Mitigation Program. HUD outlines its rules and requirements for action plan amendments and distribution of funds in the Federal Register. There are currently three active Federal Register notices governing CDBG-MIT funding. As a subrecipient, Harris County must abide by these rules and requirements and the GLO must ensure compliance.

Per HUD requirements, the Action Plan Amendment is currently being translated from English into 5 additional languages. When translation is completed, we are required to post the amendment for public comment for 45 days and hold a public hearing to gather additional comments. Once we have responded to the comments, the action plan amendment will be sent to HUD, which has up to 60 days to approve or deny the amendment.

As a state operating under 20 different Federal Register notices for 7 CDBG-DR grants and 3 Federal Register's for one CDBG-MIT grant, streamlining of the process and permanently codifying CDBG-DR grant funding will be extremely beneficial. It will provide grantees clearer guidance, reduce the time it takes from disaster impact to program implementation and prevent references to multiple Federal Register notices.

I'm happy to answer any of your questions.