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

First and Third Appropriation
***Non-Substantial* Action Plan Amendment No. 58 --**
Clarification of Road Home Policies:
Road Home Homeowner Assistance Program Duplication Modification

Public Comment Period: May 15-29, 2013

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Non-Substantial Action Plan Number 58 to Katrina/Rita First and Third Appropriation -- Policy Clarification: Road Home Homeowner Assistance Program Duplication Modification

Activity Amount: No funds associated with Action Plan Amendment (APA) 58

I. Introduction

Currently the Road Home Homeowners Assistance program does not have a policy that considers a portion of need for which compensation was provided but, due to circumstances beyond the homeowner's control, the need was not met. This amendment establishes such a policy in accordance with HUD guidance provided through Federal Register 71060. The policy is applicable only to homeowners that have not met the terms of their grant agreement and/or covenant and are, therefore, subject to recapture of grant funds. The purpose of this amendment is to identify the appropriate amount of assistance that may be subject to recapture for applicants that have not fulfilled the terms of their award.

The implementation of this policy does not provide any additional funding to Road Home applicants. Rather, it adjusts the amount of Road Home assistance received to account for funds that the applicant intended to use for home repair and reconstruction, but which did not result in the intended repair due to circumstances beyond the homeowner's control. This policy enables an adjustment of the amount of assistance received from the "actual" amount to a "net" amount. Given that an adjusted grant amount may only be calculated for applicants that have not fulfilled the terms of their award, it is this amount that will be subject to recapture if compliance cannot ultimately be achieved.

This Action Plan Amendment (APA) 58 is a clarification to the Homeowner Assistance program as described in First Allocation APAs 1, 7, 14 and other submitted Clarifications to the Road Home Homeowner Assistance Program.

II. Applicability

The "duplication of benefits modification" policy proposed in APA 58 applies to Road Home applicants that have closed on their grant but have not fulfilled all the terms of their grant agreement and/or covenant. The new policy would make those participants eligible for a re-evaluation of the duplication of benefits within the amount of assistance received in circumstances such as the following:

- Calculation of the net amount (Actual Road Home disbursement minus validated unmet needs) of assistance received through validation of genuine duplication of benefits, for purposes of repayment; or
- Calculation of the net amount (Actual Road Home disbursement minus validated unmet needs) of assistance received through validation of genuine duplication of benefits, in consideration of additional assistance provided under APA 59.

This policy does not apply to homeowners who have already received their full grant and occupy their storm-damaged residence or otherwise fully met the term of their grant/covenant and are not subject to recapture of funds.

III. Circumstances That May Prompt the Calculation of a Net Award Amount

As applicants' three-year Road Home compliance periods expire, they are asked to report back to the program as to whether they have met the obligations detailed in the documents executed at their closing. Many grant recipients have encountered issues beyond their control that have caused them to be unable to fulfill the requirements of either the Option 1 Road Home Covenant or the Option 2 Road Home Grant Agreement (whichever is applicable). Below are some examples of the circumstances applicants have encountered:

1. Contractor/builder fraud;
2. Involuntary forced mortgage payoff;
3. Theft & vandalism;
4. Damage from a subsequent event prior to completion of repairs; or
5. Contaminated drywall.

Note: The list above is not intended to be comprehensive. OCD-DRU may assess other reasonable circumstances beyond the homeowner's control on a case-by-case basis and in consultation with HUD.

A. Documentation Requirements

In each instance, documentation will be required to support any amount that may be reduced from the actual amount received to calculate the true award amount, or "Net Award". Examples of documentation that applicants will need to provide are:

1. Contractor/builder fraud
 - a. Evidence of payment(s) made to contractor/builder demonstrating the attempt to properly use Road Home proceeds; and
 - b. Proof that the rebuilding/repairs were not completed (e.g., photos showing current condition of home, current estimate of reconstruction/repairs from a new contractor, physical inspection, etc.) or that the replacement home was uninhabitable; and
 - c. Evidence that a formal complaint was filed against the contractor/builder accused of fraudulent practices with the proper law enforcement officials or a state regulatory agency or court (civil complaints). Complaint must have been filed by December 31, 2012 or within one (1) year of the date the homeowner signed a contract with the contractor/builder, whichever is later. The applicant will also be expected to provide the case/item number or report number and the name of the law enforcement or regulatory agency with which it was filed.
2. Involuntary forced mortgage payoff
 - a. A copy of the mortgage policy stating that any proceeds must be used to repay the mortgage; and/or
 - b. A documented program third-party telephone conversation: i.e. the program will contact the lender by telephone and verify that the lender required the insurance proceeds be applied to the lien. The employee must state in the documented log that the lender mandated or required the pay down or payoff of the existing lien(s); and/or
 - c. Proof that the insurance and/or Road Home proceeds were used to pay down the mortgage.

3. Theft/vandalism
 - a. Case number or police report that identifies what was stolen and/or the extent of damage from vandalism; and
 - b. Copy of insurance claim (if one was filed).

4. Damage from a subsequent event
 - a. Insurance paperwork, building inspections, photos or similar documentation showing that a subsequent event – such as another hurricane or fire – caused damages to the residence during the repair process; or
 - b. Proof of payment(s) showing that funds were expended on repairing/rebuilding damaged residence prior to incurring damages from a subsequent event (e.g. cancelled checks, copies of paid invoices, etc.); and
 - c. Inspection of the property completed by the Road Home program's Home Evaluation Department detailing the work needed to complete repairs.

5. Contaminated drywall
 - a. Documentation from a certified building inspector or engineer demonstrating that tainted drywall was installed in the home during the repair/rebuilding process; or
 - b. Documentation from a certified building inspector or engineer demonstrating that tainted drywall was installed in the applicant's replacement home; and
 - c. An estimate of the cost to replace the tainted drywall.

Note: The list above is not intended to be comprehensive. OCD-DRU reserves the right to request any and all forms of documentation that may be required to substantiate an applicant's claims of having encountered a circumstance that has prevented him or her from fulfilling the obligations detailed in the documents executed at closing.

IV. Funding Impact

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

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/cdbg/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/cdbg/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 LNWHA 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 LNWHA 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 LNWHA 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 LNWHA 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.