

Preliminary MOD - 2/16/2022 & 2/24/2022 Public Planning Meeting - Response Summary

1. Questions by William T. Sanders – City of China

- Will there need to be any matching fundings? LMI Requirements, some cities will not meet that requirement. If this funding goes to the different counties will that open it up to where they can use the county LMI.
- Worried about cities being disenfranchised if many don't go through the county ex: LMI Nederland (Mid- County)
- Minimum Project amounts
 - Would need to go below \$1,000,000.
 - Just spent ½ Million didn't have on a Serwer system.
 - FEMA – Have to keep systems tight.
 - Discussed fire hydrants and line sizes (increased line sizes).
 - Going lower than \$1,000,000 gives more leeway.
 - A projects not in LMI area have a hard line getting served.
 - No time to get door to door surveys done.

SETRPC Response: Thank you for your comments at the Public Planning Meeting regarding SETRPC Mitigation Method of Distribution. They have been noted and will be included as part of the formal comment record. After submitting questions, you posed during the public hearing to GLO, below is information provided in response:

1. Only covered projects require matching funds. Covered projects start at \$100 million.
2. The LMI will be based on those affected. For example, if it's a city-wide project the city LMI number will be used, and for smaller projects census tract data or local surveys could potentially be used.
3. A waiver to lower the LMI dollars spent minimum is available for COG's.
4. A project must benefit at least 51% (no rounding) LMI persons.
5. There is no funding cap.

Again, thank you for your comments. If you have any questions, please let us know.

2. Comments by Dr. Liv Haselbach – Lamar University

- Are flood sensors networks communication infrastructure?
- Is Lamar an eligible applicant? Can there be more than one applicant?
- How long do people have to expend these funds?

SETRPC Response: Thank you for your comments at the Public Planning Meeting regarding SETRPC Mitigation Method of Distribution. They have been noted and will be included as part of the formal comment record. After submitting questions you posed during the public hearing to GLO, below is information provided in response:

- Flood sensors wouldn't be considered communication. However, depending on the details of the project could be considered an eligible activity.
- Universities are not eligible entities.
- There can only be one applicant with the state. Entities can have an interlocal agreement and work together on something but that is up to the entities to handle themselves.
- Currently the proposed end date of the program is 6 years from when it started.

Again, thank you for your comments. If you have any questions, please let us know.

3. Comments by Brad Haeggquist - General Manager - Mauriceville Municipal Utility District

- Concerned with daily emergency needs – fire hydrants due to line size – everyday public health and safety North Orange County.
- Find ways to fund project economically
 - Looking for basic materials to install sewers
 - Stealing from private untreated wells
 - Private wastewater systems fail
- Emergencies occur every time Entergy’s power goes out
 - Doesn’t have potable water that is safe.
- Need help now, not in 5 years, 6 months from now
- Need to go to work, not waiting on next disaster, dealing with needs today.

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment you made during the Public Planning Meeting for the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/16/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent to provide the comments regarding the daily emergency needs of Mauriceville and the need for an immediate solution for the area. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

4. Comments by Heather Champion – Spindletop Center

- Address mental health needs (suffering & hardships).
- Emergency mental health and shelter needs of people with severe mental illness and developmental disabilities.
- Mitigate immediate trauma and stress figure of community.

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment you made during the Public Planning Meeting for the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/16/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent providing comments regarding our community's mental health needs. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

5. **Comments by Don Carona – Orange County Drainage**

- Reiterate Karen's comments
- Would like a waiver for drainage districts to be eligible to apply for funds.
- Need for funding for regional project in Orange County.
- Eligibility for special districts that have draining storm protection responsibilities.
- Would like to see priority given to regional projects that mitigate flood damage.
- Question: Project specific LMI or entity specific LMI? Advocates for it being project specific.

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment you made during the Public Planning Meeting for the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/16/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent providing comments regarding waivers, regional projects, and LMI requirements. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

6. **Comments by Bart Bartkowisk – Public Works Director - City of Beaumont**

- City of Beaumont impacts from Harvey and lack of funding granted through Harvey Round 1.
- Impacted by Harvey, other floods – need drainage projects – got nothing Round 1 – Harris Co. getting much of Round 2.
- Look to this funding for direct mitigation to eliminate flooding throughout the area.
- Look at other flooding events that have impacted the area.

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment you made during the Public Planning Meeting for the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/16/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent providing the comments regarding the City of Beaumont's need of drainage projects. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

7. Comments by Robb Starr – Lumberton MUD

- Can a Municipal Utility district apply?
- Would like to see a waiver for who can apply.
- Serve 2 cities in Hardin County.
- Having to go through cities and counties is difficult.

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment you made during the Public Planning Meeting for the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/16/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent providing comments regarding Lumberton MUD and the difficulties regarding funding for projects. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

8. Comments by Lesley Waxman

- Agrees with regionalism concept and comments.
- Competition was supposed to cover regionalism.
- Communities shouldn't be limited regarding projects.

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment you made during the Public Planning Meeting for the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/16/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent providing comments regarding regional projects and the types of projects funded. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

9. Comments by Chris Duque – City Manager – City of Nederland

- Concerned with the LMI requirements. Nederland has probably left a considerable amount of money on the table with these projects in the past from Ike forward because of LMI requirements and are dependent on being able to utilize the county's LMI numbers.

- Would like to see the counties LMI available for communities.

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment you made during the Public Planning Meeting for the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/16/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent to provide the comments regarding LMI and the past difficulties Nederland had meeting LMI. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

10. Comments by Melinda Smith – VP, Project Manager – Taylor & Assoc.

- Is there a possibility of requesting a waiver of the LMI or somehow priors to figure out a balance of some LMI versus non LMI?

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment you made during the Public Planning Meeting for the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/16/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent to provide the comments regarding LMI. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

11. Comments by Allen Sims - Jefferson County Drainage District No 7

- City port author is proposing will need some additional services from DD7.
- Will DD7 be able to apply directly, or we need to go through the county?
- DD7 would like to acquire directly.

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment you made during the Public Planning Meeting for the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/24/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the

community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent to provide the comments on issues facing the City of Port Arthur and the needs of DD7. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

Preliminary MOD – Comments & Questions - Online Form Summary

1. **Comment by Daniel Hidalgo - West Jefferson County Municipal Water District – 2/23/2022**

As a representative West Jefferson County MWD, the communities within the District, and a resident of the District, I believe Mitigation funding would be best distributed for use on community infrastructure. In serving a community with safe water during emergencies the key to success is TIME. The key to this TIME revolves around water storage. With additions to water storage capacities comes TIME to troubleshoot and make repairs to the Treatment Facility during natural or manmade events. By providing additional water storage capabilities in the form of Ground Storage Tanks (at treatment plant) or Elevated Storage Tanks (in distribution system) should issues arise at treatment facility the community will have the benefit of TIME. Time to make repairs, time with adequate water pressure, time for appropriate treatments, and time for family and friends to relax knowing they will come home to a home with water. Water is Life!! I would be happy to discuss these needs in detail when you see fit.

Thank you
Daniel Hidalgo
Concerned Resident and District Manager

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment submitted regarding the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/23/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent to provide the comments regarding being able to provide safe water to the residents West Jefferson County MWD serves. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

2. **Comment by Randy Lyday – 2/23/2022**

Flood zones needs to be looked at. I raised my house after I flooded during Imelda and the flood insurance will not pay \$30,000 since I don't live in classified flood zone. And I don't qualify for a grant because I already lifted house. So I'm out \$30,000 more .. They rather pay me another \$125,000 or more if I flooded again.

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment submitted regarding the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/23/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent providing comments regarding the issues you face with the flood zones. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

3. Comment by Michelle Smith - The Community In-Power and Development Association Inc. (CIDA) - 3/1/2022

Dear Ms. Burke,

Our organization, The Community In-Power and Development Association Inc. (CIDA) is a non-profit Port Arthur community based organization focused on empowering and uplifting marginalized populations suffering from disproportional industrial pollution and inequity.

We appreciate the opportunity to provide comments as it pertains to the Method of Distribution (MOD) of HUD mitigation funding.

After Hurricane Harvey our organization has spoken out on various platforms (including to Senator Cruz and FEMA) on the inequitable distribution a few years ago of HUD CDBG-DR funding, specifically intended for LMI populations, based on skewed MOD models applied in Southeast Texas (as demonstrated by CityLab). We continue to find it problematic that the utilized data does not accurately identify the most vulnerable and marginalized populations. For example, utilizing county wide data that does not speak to particularly vulnerable areas with higher levels of need or FEMA NFIP repetitive loss data that does not consider those residents with an income level so low they cannot afford flood insurance or renters. A more accurate level of data would be census tract or block level data.

CIDA also has serious concerns with the concept of waiving LMI requirements. This particular HUD funding is intended to fund projects that protect vulnerable LMI populations, waiving the LMI requirement would be a violation of that intended use. Additionally, it would intentionally create an even more inequitable situation than already exists, causing LMI populations to continue to be increasingly disproportionately impacted by disasters.

FEMA Public and/ or Individual Assistance data used as a means of determining where FEMA assistance was provided and the value of that assistance, is another lacking indicator of actual need. It has been well documented (E&E News and others) and acknowledged by FEMA that the racial disparities in FEMA disaster assistance are an issue and need to be addressed. Therefore using this data as objective verifiable data is counter-productive.

Finally, while we understand the desire to want to prioritize projects that impact a larger number of homes, we want to reiterate, that the priority should be on LMI populations (including renters) with the most need. Whether that be large regional projects that protect or small impactful projects.

Continuing the efforts of the Southeast Texas Regional Planning Commission to be transparent, we would strongly encourage and request having another public hearing on the MOD BFEORE submitting it to the GLO, instead of after.

Sincerely,

Michelle Smith

Marketing Director
Community In-Power and Development Association Inc.

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment submitted regarding the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 3/1/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent providing comments regarding LMI and data concerns. The SETRPC will hold at least two more public hearings and have a 15-day public comment period on the Preliminary MOD. To ensure that your organization receives the public hearing announcement, we have included this email address in our distribution list. Please let us know if this is an issue or if you would like a different email address added to the list. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

Preliminary MOD – Comments & Questions – Email Response Summary

1. Comment by Chris Duque - City Manager - City of Nederland – 2/16/2022

I spoke during the public hearing re: need to be able to access county's LMI numbers.

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment submitted regarding the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/16/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent to provide the comments regarding LMI and the past difficulties Nederland had meeting LMI. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

2. Comment by Jack Briggs – 2/25/2022

I have resided in the same geographical location, which is Fannett Area for the last 35 years. This area has had it's challenges with flooding long before any major named storms. Some mitigation efforts have helped while others have hurt the area tremendously.

Below is a list of mitigation efforts that have brought on significant flooding issues.

1. The dredging of the North Fork of Taylor's Bayou north of I-10.
2. The removal of the lever system around the North Fork of Taylor's Bayou South of I-10 along the bayou channel up to Craigen Road bridge.

These two projects caused more flooding in Fannett Area. Item #1 increased the volume of water being brought down from the North. This volume of water had no place to go but South. Item #2 let the increased water flow from #1 flow outside the main bayou channel and move across residential areas instead of keeping the water within the levee banks which were removed.

These two projects alone turned the Fannett Area South of Interstate 10 into one large retention pond.

In order to correct this, several things have to happen.

1. Mitigation funding is needed to open direct access to Neadmore Ditch by creating windows in the levee system down stream.
2. Reestablish the lever system along the North Fork of Taylor's Bayou main channel from I-10 to Craigen Road Bridge or dredge the remaining part of the North Fork of Taylor's Bayou from Craigen Road Bridge to Neadmore Ditch.

I am not sure what agency began a dredging project upstream before evaluating down stream capacity, but in the future all mitigation projects should be evaluated South to North in order to avoid future flooding downstream.

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment submitted regarding the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/25/2022. As you know, this funding is significant and

will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent providing comments regarding flooding in the Fannett area and the projects you believe have caused a problem. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

3. Comment by Judge Wayne McDaniel – 2/25/2022

It is my opinion that the CDBG-MIT funds allocated by the Texas GLO to the SETRPC Region for Hardin, Jefferson and Orange Counties be spent 100% on drainage projects to benefit the County/Region, and that a minimum amount of \$5M be set for any one project.

Further, I recommend that the total amount of CDBG-MIT funds be divided among the three (3) Counties on a per capita basis, based upon 2020 US Census numbers, and that each County work with each other and with jurisdictions within their Counties on a project or projects that mitigate future flooding within the County and/or Region. We should also consider prioritizing unfunded projects that were submitted during CDBG-MIT Round 1 for funding, and a phased approach taken to begin such projects if there is not enough funding available to complete the entire project in one phase.

SETRPC Response Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment submitted regarding the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/25/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent providing comments regarding the need for drainage projects and how the funds would be best divided. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

4. Comment by Judge Jeff Branick – 2/25/2022

I concur with Judge McDaniel's public comments.

5. Comments by Judge Jeff Branick & Judge Wayne McDaniel - 2/25/2022

Had concerns regarding the \$5,000,000 minimum in the event of having funds left after the other projects are done. If it is less than \$5,000,000 would rather allocate it to a different project then having to sending it back because it didn't meet the \$5,000,000 minimum. Judge McDaniel didn't have issues with lowering the number.

SETRPC Response:

Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment submitted regarding the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/25/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent providing comments regarding the need for drainage projects and how the funds would be best divided. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

6. Comment Karen J. Stewart – 2/28/2022

See attachment

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment submitted regarding the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/28/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent providing the comments regarding the purpose of Drainage Districts and the data used in Round One of the CDBG-MIT MOD. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

7. Comment by Craig Taffaro – 2/28/2022

See attachment

Please accept the attached for Public Comment and consideration in developing a method of distribution and allocation of funds for the remainder of the CDBG-MIT funding advanced to the SETRPC.

The City of Port Arthur requests that consideration be given to allocating second round funding to the vulnerable areas which received no funding in Round One.

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment submitted regarding the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 2/28/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC understands that a major issue for Port Arthur is drainage. We appreciate the city providing a list of unmet mitigation needs. The information helps the SETRPC better understand the needs of the city and the strategies and partners that the city works with to achieve important mitigation goals. We will keep the information provided by the City of Port Arthur in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

8. Comment by Kay Moffitt – 3/1/2022

I live in Green Acres subdivision in Fannett Texas. Our subdivision has flooded numerous times. Flood control and drainage improvement including the construction or rehabilitation of stormwater management systems are desperately needed. Any help that you can give us would be greatly appreciated.

Thank you

~ May God bless you and keep you ~

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment submitted regarding the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 3/1/2022. As you know, this funding is significant and will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent providing comments regarding drainage improvements. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

9. Comment by Judge John Gothia – 3/1/2022

My Recommendation is Based on the initial guidelines of the CDBG-MIT funds allocated that the direction of these funds stay on Drainage projects that benefit the Region as a whole and be divided by each of the Three counties. I support this being Divided on a Per Capita basis so that each county has a fair distribution for its respective projects within those counties. I would ask that projects be weighed by the Regional impact and also based on the unfunded projects from Round 1 allocations. Each of the three counties have a great working relationship and can work together to fund projects that best serve our citizens for reduction of future flooding events. This would keep us in line with what these funds were intended to be used for. As I stated during open comments at the public meeting I believe all projects are important but that by focusing on more Regional projects we will serve more of our citizens and by able to solve some of the smaller project issues as well.

John Gothia

Orange County Judge

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment submitted regarding the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) on 3/1/2022. As you know, this funding is significant and

will significantly impact mitigation efforts. Public input is important to understand the community's needs fully, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the time and effort you spent providing the comments regarding drainage projects and focusing on regional projects. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep your comments in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

10. Comment by Maddie Sloan

See attachment

Attached please find Texas Appleseed's CDBG-MIT MOD comments.

SETRPC Response: Following the feedback the South East Texas Regional Planning Commission (SETRPC) received from the Texas General Land Office, we wanted to provide a more detailed response to the public comment you made regarding the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD). As you are aware, this funding is significant and will significantly impact mitigation efforts. Public input is important to fully understand the community's needs, and all comments the SETRPC receives are considered throughout the development process.

The SETRPC appreciates the amount of time and effort that Texas Appleseed took researching the comments regarding public participation, program requirements, and the data available to create the MOD. The information helps the SETRPC better understand different points of view, especially regarding waivers and LMI data. We also appreciate your comments regarding the Composite Disaster Index (CDI), and your analysis of FEMA and NFIP data. Thanks to public comments like yours, we are able to make well-rounded decisions. We will keep Texas Appleseed's remarks in mind throughout the development process.

Once again, thank you for participating in the CDBG-MIT MOD development process. Should you have any questions or additional comments, don't hesitate to contact us.

Jefferson County
Drainage District No. 6
6550 Walden Rd. • Beaumont, Texas 77707
Telephone (409) 842-1818
Fax (409) 842-2729
Established in 1920

Board of Directors:

Joshua W. Allen, Sr.
Charles "Chuck" Guillory
Bernie Daleo
Anthony Malley, III
Charles "Chuck" Kiker, III

Dr. Joseph G. Majdalani, PE, CFM
General Manager
Doug S. Canant, Jr., PE, RPLS, CFM
District Engineer
Chuck Oakley, CPA
Chief Financial Officer
Karen J. Stewart, MBA, CTCD
Chief Business Officer

February 28, 2022

South East Texas Regional Planning Commission
2210 Eastex Freeway
Beaumont, Texas 77703
Attn: Shanna Burke, Executive Director

RE: South East Texas Regional Planning Commission (SETRPC) Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD)

Dear Ms. Burke,

Please accept this letter as the official comments from Jefferson County Drainage District No. 6 (DD6) associated with the South East Texas Regional Planning Commission's (SETRPC) development of the Regional Method of Distribution (MOD) associated with the Community Development Block Grant – Mitigation program (CDBG-MIT) as administered and directed by the Texas General Land office (GLO).

As you may know, DD6 is the largest special purpose district within the region. Our service area covers over 500 square miles which includes the City of Beaumont, Bevil Oaks, China, Nome, the census designated place of Fannett, as well as various other unincorporated regions within Jefferson County. This area represents approximately 40% of the population of the entire SETRPC region. To further put this into perspective, the DD6 service area is nearly the size of the City of Houston.

The sole mission of DD6 is to develop, maintain, and implement flood mitigation projects within its jurisdictional boundaries. However, with the impact of recent storm events, and the ever-increasing threat of future events, the District is seeking alternative options to secure needed funding to these critical projects within the region. In lieu of raising taxes, which are the lowest of any other drainage district in the region, the District has pursued various federal programs. Most recently, the District applied for approximately \$600 million in funding from the GLO's CDBG-MIT Harvey competition. These proposed projects would have significant impacts and long-term benefits to the populations which they service. Unfortunately, due to the CDBG-MIT Harvey Competition scoring criteria, the jurisdictional boundaries of DD6 were not considered, nor was its past competency in managing more than \$130 million in awarded federal grant projects. The scoring metrics were biased to a special purpose district whose jurisdictional boundaries did not fall completely within the boundaries of an existing City or County. Thereby causing our applications to fall out of the funding range. Little consideration was given to our applications' benefit to the population and the protection of life and property as a result of the proposed improvements.

While there may be other potential funding opportunities, there exists no greater opportunity for the District than the current Method of Distribution that is being developed by SETRPC for over \$142 million. As such please consider the following points

Inclusion of Special Purpose Districts within the Regional MOD

Special Purpose Districts were determined to be included as eligible applicants within the CDBG-MIT Hurricane Harvey competition as conducted by the GLO. We believe our efforts and discussions with leadership at the GLO were instrumental to ensure inclusion of Special Purpose Districts within the State Action Plan and resulting competition. The inclusion of Special Purpose Districts within the SETRPC should be highly considered and we adamantly request the regional consideration and submission of the Waiver to the GLO to include these districts within the development of this MOD.

This is not an unreasonable request. As previously stated, the GLO allowed Special Purpose Districts participation in the Harvey competition. Since the regional MOD is solely for the Harvey impacted regions, it would stand to reason that these districts would also be included. Moreover, the GLO's amended Action Plan includes the allocation of \$750 million to Harris County for the development of a County-wide MOD. The structure of Harris County's \$750 million allocation allows for Special Purpose Districts to be included without the request for a waiver. Given that the GLO has established this precedence, it seems duly reasonable that the GLO will approve the waiver, if submitted, by the SETRPC.

Regional Set-Aside for Major Drainage Projects

The CDBG-MIT funding was developed and approved by the legislature to be a forward-thinking effort to address the devastating impacts of natural disasters. The GLO's interpretation of this unique funding opportunity has encouraged jurisdictions within the eligible regions to develop projects that take aim at lessening the effects of disasters on life and property.

The disasters that lead to this funding opportunity are all related to flooding events. Since the funding is intended for mitigation activities (forward thinking solutions) related to future disaster events (flooding being the most prevalent for our region), then it would stand to reason that this MOD should consider a regional set-aside for major flood mitigation projects. The drainage districts within the region, specifically DD6 as pointed out in the opening of this letter, provide flood mitigation projects that work, with appropriate regard for community and natural values. The District accomplishes this by devising and implementing hazard mitigation plans and maintaining the infrastructure. As a result, a set-aside amount should be considered from this allocation.

We understand that this regional set-aside approach has been approved by the Houston-Galveston Area Council of Governments (HGAC) in which this region set-aside \$62 million (approximately 13% of the regional allocation) for projects that would have regional and multi-jurisdictional projects. Given that DD6 covers a large expanse of property and population, we respectfully request the consideration of a similar regional set-aside from the SETRPC MOD for regional and multi-jurisdictional projects.

Evaluation Metrics

The CDBG-MIT Harvey competition included several evaluation factors that were detrimental to application scoring – not only for DD6 applications, but for many others. Factors such as the County Composite Disaster Index (CDI), Social Vulnerability Index (SVI), and Per Capita Market Value (PCMV), are not adequate evaluation metrics and should not be considered with this methodology.

Rather, we would recommend factors that consider populations within the 100- and 500-year flood plains, disaster impacts from Hurricane Harvey and Tropical Storm Imelda (most impactful disaster events associated with the CDBG-MIT legislation for this region), previous CDBG-MIT funding awards, and management capacity of the jurisdiction to effectively and efficiently implement program funds.

This is an incredible opportunity for our region, and I understand the magnitude of your efforts to develop an equitable distribution of funds. We respectfully request that you strongly consider including special purpose districts, like DD6, in this equitable distribution. I appreciate your consideration of these talking points and look forward to reviewing the forthcoming Method of Distribution.

Respectfully,

A handwritten signature in black ink that reads "Joseph Majdalani". The signature is written in a cursive style with a large, sweeping initial "J".

Dr. Joseph G. Majdalani, P.E.
General Manager
Jefferson County Drainage District No. 6

THURMAN BILL BARTIE, MAYOR
DONALD FRANK, SR., MAYOR PRO TEM

COUNCIL MEMBERS:
INGRID HOLMES
CAL JONES
THOMAS KINLAW III
KENNETH MARKS
CHARLOTTE MOSES



RONALD BURTON
CITY MANAGER

SHERRI BELLARD, TRMC
CITY SECRETARY

VAL TIZENO
CITY ATTORNEY

To: South East Texas Regional Planning Commission
From: City of Port Arthur, TX
Mayor Thurman Bartie
Ron Burton, City Manager

Re: Public Comment for CDBG-MIT Regional Mitigation Program (Round Two Funding)

Date: February 28, 2022

The City of Port Arthur is pleased to present a list of unmet mitigation needs for its community protection and revitalization.

The City of Port Arthur, located in Jefferson County, Texas, plays host to several major oil production and refinery plants, including the United States' largest Oil Refinery (Motiva), which supply a significant portion of the nation's energy supply. In addition to the production and export of energy fuel, the City of Port Arthur house some 55,100 residents in its portion of the golden triangle. The diverse population includes life-long residents and newcomers with no single ethnic group that makes up the majority of the whole population. Port Arthur is situated as a coastal community with coastal impacts from the Lower Neches Water Management Area, Sabine Lake and the Gulf of Mexico.

The City of Port Arthur's geography also makes it vulnerable to water surface run-off within the Beaumont Metropolitan area and from the associated internal drainage systems of the County's Drainage Districts Six and Seven.

The City of Port Arthur has undertaken a Master Drainage study to assist in quantifying its identified mitigation needs and has remained active in pursuing support options to address its unmet flood risk needs. The City of Port Arthur remains committed to addressing and mitigation the flood risks both through structural and non-structural interventions, including vigilant building codes and elevation requirements, local drainage improvement programs, private-public partnerships when available, and through state and federal programs including the Texas Water Development Board, the Federal Emergency Management Agency, the United States Treasury Department, and those funds connected to the HUD Sponsored Community Development Block Grant Mitigation Program.

The City of Port Arthur believes that its first-round project application through the CDBG-MIT program was a strong application and questioned the scoring and award of funds to recipients who neither experienced devastation from recent flood disasters nor are at current significant risk to the same degree and level of the City of Port Arthur.

The following list of projects are associated with addressing the flood risk to the City of Port Arthur and at the time of this submission remain significant unmet needs. **The total Value of unmet needs - \$ 162,910,584.00.**

The breakdown of the unmet needs is described herein:

1. **Downtown Drainage Revitalization** - (\$97,355,377.00) There are two political entities concerned with providing direct drainage support to the downtown area in Port Arthur, TX. They are the City of Port Arthur and Jefferson County Drainage District No. 7. The purpose of this project is to design and upgrade the sewer system and drainage in City of Port Arthur, Texas, in coordination with the DD7 pump station increase in capacities. The City infrastructure currently in place in the downtown area is limited to a 2 to 10 year rainfall distribution per NOAA atlas 14. The City and Jefferson County Drainage District 7 (DD7) have adopted 25-year rainfall design criteria for internal drainage which is now consistent with community needs and the NOAA Atlas 14 rainfall distributions. Hence the downtown drainage revitalization is an essential project for the City. The Downtown Drainage Revitalization Project is estimated to impact some 18,000 residents and will serve as a critical component to the revitalization of the downtown area which is a target area for restoration by private and public entities alike. *(Detailed scope and cost are available as needed)*

2. **36" water line and 1MG Storage Tank** – (\$33,483,496.00) The City of Port Arthur has a 36" Ductile Iron Potable Water transmission main that feeds nearly half of our distribution area, East and South of HWY 73. This service area which is estimated to include two thirds of the city population also claims the largest count of the City's low-moderate income population. The area also includes Sabine Pass, the water needs of our industrial partners, and medical facilities and clinics that are critical support to the LMI population and life-sustaining services such as dialysis clinics. This Water Main presents a consistently challenged part of the City's infrastructure. This project is designed to directly address the severe vulnerability to provide for the basic need for water supply to the single largest contingent of the City's population. With outages due to severe events on an annual frequency that compromises the health and safety of the residents, improvements to the delivery and storage systems are critical measures for the City. At last estimate, the City projects that there is approximately six hours of water supply in case of an emergency. This volume is relied on for basic fire-sighting, residential needs, and commercial operations. The proposed project is to design and construct a 1 MG elevated storage tank and an alternate 36" water transmission line coming directly from our Water Purification plant on HWY 73 into the downtown area would ensure an uninterrupted potable water supply, even in the event of a major rupture of the current water transmission line. Having the alternate transmission line would also spur growth of commercial and residential interests in the downtown area. *(Detailed scope and cost are available as needed)*

3. **Lake Arthur Detention** – (\$20,071,711.00) The Lake Arthur Detention project is a proposed drainage project that will reduce the risk of flooding to the Lake Arthur subdivision by providing an increase in storm water detention capacity/volume increase of 209 ac-ft. The project scope includes construction of a detention pond and a pump station to relieve flooding in the surrounding project impact area and offer increased protection to over 300 families and businesses. During the 2017 Harvey event, the project impact area averaged four feet of water surface inundation inside the homes. This project area is an example of how local ordinances and building requirements coupled with infrastructure improvements can achieve dramatic results against future disaster experiences. Further, the project impact area is critical to the city's tax structure. The project design, environmental assessment, archeological survey and permitting is already completed. *(Detailed scope and cost are available as needed)*

4. **Jimmy Johnson Blvd, Savannah Avenue and 9th Avenue Street Elevation** – (\$12,000,000)

Jimmy Johnson Blvd, Savannah Avenue and 9th Avenue streets located in Port Arthur, TX represent some of the City's most vulnerable road infrastructure. The anticipated project area severely floods during virtually every significant rain event. Street ponding and water build up is experienced in these streets even during a 10-year storm event. While many of the commercial and residential structures in the project impact area are elevated appropriately, the roadway was built to a lower elevation requirement and needs an elevation update. Additionally, the integrity of the roadway is subject to adverse hydrologic impacts due to base intrusion and the frequency of standing water on the road surface. The roadways in question provide critical paths for evacuation and movement of residents from all parts of the City and the standing water prohibits emergency response agencies from reaching lives and properties within acceptable timelines during rain events. The purpose of this project is to design and elevate these streets to a proper elevation and mitigate the deterioration of the streets due to ponding. *(Detailed scope and cost are available as needed)*

Ronald Burton



City Manager



March 1, 2022

Southeast Texas Regional Planning Commission
ATTN: Glenda Lacy
Director, Disaster Recovery Division
2210 Eastex Freeway
Beaumont, Texas 77703

**Texas Appleseed Comments on Texas CDBG-MIT Regional MOD Planning Process:
SETRPC**

Dear Ms. Lacy:

Thank you for the opportunity to comment on SETRPC's MOD planning process for Community Development Block Grant – Mitigation (CDBG-MIT) funding. We appreciate that SETRPC has been clear that the U.S. Department of Housing and Urban Development (HUD) has not approved Amendment 1 to the State of Texas Action Plan for CDBG-MIT funds, and that the current MOD applies only to Round 1 Regional Mitigation funding.

Texas Appleseed is a non-profit public interest law center whose mission is to promote social, racial, and economic justice for all Texans by changing unjust laws and policies that prevent Texans from realizing their full potential. Appleseed has worked on disaster recovery issues in Texas since Hurricane Rita in 2005.

The CDBG-MIT program is a unique and significant opportunity for Texas to carry out strategic and high-impact activities in high-risk areas to mitigate future disasters and losses. The program defines mitigation as 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.

The Administration cannot emphasize strongly enough the need for grantees to fully and carefully evaluate the projects that will be assisted with CDBG–MIT funds. One of the goals of CDBG–MIT is to set a nationwide standard that will help guide not just future Federal investments in mitigation and resilience activities—to include the mitigation of community lifelines, but state and local investments as well. The level of CDBG– MIT funding available to most grantees cannot address the entire spectrum of known mitigation and resilience needs. Accordingly, HUD expects that grantees will rigorously evaluate proposed projects and activities and view them through several lenses before arriving at funding decisions, including ensuring that already committed public or private resources are not supplanted by CDBG–MIT funds. (84 Fed. Reg. 45838; 45839-45840)

The point of CDBG-DR MIT is to fund forward-looking projects and enable the coordinated government action necessary to reduce future risk.

The most problematic issue with the CDBG-MIT Action Plan was that the outcomes produced by the Round 1 Hurricane Harvey Statewide Grant Competition excluded the high-risk and densely populated areas on the Gulf Coast; including areas of SETRPC like Port Arthur and Beaumont that experienced the “[l]argest rainfall event in U.S. history”.¹ While CDBG-MIT funding does not have to be linked to specific damage, the widespread and devastating effect of Hurricane Harvey, the frequency with which these areas bear the brunt of hurricanes, tropical storms and depressions, and both coastal and riverine flooding is a clear indicator that they are the areas with the highest level of risk and the most need for mitigation.

While all Texas communities deserve protection from flooding and major storms, CDBG-MIT funding should be addressing the greatest risks, the most vulnerable communities, and protecting as many people as possible.

I. Public Participation

While involving the public at the earliest possible stage in planning and processes around disaster planning, response, recovery, and mitigation is crucial, the public should also be offered an opportunity to comment on SETRPC’s proposed MOD before it is submitted to GLO. Not only will the data, objective factors, weighting, and project

¹ State of Texas Amendment 1 at 21.

priorities SETRPC chooses to use have a substantive impact on the allocation of funds, but the public must also have an opportunity to comment on any waivers SETRPC is requesting from GLO before those waivers are submitted.

SETRPC should also conduct the specific outreach necessary to “bring non-elected members of the community into discussions regarding the MOD.” The Guidance suggests that COGs reach out to housing advocacy organizations, faith-based organizations, and other community groups, river authorities, conservation groups, historical preservation groups, and other organizations that may have knowledge about needed mitigation efforts in the community, and Limited English Proficiency (LEP) populations and the organizations that serve them. The Guidance also states,

[t]he COG must contact and work with local organizations representing protected classes of individuals, as well as organizations interested in fair housing issues, to gain additional perspective on fair housing and civil rights issues in the COG. This exercise should also help the COG understand how the people they represent are affected by natural disasters. Approaches beyond simple written notification of public hearings are encouraged. For example, the COG could host a separate meeting with housing advocacy groups active in the region or visit local offices of civil rights groups. The COG could also pursue personal outreach by calling groups individually.²

As the Guidance notes, “simple written notification of public hearings” is likely to be insufficient.

II. Waivers of Program Requirements

A. LMI Requirements

SETRPC should not ask for a waiver of low- and moderate-income (LMI) requirements attached to CDBG-MIT funds.

“Unlike other forms of Federal disaster recovery assistance, CDBG-DR and CDBG-MIT grants have a statutory focus on benefiting vulnerable lower-income people and communities and targeting the most impacted and distressed areas” (84 Fed. Reg. 45838) HUD has already lowered the percentage of CDBG-MIT funds that must serve LMI populations from 70% to 50%; SETRPC should not ask for an additional waiver.

² GLO MOD Guidance at 6.

Not only are CDBG-DR and CDBG-MIT funds statutorily required to benefit LMI persons and communities, but they are also in many cases the only disaster recovery funds available to LMI households, and to protect the most vulnerable communities from future risks. Other disaster recovery programs primarily benefit higher-income families and communities; in counties with major disasters (areas with at least \$10 billion in damages), higher-income white communities gained an average of \$126,000 in wealth following the damage and recovery efforts. Lower-income communities of color lost up to \$29,000 on average in personal wealth following events like hurricanes and wildfires.³

FEMA Hazard Mitigation Grant (HMPG) projects, for example, must meet a cost-benefit standard that counts property value over people. These grants are more available to and have

historically benefited, higher-income communities. FEMA Public Assistance funds, likewise, favor communities with the capacity to apply for and manage complex federal grants, and with money to meet the federal match requirements. These disparities are increased and compounded the history of racial segregation, which has not only depressed property values in communities of color through redlining, ongoing lending discrimination, and the location of environmental hazards, but has been marked by historical disinvestment in infrastructure and public services - including both basic drainage and other infrastructure, and protective infrastructure that would mitigate disaster damage, leaving these communities most vulnerable to disasters. Projects that benefit LMI and historically disinvested communities should be prioritized, and regional projects must include local projects that ensure these communities can benefit from larger regional or jurisdiction-wide projects.

We note that CDBG-MIT funds are not the only mitigation funds available to jurisdictions. The Federal Emergency Management Administration (FEMA) Hazard Mitigation Grant Program (HMGP) is an ongoing source of mitigation funding, as is the Building Resilient Infrastructure and Communities (BRIC) grant program. The Army Corps of Engineers (ACOE) also funds large-scale infrastructure projects for flood protection. Both FEMA and ACOE, however, only fund projects that meet a benefit-cost analysis standard that relies on property value as a measure, favoring areas with higher property values. As noted above, existing mitigation funding favors higher-income and wealthier

³ See: Junia Howell and James R. Elliott, "Damages Done: The Longitudinal Impact of Natural Hazards on Wealth Inequality in the United States". *Social Problems*, Oxford University Press (August 14, 2018). Available: <https://academic.oup.com/socpro/advance-article/doi/10.1093/socpro/spy016/5074453> and, Rebecca Hersher, "How Disaster Recovery Favors the Rich", *All Things Considered*, National Public Radio (March 5, 2019). Available: <https://www.npr.org/2019/03/05/688786177/how-federal-disaster-money-favors-the-rich>

communities; CDBG-MIT funding is the only mitigation funding that targets less wealthy communities and must not be diverted to serve areas that already have access to other mitigation funding and previous investment in flood infrastructure.

B. Eligible Entities

Nor should SETRPC ask for a waiver to include additional eligible entities beyond cities, counties, and the COG itself. Elected officials should be responsible for decisions about public funds and not quasi-governmental entities without direct accountability to the public.⁴

C. Minimum Grant Amount

SETRPC should not request a waiver of the \$1 million minimum grant amount. CDBG-MIT funding is not an additional pot of CDBG-DR funds, but a new source of funding intended to support, as the State’s Action Plan states, “regional investments with regional impacts in risk reduction”. Even if they are distributed to local grantees, these funds should be prioritized for larger-scale projects that mitigate risks to as many households as possible.

III. **Objective Factors and Data**

Texas Appleseed supports the use of a data-based formula to allocate funds and select projects. We also understand that accurate comprehensive data on disaster damage and risk can be difficult to find and use. However, the data and formula must account for deficiencies in FEMA and other data, existing inequities and level of risk, and ensure that the needs of all Texans affected by Hurricane Harvey are taken into account⁵ There are

⁴ In that they are not composed of elected officials or responsible to voters beyond those who live in, for example, the master-planned community a MUD was created to serve.

⁵ For example, for the second allocation round following Hurricanes Dolly and Ike in 2008, HUD created a new formula for allocating CDBG disaster recovery funds between states. The formula took into account: “(i) The sum of estimated unmet housing, infrastructure, and business needs, adjusted by (ii) a HUD-calculated risk level for recovery challenge,” which compensated for some of the problems with FEMA data – particularly the underrepresentation of unmet needs in low-income minority families and communities”, including a “challenge to recover” factor reflecting data from Hurricanes Katrina, Rita, and Wilma that was used to calculate the risk a home would not recover, adjusting grant allocations so that states with higher per-damaged home risk scores received more funds. Department of Housing and Urban Development Additional Allocations and Waivers Granted to and Alternative Requirements for 2008 Community Development Block Grant (CDBG) Disaster Recovery Grantees (August 14, 2009) Federal Register/Vol. 74, No. 156 [Docket No. FR-5337-N-01] available at <http://edocket.access.gpo.gov/2009/pdf/E9-19488.pdf> and 46 Fed. Reg. Vol. 74, No. 156. Friday, August 14, 2009,

both objective factors and adjustments, for example, to the geographic level of analysis, that will provide the most accurate analysis of risk and the greatest need for mitigation. We urge SETRPC not to replicate the flaws in its Hurricane Harvey CDBG-DR MOD.⁶

A. Composite Disaster Index

First, SETRPC should not use the Composite Disaster Index (CDI). The CDI methodology produces a distribution of counties more frequently affected by seven hazards relative to other counties and weighted by the hazards with the greatest impact on human casualties and property loss. However, this is not the distribution most relevant to the CDBG-MIT funds; particularly in the SETRPC region. We note, in fact, that the use of the CDI in the state-level allocation of funds has most likely underfunded the entire region.

The CDI ranks counties by the highest frequency per hazard - including wildfires, hail, and drought⁷ - that are not eligible for mitigation using CDBG-MIT funds. CDBG-MIT funds can only be used to address mitigation needs related to the identified risks from hurricanes/tropical storms/tropical depressions, severe coastal/riverine flooding, and for counties eligible for the 2015 and 2016 grant competitions, tornados. The CDI was also calculated using all 240 counties in Texas, and not the 140 counties eligible for CDBG-MIT funding.

Because the scores are weighted by the relative impact of each hazard on property loss and human casualties, wildfires (an ineligible hazard) are weighted more heavily than riverine flooding or tornadoes (eligible hazards). The state's calculation method also normalized the distribution twice, pulling outliers - counties with the most severe risk for eligible hazards - towards the middle of the distribution, meaning that their relative

p. 41155

⁶ Following Hurricane Harvey, the MOD process for CDBG-DR funds also raised serious civil rights questions. SETRPC's methodology did not comply with the federal or state requirements by using weather data and not unmet need data and steered funds away from densely populated areas with concentrations of people of color. For example, Port Arthur received only about twice as much funding as cities with less than 1% of its population, and Beaumont received less than twice the funding of cities that are 0.5% of its size. The cities in the SETRPC region with the three highest percent Black non-Hispanic populations (Beaumont, Port Arthur, and Orange) were also the three cities allocated the lowest per capita funding for buyouts. The small cities that received the highest per-capita funding for buyouts were: Taylor Landing, 87.3% non-Hispanic White; Bevil Oaks, 81.8% non-Hispanic White; Pine Forest, 90.4% non-Hispanic White; Rose City, 88.4% non-Hispanic White, and Rose Hill Acres; 91.4% non-Hispanic White. Port Arthur, Beaumont, and Orange also had the highest number of damaged owner-occupied homes in the region according to FEMA data (which undercounts damage to LMI households).

⁷ Eligible hazards for the 2015 and 2016 flood competitions did include tornados, the criteria for reallocation of these funds is in 5.4.1 and 5.4.2 of the Amendment.

risk for eligible hazards looks smaller than it actually is. If the CDI was based only on eligible counties and eligible hazards, it would result in a shift in county rankings. Using the state-calculated CDI is likely to divert funds away from the areas most affected by hurricanes/storms/depressions and coastal/riverine flooding - the two hazards that the majority of CDBG-MIT funds must address - and the areas of the state most vulnerable to storms and flooding are also some of the areas with the largest populations of affected persons.

In addition, the CDI only calculates risk based on data from the past 20 years, up to 2018. Failing to include any factor that accounts for the increasing severity of disasters – for example Tropical Storm Imelda (DR-4466-TX) - and the effect of climate change also skews the allocation away from the most at-risk areas. On February 15, 2022, the National Aeronautics and Space Administration (NASA), the National Oceanic and Atmospheric Administration (NOAA), the Department of Homeland Security (DHS), ACOE, the Department of Defense (DOD), and FEMA updated their 2017 report on sea-level rise. The updated report predicts that the sea level along U.S. coastlines will rise between 10 to 12 inches on average above current levels by 2050 which will significantly increase coastal flooding; particularly on the East and Gulf Coast.⁸

The Federal Register Notice allocating these funds is clear that “mitigation solutions designed to be resilient only for threats and hazards related to a prior disaster can leave a community vulnerable to negative effects from future extreme events.” (84 Fed. Reg. 45847) Grantees must mitigate the risks of future disasters, for example, “[g]rantees must consider high wind and continued sea-level rise and . . . the frequency and intensity of precipitation events.” (84 Fed. Reg. 45847) These are, again, disaster events that are particularly high-risk for the region.

SETRPC should not use a measure that does not accurately measure the risk associated with hurricanes, tropical storms and depressions, and severe coastal and/or riverine flooding.

Nor does the CDI include increased risks from the impact of natural disasters on industrial or otherwise hazardous uses that may result in explosions, toxic spills, and air pollution releases. Again, this is a particular issue for the SETRPC region – the location of the largest refinery in North America – as well as hazardous uses like chemical storage

⁸ NASA, NOAA, DHS, FEMA, ACOE, DOD, EPA, USGS, “Global and Regional Sea Level Rise Scenarios for the United States”, February 15, 2022. Available: <https://oceanservice.noaa.gov/hazards/sealevelrise/sealevelrise-tech-report-sections.html>

tanks, many of which are in close proximity to residential neighborhoods. SETRPC should use proximity to these hazards as an objective factor.

B. Social Vulnerability Index (SoVI) and LMI Percentage

The Social Vulnerability Index is an objective factor that identifies existing conditions of inequality and most urgent need, and is, therefore, critical to an equitable distribution of funds that complies with CDBG and other civil rights requirements, and that helps ensure the most effective use of funds. Use of the SoVI is a critical component of any distribution of public funding and SETRPC should use this factor in its MOD.

However, determining SoVI score at the county level rather than at a lower geographic level means that areas with greater economic inequality will have lower SoVI scores, even if there are areas within those counties with very high levels of social vulnerability and urgent mitigation needs. This may steer funds away from the hardest-hit areas that are most affected by pre-existing inequities and where mitigation funds would be most effective.

In general, research shows that low-income and people of color population groups are statistically minimized at the county scale, while census tracts or block groups are more inclusive scales. Even Dr. Cutter, who originally developed the SoVI, first published her SoVI Index on a county-basis, but then shifted to a census-tract basis in order to more accurately identify areas of vulnerability.

The Notice states that “[t]he action plan must describe the impacts of the use of CDBG-MIT funds geographically by type at the lowest level practicable (e.g., county level, zip code, neighborhood, or census tract).” (84 Fed. Reg. 45864) An analysis at the county level will not accurately identify the most impacted and distressed areas, where LMI populations live, or where social vulnerability is most prevalent.

CDBG-MIT grantees are also specifically required to “assess how the use of CDBG-MIT funds may affect members of protected classes under fair housing and civil rights laws, [and] racially and ethnically concentrated areas of poverty”. (84 Fed. Reg. 45847) Use of the SoVI at an appropriate geographic level is critical to this analysis. Identifying the most impacted and distressed areas at the county level is not enough to meet the specific needs of low-income people at the sub-county level. This is exactly how disaster recovery and mitigation programs systematically exclude the lower-income families and communities that are least protected, most impacted by disasters, and face the greatest

future risks. We note that Action Plan Amendment 1 was not approved by HUD because it failed to include this analysis. SETRPC's analysis of how its MOD will affect these areas and populations should also be provided for public comment before the draft MOD is submitted to GLO.

C. FEMA and NFIP Data

FEMA's own National Advisory Council, chaired by Texas Department of Emergency Management Chief Nim Kidd, found that:

[m]any FEMA programs do not consider the principle of equity in financial assistance relief. Damage assessments are based on property ownership, which immediately focuses on the wealthier parts of a community, and disadvantages renters and the homeless population. The Public Assistance Program most benefits communities that can afford to pay the required match and can navigate the complexities of the contracting agencies. The Individual Assistance Program is more accessible to those with time, income, and access. The National Flood Insurance Program inadvertently assists the wealthier segment of the population by serving only those who can afford to buy flood insurance.⁹

FEMA and NFIP data must be used with the knowledge that it undercounts damage to low- and moderate-income families and communities, and that disaster recovery programs perpetuate these disparities.

In many communities, information about available resources following natural disasters is spread by word-of-mouth, leading to reduced applications for programs like FEMA Individual Assistance in rural areas and communities lacking in social infrastructure. Lower numbers of FEMA applications may also reflect, for example, lack of access to the internet or Disaster Recovery Centers in rural areas or specific neighborhoods. Even in communities where residents are knowledgeable about FEMA programs, high levels of distrust in government generally and in FEMA specifically can prevent residents from applying for assistance through FEMA programs. FEMA rejects high rates of applicants for Individual Assistance programs, so in communities that have been struck by repeated disasters, applications for FEMA Individual Assistance programs can decline over time as residents learn that these programs are functionally inaccessible.

SETRPC should use the total number of FEMA Individual Assistance applications rather

⁹ NAC Report at 12.

than the number of accepted applications. Overall, FEMA's denial rates after Hurricane Harvey were extraordinarily high.¹⁰ Denial rates particularly high for lower-income households. Applicant households earning more than \$70,000/year were rejected for individual assistance only 10% of the time while applicants earning less than \$15,000/year were denied 46% of the time.¹¹ This statistic does not reflect varying degrees of damage but rather varying degrees of access to the program and resources to navigate the bureaucratic hurdles, as well as subjective assessments by FEMA inspectors, many of whom had minimal training.

SETRPC should use FEMA data that includes applications for personal property damage, and other FEMA data that records damage to rental housing units, in order to take renters into account. Renters, particularly low-and moderate-income (LMI) renters, are among the populations most vulnerable to natural disasters and must rely on landlords and developers to repair or rebuild rental housing. Most disaster recovery assistance for rental housing does not go to renters directly or ends well before rental housing is rebuilt. Between 2006 and 2015, only \$3.05 billion of CDBG-DR grants went to affordable rental housing, while \$13.6 billion went to homeowners. CDBG-DR funding for new affordable rental housing construction took an average of 4.6 years to be expended, and because only 51% of the rebuilt housing has to be affordable to LMI (under 80% of AMI) renters, pre-disaster affordable rental housing is often replaced with less affordable housing - if it is replaced at all. Mitigating the risk to rental housing - particularly affordable rental housing - should be prioritized.

SETRPC must account for the fact that FEMA damage amount data also undercounts damage to both lower-income renters and homeowners. If FEMA inspectors make a subjective assessment that a renter's personal property was not worth \$2000 or that

¹⁰ Dreier, H. (2021, June 23). FEMA pressed on historically high rejection rates for disaster survivors. Washington Post. https://www.washingtonpost.com/national/fema-pressed-on-historically-high-rejection-rates-for-disaster-survivors/2021/06/23/40edf97c-d43a-11eb-ae54-515e2f63d37d_story.html

¹¹ Adams, A. (2018, November 30). Low-income households disproportionately denied by FEMA is a sign of a system that is failing the most vulnerable. <https://texashousers.net/2018/11/30/low-income-households-disproportionately-denied-by-fema-is-a-sign-of-a-system-that-is-failing-the-most-vulnerable/> Denials based on heir property ownership are an additional barrier, particularly for households in Black communities where this form of ownership is more prevalent. Dreier, H., & Ba Tran, A. (2021, July 11). 'The real damage': Why FEMA is denying disaster aid to Black families that have lived for generations in the Deep South. Washington Post. <https://www.washingtonpost.com/nation/2021/07/11/fema-black-owned-property/>

damages to a home were not worth at least \$8000 or attribute a building's condition to "deferred maintenance" rather than storm damage - these disaster survivors are not included in FEMA data. Low FEMA damage assessments may not reflect less damage so much as the socioeconomic status of the neighborhood; wealthier communities will *prima facie* have higher property values and hence higher recorded damage.

There are similar problems with NFIP data. For example, by federal definition, all NFIP Repetitive Loss properties must have flood insurance because FEMA tracks the number of claims made on these properties. Repetitive loss data, therefore, excludes low-income families, who cannot afford flood insurance. FEMA has special programs for Repetitive Loss properties but no special programs for low-income communities.

Additionally, many of the homes that flooded during Hurricane Harvey and subsequent disasters were not located in flood plains and are much less likely to have flood insurance. In Harris County, 75% of the 204,000 homes and apartment units that flooded during Hurricane Harvey were outside of the 100-year floodplain.¹²

II. Prioritization of Projects and Eligible Uses

The MOD should prioritize projects that protect the most people over the most property value.

Any methodology that uses property value will fail to prioritize LMI families and communities as required by the Notice. If an assessment of risk is based on the total cost of damages to property, assets, and public infrastructure, then damage costs would be higher in wealthier areas because of the higher value of the property and assets, and because of higher past investments in infrastructure. Lower-income people and communities have, by definition, lower-value properties and fewer investments in public infrastructure. As a result, mainstream approaches to calculating the "most impacted" will disproportionately privilege wealthier areas.

SETRPC should prioritize flood mitigation projects, and projects that protect the largest

¹² Hunn, David, Matt Dempsey, & Mihir Zaveri. (2018, March 30). "Harvey's Floods: Most Homes damaged by Harvey were Outside Floodplain, Data Show." Houston Chronicle. <https://www.houstonchronicle.com/news/article/In-Harvey-s-deluge-most-damaged-homes-were-12794820.php#:~:text=Hurricane%20Harvey%20damaged%20more%20than,of%20homeowners%20uninsured%20and%20unprepared.>

number of people, including regional projects.¹³ These are the types of projects that CDBG-MIT is intended to fund and the most effective use of this funding. Including regional projects would also help ensure that high-risk jurisdictions are not denied mitigation for lack of capacity.

Jurisdictions and entities that received funding in the Hurricane Harvey Round 1 Statewide Competitive Grant Program should not be eligible for additional funding. In addition, jurisdictions that were offered HMGP Supplemental or Coastal Resiliency funds and did not apply for or accept those funds should not be eligible for Regional MOD funds.

Please don't hesitate to contact us with any questions or concerns about our comments. We look forward to the opportunity to review the preliminary draft MOD.

Sincerely,
Madison Sloan
Director, Disaster Recovery Project
msloan@texasappleseed.org

¹³ We want to emphasize that while we endorse the use of these funds for larger, high-impact projects, those projects may need to include targeted local infrastructure investments to ensure that they provide mitigation for everyone in the project area. For example, following Hurricane Dolly, the LRGVCD proposed improving its regional drainage structure. This would have benefitted incorporated areas with engineered drainage but excluded the colonias; concentrations of low-income families and families of color without engineered drainage that were not connected to the regional drainage system. The same areas that were most impacted by Hurricane Dolly, many colonias had standing water for over a month, rendering them inaccessible and increasing their rates of water and mosquito-borne diseases, would not have benefitted from a project that was intended to mitigate the most significant damage and for which colonia families were being counted towards the region's LMI National Objective. Similarly, in eligible areas where historical disinvestment has resulted in inadequate infrastructure and other deficiencies which increase neighborhood vulnerability, any larger project must include the localized infrastructure necessary to ensure that those communities are served by projects funded with CDBG-MIT funds.