

STATE OF NEBRASKA

ACTION PLAN

For the

Supplemental 2008 CDBG Disaster Recovery Funding
from the Supplemental Appropriations Act
Public Law 110-252, 2008

Federal Register: September 11, 2008

April 2009

Department of Economic Development
Community and Rural Development Division

NEBRASKA
possibilities...endlessSM

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INTRODUCTION

The State of Nebraska is required to publish an Action Plan that describes the proposed use of United States Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funding associated with the Supplemental Appropriations Act, 2008 (Public Law 110-252, approved June 30, 2008) for disaster relief of unmet needs resulting from severe storms, tornados, and flooding in the State of Nebraska (Action Plan). The Governor of the State of Nebraska, Dave Heineman, has designated the Department of Economic Development (DED) as the agency responsible for the administration of the CDBG program for disaster recovery (Disaster Recovery Program), and for the distribution of CDBG Disaster Recovery funding allocated to the State through the Supplemental Appropriation Act (Disaster Recovery Funds).

This Action Plan will describe:

- The citizen participation process used to develop the Action Plan.
- Eligible, affected areas and applicants, and the methodology to be used to distribute funds to those areas and applicants.
- Activities for which funding may be used.
- Grant administration standards.

CITIZEN PARTICIPATION

Citizen participation is an essential component of a statewide planning effort. Nebraska strongly encourages public participation in identifying community needs. Citizens and other interested parties are given an opportunity for reasonable and timely access to information relating to the Action Plan and the use of Disaster Recovery Funds under the Disaster Recovery Program.

Non-English speaking individuals and individuals with disabilities may request auxiliary aids and service necessary for participation by contacting the Department of Economic Development at P.O. Box 94666, Lincoln, Nebraska 68509-4666, or ded.cdbgdaster@nebraska.gov.

Los individuos no hablan Inglés y los individuos con discapacidad podrán solicitar las ayudas y servicios auxiliares necesarios para la participación de contacto con el Departamento de Desarrollo Económico PO Box 94666, Lincoln, Nebraska 68509-4666, o ded.cdbgdaster@nebraska.gov.

Comment Period

A formal seven (7) day public comment period was open February 18, 2009 for the Action Plan. Comments were accepted until February 25, 2009. Comments were submitted via email to ded.cdbgdaster@nebraska.gov or by mail to Audrey York at the Nebraska Department of Economic Development, 301 Centennial Mall South, 4th Floor, PO Box 94666, Lincoln, NE 68509-4666.

A news release announcing the comment period was sent to media statewide and notices were sent to the following: The Governor, Lt. Governor, City and Village Clerks, County Clerks, Community Action Agencies, State Senators, and CDBG Administrators. A public notice was placed in the Scottsbluff Star-Herald, North Platte Telegraph, Norfolk Daily News, Lincoln Journal Star, Omaha World Herald, Grand Island Independent, Kearney Daily Hub, Ainsworth Star Journal, and the Nebraska City News-Press.

The proposed Action Plan was posted on DED's website at:
<http://www.neded.org/content/view/877/156> no later than February 18, 2009.

February 18, 2009

**PUBLIC COMMENT PERIOD BEGAN &
PROPOSED ACTION PLAN AVAILABLE**

February 25, 2009

PUBLIC COMMENT PERIOD ENDED

Summary of Public Comments on the Proposed 2008 CDBG Disaster Recovery Action Plan

The DED received two (2) official comments on the proposed 2008 CDBG Disaster Recovery Action Plan during the public comment period. Comments were received by e-mail during the official comment period February 18, 2009 through February 25, 2009. The Proposed 2008 CDBG Disaster Recovery Action Plan was posted on the DED website.

All comments were logged in as they were received. DED sent written responses to individuals who submitted comments. All comments of record are available to the public at the DED. A synopsis of the comments and responses follows. The DED written responses are in italics, bold, and indented.

Comments and Responses:

Comment #1

NDNR is mentioned several times to assist with the identification and assisting with this funding effort. I'm starting to get some calls and questions about how projects get considered. I haven't heard anything about how NDNR will be involved, so could you tell me what your thoughts are for this?

I have talked to several of the private consultants who are out doing mitigation planning for the natural resources districts. In short, most of the state has a plan in place or is in the process of completing a mitigation plan. In the last month I have led initial public meetings for mitigation plans for the Twin Platte NRD, Lower Loup NRD, and have another one this Wednesday for the Central Platte NRD. The Papio NRD is wanting to start its required 5-year mitigation plan update. If the NRDs are eligible or if they can find an applicant on their behalf, that would be a good plan to do.

Another idea I have for mitigation planning is to assist with creating a complete mitigation project application for entities which need assistance – these would be for highly-technical projects like drainage improvements, and ones that are too expensive for smaller communities with no expertise to do their own. FEMA does have funding programs which can do the planning phase, but the FEMA requirement says that the planning/design must be the first component of the actual project to be completed. If during the planning phase, the project is found to be ineligible or infeasible for FEMA funding, the entity has lost their money with nothing to show for it. Having a complete application in place will allow the project sponsor to submit the application for any mitigation funding program. There are several FEMA mitigation programs for which Nebraska receives money each year, so it would be a matter of submitting the completed project application for funding to the best program.

Let us set up a meeting the next week to discuss options. (The Nebraska Department of Economic Development, the Nebraska Department of Natural Resources, and the Nebraska Emergency Management Agency met on March 3, 2009 to discuss agency involvement in, and funding options for, the 2008 CDBG Disaster Recovery program.)

Comment #2

The plan is well written and appears to assist those Counties that had the most damage.

Thank you for your comment. We appreciate your taking the time to review the Proposed 2008 Disaster Recovery Action Plan. Please continue to check our website at <http://www.neded.org/content/view/877/156/> for updates and further information regarding the 2008 CDBG Disaster Recovery Funding.

Consultation with Local Governments, Organizations, and Agencies

The DED understands the importance of interaction with local governments in making a successful recovery effort. DED has sought input regarding recovery priorities and potential allocation methodologies from representatives of the entitlement communities of the City of Omaha and the City of Lincoln, local governments, Community Action Agencies, Development Districts, CDBG Certified Administrators, and nonprofit tribal organizations. DED will continue to coordinate with and invite these groups to provide input on this Action Plan.

The DED is also continuing coordination with the Nebraska Emergency Management Agency (NEMA) to identify and resolve unmet needs and maximize federal assistance. Additionally, DED is communicating and coordinating with the Nebraska Department of Natural Resources (NDNR) to identify and assist in the long-term recovery effort for flood mitigation through floodplain mitigation planning.

Amendments to the Action Plan

DED reserves the right to make non-substantive changes or amendments to the Action Plan without opening a public comment period. DED will notify HUD when a non-substantial change is made to the Action Plan. A change to the Action Plan which constitutes a substantial amendment will be made available for public review and comment prior to finalizing the amendment. The amendments will be posted on DED's webpage and a comment period of at least seven (7) days will be held to receive comments on the substantial amendment. All comments will be considered prior to finalizing a substantial amendment. A summary of all comments received and DED's responses to those comments will be included in the final substantial amendment. All substantial amendments will be submitted to HUD for approval.

The following events would require a substantial amendment to the Action Plan:

- Addition or deletion of any allowable activity described in the Action Plan.
- A change to the planned beneficiaries of an activity.
- A change of more than 5 (five) percent in the original proposed funding allocation between the various activity categories of Public Infrastructure, Housing Impact Assistance, and Disaster Recovery Planning (unless sufficient applications are not received to meet the targeted percentages for each activity).

Citizen Complaints

DED will respond in writing to written citizen complaints about the Action Plan, substantial amendments, or performance reports. Citizen complaints should be submitted to the DED. DED will process and respond to complaints within 15 working days, where practicable, in accordance with the complaint process as established in the DED CDBG Administration Manual.

All local government grantees and recipients must establish procedures for responding to citizens' complaints regarding activities carried out utilizing the funds from this supplemental appropriation. Citizens should be provided with an appropriate address, phone number, and times during which they may submit such complaints. The local government grantee will provide a written response to every citizen complaint submitted in writing within 15 working days of the complaint, where practicable.

EFFECT OF THE DISASTER AND NEBRASKA'S RECOVERY NEEDS

From May 22 to June 24, 2008 the State of Nebraska was impacted by a series of severe thunderstorms that produced high winds, hail, tornados, and heavy rain, which lead to various flooding events. NEMA, other state agencies, and FEMA worked together to determine the adverse impacts to the state. Based on the information collected, the State of Nebraska received a major disaster declaration, which enabled 61 counties to receive assistance through the Public Assistance program and 14 counties to receive assistance through the Individual Assistance program. To date, public assistance applicants have had over \$35,000,000 in projects written, which will

be funded 75 percent by FEMA, 12.5 percent from the state, and 12.5 percent from the applicant. This has strained the Governor's Emergency Fund as well as local resources.

Damages from the storms varied greatly. There were many roads that were damaged making them impassable. Debris littered roads, parks, and private property from the tornados and high winds. Buildings were struck leaving homeowners, the Buffalo County Fair Grounds, and others with extensive damages. Homes and businesses were flooded in several cities including Cozad, Schuyler, and Platte Center. Utilities throughout the state suffered losses such as downed power lines, exposed water mains, and damaged sewer lines. To date, repairs are still being made, and several buildings and bridges are being replaced.

Unfortunately, even with the broad reach of the disaster declaration, many individuals and local government entities were forced to bear the burden of financial shortfalls. Local entities are currently required to pay nearly \$5 Million for their share of the disaster relief. This does not include individual homeowners and business owners who were forced to rebuild and repair the damages left by the storm that were not covered by insurance or FEMA programs.

In the instance of the Village of Dannebrog, debris clogged the Oak Creek, which runs along the edge of town. However, due to public assistance program limitations, the Village will not receive additional funding to clean the creek of the debris, which causes them concern for future potential flooding issues. The Village is left with a decision: face the potential for flooding, or bear the expense of cleanup on its own.

Due to an excessive amount of rainfall, Federal Secondary Road 1695 in Gosper County experienced substantial slope erosion. Where the shoulders slid, the pavement settled and started to crack. For safety reasons, Gosper County closed this section of road to the traveling public. After evaluating the situation, the County decided to remove the existing damaged pavement and rebuild the slopes in order to make it safer for the traveling public and to keep the slides from happening again. FEMA declared the \$270,000 project ineligible for funding.

Gosper County was also denied FEMA funding for Federal Secondary Road 1550. The front slope of the road was eroded away for approximately 1700 feet west of Bridge Number C003720410, and the abutments and rip rap on Bridge Number C003720410 were washed away causing the approaches to be washed away as well. The estimated cost by FEMA is \$100,000.

Flood waters also caused damage to the dike along Wahoo Creek on the east side of the Village of Ithaca. Water eroded in to the embankment or dike on various spots, and one spot in particular shows weaknesses that could break the dike in another flood occurrence. The cost to rebuild the affected areas is estimated at \$15,000-\$20,000. The City of Grand Island experienced nearly double the amount of rainfall during May and June 2008. The rainfall events caused high ground water levels and flooding throughout the community, which overwhelmed the city's sewer system causing sewage

to fill the lift station, pipes, and manholes resulting in sewer back ups into homes. The estimated cost of repairs/replacement is \$5,361,400.

The public sewer infrastructure system of the City of Valley also sustained considerable damage because of the heavy rainfall and subsequent flooding. Major damage took place in the Gardiner Street sewage pumping station when flood waters inundated the station, causing damage and destruction to the pumps, motors, control system, and underground pumping chamber. Temporary pumps were installed to provide relief, but in order to prevent future damages from occurring again, the damaged pumping station needs to be replaced. The existing pumping station simply cannot meet the demands that heavy rainfall and flooding events place on the sewer collection system and pump station. The estimated cost to replace the damaged pumping station is \$478,200. FEMA funding was not provided for this project.

Streets and storm sewers were also damaged by the storms in many other communities including the City of Gothenburg, the City of Loup City, the City of Ravenna, and the City of Kearney. Ponding water caused subgrade damage, and saturated conditions caused numerous problems with street surfacing. Storm water run-off from heavy rain was directed down the street causing irreversible street damage and flooding. Constant wet conditions from drainage saturated the subgrade and caused deterioration of street surfacing. Sanitary sewers backed up from heavy rains, and extra flow in the sewer from runoff was experienced during the excessive rain. These flows carried gravel, grit and silt in the sewer causing blockages and damage to the sewer main. The estimated amount of funds needed to complete the repairs is as follows:

- City of Gothenburg \$750,000
- City of Loup City \$34,000
- City of Ravenna \$710,000
- City of Kearney \$2,000,000

Funding is not only necessary for public infrastructure projects; funding is also needed for floodplain mapping and studies. Currently, FEMA has very limited funding in order to produce new floodplain maps in Nebraska. This, along with the large number of maps now in need of updating nationwide, means that floodplain mapping completed by the Nebraska Department of Natural Resources (NDNR) is not being converted to effective floodplain maps by FEMA. Despite the backlog of countywide maps needing attention by FEMA, NDNR continues to complete new floodplain mapping for interested counties. However, these maps are completed according to the *FEMA Guidelines and Specifications for Flood Hazard Mapping Partners*, but are not actually effective floodplain maps. Instead, NDNR's maps qualify as "best available data" for the counties to regulate floodplain development in the jurisdiction, which their local floodplain management ordinance allows. These maps are referred to as "work maps." In addition to being much more precise than the current maps, new floodplain maps will be provided to the counties in digital format (called a "DFIRM" or Digital Flood Insurance Rate Map). The DFIRM format will allow counties with Geographic Information System capability to respond to floodplain inquiries much faster than their current paper-only floodplain maps will allow.

In March 2009, NDNR completed a reassessment of county floodplain mapping priorities. The reassessment showed that the counties with existing floodplain maps most in need of updating are (in order of ranking number): Hamilton County (#1), Adams County (#2), York County (#3), Seward County (#4), and Jefferson County (#6). All of these counties were declared disaster areas in FEMA-1770, experienced damages due to flooding, and are the counties most in need of new floodplain mapping.

The floodplain administrators for Adams County and Jefferson County were contacted, and both administrators stated they would greatly appreciate new maps for their counties. The Adams County floodplain administrator stated that the topography on which their existing floodplain map is based was accurate in the 1960s. Since then a good portion of the northern half of the county has been land-leveled to enable flood irrigation. This area is where the worst flooding occurred in Adams County last year. Therefore, the current floodplain maps are inaccurate and highly questionable for recovery work there. The Jefferson County administrator also has several issues with their existing floodplain maps, but stated that the greatest benefit to him would be to have a DFIRM instead of the existing paper maps. Jefferson County has struggled to try to “rubber sheet” a digital version of their county maps into a geographic information system, but a DFIRM would eliminate all of the hassles and inaccuracies this process produces.

In addition to floodplain mapping, NDNR is proposing to fund the type of flood studies which are not currently eligible for FEMA funding. Annual guidance from FEMA stipulates that any “study” performed must lead to an actual project to be completed with their funds. However, many communities do not know the best alternative for reducing flood losses, and often the situation leading to their flood problems is so complex that it requires a full, professional study. NDNR proposes to create a “pool” of this flood study money with which it could advertise and contract directly with private engineering/consulting firms. These private companies function as the city/village engineer for communities too small to have a full-time engineer on staff. These communities have significant flood problems, but lack the necessary resources with which to address them. If accepted, the NDNR would require any approved funds to go toward communities in the declared counties that experienced direct damage due to flooding.

FEDERALLY DESIGNATED AREAS ELIGIBLE FOR ASSISTANCE

Nebraska has been allocated \$5,557,736 for disaster recovery. The federal disaster declaration that is relevant to this supplemental appropriation is 1770-DR. For areas eligible for assistance, please see the attached FEMA map of the declared disaster, which is also available at:

http://www.gismaps.fema.gov/2008graphics/dr1770/dec_1770.pdf.

PLAN FOR RECOVERY

Promotion of Short- and Long-Term Recovery Planning

Short-Term Recovery

Short-term recovery efforts for the State of Nebraska include securing funding and other resources needed for the recovery, establishing principles and policies for redevelopment, ensuring transparency and accountability in the investment of Disaster Recovery Funds, and communicating effectively.

DED is communicating with the Nebraska Emergency Management Agency (NEMA) in order to fulfill its role in the short-term recovery effort. DED will award Disaster Recovery Funds to eligible projects in coordination with information provided by NEMA. NEMA promotes short-term disaster recovery in the following capacity.

The State of Nebraska has a state-level disaster recovery mechanism coordinated through the Nebraska Emergency Management Agency (NEMA) for short-term recovery that provides assistance to disaster-stricken counties and communities. This assistance is provided based on local governments' capacity to handle the disaster.

In the event of an emergency anywhere in the state, the local jurisdictions are responsible for first-response to the emergency. If local resources are inadequate to deal with the situation, the local political leader declares an emergency and requests state assistance.

Normally, NEMA is aware of the developing situation and alerts the Governor's Office and other state agencies. NEMA can also activate the state's Emergency Operations Center (EOC) located in the NEMA headquarters, situated in the underground bunker. The EOC becomes the center for any state response. Depending upon the nature of the emergency, state teams can be dispatched to the disaster area.

If deemed necessary, the FEMA Region VII office, which is located in Kansas City, can be alerted. They, in turn, can notify FEMA National in Washington, D.C.

Upon the advice of the FEMA Director, the Governor can proclaim a state emergency and sign a declaration. This declaration formalizes the state response and places all of the state's resources at the disposal of the Adjutant General. This can involve the National Guard, State Patrol, Department of Roads, Game and Parks Commission, Department on Aging, Health and Human Resources, or any other agency that can be of assistance.

The formal declaration process also allows the Adjutant General to use money in the Governor's Emergency Fund to pay for the disaster costs. This fund, which was created and is maintained by the Legislature, usually is kept at around \$1 million.

If the Governor determines state resources are not sufficient to deal with the emergency, a federal disaster declaration can be requested. The issuance of a

Presidential Disaster Declaration means all the resources of the federal government can be brought to bear on the emergency.

Under a Presidential Disaster Declaration, NEMA and FEMA jointly coordinate state and federal activities in a Disaster Field Office. The two disburse recovery funds for two types of federal disasters. A Presidential Disaster Declaration can be for public assistance, individual assistance, or both.

Public Assistance (PA) is used to help local and state governments recover their disaster expenses. PA is used to pay for roads, bridges, public buildings, and other facilities damaged in a disaster. It can also pay for costs such as the National Guard, police, fire, and public works employee salaries and other costs. Normally, the Federal Government pays 75 percent of all eligible public costs. Traditionally, the state and local governments equally split the remaining 25 percent.

Long-Term Recovery and Prevention

In response to the flooding, state and federal agencies are providing tools such as enhanced floodplain mapping to aid local governments in making decisions. The long-term mission is to build, sustain, align, and leverage relationships developed during the recovery efforts, effectively coordinate the identification and prioritization of long-term needs of communities, and to fund eligible projects in order to recover from the disasters.

In order to achieve this, the DED is communicating with NEMA and NDNR for long-term recovery efforts. DED will award Disaster Recovery Funds to eligible projects in coordination with information provided by NEMA and NDNR. NEMA and NDNR promote long-term disaster recovery in the following capacity.

The State of Nebraska has a state-level disaster recovery mechanism coordinated through the NEMA for long-term recovery and prevention that provides assistance to disaster stricken counties and communities. This assistance is provided based on local governments' capacity to handle the disaster.

The Department of Natural Resources (NDNR) is the official state agency for all matters pertaining to floodplain management. The Floodplain Management Section is responsible for coordinating an overall program aimed at addressing the wise use of land subject to flooding. This is accomplished by providing technical assistance on floodplain management to communities, state agencies, federal agencies, and the public; identifying and delineating floodplains and floodways; providing technical assistance and funding to the communities for the development of local flood hazard mitigation plans; and providing state coordination for the National Flood Insurance Program (NFIP).

NFIP was established in 1968 to reduce flood losses and disaster relief costs by guiding future development away from flood hazard areas where practicable; by requiring flood resistant design and construction practices; and by transferring the costs of flood losses to the residents of floodplains through flood insurance premiums. In return for

availability of federally-backed flood insurance, communities applying to join the NFIP must agree to adopt and enforce minimum flood loss reduction standards to regulate proposed development in special flood hazard areas as defined by FEMA flood maps. One of the strengths of the program is its ability to keep people away from flooding rather than to keep the flooding away from people. This has been accomplished through historically expensive flood control projects.

The NFIP has approximately 4.4 million policies in force, representing over \$370 billion worth of coverage, in 19,884 participating communities nationwide. 95 percent of flood insurance policies are written by private companies and sold by more than 110,000 insurance agents and brokers participating in the NFIP's Write Your Own (WYO) program. Since 1969, over \$12.1 billion in claims have been paid. Currently, Nebraska has 13,300 policies in force representing \$1.3 billion worth of coverage.

The Community Rating System (CRS) is a new program of the NFIP. It was created as an incentive mechanism aimed at recognizing and encouraging exemplary community floodplain management that exceeds minimum NFIP standards. Flood insurance premium rates are adjusted to reflect reduced risk resulting from community activities that meet the three goals of the CRS: reducing flood losses, facilitating accurate insurance rating, and promoting the awareness of flood insurance.

The NFIP has been successful in requiring new buildings to be protected from damage by the 100-year flood. The CRS provides an incentive for communities to do more than regulate construction of new buildings to the minimum national standards. Under the CRS, flood insurance premium rates are adjusted to reflect community activities designed to reduce flood damage to existing buildings, to manage development in areas not mapped by the NFIP, to protect new buildings beyond minimum NFIP protection levels, to help insurance agents obtain flood data, and to help people obtain flood insurance.

Flood Mitigation is defined as a sustained action that reduces or eliminates long-term risk to people and property from floods and their effects. Essentially, flood mitigation means to do something now to reduce or eliminate the flood threat. To do this, there are two main types of flood mitigation projects: structural and nonstructural.

As the name implies, structural techniques seek to build something in order to change or "control" the physical environment; therefore, common structural techniques are levees or floodwalls. The goal of structural flood mitigation is to take the river away from the people. The United States Army Corps of Engineers (USACE) is the Federal agency charged with the construction and maintenance of major structural flood mitigation projects.

Nonstructural approaches are designed to change the way humans interact with the flood problem and to remove structures from the floodplain or floodway. The goal of nonstructural flood mitigation is to take the people away from the river. The most prevalent nonstructural activities include acquisition, relocation, or elevation of flood-prone structures. In cooperation with each State, FEMA funds several nonstructural flood mitigation programs.

Promotion of the Removal of Regulatory Barriers to Reconstruction

The State of Nebraska will promote the removal of regulatory barriers to reconstruction by encouraging local governments to expedite reconstruction permitting processes. This may include abating/removing permit fees, requiring fewer permits, or other means necessary to ensure reconstruction is a viable activity when an eligible need is present.

Promotion of High Quality, Durable, Energy Efficient, and Mold Resistant Construction Methods

All newly constructed or rehabilitated housing units must meet all locally adopted and enforced building codes, standards, and ordinances. All housing activities shall be designed to achieve maximum energy efficiency to the extent that this can be accomplished on a cost-effective basis, considering construction and operating costs over the life cycle of the structure. Efficiency may be demonstrated through design based on LEED, Energy Star, and/or other comparable guidelines and rating systems. Construction methods shall be encouraged in compliance with local building codes and mold resistance construction materials.

Provision of Adequate, Flood-Resistant Housing for All Income Groups that Lived in the Disaster Impacted Areas

The State of Nebraska will mitigate the unmet affordable housing needs in disaster-impacted communities, if it uses a portion of its CDBG supplemental appropriation, through voluntary acquisition, rehabilitation, and homebuyer assistance. The potential for providing assistance to the needs of persons with disabilities will be considered for all new construction, reconstruction, and rehabilitation.

The State of Nebraska addresses its emergency shelter and transitional housing needs through its regional continuum of care program administered by the Nebraska Department of Health and Human Services. The State supports the continuum of care collaborative approach to addressing the needs of people who are homeless or at imminent risk of becoming homeless. The continuum of care providers with a supporting database for resources will assist persons in need of housing and shelter during disaster and disaster recovery as necessary.

Anti-Displacement and Relocation

The State of Nebraska is committed to ensuring that grantees make all reasonable efforts to ensure that activities undertaken through the use of Disaster Recovery Funds will not cause unnecessary displacement or relocation. Therefore, no grantee will receive Disaster Recovery Funds without certifying to minimize displacement and to adopt, make public, and follow an anti-displacement and relocation assistance plan. As part of the certification, grantees are encouraged to take the following steps to minimize displacement of persons: (1) maintain current data on the occupancy of houses in areas targeted for CDBG assistance; (2) review all activities prior to implementation to

determine the effect, if any, on occupied residential properties; (3) include consideration of alternate solutions when it appears an assisted project will cause displacement, if implemented; and (4) require private individuals and businesses to consider other alternatives to displacement causing activities, if they are requesting CDBG assistance. The State of Nebraska plans to exercise the waivers set forth in Federal Register Vol. 73 No. 177 pertaining to URA and HCD, as activities warrant, to engage in voluntary acquisition and optional relocation activities to avert repeated flood damage and to improve floodplain management. When grantees implement activities, for voluntary acquisition and optional relocation, they are expected to ensure the assistance and protections afforded to any persons or entities under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970 (URA), as amended and section 104(d) of the Housing and Community Development Act of 1974 (HCD), as amended. Grantees implementing activities identified in this Action Plan are expected to ensure the assistance and protections afforded to any persons or entities under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970 (URA), as amended and section 104(d) of the Housing and Community Development Act of 1974 (HCD), as amended.

For the purposes of this Action Plan, demonstrable hardship is defined using its two component words:

Demonstrable—proved or shown, by objective evidence (not subjective feelings).
Hardship—an economic impact which is burdensome or very difficult to bear, causing economic distress well beyond mere inconvenience.

Monitoring Standards

The DED will implement the State of Nebraska's CDBG program monitoring policies and procedures for ensuring compliance with federal guidelines. These policies and procedures are consistent with those used by HUD to monitor state-administered and entitlement programs.

The DED will document compliance with program rules, ensure timely expenditure of Disaster Recovery Funds and timely closeout of projects, track program/project performance, and identify technical assistance needs. The DED's compliance review for Disaster Recovery grantees will also focus on the non-duplication of benefits by any FEMA funding, the Army Corps of Engineers funding, private insurance, or any other state and federal payments/grants/loans issued for public infrastructure, disaster recovery planning, or housing impact assistance activities.

Disaster Recovery Funds are not to be used for activities reimbursable by, or for which funds are made available by, FEMA or the Army Corps of Engineers. The Disaster Recovery Funds are intended for activities related to long-term disaster recovery and they may not otherwise replace other federal, state, or local financial assistance available for any project. Any Disaster Recovery Funds used to assist homeowners, renters, or businesses directly must consider and deduct any duplication of benefits. The DED will coordinate with FEMA, the Nebraska Emergency Management Agency

(NEMA), and the Army Corps of Engineers to identify and assist local governments in determining such duplications. Duplication of benefits includes any FEMA, the Army Corps of Engineers, or real property payments and private insurance payments.

The DED will utilize its existing monitoring process to ensure that all contracts funded under the Disaster Recovery Program are carried out in accordance with federal and state laws, rules, and regulations. Expenditures will be disallowed if the use of the funds does not address disaster-related needs or are clearly not for the greatest needs. In such case, the local government receiving the funding would be required to refund the amount of the grant that was disallowed.

The DED conducts two basic types of monitoring that are determined by the established “Risk Analysis” process: off-site, or “desk” monitoring and on-site monitoring. DED staff regularly reviews each project to verify that it is proceeding in the manner set forth in the CDBG Contract in accordance with applicable laws and regulations. The “Risk Analysis” monitoring plan determines whether a project review is conducted by a “desk” monitoring or on-site monitoring. Desk monitoring is an ongoing process in which the program representative responsible for overseeing the grantee’s project uses all available information to review the grantee’s performance in carrying out the approved project. This review process enables the DED to identify problems requiring immediate attention and to schedule projects for on-site monitoring. Materials used for this review include, but are not limited to: Amendments/Extensions to the CDBG Contract, Project Status Reports, Requests for a Draw-down of Funds, and other supporting documents.

On-site monitoring is a structured review conducted by the program representative at the locations where project activities are being carried out or project records are being maintained. One on-site monitoring visit is normally conducted during the course of a project, unless determined otherwise by the “Risk Analysis” process. The “Risk Analysis” components for determination of “desk” or on-site monitoring compliance review include, but are not limited to: grant award amount, length of time since grantee was monitored, length of time Certified Administrator was last evaluated, significant outstanding audit issues, significant outstanding compliance issues, and types of prior projects monitored. The review considers all available evidence of conforming to the approved program, substantial progress toward program goals, compliance with laws, and continued capacity to carry out the approved program. Checklists are utilized to ensure that all issues are addressed. The number of times a project is monitored depends upon the issues that arise during the desk and on-site monitoring. In summary, the DED uses the following processes and procedures for monitoring projects receiving HUD funds: evaluation on program progress, compliance monitoring, technical assistance, project status reports, monitoring technical assistance visits, special visits, and continued contact with grantees by program representatives.

On-Site Review Process

The DED uses the following process to set-up, undertake, and report during on-site monitoring visits:

1. Program Representative calls the grant administrator to schedule an on-site visit.
2. Program Representative sends a letter prior to visit that confirms date and time, the checklists that will be used, and the people and files needed during the visit.
3. Program Representative conducts on-site visit, reviews files, inspects property, completes checklists, and writes report.
4. Program Representative submits monitoring report to the grantee within 30 days of visit unless circumstances noted on the checklist would indicate a delayed report would be more appropriate.
5. Program Representative works with grantee until monitoring is cleared.

File Preparation

The DED expects the grantee to have all documents needed for review to be available at the site of the visit. All grant records must be maintained and under the control of the grantee. The records must be readily accessible by the DED. Furthermore, all documentation should be well organized for easy review. A good organization approach should be based upon the structure of the monitoring checklist.

Monitoring Report

The monitoring report issued to the grantee following a review contains the following as applicable:

1. Compliance areas reviewed, files reviewed, who conducted the review, and the date it occurred;
2. A brief description of the specific statute, regulation, or requirement examined;
3. The conclusion (i.e. Satisfactory Performance, Concern, Question of Performance, Finding) and basis for the conclusion reached.
 - (a) A Satisfactory Performance determination is a conclusion that the grantee is meeting its statutory and regulatory responsibilities.
 - (b) A Concern raises an issue that does not involve a statute, regulation or requirement, but may involve a management suggestion or program improvement.
 - (c) A Question of Performance is an inconclusive review that raises a question of whether or not a violation of a statute, regulation or requirement has occurred or compliance cannot be demonstrated. In this case the reviewer will first informally discuss the review with the grantee. If a determination of compliance still cannot be made, the reviewer will request additional information, to be provided within a 30-day period, to determine whether a violation did occur. This determination is only for a limited period of time. When the Grantee responds to the question, a final determination will be made.
 - (d) A Finding is a clear, specific, and identifiable violation of a statute, regulation, or requirement about which there is no question. The action normally requested is for the grantee to explain, within a 30-day period,

what steps it will take to remedy and/or prevent a recurrence of the violation.

Monitoring Checklist

The DED will develop revised monitoring checklists, appropriate for the Disaster Recovery Funding, and applicable waivers and alternative requirements. In addition to the usual information collected through the CDBG Monitoring Checklist, the revised version will include a set of questions designed to address the issue of non-duplication of benefits.

In determining appropriate monitoring of the grant, the DED will consider prior CDBG grant administration, audit findings, as well as factors such as the complexity of the project. The DED will determine the areas to be monitored, the number of monitoring visits, and their frequency. All grants will be monitored at least once on site during the life of the activity. The monitoring will address program compliance with contract provisions, including national objective, financial management, and the requirements of 24 CFR Part 85. The DED will utilize the checklists similar to those used in monitoring regular program activities.

Internal Audit Functions & Responsible Staff

Auditing of the Disaster Recovery Program will be included within the ambit of the State of Nebraska Comprehensive Annual Financial Report and Single Audit, which is independently conducted by the Office of the Nebraska Auditor of Public Accounts (known in working practice as the State Auditor's office). The State Auditor's office is an elected, independent office which carries out the federal Single Audit Act's requirements as they pertain to the State of Nebraska. Large, federal program grants received by the State of Nebraska and administered by the Department of Economic Development (such as the Disaster Recovery Program) are automatically part of the Statewide Single Audit's coverage.

Enhanced internal controls have been implemented by the DED for controlling funds requested and paid out to grantee projects under the Disaster Recovery Program. These enhanced internal controls include: (1) the hiring of additional personnel for this program (who also work on other programs) who will be the first layer of financial control in the DRGR system; (2) supervisory personnel at DED whose additional approval will be required for DRGR financial drawdowns and project accounting; (3) continuing involvement by the accounting division of DED in reviewing and approving the flow of this federal money through the State's accounting system (NIS).

Additionally, the Director of the Community and Rural Development Division (the division of DED responsible for the administration of the Disaster Recovery Program) reports directly to the Director of DED, and the Director of DED reports directly to the Governor of the State of Nebraska. This reporting structure, along with oversight by the State Auditor's office, will help ensure that Disaster Recovery Program requirements are met.

Mitigation of Fraud, Abuse and Mismanagement

The State of Nebraska will take the necessary steps to avoid or mitigate occurrences of fraud, abuse, and mismanagement, especially with respect to accounting, procurement, and accountability. This will occur through increased staffing, internal audit functions, providing technical assistance to grantees, and monitoring projects to ensure compliance with applicable federal and state laws and rules and regulations.

In addition, the contract between a grantee and the DED will include requirements for compliance with applicable federal and state laws and rules and regulations, will require the grantee to provide the DED with assurances and/or certifications in regard to financial management, and will require the grantee to adopt procurement procedures and a code of conduct.

Administration and Staffing

As mentioned previously, additional personnel have been hired to aid in the administration of, and to carry out, the Disaster Recovery Program. Not only will these personnel remain involved in ensuring that there are layers of financial control, they will also provide technical assistance to grantees, and undertake administrative and monitoring activities to ensure compliance with applicable requirements, including but not limited to, fair housing, nondiscrimination, labor standards, the environment, and procurement. Technical assistance will increase the capacity of grantees, and this assistance, in conjunction with monitoring, will help ensure compliance.

Increasing Capacity at the Local Level

Workshops will be held in the spring and fall of 2009 to provide the *Application Guidelines and Instructions* and to review regulations, reporting requirements, and payment procedures for local governments awarded funds for Disaster Recovery. All grants must have a qualified CDBG program certified administrator. Applications will be reviewed by DED using the *Application Guidelines and Instructions*. Other State or Federal agencies will be requested to review and comment on applications, as appropriate.

Prevention of Duplication of Benefits

Disaster Recovery Funds are not to be used for activities reimbursable by, or for which funds are made available by, FEMA or the Army Corps of Engineers. The Disaster Recovery Funds are intended for activities related to long-term disaster recovery and they may not otherwise replace other federal, state, or local financial assistance available for any project. Any Disaster Recovery Funds used to assist homeowners, renters, or businesses directly must consider and deduct any duplication of benefits. The DED will coordinate with FEMA, the Nebraska Emergency Management Agency (NEMA), and the Army Corps of Engineers to identify and assist local governments in determining such duplications. Duplication of benefits includes any FEMA, the Army Corps of Engineers, real property payments, or private insurance payments. If necessary, the DED will require each grantee to document and verify any funding that has been received through FEMA, the Nebraska Emergency Management Agency

(NEMA), or the Army Corps of Engineers through procedures established by the DED and implemented at the subgrantee level.

FEMA and Floodplain Mapping: FEMA currently has an extremely limited capacity to prepare new floodplain maps in Nebraska. Therefore, the Nebraska Department of Natural Resources (NDNR) completes floodplain maps for the state. NDNR is a “Cooperating Technical Partner” (CTP) of FEMA, which means that the NDNR has demonstrated the capability to complete floodplain maps on behalf of FEMA. From 2004 to 2009, Congress authorized \$1 billion to update the nation’s floodplain maps to address the complaints from communities, economic development interests, trade and insurance groups, and other interests that too many of the nation’s communities were making land use decisions based off of old floodplain maps. The authorization came to be known as “Map Modernization” or “MapMod” for short. The NDNR received MapMod funding to complete countywide floodplain maps from 2004 through 2006. After 2006, a “mid-course correction” was made which targeted the metropolitan areas for priority MapMod funding. In Nebraska, this meant that the Lincoln and Omaha metro areas received the MapMod funding while the FEMA grant funding to NDNR was cut to zero. With MapMod coming to an end, the FEMA funding for publishing the floodplain maps currently in the pipeline is exhausted.

If FEMA will map certain areas later—will this be too late (i.e., will it stall recovery)?

As stated above, NDNR would complete the mapping instead of FEMA. This is actually fortunate in terms of recovery because NDNR can complete FEMA-quality work maps in a fraction of the time it takes for a private consultant. However, since NDNR believes that it is only appropriate to remap counties after the LiDAR (Light Detection and Ranging, an active remote sensing technology that uses pulses of laser light to measure distances and to characterize features) data is available for them, and since NDNR has little control over when it receives the data, floodplain mapping for specific counties may be delayed until the LiDAR data for that county is received.

If FEMA will map certain areas in the near future, can the state match funds?

As noted above, FEMA will not map the areas in the near future. The MapMod funding that NDNR used to receive from FEMA was 100% federal money and therefore had no matching requirement. NDNR has no cash source from which it can provide matching funds, but could provide in-kind services as cash if the CDBG funds require a match.

National Objective

All activities must meet one of the three national objectives set out in the Housing and Community Development (HCD) Act which addresses slum and blight, urgent need, or primarily benefits LMI persons. At least 50% of the Disaster Recovery Funding will be used for activities that meet the National Objective of primarily benefiting persons of low- and moderate-income. The DED will conduct a fundability test for each applicant

and determine that each activity is eligible and fundable under the Disaster Recovery Program and the Housing and Community Development Act.

Administrative Costs

State grantees are strongly encouraged to minimize their administrative costs so that the amount available for program activities will be maximized. The local government grantees will be encouraged to carefully plan projects that meet the stated requirements and to specify activities, associated costs, and proposed accomplishments and beneficiaries in order to reduce the need for amending contracts. The local government grantee must comply with CDBG administrative procedures for requesting a contract amendment and contact the state program representative prior to requesting an amendment or contract modification that affects the budget, activities, beneficiaries, or time frame for accomplishing the proposed activities. Substantial amendments may be cause to review the entire application submitted to determine if the project is meeting its stated goals and its timelines. All amendment requests are reviewed for environmental review clearance.

The State of Nebraska administers a CDBG training program for grant administrators, and through a training/testing process, recognizes individuals as certified for the administration of CDBG grants. The DED has determined the need for a CDBG certified administrator to administer the local government's awarded project under the Disaster Recovery Program.

Program Changes through Contract Amendments

All local government grantees will be encouraged to carefully plan projects that meet the stated requirements and to specify activities, associated costs, and proposed accomplishments and beneficiaries in order to reduce the need for amending contracts.

Local government grantees should contact the DED prior to requesting an amendment or contract modification that affects the budget, activities, beneficiaries, or time frame for accomplishing the proposed activities. Should a proposed amendment result in the need for modification of the Action Plan, the state will follow the process required by HUD for amending the Action Plan.

Substantial amendments may be cause to review the entire Application submitted to determine if the project is meeting its stated goals and timelines.

Documentation

The use of the Disaster Recovery Funding is contingent upon certain requirements, and both the state and local government will be expected to certify that these requirements will be met or carried out. The chief elected official, or designee authorized by the local governing authority of the local government applying for funds, will be required to certify in writing that the grant will be carried out in accordance with applicable laws and regulations. In addition, local governments will be required to submit or maintain documentation that fully supports the application that is submitted to the state. Failure to document that the project is needed for disaster relief, long-term recovery, or the

restoration of infrastructure as a result of the federally-declared disaster FEMA 1770-DR, will result in an application being declared ineligible. If an eligible determination is proven invalid after an award has been made, the contract with the local government will be terminated and the local government will have to repay any funds received to that point.

Reporting

Each awarded applicant must report on a form provided by the state on the status of the activities undertaken and the funds drawn. Additional reporting requirements (i.e., annual audits, contractual obligations, and minority business enterprise reports, as applicable) will be specified in the grant agreement.

Citizen Complaints

All local government grantees should establish procedures for responding to citizens' complaints regarding activities carried out that utilize Disaster Recovery Funds. Citizens should be provided with an appropriate address, phone number, and times during which they may submit such complaints. Local government grantees must provide a written response to every citizen complaint within 15 working days of the complaint, where practicable.

Regulatory Requirements

All local government grantees must comply with fair housing, nondiscrimination, labor standards, and environmental requirements applicable to the CDBG Program, as follows:

- (i.) Fair Housing: All local government grantees will be required to take steps to affirmatively further fair housing; and when gathering public input, planning, and implementing housing related activities, will include participation by neighborhood organizations, community development organizations, social service organizations, community housing development organizations, and members of each distinct affected community or neighborhood which might fall into the assistance category of low- and moderate-income communities.
- (ii.) Nondiscrimination: Local government grantees will be required to adhere to the federal and state law and policies which ensure that no person be excluded, denied benefits, or subjected to discrimination on the basis of race, color, national origin, religion, sex, familial status, and/or physical and mental handicap under any program funded in whole or in part by CDBG funds.
- (iii.) Labor Standards: Each local government grantee will be required to oversee compliance with Davis-Bacon Labor Standards and related laws and regulations.
- (iv.) Environmental: Specific instructions concerning environmental requirements at 24 CFR Part 58 will be made available to all local government grantees. Some projects may be exempt from the environmental assessment process,

but all local government grantees will be required to submit environmental review documentation. Disaster Recovery Funds will not be released for expenditure until the state is satisfied that the appropriate environmental review has been conducted. Local government grantees will not use Disaster Recovery Funds for any activity in an area delineated as a special flood hazard area in FEMA's most current flood advisory maps unless it also ensures that the action is designed or modified to minimize harm to, or within, the floodplain in accordance with Executive Order 11988 and 24 CFR Part 55.

METHOD OF DISTRIBUTION

The Disaster Recovery Program will be available through the Nebraska Department of Economic Development, Community and Rural Development (CRD) Division. The State of Nebraska's Disaster Recovery allocation method of distribution is based upon the following: eligible applicants, amount of funds set-aside for each category, categories of eligible activities, selection priorities, thresholds, and application timeline.

All Disaster Recovery Funds made available are to be used only for activities related to disaster relief, long-term recovery, and restoration of infrastructure in areas covered by the Federal Emergency Management Agency (FEMA) declaration of major disaster 1770-DR Nebraska declared on June 20, 2008. Only damages occurring during the incident period from May 22, 2008 and closing June 24, 2008 are considered.

Disaster Recovery Funds are not to be used for activities reimbursable by, or for which funds are made available by, FEMA or the Army Corps of Engineers. The Disaster Recovery Funds are intended for activities related to long-term disaster recovery and they may not otherwise replace other federal, state, or local financial assistance available for any project. Any funds used to assist homeowners, renters, or businesses directly must consider and deduct any duplication of benefits. The DED will coordinate with FEMA, the Nebraska Emergency Management Agency (NEMA), and the Army Corps of Engineers to identify and assist local governments in determining such duplications. Duplication of benefits includes any FEMA, the Army Corps of Engineers, real property payments, and private insurance payments.

Disaster Recovery Funds may not be used for persons who have received previous federal assistance (including loans) where purchase and maintenance of flood insurance was a requirement, and since have allowed that flood insurance to lapse. No Disaster Recovery Funds may be used for any activities in areas delineated as a special flood hazard area in FEMA's most current flood advisory maps unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain.

Eligible Applicants

Those eligible to submit an application are villages, cities, counties, and federally-recognized Indian tribes which suffered damages from the Midwest floods, tornados, and severe storms of May 22-June 24, 2008. The DED may accept applications from entitlement communities within those declared counties. Eligible applicants must be located in a county in the federally declared disaster FEMA-1770-DR. Refer to included FEMA map.

Applications for the Nebraska Disaster Recovery Program will be provided by the DED and submitted by the applicant to the DED in accordance with the 2008 CDBG Disaster Recovery Application Guidelines, which may be accessed at <http://www.neded.org/content/view/877/1237/>. The five (5) basic parts are: general information; funding summary; project narrative, for which the applicant is evaluated using the scoring criterion as stated in detail under the method of distribution; budget; and required exhibits, such as certifications, resolutions, and other documentation.

Disaster Recovery Funds Categorical Distribution

The aggregate use of Disaster Recovery Funds shall principally benefit low- and moderate- income families in a manner that ensures that at least fifty (50) percent of the amount is expended for activities that benefit such persons during the designated period.

CATEGORIES	CDBG AMOUNT	PERCENT
Public Infrastructure [1]	\$3,890,415-4,724,075	70-85
Disaster Recovery Planning [2]	\$555,775	10
Housing Impact Assistance [3]	\$0-833,660	0-15
CATEGORICAL DISTRIBUTION [†]	\$5,279,850	95
State Administration [4]	\$277,886	5
TOTAL ALLOCATION	\$5,557,736	100

[1] Public Infrastructure category Disaster Recovery Funding is allocated at a range of 70-85%. Application acceptance date is **June 1, 2009** and ends when all funds are awarded. If the maximum level of 85% is awarded by October 1, 2009, Housing Impact Assistance category applications will not be accepted.
Maximum grant amount: \$1,000,000

[†] The total amount of funding for Categorical Distribution (\$5,279,850 – 95% of the base allocation) includes local administration. The total for the local administration of all projects awarded will not exceed 5% (\$277,886) of the total base allocation. Local administration will include staff, equipment, consultant fees, and other operation costs involved in administering the local project.

- [2] Planning category Disaster Recovery Funding will not exceed 10% of the total base allocation. Application acceptance date is **June 1, 2009** and ends when all funds are awarded.
Maximum grant amount: \$200,000
- [3] Housing Impact Assistance category Disaster Recovery Funding is allocated at a range of 0-15%. If less than the maximum level of 85% is awarded by October 1, 2009 for Public Infrastructure, the Housing Impact Assistance category applications will be accepted. Application acceptance date is **November 1, 2009** and ends when all funds are awarded.
Maximum grant amount: \$300,000
- [4] State administration will not exceed 5% of the total base allocation. State administration will include staff, equipment, consultant fees, and other operation costs involved in selection, funding, assisting, monitoring local projects, processing of local government disbursement requests, recordkeeping, detailed quarterly reporting to HUD, documentation of adherence to laws, and other allowable expenses.

The priority categories are Public Infrastructure and Disaster Recovery Planning. For both categories, the application acceptance date is June 1, 2009. The Housing Impact Assistance category funds will become available following awards made through October 1, 2009 for Public Infrastructure. The balance of Public Infrastructure category Disaster Recovery Funds available at the level of 15% or less will be considered for Housing Assistance activities. All Disaster Recovery Funds will be available for consideration and awards after October 1, 2009 for all categories: Public Infrastructure, Disaster Recovery Planning, and Housing Impact Assistance.

All project activities, excluding administration and management, must meet a CDBG national objective for either (a) benefit to low- and moderate-income persons or (b) prevention or elimination of slums or blight or (c) urgent community development need.

[1] Public Infrastructure

Disaster Recovery Funds will be used for the restoration of infrastructure in areas covered by the major disaster declaration. Funds may be used to reimburse the 12.5% local FEMA match requirement for various eligible public facilities activities pursuant to 24 CFR 570.201(c) and 24 CFR 507.201(f)(2). Funds may not be used for activities reimbursable by, or for which funds are made available to, FEMA or the Army Corps of Engineers.

Eligible Disaster Recovery Public Infrastructure projects will include most activities eligible under FEMA Public Assistance Categories. Those items declared as non-emergency and eligible under the Housing and Community Development (HCD) Act of 1974, as amended will be a priority for funding with respect to long-term recovery. *Items in italics and underlined are NOT a priority for funding.*

Category A: Debris Removal: – Clearance of trees and woody debris; building wreckage, sand, mud, silt and gravel; vehicles; and other material deposited on public, and in very limited cases, private property.

Examples of eligible debris removal activities are:

Debris removal from a street or highway to allow the safe passage of emergency vehicles.

Debris removal from public property to eliminate health and safety hazards.

Examples of ineligible debris removal activities include:

Removal of debris, such as tree limbs and trunks, from natural (unimproved) wilderness areas.

Removal of debris from a natural channel unless the debris poses an immediate threat of flooding to improved property.

Category B: Emergency Protective Measures: – taken before, during, and after a disaster to save lives, protect public health and safety, and prevent damage to improved public and private property. Examples include: warning devices (barricades, signs, and announcements); search and rescue security forces (police and guards); construction of temporary levees; provision of shelters or emergency care; sandbagging and bracing/shoring damaged structures; provision of food, water, ice and other essential needs; and emergency repairs and emergency demolition. Emergency communications, emergency access, and emergency public transportation costs may also be eligible.

Category C: Roads and Bridges – Repair of roads, bridges, shoulders, ditches, lighting, and signs.

Category D: Water Control Facilities – Repair of irrigation systems, drainage channels and pumping facilities; repair of levees, dams, and flood control channels are eligible but limited. Reservoirs, channels, and debris basins may be restored to their pre-disaster capacity. It must be demonstrated that these structures were damaged by the disaster. Such a facility must also have a regular clearance schedule to be considered an actively-used and maintained facility.

Category E: Buildings and Equipment – Repair or replacement of public buildings (excluding buildings, or portions thereof, used predominantly for the general conduct of government), including contents and systems; heavy equipment; and vehicles.

Category F: Utilities – Repair of water treatment and delivery systems; power generation facilities and distribution lines; and sewage collection and treatment facilities.

Category G: Parks, Recreational Facilities, Other – Repair and restoration of parks, playgrounds, pools, cemeteries and beaches; work otherwise not covered in categories A-F.

Project-eligible activities will be determined by DED on a case-by-case basis during application review. Disaster Recovery Funds are available for disaster-damaged facilities or infrastructure that are non-FEMA eligible or for reimbursement of the non-federal local share required for a FEMA project. Activity examples include, but are not exclusive to: the construction or rehabilitation of public water, wastewater, storm drainage, and facility buildings AND the reconstruction or repair of public roadways, dams, bridges, levees, and stream banks.

Applicant Evaluation and Selection Criteria:

The applicant will provide a narrative detailing: project description, disaster recovery need, problem solution, alternative considerations, planning actions, project need, financial need, budget, and national objective.

- **Project Description:** describe how the project relates to disaster recovery, the status of the project, and disaster recovery needs as they relate to community population (provide a map with project identified).
- **Problem Solution:** describe the proposed solution and how it is the most feasible alternative.
- **Project Need/Impact/Readiness:** describe the expected accomplishments, in measurable units, to be undertaken with Disaster Recovery Funds and the readiness to proceed with the project. Include the means to reduce or eliminate the needs.
- **Community Capacity:** describe the degree of expertise and experience that the local government or contract agency has to manage the project and administer the funds.
- **Financial Need and Local Effort:** describe the availability, commitment of funds along with sources, or lack of sufficient funds, to meet the project need and solution.
- **National Objective:** describe the low- and moderate-income beneficiaries by percentage and numbers of persons benefiting.

[2] Disaster Recovery Planning

Disaster Recovery Funds will be used for disaster recovery planning, which includes floodplain mapping and flood studies in areas covered by the major disaster declaration, which have changed by virtue of the disaster. The evaluation of applications and selection will be coordinated with the Nebraska Department of Natural Resources and the Nebraska Emergency Management Agency. Project-eligible activities will be determined by DED on a case-by-case basis during application review. Funds may not be used for activities reimbursable by, or for which funds are made available to, FEMA for Hazard Mitigation Planning grants.

Disaster recovery planning includes floodplain management measures during long-term recovery through mapping, zoning/building code ordinance revisions, floodplain ordinances, drainage basin studies directly related to impacts of the disaster, infrastructure studies necessary to establish action plans for community disaster recovery, and building requirements.

Funds may be used to develop new floodplain maps and to update and improve existing maps. Accurate and up-to-date floodplain maps showing the areas that could be flooded are essential tools for reducing flood damages. Currently, only about 49% of Nebraska has accurate and up-to-date flood maps. The maps and associated data will be stored in digital formats so that it will be compatible with computer technology such as geographic information systems or computer aided drafting programs. This will also ensure that the data will be available for use by everyone through various web-based applications. The State will work closely with FEMA to ensure that the map products

produced meet FEMA technical standards and can be published as Digital Flood Insurance Rate Maps (DFIRM). We will also actively seek input from the local officials in the areas being mapped to ensure accuracy and usability of the final mapping product.

New floodplain maps will enhance recovery because: 1) Any repair and redevelopment in the floodplain needs to be in compliance with the local floodplain management regulations. With more accurate floodplain maps, damaged properties and infrastructure can be precisely identified. A community cannot truly recover from flooding if they allow redevelopment to be built back according to floodplain maps that are outdated and unreliable. And 2) The DFIRM format will enable the local floodplain administrators and emergency managers a much faster turnaround time for post-disaster recovery and redevelopment design and inquiries.

Applicant Evaluation and Selection Criteria:

The applicant will provide a narrative detailing: project description, disaster recovery need, problem solution, alternative considerations, planning actions, project impact, financial need, budget, and national objective.

- Project Description: describe how the project relates to disaster recovery, the status of the project, and disaster recovery needs as they relate to community population (provide a map with project identified).
- Problem Solution: describe the proposed solution and how it is the most feasible alternative.
- Project Need/Impact/Readiness: describe the expected accomplishments, in measurable units, to be undertaken with Disaster Recovery Funds and the readiness to proceed with the project. Include the means to reduce or eliminate the needs.
- Community Capacity: describe the degree of expertise and experience that the local government or contract agency has to manage the project and administer the funds.
- Financial Need and Local Effort: describe the availability, commitment of funds along with sources, or lack of sufficient funds, to meet the project need and solution.
- National Objective: describe the low- and moderate-income beneficiaries by percentage and numbers of persons benefiting.

[3] Housing Impact Assistance

Disaster Recovery Funds will be used for assisting the clearance and removal of debris on low- and moderate-income residential properties and adjacent properties. These actions will compliment and support the repair and restoration of surface and below surface drainage structures resulting in the reduction and restriction of future damages to private residential properties, which were damaged by the disaster located in areas covered by the major disaster declaration. Project-eligible activities will be determined by DED on a case-by-case basis during application review. Disaster Recovery Funds are available for disaster-damaged facilities or infrastructure that are non-FEMA eligible or for reimbursement of the non-federal local share required for a FEMA project.

Applicant Evaluation and Selection Criteria:

The applicant will provide a narrative detailing: project description, disaster recovery need, problem solution, alternative considerations, planning actions, project impact, financial need, budget, and national objective.

- Project Description: describe how the project relates to disaster recovery, the status of the project, and disaster recovery needs as they relate to community population (provide a map with project identified).
- Problem Solution: describe the proposed solution and how it is the most feasible alternative.
- Project Need/Impact/Readiness: describe the expected accomplishments, in measurable units, to be undertaken with Disaster Recovery Funds and the readiness to proceed with the project. Include the means to reduce or eliminate the needs.
- Community Capacity: describe the degree of expertise and experience that the local government or contract agency has to manage the project and administer the funds.
- Financial Need and Local Effort: describe the availability, commitment of funds along with sources, or lack of sufficient funds, to meet the project need and solution.
- National Objective: describe the low- and moderate-income beneficiaries by percentage and numbers of persons benefiting and number of housing units.

Applicant Evaluation and Selection Criteria

The following application criterion applies to applications for the Nebraska CDBG Disaster Recovery categories:

In reference to the scoring criterion measurements, the listed terms are defined:

Adequate - sufficient to satisfy a requirement or meet a need.

Inadequate - not adequate to fulfill a need or meet a requirement; insufficient, unsuitable.

Major - notable or conspicuous in effect or scope; prominent or significant in size, amount, or degree.

Minor - inferior in importance, size, or degree; comparatively unimportant.

Significant - having or likely to have a major effect; deserving to be considered; important; momentous.

Substantial – solid and firm; strong; considerable.

Public Infrastructure/ Disaster Recovery Planning/ and Housing Impact Assistance

- Project Description: describe how the project relates to disaster recovery, the status of the project, and disaster recovery needs as they relate to community population. Provide a map with the project identified.
- Problem Solution: describe the proposed solution and how it is the most feasible alternative.

- **Project Need/Impact/Readiness:** describe the expected accomplishments, in measurable units, to be undertaken with Disaster Recovery Funds and the readiness to proceed with the project. Include the means to reduce or eliminate the needs.
- **Community Capacity:** describe the degree of expertise and experience that the local government or contract agency has to manage the project and administer the funds.
- **Financial Need and Local Effort:** describe the availability, commitment of funds along with sources, or lack of sufficient funds, to meet the project need and solution.
- **National Objective:** describe the low- and moderate-income beneficiaries by percentage and numbers of persons benefiting. If applying for the Housing Impact Assistance category, include the number of housing units.

Description...provide a narrative that describes how the project relates to disaster recovery, status of the project, and disaster recovery needs as they relate to community population. Provide a map with the project identified. The significance of the stated needs will be scored as compared to other applicants with: 0-95/no need, 100-145/minor needs, and 150-200/major needs. The applications are scored for:

PURPOSE/NEED: 0 points – no explanation of the overall purpose or status of the project, project does not relate to disaster recovery, no disaster recovery needs; 50 points – the project and its status are clearly described, the project is in direct relation to disaster recovery, the project is significant yet not an urgent need for the community, disaster recovery needs are explained; 100 points – the project and its status are clearly described, the project is in direct relation to disaster recovery, the project is significant and is an urgent need for the community, disaster recovery needs are explained.

PAST EFFORTS FOR RECOVERY: 0 points – no explanation of past efforts to resolve and meet the disaster recovery needs; 25 points – past efforts to resolve and meet the disaster recovery needs are explained; 50 points – substantial explanation, describing parties involved and project activities, of past efforts to resolve and meet the disaster recovery needs.

OBJECTIVES & COMMUNITY BENEFIT: 0 points – does not state objectives for resolving the stated needs, objectives will not resolve the needs, does not describe how the community will benefit based on the resolution of the determined needs ; 25 points – states objectives for resolving the stated needs with a description of how the community will benefit based on the resolution of the determined needs; 50 points – states objectives for resolving the stated needs, provides clear reasoning as to how the objectives will resolve the stated needs, describes how the community will benefit based on the resolution of the determined needs, community benefit is substantial (e.g. reestablishment of clean drinking water, use of damaged roadway).

(Maximum 200 points with a minimum threshold of 100 points)

Solution...provide a description of the proposed solution and how it is the most feasible alternative. The project planning strategy for problem solution and community impact will be scored as compared to other applicants with: 0-120/inadequate, 125-195/adequate, and 200-250/more than adequate. The applications are scored for:

PLANNING ACTIVITIES: 0 points – planning activities are poorly described and the methods for achieving goals and objectives are not clear; 25 points – planning activities are described and the methods for achieving goals and objectives are explained; 50 points – planning activities are well-researched and feasible, and the methods for achieving goals and objectives are clear and viable.

OBJECTIVES AND TIMELINE: 0 points – objectives for meeting the goals are not addressed (or do not relate to disaster recovery), nor is a timeline for problem resolution included (or it is not complete); 25 points – states objectives for meeting the goals and provides a timeline for problem resolution; 50 points – states objectives for meeting the goals, provides a complete timeline for problem resolution, and describes how the objectives and timeline of the project lead to the most feasible alternative.

OUTCOMES: 0 points – project outcomes are not directly related to disaster recovery and/or not described in measurable terms; 25 points – project outcomes are directly related to disaster recovery and described in measurable terms; 50 points – project outcomes are directly related to disaster recovery, described in measurable terms, and show a feasible solution to eliminating the stated need(s).

COMMUNITY INVOLVEMENT/AWARENESS: 0 points – community involvement/awareness is not included in the process for the project; 25 points – community involvement/awareness is included in the process for the project; 50 points – broad-based community involvement/awareness is included in the process for the project (e.g. multiple community meetings, involvement of low- and moderate-income and special needs persons, multiple forms of advertising/announcing the project, and activities beyond the CDBG notice requirements).

COMMUNITY BENEFIT: 0 points – activities will not benefit the community, especially low- and moderate-income and special needs persons, or no description is provided; 25 points – activities will benefit the community, but not low- and moderate-income nor special needs persons; 50 points – activities will benefit the community, especially low- and moderate-income and special needs persons (the disaster activity provides benefits to a specific group of persons rather than all area residents; especially elderly persons and severely disabled adults with special needs).

(Maximum 250 points with a minimum threshold of 125 points)

Need/Impact/Readiness... provide a description of the expected accomplishments, in measurable units, to be undertaken with Disaster Recovery Funds and the readiness to proceed with the project. Include the means to reduce or eliminate the needs. The seriousness of the need(s) being resolved, the project impact and readiness will each be evaluated as compared to other applicants with: 0-70/inadequate, 75-115/adequate, 120-150/more than adequate. The applications are scored for:

PROJECT NEED: 0 points - less serious problems (non-health or public safety not an issue); 25 points - moderately serious problems (public safety and health potential long-term issues); 50 points - severe and widespread problems exist in service area (facilities/infrastructure unsafe, safety and health issues defined, significant structural problems, etc).

PROJECT IMPACT: 0 points - the activity or application does not clearly address the identified need(s), design life, maintenance capacity, duplication of activity, etc.; 25 points - the project addresses the identified need(s) in the service area; 50 points - the project addresses the identified need(s) in the service area, has a long-term design life and maintenance capacity, and will not duplicate other facilities in the area.

PROJECT READINESS: 0 points – little or no preliminary work is done on the project, site or financing, unrealistic or unclear construction timetable, etc; 25 points - significant preliminary work is done, project is feasible and cost estimates reliable, financial resources have been investigated and are pending, optional sites are available, average construction timetable, etc; 50 points - substantial preliminary work is done, project is feasible and cost estimates reliable, non-CDBG financial resources are committed, site is controlled, environmental agency consultation has been completed, construction can be promptly started and completed.

(Maximum score 150 points, minimum threshold score 75 points)

Capacity... provide a description of the degree of expertise and experience that the local government or contract agency has to manage the project and administer the funds. The level of capacity and commitment by the applicant will be compared to other applicants with 0-70/inadequate, 75-150/adequate, 155-225/more than adequate. The applications are scored for:

CAPACITY: 0 points – lack of local staff or ability to oversee the disaster recovery project efforts from planning to the implementation of the physical project, no past projects or community efforts, and no past efforts of community participation; 50 points – local capacity demonstrated through past projects, citizen participation, evidence of commitment to proceed with a physical project, and the capacity to manage federally-funded projects based on past experiences with either CDBG awards or awards from other granting agencies; 125 points – substantial local capacity demonstrated through past improvement efforts, citizen participation, demonstrated capacity to manage federally-funded projects based on past experiences with either CDBG awards or

awards from other granting agencies, and management capacity available through experienced staff or qualified CDBG program certified administrator.

COMMITMENT: 0 points – no evidence of commitment to proceed with a physical project; 25 points – evidence of commitment to proceed with a physical project; 100 points – evidence of commitment to proceed with a physical project through multiple examples of completed/ongoing projects carried out by the applicant/community.

(Maximum 225 points with a minimum threshold of 75 points)

Financial Need and Local Effort... provide a description of the availability, commitment of funds along with sources, or lack of sufficient funds, to meet the project need and solution. The level of financial support (public and/or private) already committed to the project for disaster recovery will be compared to other applicants with: 0-45/inadequate, 50-100/adequate, and 105-150/more than adequate. The applications are scored for:

FUNDS: 0 points – lack of cash on hand or committed (such as general revenue or general tax dollars not budgeted); 50 points – a solid commitment of cash that meets the amount of match necessary to complete project (such as pledges, projected revenue from water/sewer user rates, general tax dollars future years budget, or applications for foundation funds); 150 points – cash on deposit or otherwise secured (such as water/sewer funds or general tax dollars budgeted in a secured financial account) that meets the amount of match necessary to complete project.

(Maximum 150 points with a minimum threshold of 50 points)

National Objective... describe the low- and moderate-income (LMI) beneficiaries by percentage and numbers of persons benefiting (of the applicant community's LMI data). The numbers and percentages will be compared only to those of other applicants. If applying for the Housing Impact Assistance category, include the number of housing units. Projects that primarily benefit LMI persons will be scored up to 100 points based on the median[‡] percentage of LMI persons benefiting and the median number of LMI persons benefiting as compared to all LMI applicants with:

PERCENTAGE: 0 points – below 51% LMI; 30 points – below the median and greater than 51% LMI persons benefiting; and 60 points – at or above the median percentage of LMI persons benefiting.

NUMBER: 0 points – below the median number of LMI persons benefiting; and 40 points – at or above the median number of LMI persons benefiting.

(Maximum 100 points)

[‡] The median is the middle piece of statistical data when those data (percentages and numbers of LMI persons benefiting in applicant communities) are placed in numerical order. The median will be found using applicant data only, not state-wide statistical data.

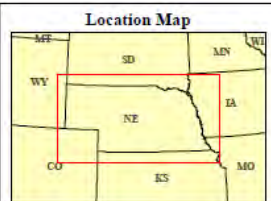
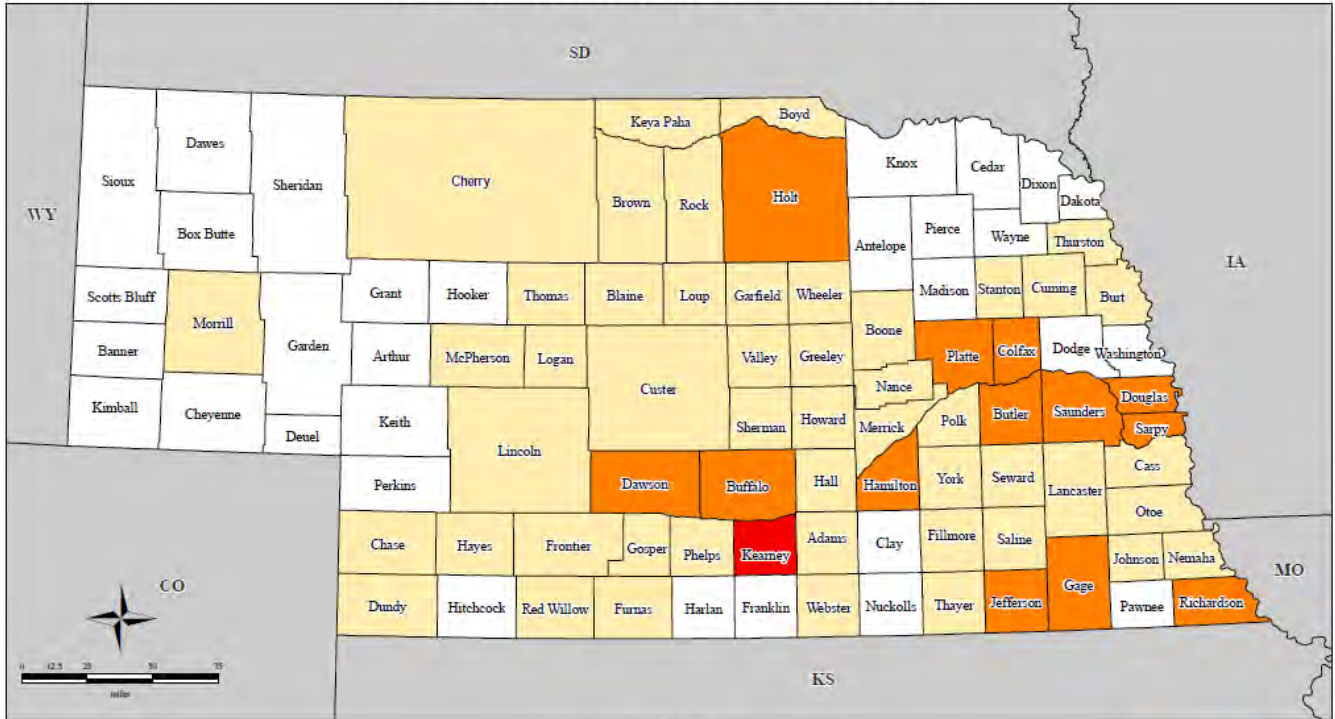
Thresholds Disaster Recovery Categories

These thresholds apply to all categories of the Nebraska Disaster Recovery Program.

All proposed activities take place in the FEMA declaration 1770-DR-Nebraska;
Applicant is an eligible entity;
Applicant has the capacity to undertake the application activities;
All proposed activities meet a CDBG national objective.

FEMA –1770–DR Map


FEMA-1770-DR, Nebraska Disaster Declaration as of 07/29/2008



Legend

Designated Counties	
	No Designation
	Public Assistance
	Individual Assistance
	Individual Assistance and Public Assistance

All counties are eligible for Hazard Mitigation

 **FEMA**
 ITS Mapping & Analysis Center
 Washington, DC
 07/29/08 -- 01:30 PM EDT
 Source: Disaster Federal Registry Notice
 Amendment No. 3 - 07/29/2008

MapID 3b1badd92100729081357hqprod

CERTIFICATIONS FOR STATE GOVERNMENTS, WAIVER AND ALTERNATIVE REQUIREMENT

In accordance with the applicable statutes and the regulations governing the consolidated plan and the Supplemental Appropriations Act, 2008, the State certifies that:

- a) The state certifies that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the state, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard. (See 24 CFR 570.487(b)(2).)
- b) The state certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan in connection with any activity assisted with funding under the CDBG program.
- c) The state certifies its compliance with restrictions on lobbying required by 24 CFR Part 87, together with disclosure forms, if required by that Part.
- d) The state certifies that the Action Plan for Disaster Recovery is authorized under state law and that the state, and any entity or entities designated by the state, possesses the legal authority to carry out the program for which it is seeking funding, in accordance with applicable HUD regulations and this Notice.
- e) The state certifies that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR Part 24, except where waivers or alternative requirements are provided for this grant.
- f) The state certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR Part 135.
- g) The state certifies that it is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 (except as provided for in notices providing waivers and alternative requirements for this grant), and that each unit of general local government that is receiving assistance from the state is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486 (except as provided for in notices providing waivers and alternative requirements for this grant).
- h) The state certifies that it has consulted with affected units of local government in counties designated in covered major disaster declarations in the nonentitlement, entitlement and tribal areas of the state in determining the method of distribution of funding;

- i) The state certifies that it is complying with each of the following criteria:
- 1) Funds will be used solely for necessary expenses related to disaster relief, long term recovery, and restoration of infrastructure in areas covered by a declaration of major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of recent natural disasters.
 - 2) With respect to activities expected to be assisted with CDBG disaster recovery funds, the action plan has been developed so as to give the maximum feasible priority to activities that will benefit low- and moderate-income families.
 - 3) The aggregate use of CDBG disaster recovery funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 50 percent of the amount is expended for activities that benefit such persons during the designated period.
 - 4) The state will not attempt to recover any capital costs of public improvements assisted with CDBG disaster recovery grant funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless (A) disaster recovery grant funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or (B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient CDBG funds (in any form) to comply with the requirements of clause (A).
- j) The state certifies that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the Fair Housing Act (42 U.S.C. 3601-3619) and implementing regulations.
- k) The state certifies that it has and that it will require units of general local government that receive grant funds to certify that they have adopted and are enforcing:
- 1) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
 - 2) A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.
- l) The state certifies that each state grant recipient or administering entity has the capacity to carry out disaster recovery activities in a timely manner, or the state has a plan to increase the capacity of any state grant recipient or administering entity that lacks such capacity.

m) The state certifies that it will not use CDBG disaster recovery funds for any activity in an area delineated as a special flood hazard area in FEMA's most current flood advisory maps unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain in accordance with Executive Order 11988 and 24 CFR Part 55.

n) The state certifies that it will comply with applicable laws.

Signature/Authorized Official

Date

Title

STATUTORY AND REGULATORY WAIVERS REQUESTED BY THE DEPARTMENT

States receiving an allocation of funding under the Supplemental Appropriations Act are allowed to submit requests for waivers of certain statutory and regulatory requirements relating to the CDBG program. The September 11, 2008 Federal Register, page 52870 identifies the waivers that states may request. Following is a summary of waivers requested by the Department of Economic Development. The Department's request is currently under review and the Department is awaiting HUD approval.

1. Waive overall benefit from 70 percent to allow 50 percent low/mod overall.
2. Waive requirement to distribute all funds to local governments. Replace with permission for the State to carry out activities directly. Do conforming changes below.
 - Waive recordkeeping requirement. Replace with a conforming change to waiver 2.
 - Waive change of use of real property requirement. Replace with a conforming change to waiver 2.
 - Waive State review and handling of noncompliance. Replace with a conforming change to waiver 2.
3. Waive the Consolidated Plan and consistency with it until grantee updates the plan priorities.
4. Waive Annual Action Plan and use of IDIS. Replace with Action Plan for Disaster Recovery using Disaster Recovery Grant Reporting (DRGR) system.
5. Waive hearings if they are not feasible and streamline citizen participation to allow "reasonable" notice.
6. Waive consultation with non-entitlement local governments. Replace with consultation with all disaster-affected governments including entitlements.
7. Waive pre-agreement costs, to the extent it applies. Replace with HUD permission for the State to reimburse eligible costs incurred back to the incident date.
8. Waive prohibition on funding entitlement communities and Indian tribes. Replace with permission to do so.
9. Waive annual performance report (CAPER) in IDIS. Replace with quarterly reports (per appropriations Act) in DRGR.
10. Waive standard certifications. Replace with a disaster recovery set.
11. Replace the State CDBG planning related requirements of 570.483(b)(5) and (c)(3) with the entitlement CDBG presumption at 24 CFR 570.208(d)(4) .
12. Waive provisions necessary to allow the State to determine disposition of program income, whether to State or local use and whether for regular CDBG or retaining disaster recovery waivers. Current

13. Waive provisions necessary to allow new construction of housing.
 14. Waive provisions necessary to allow homeownership assistance to persons whose incomes are up to 120 percent of median income (supports mixed income housing).
 15. Limited waiver of anti-pirating to allow a business to return to any labor market within the same State that the business was located in before the disaster.
 16. Waive the one-for-one replacement of housing requirement.
 17. Waive provisions necessary to allow the state to implement voluntary flood buyouts to help communities affected by flooding to move in whole or in part out of a floodplain.
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The following additional waivers (numbers 18 and 19) were sought by the Department, even though these are not activities the Department currently plans to undertake with the supplemental appropriation. The Department requested approval of these waivers to ensure timeliness in the event the Action Plan is amended to pursue these activities. This request is also being reviewed by HUD and is pending approval.

18. Waive the requirement that job retention activities must document 51% or more LMI benefit.
19. Waive the 50% down-payment limitation on homeownership assistance.