State of North Dakota Action Plan For Disaster Recovery

Utilizing Supplemental CDBG Disaster Recovery Funding from the Department of Housing and Urban Development Appropriations Act, 2012 (Public Law 112-55)

Through U.S. Department of Housing and Urban Development

Federal Register Docket No. FR-5628-N-01

June 2012

Prepared By

ND Department of Commerce
Division of Community Services
1600 East Century Avenue, Suite 2
PO Box 2057
Bismarck, ND 58502-2057
Phone: (701) 328-5300
Fax: (701) 328-2308
TTY: 800-366-6888
ND Relay Voice: 800-366-6889

EQUAL HOUSING OPPORTUNITY

ALTERNATIVE FORMATS ARE AVAILABLE UPON REQUEST

TABLE OF CONTENTS

INTRODUCTION 1

THE IMPACT OF THE DISASTER AND NORTH DAKOTA'S RECOVERY NEEDS 1

Housing & Individual Assistance 2
Public Infrastructure 2
Business and Economic Assistance 3

FEDERAL, STATE, AND LOCAL RESPONSE TO-DATE 3

CONSULTATION WITH LOCAL GOVERNMENTS 5

FEDERALLY DESIGNATED AREAS ELIGIBLE FOR ASSISTANCE 7

PROMOTION OF SHORT-TERM AND LONG-TERM RECOVERY PLANNING 8

Short-term & Long-term Recovery Planning 8
Long-term Mouse River Basin Recovery Strategy 9
Long-term Mouse River Basin Flood Protection Planning.....10

PROMOTING HIGH QUALITY, DURABLE, ENERGY EFFICIENT, AND MOLD RESISTANT CONSTRUCTION METHODS 10

PROVISION OF ADEQUATE, FLOOD RESISTANT HOUSING FOR ALL INCOME GROUPS THAT LIVED IN THE DISASTER IMPACTED AREAS 11

METHOD OF DISTRIBUTION 12

Eligible Project Activities 13

Housing Activities
Housing Rehabilitation & Restoration.....13
New Housing Production 13

Mitigation Activities
Housing and Commercial Property Acquisition & Disposal (FEMA Match) 13
Housing and Commercial Property Acquisition & Disposal (Non-FEMA) 13

Public Facilities and Infrastructure
Match for FEMA Hazard Mitigation Projects 14
Public Infrastructure (Non-FEMA) 14

Allocation of Funds for Projects 14

State and Local General Administration 14

Allocation of Funds for Administration 14

Criteria 15

Implementation & Performance Schedule 16

RESTRICTION ON USE OF FUNDS – SUPPLANTION OF FUNDS 17

DUPLICATION OF BENEFITS POLICY – RESTRICTION 17

MONITORING STANDARDS AND PROCEEDURES 18

PROGRAM INCOME 18

STEPS THE STATE WILL TAKE TO AVOID OR MITIGATE OCCURRENCES OF FRAUD, ABUSE, AND MISMANAGEMENT 19

Administration and Staffing 19
Increasing Capacity at Local Level 19
Prevention of Duplication of Benefits 20
National Objective 20
Administrative Costs 20
Activity/Project Delivery Costs 21
Program Changes through Contract Amendment 21
Documentation 21
Reporting 22
Citizen Complaints 22
Regulatory Requirements 22

ANTI-DISPLACEMENT AND RELOCATION 23

ACTION PLAN AMENDMENTS 23

APPENDIX A - PUBLIC COMMENT PROCESS 24

APPENDIX B - GUIDANCE RELATING TO ADMINISTRATIVE COSTS AND ACTIVITY/PROJECT DELIVERY COSTS 25

APPENDIX C: CERTIFICATIONS FOR STATE GOVERNMENTS, WAIVER AND ALTERNATIVE REQUIREMENT 27

APPLICATION FOR FEDERAL ASSISTANCE 30

INTRODUCTION

The State of North Dakota is required to publish an Action Plan for Disaster Recovery (Action Plan) that describes the proposed use of U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funding associated with the Department of Housing and Urban Development Appropriations Act, 2012 (Public Law 112-55), for disaster relief of unmet needs resulting from flooding in the state.

This document 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; and
- grant administration standards.

This Action Plan will be used by the state to guide the distribution of $11,782,684 of CDBG Disaster Recovery Funding toward meeting unmet housing, infrastructure, public service, public facility, and other needs in counties designated as Presidential Disaster Areas, as directed by Public Law 112-55 and HUD.

Amendments to this Plan will be incorporated as additional funds become available.

This Action Plan is in relation to the U.S. Department of Housing and Urban Development's Notice of Funding Availability provided in Federal Register Docket No. FR-5628-N-01.

THE EFFECT OF THE DISASTERS AND NORTH DAKOTA'S RECOVERY NEEDS

In the late spring and early summer of 2011, the State of North Dakota was severely impacted by record-breaking floods state wide.

While communities in the Devils Lake Basin and those along the James, Sheyenne and Red River of the North were negatively impacted by the flooding, the communities of Bismarck and Mandan along the Missouri River and especially the City of Minot along the Mouse River received substantial damage from the 2011 flooding event.

Statewide residents were displaced in 28 neighborhoods including over 12,000 residents in the city of Minot. Mouse river floodwaters inundated 4,100 homes and businesses alone in Minot.

The 2011 Flood Report: Response and Recovery developed by the North Dakota Department of Emergency Services published in November 2011 indicates the final cost associated with the flooding is expected to easily exceed $1.4 billion.

Housing & Individual Assistance

Residents of nine North Dakota counties and one reservation were able to register through FEMA's Individual Assistance program. Statewide more than 10,284 individuals or households registered for assistance by the November 21 end of the registration period. A summary of efforts in North Dakota is as follows:

- Statewide total, almost $95 million has been provided. $92.8 million has been for rental assistance or home repair, while $2.1 million has been other critical unmet needs.

- Throughout the State the U.S. Small Business Administration approved $245.8 million in low-interest loans. $208.6 million was approved for individuals. Disaster Recovery Centers were open in 11 communities and received 14,921 separate visits from applicants while in operation.

- As of Dec. 19, the Federal Emergency Management Agency has identified 2,046 families (nearly all of them in Ward County) as qualifying for temporary housing units while they work on their permanent housing plans. Of those, 1,925 are currently being housed, 103 have returned to their repaired homes and 18 asked to move in after the holidays.

- In Ward County among those who are housed, 998 families are at private sites – mainly on the same lots as their flood-damaged homes – 678 are at group sites, and 244 are in existing mobile home parks. The group sites include Virgil Workman Village in the Minot area with a capacity for 599 units in 3 phases, Recovery Village in the Minot area with a capacity of 200 and DeSour Valley Heights in Burlington with a capacity of 50.

- The Federal Emergency Management Agency (FEMA) received 7,724 applications from Ward County before the Nov. 21 deadline, representing about 75 percent of the 10,284 for the state. Similarly, the $89.5 distributed to county residents for rental assistance, home repairs and other serious disaster-related needs represents 94 percent of the total $94.9 for the state.

- The U.S. Small Business Administration approved more than $229.6 million for 2,095 low-interest disaster loans to homeowners, renters, businesses of all sizes and private non-profit organizations in Ward County, representing 93 percent of the total $245.8 million approved for the entire state.

- $3.3 million was provided to fund crisis counseling grants.

Public Infrastructure

On May 10, the President issued a major disaster declaration for the state that opened eligibility for applications. For the 2011 Floods, a total of 44 counties and four tribal reservations were able to apply for assistance from the Public Assistance program. An overview of assistance is as follows:

- 277 jurisdictions were designated as eligible applicants for assistance – this encompasses cities, counties, state agencies, tribal governments and non-profit agencies.

- Through February 2012, FEMA has obligated more than $201.7 million for 3,553 infrastructure projects in North Dakota.

- Breakdown of key assistance categories:

    - Debris Removal - $20.9 million
    - Emergency Protective Measures - $48.6 million
    - Road and Bridges - $79.3 million
    - Public Buildings - $40.5 million
    - Public Utilities - $6.6 million

- Projects continue to be submitted to FEMA and the state for review. It is anticipated that when all work is complete, there will be around 4,000 projects with a federal cost share of approximately $300 million.

- FEMA and the state met with Devils Lake area counties in November to help establish strategic road plans to serve those communities. There are numerous projects under review to address inundated roads in the Lake Region.

Business and Economic Assistance

- The U.S. Small Business Administration approved $37.2 million for businesses.

- SBA Business Recovery Centers were open in Minot and Bismarck and received a total of 2,929 visits from business owners while in operation.

- The Disaster Unemployment Assistance program, managed by Job Service North Dakota and funded by FEMA, provided $2.2 million in benefits.

It is quite clear that FEMA and SBA assistance will not come close to covering all of the uninsured costs associated with the damage.

FEDERAL, STATE AND LOCAL RESPONSE TO DATE

By the end of 2011 the federal government had provided more than $495 million through FEMA and SBA to help the state of North Dakota and its residents recover from the unprecedented statewide flooding that same year.

In addition, North Dakota received approximately $316.8 million in Federal Highway Emergency Relief funds to address damage due to the 2011 flood event. The federal funds the NDDOT receives through Federal Highway Administration can only be applied to work on state and county federal aid routes. County needs of the federal aid system are covered by other Federal, State, and local funds. Current total needs for the 2011 flood event are estimated to be approximately $390.3 million which include federal, state match, and local match.

Department of Housing and Urban Development Appropriations Act, 2012 (Public Law 112-55), which appropriated $400,000,000 in Community Development Block Grant funds 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 on a national level. The State of North Dakota has been allocated a total of $11,782,684 from that appropriation with an additional $67,575,964 going directly to the City of Minot for recovery from the impacts of the severe flooding experienced in North Dakota.

In addition, the State of North Dakota has also responded by providing funding to address the damage caused by the flooding. The following is a summary of State funding available as a result of a special legislative session in November of 2011:

- Established a $50 million fund called the Rebuilders Loan Program to rebuild or buy new property. The legislation directs the Bank of North Dakota to offer fixed, 1 percent disaster assistance loans of up to $30,000. Qualified homeowners will not have to make payments on the principal or interest for the first 2 years of the 20-year loans. Borrowers can use up to 20 percent of the loan to cover existing debt obligations. The loan program is available to residents in counties that were included in the state's presidential disaster declaration eligible for both Individual Assistance and Public Assistance programs under FEMA.

- An infrastructure grant fund was created that will help counties, cities and other political subdivisions cover the costs of repairing flood related damages not reimbursable through the Federal Emergency Management Agency or other assistance programs. The Legislature appropriated $30 million for the 50/50 match grant program which will be administered by the North Dakota Department of Trust Lands.

- The State Water Commission was given additional spending authority to advance the state's flood mitigation projects. The Legislature authorized an additional $50 million in spending authority and encouraged the State Water Commission to place a high priority on flood way property acquisitions and project construction. The funding will be used to supplement federal funding and to meet state and local cost-share requirements.

- Authority to increase the State's allowable tax credits for the development of low-income housing in communities impacted by flooding and in the state's oil and gas counties. The maximum allowable tax credits were increased from $4 million to $15 million during the 2011 and 2012 tax years.

- The Legislature appropriated $500,000 for grants to flood-damaged schools.

- Other disaster recovery assistance includes:

    - $23 million to help cities, counties and townships outside North Dakota's oil and gas counties offset the costs of extraordinary road repairs. Townships will receive $14.5 million and counties $8.5 million.

- $10 million in additional Rebuilders Loan Program funding. Cities and counties also have the discretion to use these funds toward principal reduction on rebuilder loans.

- $6 million in grant funds to help counties in the Devils Lake Basin match federal funding for emergency road repairs.

- $29.5 million in state funds required to match assistance provided by the Federal Emergency Management Agency.

Finally, in response to the overwhelming need private sources have stepped up to assist the Community of Minot and surrounding areas. In response to the massive devastation caused by the historic flood of 2011, the Minot Area Community Foundation has established the Minot Area Recovery Fund. The fund plays an active role in flood relief by supporting relief and restoration throughout the greater Minot area, including the counties of Ward, Renville, Bottineau and McHenry.

The Minot Area Community Foundation has raised approximately $6.53 million for the fund. The funding has come from corporations, businesses, individuals and various fund raising events to help address local housing needs. Based on the dollar amount raised and the thousands of homes impacted, the foundation determined that reimbursements will vary between $500 and $2,000 based on a home owner's level of water inundation.

The Minot Area Recovery Fund has given out more than $3.3 million in expense reimbursement to aid flood impacted individuals and families as it finishes phase one in expense fund distribution. Phase two of expense reimbursement for the clean-up, rebuilding or restoring of a flood damaged home is scheduled to begin in March 2012. In addition, more than $510,000 has been given to various charitable organizations for programs that addressed immediate needs, such as the "I Helped Rebuild Minot - Sheetrock Giveaway," the "Souris Basin Unmet Needs" and the "Give360°'s Fresh Coat, Fresh Start" project.

CONSULTATION WITH LOCAL GOVERNMENTS

The North Dakota Department of Commerce has had multiple discussions with local government staff and officials regarding the development of the CDBG Disaster Recovery Action Plan.

The ND Department of Commerce met with representatives of Ward County on February 1, 2012 to discuss the pending CDBG disaster recovery assistance following adoption of the Consolidated and Further Continuing Appropriations Act, 2012, (Public Law 112-55). Discussions centered around anticipated issuance of guidelines and program implementation given previously issued guidance for CDBG disaster recovery programs. In the context of previously issued guidance discussions were held to identify possible unmet needs and activities which may be requested from the county.

In addition, the Department notified other impacted counties by mail on March 20, 2012 informing them of the availability of funds and requesting their input to identifying unmet needs and potential projects to address those needs. The counties were requested to contact any of the affected towns in their respective jurisdictions for input in responding to the survey.

On March 30, 2012 representatives from the ND Dept. of Commerce met with County Commissioners from ten North Central and Northwestern North Dakota counties including McHenry, Renville, and Ward counties. The purpose of the meeting was to provide information, exchange ideas and answer questions on the CDBG Disaster Program.

The State of North Dakota Action Plan for Disaster Recovery will be made available to citizens, affected local governments and other interested parties via publication on the Department's website as well as through email notification.

A notice of the Draft Action Plan availability is being sent by email or U.S. Postal Service in a note to all counties which received 2011 Individual Assistance designations from FEMA in the state

The Department of Commerce will issue news releases announcing the funding, anticipated uses and funding methodology referred to in the proposed Action Plan. All comments regarding the Action Plan will be considered.

The Department will continue to utilize its website, email communications as well as traditional forms of communication to provide reasonable opportunity for citizen comment and ongoing citizen access to information on the use of grant funds.

Upon request the Department will make the Plan available in alternative formats.

The final Action Plan will include a summary of all public comments and the Department's response(s) to those comments (see Appendix A).

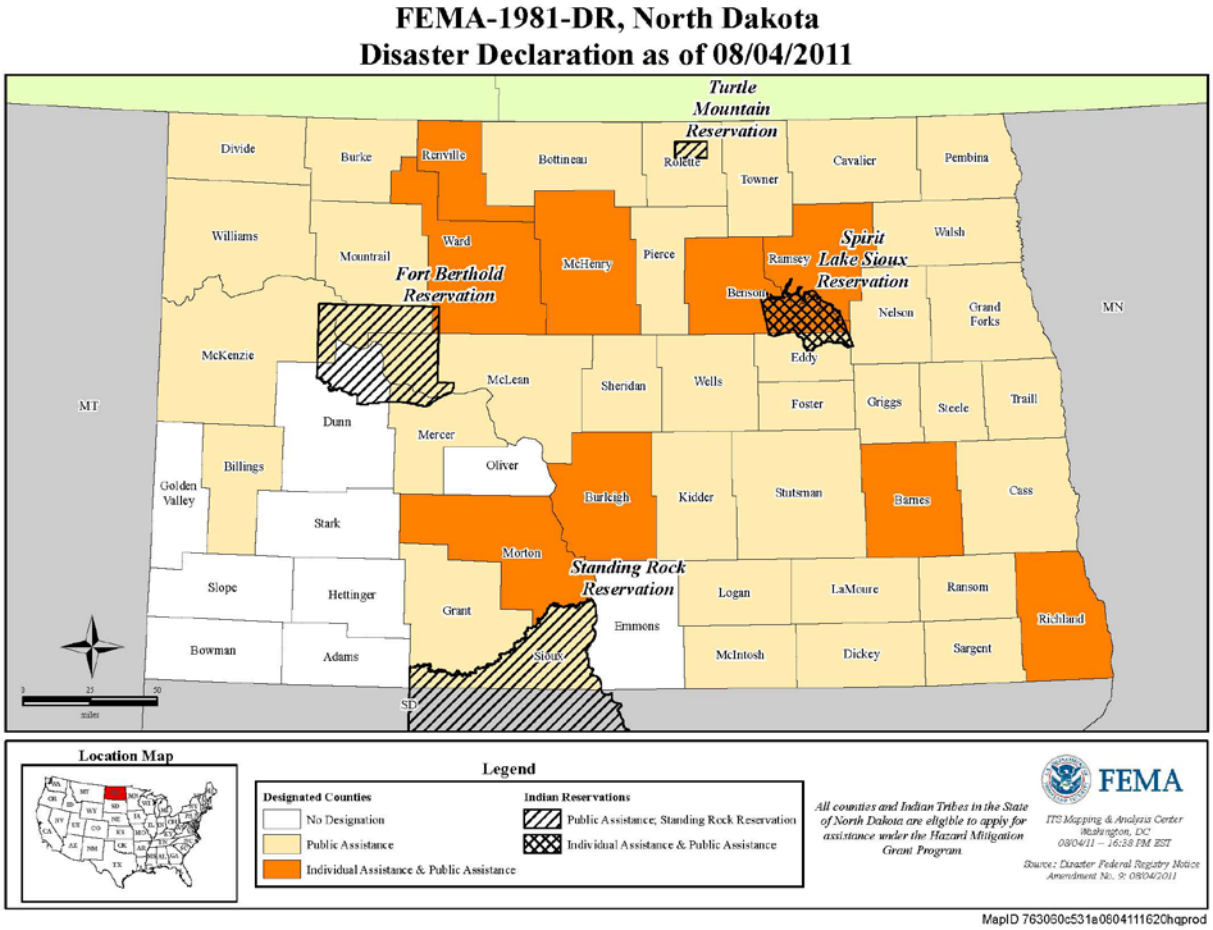
FEDERALLY DESIGNATED AREAS ELIGIBLE FOR ASSISTANCE

Counties where the CDBG Disaster Recovery funds may be used were determined by the FEMA Declaration FEMA-1981-DR North Dakota dated May 10, 2011, for North Dakota Flooding (continuing.)

On May 10, 2011, President Obama declared North Dakota as being in a state of disaster with FEMA assigning the state disaster number FEMA-1981-DR. Under the declaration for Disaster, FEMA's Public Assistance (PA) Program and Hazard Mitigation Grant Program (HMGP) were instated to assist 44 counties and four tribes with disaster recovery and reimbursement of flood damage costs.

(Figure 1) contains a map of the counties that are eligible under the FEMA Individual Assistance Program (IAP) and the Public Assistance Program (PAP).

Figure 1



While the CDBG Disaster Recovery funding may be used in the 44 counties that are eligible for assistance under the 2 FEMA programs, it has been determined that, due to limited funding, only those entities that received the Individual Assistance Declarations from FEMA (declarations are based on the amount of damage received) will be served by CDBG Disaster funding. The eligible entities are: Barns; Benson; Burleigh; McHenry; Morton; Ramsey; Renville; Richland; and Ward Counties and the Spirit Lake Reservation.

PROMOTION OF SHORT-TERM AND LONG-TERM RECOVERY PLANNING

In responding to the short-term recovery needs and long-term mitigation needs resulting from the 2011 flooding event, much of the North Dakota CDBG Disaster strategy will establish activities which follow and are consistent with those planning efforts and documents that have already been undertaken in response to the floods.

Short-term & Long-term Recovery Planning

In June 2011 the N.D. Department of Emergency Services, under the direction of Major General David Sprynczynatyk, Adjutant General, North Dakota National Guard, established a Recovery Task Force which drew upon the expertise of 32 state, 6 federal, and 3 private partners to achieve its mission of guiding state level efforts, resources and programs to assist individuals, businesses and communities recover from the prolonged, catastrophic flooding that occurred in the Mouse, Missouri, Devils Lake, Red River, James, and Sheyenne River Basins.

The agencies responded in force and established the following goals in support of flood-impacted jurisdictions:

- Ensure coordinated state recovery support for individuals, as well as local and tribal governments, through effective planning, program implementation, and policy development.

- Provide assistance to local and tribal governments with their efforts to help affected individuals and businesses by increasing awareness of programs and resources, communicating and coordinating among agencies, and making referrals when appropriate.

- Leverage economic recovery assistance programs designed to help local recovery groups or teams and their communities with their rebuilding efforts.

- Identify ways to protect existing infrastructure against future damages.

- Initiate processes through statutory and regulatory requirements, or other avenues, to ensure future development and protects against potential damage.

In addition the Housing Task Force for Disaster Recovery had been meeting since March and was well positioned to assess needs, as were state and federal agencies staffing the State Emergency Operations Center (SEOC) during response. As their first task, the Task Force members established objectives in the areas of Consumer Protection, Environmental Health and Infrastructure, Individual Assistance, and Disaster Housing, and Economic Recovery. Agencies agreed to the following objectives pertinent to this plan:

- Assist local and tribal governments to remediate environmental hazards and ensure safe restoration of infrastructure needed for individuals to live healthy and safely.

- Secure adequate and safe housing for displaced citizens.

- Implement programs to ensure the wellbeing of citizens and economic viability of their communities.

Long-term Mouse River Basin Recovery Strategy

At the invitation of local and state partners, the Federal Emergency Management Agency (FEMA) deployed a specialized team of planners to facilitate long-term community planning in the Mouse River Basin.

Given the magnitude of the event, FEMA's team expanded to include Emergency Support Function #14, also known as Long-term Community Recovery (LTCR), to assist with planning and long-term recovery of the Mouse River Basin after flooding inundated the cities of Minot and Burlington, along with rural areas of Ward County. Experienced team members worked with local elected officials and citizen groups to develop a plan that will expedite the recovery process and bring these communities back to their normal, thriving activity.

An LTCR Assessment Team was assembled early in July, and began an initial assessment of flood impacted jurisdictions. Based on the assessment, FEMA and North Dakota Department of Emergency Services (NDDES) determined state and federal disaster recovery programs would adequately address the needs of all but one jurisdiction – Ward County.

Given the impact on the cities of Burlington and Minot, their close proximity to each other, and with each community facing very similar recovery issues, the team's assessment indicated Ward County communities would benefit from development of a long-term recovery plan. In developing the plan, recovery issues identified that have an impact on both jurisdictions can be addressed in a coordinated effort; including future planning on project development, especially those related to flood control and housing.

Through this process, Souris Basin residents identified their top recovery priorities:

- Developing affordable housing;
- Creating a Souris River Valley Greenway with recreational Amenities; and
- Conducting a transportation study for the region.

Long-term Mouse River Basin Flood Protection Planning

To address long-term flood protection for the Mouse River Basin, planning for the Mouse River Basin Enhanced Flood Protection Project was began in late summer and early fall of 2011. The North Dakota State Water Commission was given the task of preparing a Preliminary Engineering Report that includes an alignment plan that can be used for property acquisition.

Plans for the project began taking shape on August 17 when the N.D. State Water Commission (SWC) approved a request by the City of Minot and the Souris River Joint Board to develop a Mouse River Basin flood protection plan. The SWC reduced in half the time required for development of a request for proposals. Engineering firms were given one week to submit proposals. By September 22, 2011, the State Water Commission awarded the floodway design project to Barr Engineering Company, and approved $750,000 in funding for the project's initial phase.

Following the release of the Initial Concept Alignment on November 3, 2011, a series of three public input meetings were held. Meetings held November 8 & 9, 2011, focused on the community of Minot while the upstream and downstream residents met on November 10, 2011. Public input from the meetings, and that which was submitted through other methods such as the website, was collected and analyzed.

After the hearings and consideration of multiple alternatives engineers presented documentation and information regarding all of the alternatives to the Minot City Council at a special City Council meeting held on January 24, 2012. On January 31, 2012, the City of Minot held a public input meeting to hear public comment. Following the public comment portion of the meeting the City Council voted to proceed with the 27th Street SE Diversion and the Maple Diversion for the purpose of completing the Preliminary Engineering Report. The Preliminary Engineering Report was released on February 29, 2012.

PROMOTING HIGH QUALITY, DURABLE, ENERGY EFFICIENT, AND MOLD RESISTANT CONSTRUCTION METHODS

All newly constructed multi-family and single-family housing must meet all locally adopted and enforced building codes, standards and ordinances. In the absence of locally adopted and enforced building codes, standards and ordinances, the requirements of the North Dakota State Building Code apply. The North Dakota State Building Code consists of the 2009 International Building Code, International Residential Code, International Mechanical Code, and International Fuel Gas Code, along with state amendments to these four codes.

In 2010 the Advisory Committee and eligible jurisdictions adopted the 2009 versions of the IBC, IRC, IMC and IFGC with amendments. In addition, in accordance with the State Legislature, the energy conservation provisions of the IBC (Chapter 13) and IRC (Chapter 11) were retained with minor amendments. All newly constructed housing must also meet the requirements of the North Dakota State Building Code.

All multi-family housing activities involving rehabilitation must meet all locally adopted and enforced building or housing codes, standards or ordinances. In the absence of locally adopted and enforced building or housing codes, standards or ordinances, the requirements of the State Building code apply.

All single-family housing activities involving rehabilitation must meet all locally adopted and enforced building or housing codes, standards or ordinances. In the absence of locally adopted and enforced building or housing codes, the North Dakota State building will apply.

PROVISION OF ADEQUATE, FLOOD-RESISTANT HOUSING FOR ALL INCOME GROUPS THAT LIVED IN THE DISASTER-IMPACTED AREAS

The State of North Dakota will, through its' subrecipients, make available CDBG Disaster supplemental appropriation for affordable single-family housing activities, including rehabilitation. The North Dakota Department of Commerce will continue to coordinate and collaborate with the North Dakota Housing Finance Authority to provide funding for multifamily affordable housing in the impacted areas.

North Dakota addresses its emergency shelter and transitional housing needs through its State Continuum of Care plan. The North Dakota Department of Commerce also administers both the state and federal homeless programs that also provide emergency shelter and transitional housing funding to entities throughout the state. Through these programs, operated at the local level, the needs of the homeless and those at risk of homelessness are being addressed.

Outside of the City of Minot there was little or no damage to Homeless Shelters or Transitional housing units.

In general North Dakota is continuing to work with the non-profit organizations and the communities to assess if there were any effects from the flooding on the delivery of homeless services.

The State of North Dakota's Consolidated Plan, approved by HUD in 2010, identifies specific strategies and actions that the state takes to address a variety of housing needs for low and moderate income persons, the at risk population group, as well as those with special needs (i.e., elderly, frail elderly, persons with disabilities, persons with alcohol or other drug addictions and person diagnosed with HIV/AIDS). There is a need for a wide variety of housing options ranging from independent living to supported independent living to group settings to specialized care. Beyond the bricks and mortar is the need to blend required support services with the appropriate affordable housing options. All of these issues will need to be considered as we rebuild our communities following our recent flooding.

The State of North Dakota, through local subrecipients, may provide the local match from state CDBG Disaster funds for housing acquisitions and disposal. Property acquisition will be the state's number one priority under this program, with the intent of removing houses from flood hazard areas.

In addition to the above, the state through local subrecipients, will also use a portion of the Disaster funding to acquire homes that don't meet FEMA cost/benefit analysis requirements, but are in areas that had heavy flood damage and that support overall flood mitigation plans for the community(ies).

Any assistance within a 100-year flood plain will only be provided pursuant to the required 8-step environmental review process, and any residential properties receiving such assistance will be required to purchase flood insurance.

The State, through local subrecipients, will also be providing a portion of the 15 percent local match from state CDBG Disaster funds for the FEMA HMGP for infrastructure to encourage communities to complete projects that will lessen the negative impacts of future floods. As a result of the state providing this match, the local governments will not entail financial obligations relating to these projects, and therefore will be more likely to undertake them.

METHOD OF DISTRIBUTION

The State of North Dakota is scheduled to receive $11,782,684 under the Consolidated and Further Continuing Appropriations Act, 2012 (Public Law 112-55), for disaster relief of unmet needs resulting from flooding in the state with a maximum of 5 percent allowed for state and local administration.

After deducting $589,134 for state and local administration the remaining funds of $11,193,550 are available for project activities.

Due to limited funding the eligible entities will be those areas which received the greatest damage and qualified for an Individual Assistance designation from FEMA. They are: Barnes, Benson, Burleigh, McHenry, Morton, Ramsey, Renville, Richland, and Ward Counties and the Spirit Lake Reservation. <u>Cities located within these counties must submit projects to be included within the respective county application.</u>

At the present time the State's plan is to conform with the allocation noted in HUD's initial guidance allocating 80 percent ($8,954,840) to projects in Ward county and the remaining 20 percent ($2,238,710) to projects in the remaining eligible entities. **Funding for plans and projects outside of Ward County will be awarded on a competitive basis based upon demonstrated unmet needs. <u>Priority will be given to projects with the most low and moderate income benefit.</u> Applications from Barnes, Benson, Burleigh, McHenry, Morton, Ramsey, Renville, Richland, and the Spirit Lake Reservation will be due no later than September 30, 2012.**

Should Ward County not require the full $8,954,840 (80 percent of project funds), the remainder will be allocated to qualifying projects in the other eligible entities. Ward County will have until September 30, 2013 to identify and submit projects to DCS for funding.

The State of North Dakota elects not to carry out activities directly, but intends to use and award funds directly to the eligible entities as subrecipients which will carry out and administer eligible activities as defined in this plan.

All eligible entities will be required to submit a plan/application for qualified projects within their jurisdictions. The Department will review all subrecipient plans for consistency and compliance with program requirements.

I. Eligible Project Activities

As reflected in previous sections on the impact of the disaster and North Dakota's needs and as pointed out in the discussion of planning efforts the greatest recovery needs fall in to the categories of Housing & Individual Assistance, property buyouts for Mitigation, and Public Facilities and Infrastructure replacement.

(The state will also allow reimbursement for pre-agreement costs, consistent with this plan, incurred on or after the incident date of the covered disaster and delineated in a pre-agreement delineating compliance requirements.)

The activities in these areas to be funded with the available CDBG Disaster funding are delineated as follows:

Housing Activities

1. **Housing Rehabilitation and Restoration** – Owner occupied homes and rental units not slated for acquisition will receive assistance to make needed repairs and rehabilitation.

2. **New Housing Production** – Assistance will be provided to developers of new affordable rental and owner occupied housing which replaces housing lost due to the flood. The assistance may also be used for streets, sewer, and water extensions linked to the development of this housing.

Flood Mitigation Activities

1. **Housing and Commercial Property Acquisition & Disposal (FEMA match)** - CDBG funds from the HUD disaster appropriation will be used towards the 7.5 percent local match required for the FEMA buyouts in flood-prone areas. Under the FEMA Hazard Mitigation Acquisitions and Relocations program FEMA provides 75 percent of the costs. In addition, the North Dakota legislature provided additional funding to the ND Dept. of Emergency Management to assist local units of government with 17.5 of the remaining 25 percent match required under the FEMA program.

2. **Housing and Commercial Property Acquisition & Disposal (Non-FEMA match)** - For proposed property buyout programs in flood-prone areas for which FEMA funds are not available. CDBG Disaster funds can be used towards the local match required by the Flood Property Acquisition Cost Share Program administered by the North Dakota State Water Commission. The ND Legislature has provided the ND State Water Commission with $50 million to address flood mitigation buyouts and relocations not covered by the FEMA Hazard Mitigation Program.

Public Facilities and Infrastructure

1. **Match for FEMA Hazard Mitigation Projects and Federal Highway Emergency Relief Projects** - CDBG funds from the HUD disaster appropriation will be used towards the 15 percent local match required for infrastructure projects funded under the FEMA Hazard Mitigation Program and toward the 20 percent local match for the Federal Highway Disaster Recovery projects. However, the appropriation covered by this Plan (Public Law 112-55) specifically prohibits the use of funds for activities reimbursable by, or for which funds are made available by, the Federal Emergency Management Agency or the Army Corps of Engineers.

2. **Public Infrastructure (Non FEMA)** - For proposed property buyout programs in flood-prone areas for which FEMA funds are not available. CDBG DISASTER funds can be used towards the local match required by the Flood Property Acquisition Cost Share Program administered by the North Dakota Dept. of Trust Lands. The ND Legislature has provided the ND Dept. of Trust Lands with $50 million to address flood mitigation buyouts and relocations not covered by the FEMA Hazard Mitigation Program.

Allocation of Funds for Projects:

Ward County	**$ 8,954,840**
Other Eligible Counties & Spirit Lake Reservation:	**2,238,710**
Total Available for Projects	**$11,193,550**

II. State and Local General Administration

State and local general administration will include staff, equipment, consultant, and other operating costs involved in selection, funding, assisting, and monitoring local projects, detailed quarterly reporting to HUD, documentation of adherence to all laws, and other indirect overhead expenses. Actual expenses up to 5% of all CDBG Disaster funds received by the State ($589,134) can be used for administration

Allocation of Funds for Administration:

Ward County	**$282,784**
Other Eligible Counties & Spirit Lake Reservation	**70,696**
State	**$235,654**
Total Administration	**$589,134**

(See Appendix B - Guidance Relating To Administrative Costs and Program/Activity Delivery Costs.)

Applicants will be required to document that a project is directly related to damage resulting from the 2011 flood event as authorized in FEMA Declaration FEMA-1981-DR North Dakota dated May 10, 2011, for North Dakota Flooding. Applicants submitting projects for funding utilizing CDBG disaster assistance will, as part of the application process, be required to submit copies of the FEMA damage assessment worksheets or Federal Highway Detailed Damage Inspection Reports (DDIR) which document the association with the 2011 flood event and the estimated costs of repair, restoration, or replacement.

The ND Department of Commerce will incorporate the use of a review committee to ensure that the plans that are submitted currently reflect the conditions which need to be addressed. This will also ensure that they are properly coordinated with other assistance programs available to the applicants. The committee will include representatives from:

- North Dakota Department of Commerce
- North Dakota Department of Emergency Services
- North Dakota Housing Finance Agency
- North Dakota Department of Transportation
- North Dakota State Water Commission (Flood Protection/ Buyouts)
- North Dakota Department of Trust Lands (State Infrastructure Program)
- North Dakota Department of Health

Criteria - Applications will be reviewed and priority given to those which address the most critical unmet needs and conform to the program requirements. **Priority will also be given to those projects with the most low and moderate income benefit.** Criteria to be used will include the following:

1. Project addresses damage directly related to flood of 2011. (FEMA Damage Assessment Worksheet required)
2. Benefit to Low & Moderate Income Households
3. Degree to which the project will address critical Housing and Infrastructure needs.
4. Ability of the applicant to administer and assure all program requirement
5. Ratio of persons served to dollars spent.

Once it is determined that the plans meet all program requirements and applicants are capable of properly administrating the disaster funds allotted to it, the Department will then prepare and execute a grant award which will detail all compliance and reporting requirements required of the subrecipient.

In order to provide a reasonable period of time for timely distribution of funds, the applicant must initiate funded activity(ies) within eighteen (18) months from the date of the grant award. If the applicant does not meet the 18-month timeframe, the department may rescind and reallocate funds to other eligible applicants.

In addition, if an applicant initiates a funded activity and a period of time goes by (two years) with no progress being made in which to draw funds, the Department will rescind and reallocate funds to another eligible applicants.

Implementation & Performance Schedule - The State of North Dakota anticipates a number of events which need to occur to provide for the effective implementation and administration of the CDBG Disaster funds. Some of the events will center around the timely distribution of grant funds and reporting of grant progress. The following are estimated mile stones and anticipated events anticipated for the CDBG Disaster funding:

Event	**Date**
Application deadline for projects from eligible entities other than Ward County.	September 30, 2012
Review committee meeting on other eligible entity applications.	November 2012
Application deadline for projects from Ward County.	September 30, 2013
Review committee meetings on Ward County's application.	As necessary thru November 2013
Anticipated award date for Ward County and other eligible entity activities.	30 days after Committee Review
Deadline for initiating Ward County projects.	6 Months after Award Date
Deadline for initiating projects by other eligible entities.	12 Months after Award Date
Completion and close out of all approved projects.	November 30, 2015

The following reflects an estimated schedule for expenditure of all CDBG Disaster funded activities:

Percent of Funding	Date
33%	Nov. 2013
66%	Nov. 2014
100%	Nov. 2015

As required in section 31 of the CDBG Disaster fund regulations the State, as the Grantee, is required to submit a quarterly performance report to HUD no later than 30 days following the end of each calendar quarter, beginning after the first full calendar quarter after the grant award. This will continue until all funds have been expended and all expenditures have been reported. The reports will be submitted using HUD's DRGR system. The reports will also be posted to the State's Website.

RESTRICTION ON USE OF FUNDS – SUPPLANTATION OF FUNDS

The Department of Housing and Urban Development Appropriations Act, 2012 (Public Law 112-55) requires funds to be used only for specific purposes. The statute directs that each grantee describe criteria for eligibility and how the use of the grant funds will address long-term recovery and restoration of infrastructure, housing and economic revitalization.

As provided for in the Act, funds can be used as a matching requirement, share, or contribution for any other Federal program. However, the funds may not be used for activities reimbursable by, or for which funds are made available by the Federal Emergency Management Agency (FEMA), the Army Corps of Engineers, or the Small Business Administration.

Therefore in order to comply with this limitation, subrecipients and beneficiaries will have to first apply for assistance from FEMA and/or the Corps of Engineers when available.

Since CDBG Disaster funds are intended to supplement existing sources of assistance, subrecipients and beneficiaries cannot refuse or circumvent other sources of assistance in order to receive a "better deal" from the CDBG Disaster program/activity funding which may be available. Such action would be considered an attempt to supplant other available assistance with CDBG Disaster funding.

DUPLICATION OF BENEFITS

On November 16, 2011 HUD published a Notice in the Federal Register (Vol. 76, No.221, Pages 71060-71066) which clarifies the duplication of benefits requirements under the Stafford Act for all active and future Community Development Block Grant (CDBG) disaster recovery grants.

Under the Stafford Act, Congress instituted a goal to achieve greater coordination and responsiveness of disaster preparedness and relief programs. It also sought to guard against fraud and ineligible uses of taxpayer funds. Similarly, the prohibition on duplication of benefits ensures that Federal assistance serves only "to supplement insurance and other forms of disaster assistance.

To accomplish this, the Stafford Act implies a hierarchy of funding and prohibits Federal Agencies from providing recovery assistance to the extent another source has covered the same portion of that recovery need. A duplication occurs when a beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular purpose.

To comply with the duplication of benefits requirement of the Stafford Act all subrecipients will be required to perform a duplication of benefits analysis for all beneficiaries receiving assistance as outlined in the federal register notice cited above. The State of North Dakota Department of Commerce will require all duplication of benefit analyses along with homeowner signed information releases for all sources of financial assistance received (FEMA, SBA, FHWA-ER, Insurance, etc.) be submitted for review prior to the time the subrecipients submit a request for reimbursement.

Any recipient receiving a duplicate benefit may be liable to the Federal government pursuant to 42U.S.C. 5155(c).

MONITORING STANDARDS AND PROCEDURES

The North Dakota Department of Commerce will apply and continue to utilize State's existing CDBG Program monitoring policies and procedures for ensuring compliance with federal guidelines. These policies and procedures have been developed over time and are consistent with those used by HUD to monitor state-administered and entitlement programs. In addition, the office of the State Auditor's Office and HUD frequently perform monitoring, assessment or auditing to ensure that the Department is in compliance with state and federal rules and regulations and to assist the state in providing guidance to CDBG subrecipients. The CDBG program responds to these independent internal audit functions by modifying internal and external administration of the funding.

The Department will utilize its existing monitoring process to ensure that all awards funded with this disaster recovery allocation are carried out in accordance with federal and state laws, rules and regulations. Expenditures will be disallowed if the use of the funds do 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 Department 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 Department will consider prior CDBG grant administration, audit findings, as well as factors such as complexity of the project. The Department 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 Department will utilize the checklists similar to those used in monitoring regular program activities.

PROGRAM INCOME

The State of North Dakota will follow the program income guidance as provided in the regulations. **During the term of the contracts/awards made to subrecipients all program income will be submitted to the state**.

Program income returned to the state will be treated as additional disaster recovery CDBG funds subject to the program income guidance and will be redistributed and used in accordance with activities authorized in this action plan for disaster recovery.

When income is generated by an activity that is only partially assisted with CDBG funds, the income returned will be prorated to reflect the percentage of CDBG funds used.
To the maximum extent feasible, program income will be used or distributed before additional withdrawals are made from the U.S. Treasury.

Program income received subsequent to grant closeout by all entities will be submitted to the State for reallocation to other disaster recovery activities. At the time the grant program is closed out by the state, all subsequent program income will be submitted to the state and will become program income to the State's regular CDBG program.

STEPS THE STATE WILL TAKE TO AVOID OR MITIGATE OCCURRENCES OF FRAUD, ABUSE, AND MISMANAGEMENT

1. Administration and Staffing

The North Dakota Department of Commerce has been designated by Governor Dalrymple and authorized by the legislature to administrator North Dakota's allocation of the CDBG Disaster Appropriation. The North Dakota CDBG Program, within the Division of Community Services, will provide technical assistance to subrecipients and undertake administrative and monitoring activities to ensure compliance with applicable federal requirements. It is anticipated that at least one training workshop will be held for subrecipients and the participating Regional Development Councils concerning the administrative and reporting requirements of the CDBG Disaster funds.

Every two years the North Dakota Auditors Office as part of the States A-133 Single Audit examines all of the Department's major Federal Programs. A major Federal Program is defined as one with over $5 million in expenditures. As part of this audit, The State Auditor Office will independently ensure that program requirements, including non-duplication of benefits, are met, and that continual quality assurance is achieved

The Department will conduct investigations into cases of fraud and abuse by utilizing its standard monitoring procedures and financial review of those instances where suspect. Upon review of findings and working with subrecipients to establish the validity of questioned costs and subsequent disallowance, we will request repayment from subrecipients. If repayment demands are not met, the Department will involve the Attorney General and State Auditor's Office as appropriate.

2. Increasing Capacity at Local Level

Since 1982, the State of North Dakota has worked closely with the eight Regional Development Councils in delivering state CDBG small cities program. The Regional Councils have developed considerable experience required in administering the CDBG program at the local level.

Subrecipients receiving CDBG Disaster Recovery funds may contract with the Regional Development Councils to assist in the administration and delivery of CDBG Disaster projects funded under this Action Plan.
The North Dakota CDBG Program, within the Division of Community Services at the ND Dept. of Commerce, will provide technical assistance to subrecipients and undertake administrative and monitoring activities to ensure compliance with applicable federal requirements. It is anticipated that at least one training workshop will be held for participating jurisdictions and the respective Regional Development Councils in the affected areas on the administrative and reporting requirements of the CDBG disaster funds.

3. Prevention of Duplication of Benefits

As noted previously, to comply with the duplication of benefits requirement of the Stafford Act, all subrecipients will be required to perform a duplication of benefits analysis for all beneficiaries receiving assistance. Provisions will be included in award documents requiring subrecipients to collect the necessary information and preform the duplication of benefits analysis prior to providing assistance under any housing assistance activities, mitigation buy outs, or infrastructure repair or replacement activities.

The subrecipients will have to require any potential beneficiary to make available documentation of all flood related damage and all information from FEMA, SBA, insurance and other sources detailing funding received from those other sources and their intended use.

The state of North Dakota Department of Commerce will check for compliance with this requirement as part of its ongoing monitoring responsibilities and prior to disbursing any funds for the respective projects.

4. National Objectives

All activities must meet a national objective set out in the Housing and Community Development Act which must address urgent need, or primarily benefit LMI persons. **At least 50 percent of the Supplemental Funding will be used for activities that meet the National Objective of primarily benefiting persons of low and moderate-income.**

5. Administrative Costs

Local administrative costs will be limited to 3 percent of the DCS authorized project funding as described in the Method of Distribution section of this Action Plan. Administrative costs are those not specifically related to a single specific project or activity. See Appendix B for a further guidance and examples of administrative costs and program delivery costs. **All staff time related to administrative costs must be budgeted for separately and when charged to the grant must be supported by time sheets. All other administration costs must be supported by invoices, receipts, etc.**

6. Activity/Project Delivery Costs

Activity/project delivery costs are those local project costs associated with project delivery. See Appendix B - Guidance Relating To Administrative Costs and Activity/Project Delivery Costs. **As with administrative staff time, all activity/project delivery staff time must be budgeted separately and when charged to the grant must be supported by time sheets. All other activity/project delivery costs must be supported by invoices, receipts, etc.**

Subrecipients are strongly encouraged to minimize activity/project delivery cost so that the amount available for actual project cost will be maximized. To promote this goal, the amount of subrecipients activity/project costs will be capped at a reasonable amount for each of the categories (i.e. housing repair, public facilities, mitigation), but will not exceed 10 percent for any of the categories.

7. Program Changes through Contract Amendments

All subrecipients 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.

Subrecipients should contact the North Dakota Department of Commerce 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 meets its goals and its timelines.

8. Documentation

The use of the disaster funding is contingent upon certain requirements, and both the state and subrecipients 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 subrecipient 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, subrecipients will be required to submit or maintain documentation that fully supports the application that is submitted to the Department. Failure to document that the project is needed as a result of the disaster(s), or to mitigate the effects of future disasters, will result in an application being declared ineligible. If this discovery is made after an award has been made, the contract with the subrecipient may be terminated and the subrecipient may have to repay any funds received to that point.

When CDBG Disaster funds are requested from DCS, the subrecipient must submit a copy of the entire file for each address. The subrecipient must also document the receipt and expenditure of all other public or private funds. These funds must also be reported on the quarterly report.

9. Reporting

Each awarded applicant must report on a form(s) provided by the Department 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 Department's contractual agreement

Subrecipients will be required to submit the appropriate data to the Department which will be responsible for entering the required data into HUD's DRGR system.

10. Citizen Complaints

All subrecipients must establish procedures for responding to citizens' complaints regarding activities carried out utilizing these funds. Citizens should be provided with an appropriate address, phone number, and times during which they may submit such complaints. Subrecipients should provide a written response to every citizen complaint within fifteen (15) working days of the complaint, the state will be the final arbitrator in these matters.

11. Regulatory Requirements

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

(i) **Fair Housing:** Each subrecipients will be required to take steps to affirmatively further fair housing; 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:** Each subrecipient will be required to adhere to policies which ensure that no person be excluded, denied benefits or subjected to discrimination on the basis race, color, national origin, religion, sex, familial status, and/or physical and

mental handicap under any program funded in whole or in part by Federal CDBG funds. Subrecipients will be required to document compliance with all nondiscrimination laws, executive orders, and regulations.

(iii) **Labor Standards:** Each subrecipient will be required to oversee compliance with Davis-Bacon Labor Standards and related laws and regulations. Regulations require all laborers and mechanics employed by contractors or subcontractors on CDBG funded or CDBG assisted public works construction contracts in excess of $2,000, or residential construction or rehabilitation projects involving eight or more units be paid wages no less than those prescribed by the Department of Labor and in accordance with Davis Bacon Related Acts.

(iv) **Environmental:** Specific instructions concerning environmental requirements at 24 CFR Part 58 will be made available to all subrecipients. Some projects will be exempt from the environmental assessment process, but all subrecipients will be required to submit a Request for Release of Funds and Certification. Funds will not be released for expenditure until the Department is satisfied that the appropriate environmental review has been conducted. Subrecipients 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.

ANTI-DISPLACEMENT AND RELOCATION

Subrecipients will be expected to minimize displacement of persons or entities and assist any persons or entities displaced as a result of the disasters. This is not intended to limit the ability of the subrecipients to conduct buyouts for destroyed and extensively damaged units or units in a flood plain.

ACTION PLAN AMENDMENTS

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

- Addition or deletion of any allowable activity (e.g., Housing Assistance, Flood Mitigation activities, Public Facilities/Infrastructure) described in the Plan;

- A significant change in the grant selection criteria in Section II under Method of Distribution.

Substantial amendments to the State of North Dakota's Action Plan for Disaster Recovery, if any, will be published on the Department's website, emailed or sent through U.S. Postal Service to affected units of general local government and will provide for a public comment period. All comments will be considered.

APPENDIX A

DEPARTMENT'S RESPONSE TO PUBLIC COMMENTS

SUMMARY OF PUBLIC COMMENTS ON STATE OF NORTH DAKOTA'S DISASTER PLAN # 2

The State of North Dakota's Action Plan for Disaster Recovery was released for public comment on June 25, 2012. The public comment period for the document ran from June 27, 2012 through July 5, 2012. The Action Plan was posted on the ND Department of Commerce's website on June 26, 2012 as well. All cities and counties in North Dakota that received an Individual Assistance Declaration from FEMA was notified of the plan availability through the United States Postal Service.

A statewide press release was also made available to all news outlets within the state on June 25, 2012.

Comments on the Plan were accepted by mail at the North Dakota Department of Commerce, 1600 East Century Avenue, Suite 2, Bismarck, ND 58503 or email at dcs@nd.gov.

The North Dakota Department of Commerce did not receive any comments concerning the Action Plan for Disaster Recovery.

APPENDIX B

GUIDANCE RELATING TO ADMINISTRATIVE COSTS AND ACTIVITY/PROJECT DELIVERY COSTS

Under direction from HUD and based on the Department of Housing and Urban Development Appropriations Act of 2012 (Pub. L. 112-284), which authorized the CDBG Disaster Recovery funds, there is a maximum allowable limit of 5 percent placed on **Administrative Costs** to be incurred at the combined state and local levels.

In addition when considering administrative costs, the CDBG disaster recovery funds are subject to the CDBG entitlement regulations. This differs from the CDBG small cities program historically administered by the state of North Dakota. The State CDBG small cities program regulations do not recognize "activity/project delivery costs" and treats such costs as "administrative" costs. For subrecipients receiving CDBG Disaster funds, these costs have been limited to those delineated in Section II of the Method of Distribution (see "State and Local Administration" under "Method of Distribution").

For the purposes of the CDBG Disaster Recovery Program if activity/project delivery costs were to be treated as administrative costs, the 5 percent limit would result in insufficient funds available to fund activity/project delivery in support of direct expenditures.

Given these facts, it is important to delineate the difference between administrative costs and /activity delivery costs for the purposes of the CDBG disaster recovery program.

Administrative Costs

Administrative Costs available to subrecipients of the North Dakota CDBG Disaster Program are limited to those delineated in Section II of the Method of Distribution for the specified activities as requested in their applications to the State. Examples include:

- General management, oversight and coordination;
- Providing local officials and citizens with information about the general CDBG program;
- Preparing budgets and schedules;
- Preparing quarterly reports and other HUD required documents;
- Monitoring program activities;
- Fair Housing Activities;
- Indirect costs and cost allocation plans; which must have federal agency/HUD approval
- Development and submittal of applications for Federal programs.

The Administrative Costs relate to activities generally defined as non-specific to any one project, which would include public or general legal notices, audits, monitoring, and financial services. It includes staff time of grant administrator, chief financial officer, budget or finance director, for example, if not linked specifically to a project. **All administrative staff time must be budgeted separately and when charged to the grant must be supported by time sheets. All other administration costs must be supported by invoices, receipts, etc.**

> **Note**: engineering, architectural, and design costs related to a specific project or other costs of implementing plans are not part of this category – they should be charged to the activity line item.

The costs for compiling and preparing the applicant/sub-recipient's recovery application are considered administrative since they are not linked to a single specific project.

Activity/Project Delivery Costs

Activity/Project Delivery Costs available to subrecipients of the North Dakota CDBG Disaster program are limited to 10 percent of their approved grant for the specified activities as requested in their applications to the State.

This term is not explicitly defined in the regulation, however, the definition of "administrative cost" in 24 CFR570.206 excludes: "....staff and overhead costs directly related to carrying out activities eligible under 570.201 through 570.204, since those costs are eligible as part of such activities."

Examples include:

- The costs of carrying out the eligible CDBG Disaster activity and include subrecipient's costs, as well as third party (contractors) costs.

- Staff used to conduct housing rehabilitation who do applicant income verification, work write-ups, on-site progress inspections, punch lists, etc. would be doing a delivery activity.

- Engineering, architectural, and design costs related to a specific project or other costs of implementing plans are not part of this category – they should be charged to the activity line item.

Activity/Project Delivery Costs are generally linked to a specific activity or are project-specific. They are costs directly related to implementing the eligible CDBG Disaster project or activity. It includes staff time devoted to delivery of an activity. **As with 'administrative staff time", all activity/project delivery staff time must be budgeted separately and when charged to the grant must be supported by time sheets. All other administration costs must be supported by invoices, receipts, etc.**

APPENDIX C

CERTIFICATIONS FOR STATE GOVERNMENTS, WAIVER AND ALTERNATIVE REQUIREMENT

In accordance with the applicable statutes and the regulations governing the state CDBG Disaster Recovery Action Plan under the Department of Housing and Urban Development Appropriations Act, 2012, the State certifies that:

A. The grantee certifies that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within its jurisdiction 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) and 570.601(a)(2).)

B. The grantee 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 grantee certifies its compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by part 87.

D. The grantee certifies that the Action Plan for Disaster Recovery is authorized under State and local law (as applicable) and that the grantee, and any entity or entities designated by the grantee, possess(es) 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 grantee certifies that activities to be undertaken with funds under this Notice are consistent with its Action Plan.

F. The grantee certifies that it will comply with the acquisition and relocation requirements of the URA, as amended, and implementing regulations at 49 CFR part 24, except where waivers or alternative requirements are provided for in this Notice.

G. The grantee 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.

H. The grantee certifies that it is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.105 or 91.115, as applicable (except as provided for in notices providing waivers and alternative requirements for this grant). Also, each unit of local government receiving assistance from a State grantee must follow 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).

I. Each State receiving a direct award under this Notice certifies that it has consulted with affected units of local government in counties designated in covered major disaster declarations in the non-entitlement, entitlement, and tribal areas of the State in determining the method of distribution of funding.

J. The grantee 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, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas for which the President declared a major disaster in 2011, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 et seq.).

(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 grant amount is expended for activities that benefit such persons.

(4) The grantee 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).

K. The grantee 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.

L. The grantee certifies that it has adopted and is enforcing the following policies. In addition, States receiving a direct award must certify that they 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 nonviolent 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.

M. Each State or unit of local government receiving a direct award under this Notice certifies that it (and any sub-recipient or administering entity) has the capacity to carry out disaster recovery activities in a timely manner; or the State or unit of local government will develop a plan to increase capacity where such capacity is lacking.

N. The grantee 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.

O. The grantee certifies that its activities concerning lead-based paint will comply with the requirements of 24 CFR part 35, subparts A, B, J, K, and R.

P. The grantee certifies that it will comply with applicable laws.

Signature/Authorized Official

7/11/12
Date

Deputy Commissioner
Title

OMB Number: 4040-0004
Expiration Date: 04/31/2012

Application for Federal Assistance SF-424

Version 02

*1. Type of Submission	*2. Type of Application	*If Revision, select appropriate letter(s):
☐ Preapplication	☑ New	
☑ Application	☐ Continuation	* Other (Specify)
☐ Changed/Corrected Application	☐ Revision	

*3. Date Received: 4. Application Identifier:

5a. Federal Entity Identifier: *5b. Federal Award Identifier:

State Use Only:

6. Date Received by State: 7. State Application Identifier:

8. APPLICANT INFORMATION:

* a. Legal Name: State of North Dakota

* b. Employer/Taxpayer Identification Number (EIN/TIN): 450309764

*c. Organizational DUNS: 802741843

d. Address:

*Street1: 1600 E. Century Ave., Suite 2
Street 2: PO Box 2057
*City: Bismarck
County:
*State: ND
Province:
Country: *Zip/ Postal Code: 58502-2057

e. Organizational Unit:

Department Name: Department of Commerce

Division Name: Division of Community Services

f. Name and contact information of person to be contacted on matters involving this application:

Prefix: First Name: Bonnie
Middle Name:
*Last Name: Malo
Suffix:

Title: Program Manager

Organizational Affiliation:

*Telephone Number: 701-328-2476 Fax Number: 701-328-2308

*Email: bmalo@nd.gov

OMB Number: 4040-0004
Expiration Date: 04/31/2012

Application for Federal Assistance SF-424 Version 02

9. Type of Applicant 1: Select Applicant Type: A. State Government

Type of Applicant 2: Select Applicant Type:

- Select One -

Type of Applicant 3: Select Applicant Type:

- Select One -

*Other (specify):

*10. Name of Federal Agency:
U. S. Department of Housing and Urban Development

11. Catalog of Federal Domestic Assistance Number:

14-228

CFDA Title:

Community Development Block Grants/State's program and Non-Entitlement Grants in Hawaii

*12. Funding Opportunity Number:

*Title:

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

State of North Dakota

*15. Descriptive Title of Applicant's Project:

Attach supporting documents as specified in agency instructions.

OMB Number: 4040-0004
Expiration Date: 04/31/2012

Application for Federal Assistance SF-424

Version 02

16. Congressional Districts Of:

*a. Applicant Statewide

*b. Program/Project:

Attach an additional list of Program/Project Congressional Districts if needed.

17. Proposed Project:

*a. Start Date: 8/12

*b. End Date: 12/15

18. Estimated Funding ($):

*a. Federal	$11,782,684.00
*b. Applicant	
*c. State	
*d. Local	
*e. Other	
*f. Program Income	
*g. TOTAL	$11,782,684.00

***19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on
☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
☑ c. Program is not covered by E.O. 12372

*20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)
☐ Yes ☑ No

21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)

☑ **I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: Mr.

*First Name: Paul

Middle Name: T.

*Last Name: Govig

Suffix:

*Title: Director

*Telephone Number: 701-328-4499

Fax Number: 701-328-2308

*Email: pgovig@nd.gov

*Signature of Authorized Representative:

Date Signed: 7/11/12

OMB Number: 4040-0004
Expiration Date: 04/31/2012

Application for Federal Assistance SF-424

Version 02

*Applicant Federal Debt Delinquency Explanation

The following field should contain an explanation if the Applicant organization is delinquent on any Federal Debt. Maximum number of characters that can be entered is 4,000. Try and avoid extra spaces and carriage returns to maximize the availability of space.

OMB Approval No. 4040-0007
Expiration Date: 06/30/2014

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
	Director
APPLICANT ORGANIZATION	DATE SUBMITTED
ND Department of Commerce, Division of Community Services	July 11, 2012

Standard Form 424B (Rev. 7-97) Back