State of North Dakota Action Plan For Disaster Recovery

Includes Amendment #1

Utilizing Supplemental CDBG Disaster Recovery Funding from the Department of Housing and Urban Development Appropriations Act, 2013 (Public Law 113-2) Sandy Funds

Through U.S. Department of Housing and Urban Development

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EQUAL HOUSING OPPORTUNITY

ALTERNATIVE FORMATS ARE AVAILABLE UPON REQUEST

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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, 2013 (Public Law 113-2), 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 $6,576,000 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 113-2 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 Nos. FR-5696-N-01, FR-5710-N-01 and FR-5696-N-03.

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 (FEMA Disaster #1981) and severe winter storm (FEMA Disaster #1986).

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 March 2013 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, over $101 million has been provided. $93.6 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 $240.5 million in low-interest loans. $212.6 million was approved for individuals. Disaster Recovery Centers were open in 11 communities and received 14,921 separate visits from applicants while in operation.

- The Federal Emergency Management Agency has housed 2,143 families (nearly all of them in Ward County) in temporary housing units while they work on their permanent housing plans.

- In Ward County among those housed, the high on private sites which were mainly on the same lots as their flood damaged homes were 1,213. As of July 1, 2013, 9 families remain on private sites. Group sites had a high of 687 families housed and 249 families were housed at existing mobile home parks. The group sites include Virgil Workman Village in the Minot area which had a high of 578 units, Recovery Village in the Minot area had a high of 59 units and DeSour Valley Heights in Burlington had a high of 50 units. As of July 5, 2013, there are a total of 163 units still occupied. The tenants of these units are either trying to purchase the FEMA unit they live in, working on finding a place to rent within a limited income, working to complete repairs on their residences or may be purchasing a new residence. Some residents are hard to place because of multiple issues that could include credit history, rental history, criminal history and/or very low income.

- 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 $224 million for 2,055 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 $240.5 million approved for the entire state. In Ward County:

    - 1,829 owner occupied households received $195.6 million in loans;
    - 78 renters received $981,700 in loans;
    - 138 businesses received $23.6 million in loans, of which 102 business received $1.8 million in loans that were considered economic injury disaster loans;
    - 10 non-profits received $3.7 million in loans.

- Minot, which lies in Ward County, has two HUD Section 811 or 202 properties. Neither property was affected by the flood.

- $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 June 2013, FEMA has obligated more than $242.9 million for 4,552 infrastructure projects in North Dakota.

- Breakdown of key assistance categories:

    - Debris Removal - $17.3 million
    - Emergency Protective Measures - $75 million
    - Road and Bridges - $85.6 million
    - Public Buildings - $44.2 million
    - Public Utilities - $7.3 million

- Projects continue to be submitted to FEMA and the state for review. When all work is complete, more than 4,600 projects with a federal cost share of approximately $300 million will have been assisted.

- FEMA and the state met with Devils Lake area counties 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 153 in loans totaling $24.1 million for businesses. Of this amount 115 loans totaling 2.2 million were considered Economic Injury Disaster Loans.

- 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.

FEMA and SBA assistance will not cover all of the uninsured costs associated with the 2011 flood.

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, 2013 (Public Law 113-2), which appropriated $16,000,000,000 in Community Development Block Grant funds related to disaster relief, long-term recovery, and restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) due to Hurricane Sandy and other eligible events in calendar years 2011, 2012 and 2013. The State of North Dakota has been allocated a total of $6,576,000 from that appropriation with an additional $35,056,000 going directly to the City of Minot for recovery from the impacts of the severe flooding experienced in 2011.

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 and the general legislative session in 2013:

- 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 are not required to make payments on the principal or interest for the first 2 years of the 20-year loan. 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. The 2013 ND Legislature passed legislation that allows a homeowner to receive an additional $20,000 in loans for eligible flood related expenses. The program also allows a resident of a FEMA unit to obtain a loan up to the purchase price of the FEMA unit.

- 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. As of August 30, 2012, $27,765,882 has been awarded statewide, of which $20,645,995 has been awarded to Ward County.

- The State Water Commission was given 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 $4.3 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 began in March 2012. In addition, more than $630,000 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, HOUSING AUTHORITIES AND EMERGENCY SHELTERS

The North Dakota Department of Commerce held 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 July 10, 2013 to discuss the pending CDBG disaster recovery assistance following adoption of the Disaster Relief Appropriations Act, 2013, (Public Law 113-2). The Department of Commerce's goal was to inform the County Staff and Commissions of the program guidelines and program implementation guidance for the CDBG Sandy disaster recovery program. The discussion included identifying unmet needs and eligible activities which may be requested by county.

In addition, the Division of Community Services notified all counties that received an individual assistance declaration, all cities, housing authorities and emergency shelters within these counties by mail on June 28, 2013. Information was provided on the availability of funds and requesting their input to identifying unmet needs and potential projects to address those needs. The State of North Dakota Action Plan for Sandy Disaster Recovery will be made available to citizens, affected local governments, housing authorities, emergency shelters and other interested parties via publication on the Department's website as well as US Postal Service.

A notice of the Draft Action Plan availability is being sent by U.S. Postal Service to all counties, cities, housing authorities and emergency shelters located in the 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).

UNMET NEEDS BASED ON CONSULTATION WITH LOCAL GOVERNMENTS, HOUSING AUTHORITIES AND EMERGENCY SHELTERS

The State of North Dakota received several responses to their Unmet Needs Survey. The needs included the creation of low and moderate income housing, reconstruction of roads, reimbursement or repair of private septic systems, and payment of special assessments for a flood control project. Based on supporting documentation received, at this time, the creation of low and moderate income housing in the City of Minot, which is located in Ward County, will be the priority activity.

The need was based on a Market Study completed by Allen & Associates Consulting, Inc. in January 2013 for a Federal Low Income Housing Tax Credit project. The study indicated a demand for 572 rental units with income restrictions of 60% or less of area median income. An additional need for 2,322 subsidized units still exists. The City of Minot's 2012 Housing Assessment indicated that 837 fewer affordable units exist today than 2010. The assessment also stated that 20% of the households in Minot are cost burdened, due to the high cost of housing. Over 3,530 households living in rental housing are cost burdened. The 2012 Statewide Housing Needs Assessment estimates that in Region 2, which includes Ward County and the City of Minot, households at or below 80% of area median income are projected to increase by 7,159 or 51.2% of the total household growth in Region 2. The study also predicted that the city will see a 35.3% increase in renter households which will in turn increase the rents in the Minot community.

In March of 2013, the Minot Housing Authority accepted applications for 32 newly created affordable units. They received over 300 applications for those units.

Further Unmet Needs in Ward County have been identified: (Amendment #1)

Ward County continues to deal with flooded county roads. In total, Ward County had 70 small sites damaged by flood waters and 8 sites that required a grade raise. The small site damage consisted of gravel wash, culvert damage, slope damage and other sites with damage less than $67,000 in costs. The Federal Emergency Management Administration (FEMA) conducted engineering studies on the eight sites that required a grade raise. All 8 sites were denied FEMA funding because alternate routes were available. However, some of the alternate routes identified by FEMA are minimum maintenance roads such as prairie trails and section lines (vegetated and/or no gravel surfacing).

The County has used their own funds to repair 6 of the 8 sites. County Road 11 and County Road 18 are still inundated with water and still in need of repair. County roads are vital to the community, they provide a means for travel for various needs including school bus routes, United States Postal Services routes, emergency services, residents to travel for work and goods and services, farm field access and equipment hauling and moving.

Ward County has proposed a drainage project that would relieve the flood waters affecting County Road 18. They are working with the North Dakota State Water Commission on a 50/50 cost share project to construct a drainage project for this site.

Ward County has proposed a grade raise for County Road 11 at the site of inundation. The County has identified CDBG Disaster Sandy funding to complete this project. The inundated section of County Road 11 affects approximately 12 households. One of those households has to drive through a half mile of field to reach their home. If the soil is wet, they have to use a four wheel drive tractor to travel the half mile. This household is also cut off from emergency services when these vehicles are not able to drive in the field.

The total cost of the County Road 11 project is estimated at $1,462,512, CDBG Sandy Disaster Funds will contribute 1,462,512 to the project.

The following is HUD's unmet needs table of homes and businesses with severe unmet needs:

HUD estimates of the number of homes and businesses with severe unmet needs and the estimated cost to address the unmet needs - States awarded 2011 CDBG Disaster Recovery Grants

		HUD Estimate of the Number of Damaged Homes and Businesses with Remaining Unmet Needs (As of December 2011)		HUD Estimate of Severe Housing and Business Unmet Needs (As of December 2011)		
State	**County**	**Severely Damaged Homes**	**Severely Damaged Businesses**	**Total Severe Housing and Business Needs**	**Severe Housing Unmet Needs**	**Severe Business Unmet Needs**
North Dakota		**2,380**	**182**	**$163,661,755**	**$145,139,299**	**$18,522,456**
	Ward County, North Dakota	2,329	182	158,803,303	141,333,233	17,470,070
	Burleigh County, North Dakota	26	<10	1,908,136	1,328,844	579,292
	Renville County, North Dakota	14	<10	1,143,473	921,697	221,776
	McHenry County, North Dakota	11	<10	1,105,208	853,890	251,318
	Morton County, North Dakota	<10	0	466,622	466,622	0
	Barnes County, North Dakota	<10	0	235,013	235,013	0
	Ramsey County, North Dakota	0	0	0	0	0
	Richland County, North Dakota	0	0	0	0	0
	Benson County, North Dakota	0	0	0	0	0
	Mountrail County, North Dakota	0	0	0	0	0
	Emmons County, North Dakota	0	0	0	0	0
	McLean County, North Dakota	0	0	0	0	0

Source Data:
1. FEMA Individual Assistance program data on housing unit damage (12/20/2011)
2. SBA for management of its disaster assistance loan program for housing repair and replacement (12/21/2011)
3. FEMA estimated and obligated amounts under its Public Assistance program for permanent work, federal and state cost share (12/20/2011)
4. SBA for management of its disaster assistance loan program for business real estate repair and replacement as well as content loss (12/22/2011)

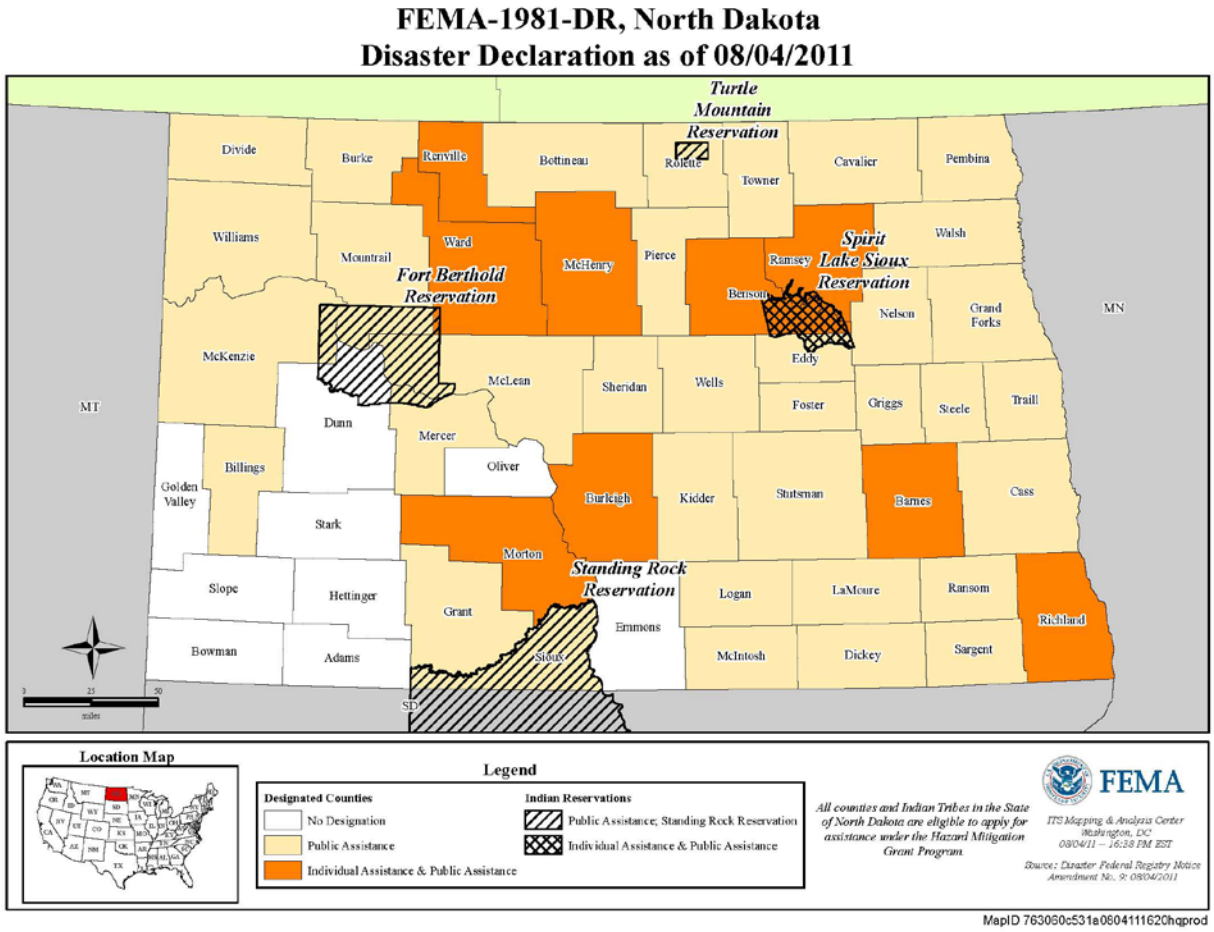
FEDERALLY DESIGNATED AREAS ELIGIBLE FOR ASSISTANCE

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; 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 met 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 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 or new construction 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 or new construction 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 Code will apply.

All new construction of residential building or replacement of substantially damaged residential buildings must meet a Green Building Standard. Green Building Standard means all construction meet an industry recognized standard that has achieved certification under at least one of the following programs; (1) ENERGY STAR (Certified Homes or Multifamily High Rise), (2) Enterprise Green Communities, (3) LEED (NC, Homes, Midrise, Existing Buildings O & M or Neighborhood Development, (4) ICC-700 National Green Building Standard, (5) EPA Indoor AirPlus (ENERGY STAR a prerequisite), or (6) any other equivalent comprehensive green building program.

Rehabilitation of non-substantially-damaged residential buildings, grantees must follow the guidelines specified in the HUD CPD Green Building Retrofit Checklist.

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 housing activities. 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 flooding.

The State of North Dakota's priority will be the creation of housing for low and moderate income households.

CDBG Sandy Disaster funds will not be used to construct new buildings or complete substantial improvements to buildings within the floodplain or in any special flood hazard area determined by FEMA's most recent and current data, unless the building is elevated at least one foot above the base flood elevation or flood-proofed. 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 has received $6,576,000 under the Disaster Relief Appropriations Action, 2013 (Public Law 113-25), 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 $328,800 for state and local administration the remaining funds of $6,247,200 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. Cities located within these counties must submit projects to be included within the respective county application.

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.

Scoring Criteria

The unmet needs submitted from affected units of local governments, housing authorities and emergency shelters within the counties that received an individual declaration from FEMA will be scored based on the following:

- Project will receive 20 points if it is located in a HUD identified county with severe unmet needs;
- Project will receive 0 points if it is not located in a HUD identified county with severe unmet needs
- Project will receive 1 point for each percentage point of Total Severe Housing and Business Needs in the county as compared to the Statewide Total;
- Project will receive 100 points if it benefits LMI;
- Project will receive 20 points if it is located in a county with a FEMA Individual Assistance Declaration;
- Project will receive 20 points if it is an eligible CDBG Disaster activity;
- Project will receive 0 points if it is not an eligible CDBG Disaster activity;
- Project will receive 10 points if the activity identified for reimbursement followed CDBG Regulations relating to Environmental, Davis Bacon, etc.;
- Project will be disqualified if the activity did not follow CDBG Regulations relating to Environmental, Davis Bacon, etc.; and
- Projects listed without documented unmet needs will be disqualified.

The State will invite applications in order starting with the highest ranked project. Applications will be invited until all funds have been obligated. However, a minimum score of 100 must be obtained to be invited to submit an application.

I. Project Activities

As reflected, in the unmet needs assessment, based on consultation with local governments, housing authorities and emergency shelter, the State will prioritize the creation of affordable housing.

Based on the scoring criteria, the State of North Dakota through the City of Minot as a sub-recipient will participate in a 42 unit affordable housing complex being developed by a non-profit housing developer in partnership with the Minot Housing Authority. The non-profit housing developer's mission is to create affordable housing and has many years of experience. The project will be located on the north side of Minot. The total cost of the project is estimated at $7,000,000, CDBG Sandy Disaster Funds will contribute $3,200,000 to this project. The City of Minot has also committed $750,000 towards the development of this project. The developer projects that the remaining funds required for the project will come from the North Dakota Housing Incentive Fund, a bank loan and a deferred developers fee.

Amendment #1 (Round 2) adds an additional $555,000 to the 42 unit affordable housing complex to fill a gap created by an increase in construction costs and a reduction in the amount of Housing Incentive Funds. The total funds contributed to this project will be $3,755,000.

Of the 42 units, 51% (22) will be reserved for households earning 80% area median income or less. The remaining 20 units will target households earning between 80.1% and 140% area median income. The project will have a 20 year land use restriction placed on it allowing for long term affordable housing. The target date for construction start is the spring of 2014 with a target completion date of the spring of 2015. This time period is well within the 2 year required expenditure time frame.

This project meets the standard waiver of Section 105 (a) of the act allowing for new housing construction. It also meets the national objective of low and moderate income area benefit (24 CFR Part 570.483(b)(3).

Amendment #1 (Round 2)

Based on the scoring criteria, the repair of county roads in Ward County is a priority. The project will allow for a permanent road raise to County Road 11 at 107th Ave SW. This will allow many residents shorter travel distances to and from work, safer school bus and US Postal Services routes and better emergency service routes.

The Housing Development project meets the standard waiver of Section 105 (a) of the act allowing for new housing construction. It also meets the national objective of low and moderate income area benefit (24 CFR Part 570.483(b)(3).

The County Road 11 project meets the national objective of urgent need (24 CFR Part 570.483(d).

Allocation of Funds for Projects Round 2 (Amendment #1):	**$2,017,512**
City of Minot Housing Development	$ 555,000
Ward County – County Road 11	$1,462,512
Total Allocation of Funds for Projects (Includes Round 1 & 2):	**$6,247,200**
City of Minot Housing Development	$3,755,000
Ward County – County Road 11	$1,462,512
Funds Reserved for Future Projects*	$1,029,688

*When future projects are identified, based on unmet needs, this plan will be amended and will allow for a public comment period.

II. State and Local General Administration

State and local general administration will include staff, 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 ($328,800) can be used for administration

Allocation of Funds for Administration:	**$ 328,800**
Administration for Round 1	$ 167,688
Administration for Round 2 (Amendment #1)	$ 95,352
Reserved for Future Rounds*	$ 65,760
Total Allocation of Funds for Administration (Includes Round 1 & 2)	

*This amount will be adjusted when future projects are approved.

Each project awarded will be evaluated individually to determine the amount of administrative dollars required. (See Appendix B - Guidance Relating To Administrative Costs and Program/Activity Delivery Costs). However, the total state and local administrative dollars will not exceed $328,800.

Applicants applying for repair, restoration or replacement projects 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 Sandy 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.

In order to meet timely distribution of funds requirements, the applicant must spend 100% of their funds within 24 months of HUD's approval of the project. If the funds are not spent, HUD will rescind them.

Projection of Expenditures and Outcomes will be completed and submitted to HUD within 90 days of Action Plan approval by HUD.

As required by the CDBG Sandy 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, 2013 (Public Law 113-2) 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 Sandy 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 Sandy Disaster program/activity funding which may be available. Such action would be considered an attempt to supplant other available assistance with CDBG Sandy 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 Sandy 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 CDBG Sandy Disaster Funding will be used for activities that meet the National Objective of primarily benefiting persons of low and moderate-income. (80% area median income and below)**

5. Administrative Costs

Local administrative costs will be determined on a case by case basis, however, total administration will not exceed 5percent 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

In order to reduce the need for amending contracts, all subrecipients will be encouraged to carefully plan projects that meet the stated requirements and to specify activities, associated costs, along with proposed accomplishments and beneficiaries.

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 at a minimum, a copy of all invoices relating to the project. The subrecipient must also document the receipt and expenditure of all other public or private funds. These funds must 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 project activity identified in the Plan;

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, housing authorities and emergency shelters, and will provide for a public comment period. All comments will be considered.

PROJECTIONS OF EXPENDITURES AND OUTCOMES

The state's projections of expenditures and outcomes can be viewed at the following link: www.communityservices.nd.gov/uploads/8/CDBGSandyFinancialandPerformanceProjectionsProtected.xls

APPENDIX A

DEPARTMENT'S RESPONSE TO PUBLIC COMMENTS

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

The State of North Dakota's Action Plan for Sandy Disaster Recovery was released for public comment on August 16, 2013. The public comment period for the document ran from August 16, 2013 through August 23, 2013. The Action Plan was posted on the ND Department of Commerce's website on August, 15, 2013 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, as well as Housing Authorities and Emergency Shelters.

A statewide press release was also made available to all news outlets within the state on August 15, 2013.

Substantial Amendment #1 was released for public comment May 22, 2014. The public comment period ran from May 22, 2014 through May 30, 2014. The amendment was posted on the North Dakota Department of Commerce's website on May 22, 2014. 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, as well as Housing Authorities and Emergency Shelters.

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. No comments were received concerning substantial Amendment #1.

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 2013 (Pub. L. 113-2), which authorized the CDBG Sandy 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.

Q. The grantee certifies that it has reviewed the requirements of this Notice and requirements of Public Law 113-2 applicable to funds allocated by this Notice, and that it has in place proficient financial controls and procurement processes and has established adequate procedures to prevent any duplication of benefits as defined by section 312 of the Stafford Act, to ensure timely expenditure of funds, to maintain comprehensive websites regarding all disaster recovery activities assisted with these funds, and to detect and prevent waste, fraud, and abuse of funds.

Signature/Authorized Official

8/27/13
Date

Deputy Director
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: State of North Dakota 7. State Application Identifier:

8. APPLICANT INFORMATION:

* a. Legal Name:

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

*c. Organizational DUNS: 802741843

d. Address:

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

e. Organizational Unit:

Department Name: ND Department of Commerce

Division Name: ND 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:

Organizational Affiliation:

*Telephone Number: 701-328-2476 Fax Number: 701-328-5320

*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: 9/2013

*b. End Date: 9/2017

18. Estimated Funding ($):

*a. Federal	$6,576,000.00
*b. Applicant	
*c. State	
*d. Local	
*e. Other	
*f. Program Income	
*g. TOTAL	$6,576,000.00

***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: 701-328-5320

*Email: pgovig@nd.gov

*Signature of Authorized Representative:

Date Signed: 8/27/13

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. 0348-0040

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 11 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-1 33, "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 ND Department of Commerce, Division of Community Services	DATE SUBMITTED 8/27/13

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