



## **Mississippi Development Authority**

# **Final Action Plan for CDBG Supplemental Disaster Recovery Funds Initial Allocation, PL 110-329**

**July 29, 2009**

# **Mississippi Development Authority Proposed Action Plan**

**For**

## **CDBG Disaster Recovery Funds**

### **GENERAL INFORMATION**

The State of Mississippi is required to publish an Action Plan for Disaster Recovery that describes the proposed use of U.S. Department of Housing and Urban Development (“HUD”) Community Development Block Grant (“CDBG”) funding associated with the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110-329, approved September 30, 2008) (“the Act”). The Act provides for disaster relief of unmet needs resulting from severe weather in the State that occurred during 2008, for which the President declared a major disaster under Title IV of the Stafford Disaster Relief Act (42 U.S.C 5121 et seq.). The HUD guidance for the funding was published February 13, 2009 in the Federal Register as Docket Number FR-5256-N-01 (“the Notice”).

This document will describe 1) the eligible affected areas and eligible applicants; 2) the process to be used to distribute funds to those areas and applicants; 3) activities for which funding may be used; 4) citizen participation procedures; and 5) grant administration standards.

This Action Plan will be used by the State to guide the distribution of the initial allocation of \$6,283,404 of CDBG Disaster Recovery Funding toward meeting unmet housing, infrastructure, and economic revitalization needs in those counties so designated as Presidential Disaster Areas during 2008.

### **BACKGROUND AND SCOPE**

In 2008, the State of Mississippi endured several major weather-related events, including severe flooding, a massively destructive tornado, and heavy damage from a hurricane. As result, the President of the United States issued three disaster declarations: the first issued on May 5, 2008, and related to storm and flooding events in the counties of Bolivar, Warren, Washington, and Wilkinson (FEMA-1753-DR); the second issued on May 28, 2008, and related to severe tornado damage in Hinds County (FEMA-1764-DR); and the third issued on October 20, 2008, and

related to Hurricane Gustav damage in the counties of Adams, Hancock, Harrison, Washington, and Wilkinson.

In response to the needs of the declared disaster areas, Congress designated two appropriations to assist in the recovery efforts in the affected counties. This allocation from PL 110-329 – the subject of this Action Plan – was designated for “necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by hurricanes, floods, and other natural disasters occurring during 2008.”

The total dollar amount received by the state under the Act which is the subject of this Action Plan is \$6,283,404, and any other amount allocated by HUD under this appropriation.

### **PROGRAM PURPOSE AND NATIONAL OBJECTIVE**

MDA intends to provide up to \$6,283,404 in CDBG funding, and any other amount allocated by HUD under this appropriation, to address long term recovery and infrastructure restoration, housing, and economic revitalization to those Mississippi counties affected by severe weather in 2008 and that were declared disaster areas by the President of the United States.

Consistent with the requirements of the Act and the Notice, overall funding priority will be given to the repair, rehabilitation, and reconstruction of affordable rental housing for families of low to moderate income in the affected counties. A minimum prorated threshold of \$1,000,000 of the available CDBG funds will be directed towards the improvement of affordable rental stock.

### **NATIONAL OBJECTIVES**

This amendment is designed to be consistent with the primary objective of providing funds for local projects with activities that meet one of the following national objectives of the Housing and Community Development Act of 1974, as amended:

- Benefits to Low/Moderate Income Persons
- Slums or Blight
- Urgent Needs

All applications must address how projects meet one of the CDBG National Objectives described above. The overall allocation of program funds must benefit at least 51% of low and moderate income applicants.

### **CONSULTATION WITH LOCAL GOVERNMENTS**

MDA has solicited feedback from local governments through its development of and posting on its website of a draft action plan concerning this funding on June 11, 2009. This was followed up with outreach efforts via email, phone calls and meetings with local government leaders,

including members of the legislature, county administrators, county supervisors, mayors, city administrators, and staff of the appropriate planning and development districts. In addition, MDA solicited cooperation with and comments from the Mississippi Emergency Management Agency (“MEMA”), which has reached out through its extensive network of local government contacts for suggestions, comments, and possible projects. A comprehensive list of those potential projects has been developed by MEMA and was taken into consideration by MDA, along with all suggestions and comments from local government officials and contacts before publishing this proposed revised Action Plan on July 22, 2009.

### **MISSISSIPPI PLANNING EFFORTS**

The State of Mississippi promotes sound short- and long-term planning of future growth at both the state and local levels through various mechanisms. First, MEMA, in conjunction with the Federal Emergency Management Agency, has established an ongoing mitigation planning effort to reduce the impact natural disasters have on the lives of Mississippians and their property. MEMA has partnered with several of Mississippi’s Planning and Development Districts to develop Regional Hazard Mitigation plans and to assist local communities with the development of Local Hazard Mitigation Plans, as required by the Federal Disaster Mitigation Act of 2000. These plans identify the vulnerabilities and risks faced by the various Mississippi regions and local communities from natural hazards and presents recommended action items which can be taken to reduce these vulnerabilities and risks. In most cases, proposed actions include structural elements such as strengthening buildings to make them more wind resistant or building community storm shelters, as well as non-structural elements such as conducting hazard preparedness training or enforcing effective building codes to protect property from flooding. In addition, each local governmental entity is empowered to construct comprehensive plans for municipalities or counties, which include long-range development of its jurisdiction. These elements include land use planning with regard to population location and economic development. Therefore, counties and municipalities have comprehensive plans in place which encourage responsible land-use decisions that reflect prudent flood plain management, removal of regulatory barriers to reconstruction, and coordination of individual planning requirements (transportation, water, sewer, housing, etc.) of other state and federal programs and entities.

### **METHOD OF DISTRIBUTION**

Mississippi CDBG Disaster Funds will be awarded to eligible declared jurisdictions by competitive submission of applications. Applications will be reviewed using the competitive criteria discussed in Scoring Criteria section below. Awards will be announced by the Governor or his designee.

## **GRANT SIZE**

Grant amounts will be limited to \$1,000,000 per award. The State has the authority to increase the maximum grant size on a case-by-case basis and may waive the maximum amount. The State reserves the right to negotiate the grant amount on each project.

## **ADMINISTRATIVE COSTS**

In accordance with governing regulations, MDA will allocate up to 5% of these funds to be used for administrative costs, whether by the state, by entities designated by the state, by units of local government, or by subrecipients. Pursuant to the Notice, the provisions at 42 U.S.C. 5306(d) and 24 CFR 570.489(a)(1)(i) and (iii) will not apply to the extent that they cap overall state administration expenditures and require a dollar-for-dollar match of state funds for administrative costs. MDA specifically reserves 2% for its administrative costs and will pass through the balance of any remaining allowable administrative allocations for subrecipients' use up to 3% of any grant.

## **CAPACITY BUILDING**

As it deems necessary, MDA will provide for increasing the capacity of implementation and compliance of local governments, subrecipients, subgrantees, contractors and any other entity responsible for administering activities under this grant by providing resources for training in specific skills needed for the program.

## **ELIGIBLE APPLICANTS**

MDA will not be carrying out any program activities directly with regard to these funds. Eligible applicants are units of local government, other state and local government agencies, including public housing authorities, and non-profit entities located in the 2008 federally designated disaster counties of Adams, Bolivar, Hinds, Warren, Washington, and Wilkinson. Two designated counties – Harrison and Hancock – have been determined to be ineligible in this grant process because (1) those counties have previously received substantial CDBG disaster recovery grants from the Hurricane Katrina federal allocations and (2) providing grants to those counties for damages similar, if not identical, to those sustained in Hurricane Katrina raises significant and almost insurmountable concerns over duplication of benefits in violation of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974.

## **ELIGIBLE ACTIVITIES**

Eligible activities include all CDBG eligible activities for unmet needs plus new construction as referenced in the Notice. Eligible activities include, but are not limited to, the following:

- Housing: Including clearance, demolition, buy-outs and/or relocation assistance for repetitive loss properties, removal, reconstruction, rehabilitation, and new construction of housing.
- Economic Assistance: Including loans to businesses affected by the storms and flooding, with emphasis on job creation and retention and, with the limited waiver of the anti-pirating requirements, to provide assistance to a business located in another state or market area within the same state if the business was displaced from a declared area within the state by the disaster and the business wishes to return
- Demolition/debris removal: Including cleanup and debris removal activities not covered by any other source.
- Infrastructure repair.

Priority will be given to those activities which will promote “repair, rehabilitation, and reconstruction of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas where there is a demonstrated need as determined by the Secretary.” A set aside of \$1,000,000 has been targeted for affordable rental housing activities.

It is specifically noted that, in compliance with the statutory requirements of this CDBG grant allocation, no funds will be used as a required match, share or contribution for another federal plan. Any proposal submitted with such a request will be rejected by MDA.

**BUDGET ALLOCATION**

Based upon the outreach conducted with the local governments and interested parties prior to finalizing this draft action plan, MDA puts forward the following budget allocation:

	<b>Amount Allocated</b>	<b>Percentage Allocated</b>
Administration	\$314,170.20	5.00%
Planning	\$628,340.40	10.00%
Affordable Rental Housing	\$1,000,000.00	15.91%
Housing (Buyouts, Relocation, and other housing assistance)	\$1,068,496.60	17.01%
Economic Development	\$2,073,523.32	33.00%
Infrastructure/Community Revitalization/Demolition and Blight	\$1,198,873.48	19.08%
<b>Total</b>	<b>\$6,284,404.00</b>	<b>100%</b>

MDA reserves the right to revise this budget as project proposals are submitted to it and further evaluation is undertaken to address the critical needs with regard to storm recovery. MDA will follow HUD regulations in this regard and submit such revisions through established regulatory procedures.

**APPLICATION PROCESS**

Based on MDA’s long-standing project review process, the local government or public entity seeking these funds must first submit a project proposal. Entities may submit more than one application based on need.

Based upon an initial review of the proposal, MDA may require a meeting with relevant parties to discuss the project. Then MDA may issue a letter inviting a CDBG grant application.

1. Only grant applications from eligible applicants submitted by the deadline will be considered.
2. Applications may be submitted individually by one unit of government or jointly.
3. Applications for the funds must be submitted in conformance with the format and instructions specified by MDA. MDA reserves the right to deny applications based on slow performance, unresolved findings, outstanding sanctions, or other reasons that could affect an applicant’s ability to successfully complete the implementation of a CDBG Disaster project.

A maximum of 100 points is available. Applicants must receive at least 60 points to be eligible for funding.

**SELECTION PROCESS**

The selection process for these projects will be based on the following rating factors:

<b>Criteria</b>	<b>Maximum Points</b>
Project Readiness	20
Past Performance on Previously Awarded CDBG Grants	15
Documentation of Need for Long Term Recovery from Storm-Related Damage	45
Benefit to Persons of Low/Moderate Income	20
Maximum Total Points	100

**EXPLANATION OF RATING FACTORS**

<b>Criteria</b>	<b>Maximum Points</b>
<p><b>Project Readiness to Begin Construction with Other Funding Sources Identified</b></p> <p>1-6 Months 7-12 Months 12-18 Months Over 18 Months</p>	<p><b>20 Points Possible</b></p> <p>20 Points 15 Points 5 Points 0 Points</p>
<p><b>Past Performance on Previously Awarded CDBG Grants (based on compliance with HUD or MDA Community Services and Disaster Recovery-administered programs).</b></p> <p>Exceptional—Full compliance with reporting and audit requirements and timeline objectives. No monitoring findings reported.</p> <p>Acceptable—Substantial compliance with reporting and audit requirements and timeline objectives. Minimal monitoring findings reported.</p> <p>Poor—Minimal or no compliance with reporting and audit requirements and timeline objectives. Substantial monitoring findings reported.</p>	<p><b>15 Points Possible</b></p> <p>15 10 0</p>
<p><b>Documentation of Need for Long Term Recovery from Storm-Related Damage and/or Mitigation for Future Storm Related Needs</b></p> <p>Critical – The need for the project is a direct result of the consequences of the storms and/or flooding and will allow communities to restore affordable rental housing stock, address other housing needs, economic assistance, facilities and services in storm damaged and flood-prone areas, as well as provide the infrastructure to rebuild the community.</p> <p>Substantial – The need for the project is a direct result of the consequences of the storms and/or flooding. The project will return</p>	<p><b>45 Points Possible</b></p> <p>45 Points 40 Points</p>

affordable rental housing stock, facilities, businesses and infrastructure to pre-flood and/or pre-storm conditions.  Moderate – The need for the project is a result of the impact of the storms and/or flooding and is a need of reasonable or average importance or extent, but not urgent or of a considerable importance.	30 Points
<b>Benefit to Persons of Low/Moderate Income</b>	<b>20 Points Possible</b>
Project will provide a benefit to low and moderate income persons; Project qualifies under the low/moderate income national objective.	20 Points
No low/moderate income benefit; Project does not qualify under the low/moderate income national objective.	0 Points
Maximum Total Points	100 (not including any bonus points)

### **CONSTRUCTION REQUIREMENTS**

MDA anticipates that the awarding of these federal funds will be contingent upon a recipient adhering to construction methods that emphasize high quality, durability, energy efficiency, sustainability, and mold resistance. In this regard, it is anticipated that all such construction will be made to adhere to the provisions of the Mississippi Energy Plan (Miss. Code Ann §57-33-11, et seq.). Through this program, MDA will also encourage the provision of adequate storm and flood resistant housing for all income groups that lived in the disaster-affected areas. In this regard, MDA anticipates engaging the planning and development districts to assist in addressing the need for better building codes and other hazard mitigation measures for all income groups.

### **MITIGATION OF FLOOD RISK**

MDA will work closely with MEMA in implementing the overall strategy of mitigating future flood risks within the local jurisdictions through a comprehensive buyout program of existing homes within flood prone areas and relocation assistance to affected families. In addition, MDA will work closely with local jurisdictions and those previously identified (such as MEMA and the planning and development districts) to develop updated flood plain management plans.

## **SPECIAL NEEDS**

MDA plans to address any emergency shelter and transitional housing needs of homeless through the Emergency Shelter Grant Program (“ESG”). The Steward B. McKinney Homeless Assistance Act of 1988 (as amended) authorized the ESG Program. State and units of local government may use the ESG funds for renovation, rehabilitation or conversion of buildings for use as emergency shelters for the homeless, for the payment of operation and maintenance expenses, for the provision of essential services to homeless clients, and for homeless prevention activities.

MDA continues to gather data to address the regulations on the state’s plan to prevent low income individuals and families from becoming homeless, to help homeless persons make the transition to permanent housing and independent living and to address the special needs of persons who are not homeless. In addition to the activities undertaken herein, the state will be identifying future programs for which plans will be submitted, including those possibly to non-profit housing agencies and other related groups.

## **TERMS AND CONDITIONS**

All CDBG terms and conditions will apply.

## **ANTI-DISPLACEMENT AND RELOCATION**

Recipients implementing projects and activities enabled through this Action Plan are expected to ensure the assistance and protections afforded to any persons or entities under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970 (URA), as amended and section 104(d) of the Housing and Community Development Act of 1974 (HCD), as amended. MDA plans to avail itself and allow any recipients the benefits of the waivers set forth in Federal Register Vol. 74 No. 29 pertaining to URA and HCD given the needed priorities to engage in voluntary acquisition and optional relocation activities to avert repeated storm or flood damage and to improve floodplain management.

## **ENVIRONMENTAL**

MDA has determined that due to the nature and design of this program, these actions are subject to an environment review. It is the intent of this program to pass the CDBG funds through to the units of local government. Therefore, the unit of local government will assume responsibility for meeting all environmental requirements. MDA will provide technical assistance and monitor the local governments to ensure the environmental requirements are met and documented.

## **FAIR HOUSING**

The State has a current Analysis of Impediments (AI) to Fair Housing, which was submitted to HUD in December 2008. An action plan addressing each of the impediments has been forwarded to HUD.

The State certifies that it will affirmatively further fair housing through conducting and implementing the AI and that it will maintain records reflecting the analysis and actions taken.

## **DUPLICATION OF BENEFITS**

Activities/projects will be approved and included in the grant agreement(s) only after documentation is provided to ensure all sources of funding have been considered in accordance with the Stafford Act. Examples of these sources may include, but are not limited to, FEMA, U.S. Corps of Engineers, and insurance proceeds.

## **RESTRICTION ON THE USE OF FUNDS**

In accordance with the statutory requirements of this CDBG grant allocation, MDA asserts that no funds will be used as a required match, share or contribution for another federal plan.

## **PROCUREMENT**

MDA will follow applicable Mississippi statutes and regulations for the procurement of goods and services as provided by federal regulations. Any deviations from normal procurement practices will be in compliance with state and federal policies and procedures and will be appropriately documented.

## **AUDIT REQUIREMENTS**

Funds disbursed under this program are subject to the audit requirement of the Single Audit Act of 1996 and OMB Circular A-133.

## **MONITORING**

MDA has a bureau dedicated to the monitoring of current and future disaster recovery programs funded with CDBG funds. This staff reports to both the Executive Director of MDA and the Governor of Mississippi. To the extent necessary and within the costs allocated herein, MDA will increase this staff and/or engage additional resources to monitor this CDBG disaster recovery grant. Monitoring areas will include, but not limited to, the standard CDBG disaster recovery programmatic areas including eligibility of activities, financial management, citizens' participation, environmental, procurement, and review of contract provisions, acquisition, rehabilitation, clearance, disposition of any properties, duplication of benefits analysis, and verification of reported outcomes. Should any findings occur, subrecipients will be required to correct the problem or appropriate measure will be taken by MDA, including possibly

termination of the grant agreements and demand for repayment of any funds expended for any disallowable expense. In this regard, MDA will require the applicant receiving funds under this amendment to enter into subrecipient agreements with MDA. Among other provisions, these agreements will require regular progress reports, permit MDA access to grant records and sites, and require that all procurement is in accordance with State and Federal requirements. Monitoring programs have been developed and will be amended to include this program.

### **APPEALS**

MDA will establish an appeals policy for applicants to appeal the award decision; compliance notifications and the demand notification for lack of plan compliance by recipient.

### **COMPLAINT REFERRALS**

Complaints alleging a specific violation of a statutory or regulatory requirement, received by HUD at the Headquarters, Regional, or Field Office level will be forwarded to the appropriate State office for the response

### **INVESTIGATION AND MITIGATING OCCURRENCES OF FRAUD, ABUSE AND MISMANAGEMENT**

The MDA will work with all Federal agencies to investigate and mitigate instances of fraud, abuse and/or mismanagement of any CDBG funds. The Auditor for the State of Mississippi has an investigative team assigned to investigate suspected instances of fraud with regard to CDBG disaster recovery funds, which works in cooperation with the United States Department of Justice, the Federal Bureau of Investigation, the HUD Inspector General's Office, and the United States Attorney's Office. It is anticipated that MDA will utilize this existing structure to monitor and investigate instance of fraud.

### **WAIVERS**

MDA intends to utilize the waivers and alternative requirements applicable to this appropriation published by HUD in the Notice. MDA reserves the ability to request certain waivers from the Secretary of HUD if necessary.

### **SUBSTANTIAL AMENDMENTS**

MDA recognizes that adding or deleting an activity or changing the planned beneficiaries of an activity will constitute a substantial change requiring an amendment of the action plan.

### **CITIZEN PARTICIPATION**

This proposed action plan will be submitted for public comment in both English and Spanish versions to the website at [www.msdisasterrecovery.com](http://www.msdisasterrecovery.com) on July 22, 2009 with the public comment period ending on July 29, 2009. Written comments regarding this proposed

modification may be mailed to MDA, Post Office Box 849, Jackson, MS 39205, Attention: Disaster Recovery, or sent via facsimile to (601)359-4004. Comments may also be submitted online to [disaterrecoverycomments@mississippi.org](mailto:disaterrecoverycomments@mississippi.org). Changes may be made at that time and the final amendment to the Action Plan will then be submitted to HUD for approval.

### **PUBLIC COMMENT**

The public comment period ended on July 29, 2009 and no comments were received.

## **CERTIFICATIONS:**

*As Required by Notice of Waivers, Allocations and Alternative Requirements published at  
74 Federal Register 7244, February 13, 2009.*

The State hereby recognizes that Section 91.325 of title 24 of the Code of Federal Regulations is waived and hereby certifies to the following:

a. The state certifies that it will affirmatively further fair housing, which means that it has or will conduct an analysis to identify impediments to fair housing choice within the state, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard. (See 24 CFR 570.487(b)(2).)

b. The state certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan in connection with any activity assisted with funding under the CDBG program.

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

d. The state certifies that the Action Plan for Disaster Recovery is authorized under state law and that the state, and any entity or entities designated by the state, possesses the legal authority to carry out the program for which it is seeking funding, in accordance with applicable HUD regulations and this Notice.

e. The state certifies that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR part 24, except where waivers or alternative requirements are provided for this grant.

f. The state certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

g. The state certifies that it is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 (except as provided for in notices providing waivers and alternative requirements for this grant), and that each unit of general local government that is receiving assistance from the state is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486 (except as provided for in notices providing waivers and alternative requirements for this grant).

h. The state certifies that it has consulted with affected units of local government in counties designated in covered major disaster declarations in the nonentitlement, entitlement and tribal areas of the state in determining the method of distribution of funding.

i. The state certifies that it is complying with each of the following criteria:

(1) Funds will be used solely for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in areas covered by a declaration of major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of recent natural disasters.

(2) With respect to activities expected to be assisted with CDBG disaster recovery funds, the action plan has been developed so as to give the maximum feasible priority to activities that will benefit low- and moderate-income families.

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

(4) The state will not attempt to recover any capital costs of public improvements assisted with CDBG disaster recovery grant funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless (A) disaster recovery grant funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or (B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient CDBG funds (in any form) to comply with the requirements of clause (A).

j. The state certifies that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the Fair Housing Act (42 U.S.C. 3601-3619) and implementing regulations.

k. The state certifies that it has and that it will require units of general local government that receive grant funds to certify that they have adopted and are enforcing:

(1) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

(2) A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.

l. The state certifies that each state grant recipient or administering entity has the capacity to carry out disaster recovery activities in a timely manner, or the state has a plan to increase the capacity of any state grant recipient or administering entity who lacks such capacity.

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

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