

Mississippi Development Authority

Homeowner Assistance Program
Partial Action Plan

MISSISSIPPI DEVELOPMENT AUTHORITY
PARTIAL ACTION PLAN
FOR
KATRINA RECOVERY HOMEOWNER GRANT PROGRAM
PHASE 1

Overview

Soon after Hurricane Katrina, the Congress and the President approved appropriations of \$60 billion to fund the federal Disaster Relief Fund, the account which the Federal Emergency Management Agency (FEMA) uses to fund Stafford Act activities required by federal law (i.e., debris removal, rebuilding schools and other public buildings). The fiscal year 2006 Department of Defense Appropriations Act (H.R. 2863) includes \$29 billion for specific needs arising from Hurricane Katrina that are not covered by the Stafford Act. This \$29 billion includes funding for activities in Mississippi, Louisiana, and Alabama ranging from homeowner assistance to social services, rebuilding of federal facilities in the affected areas (i.e., levees, VA hospitals), helping states which are housing evacuees, and replenishing the accounts of federal agencies which have been involved in the recovery (i.e., the Department of Defense). Therefore, not all of the \$29 billion will be spent in Mississippi, Louisiana and Alabama. Additional assistance is provided through other pieces of federal legislation.

This Partial Action Plan contains several programs – 1) the Homeowner Grant Assistance Program, 2) increased costs of elevation and rebuild grant program, 3) local government building inspector and permitting assistance program and 4) a program to establish an Office of Fraud Prevention and Investigation. The total amount proposed for these programs is \$3.260 billion. Up to \$162.7 million may be used for planning and administrative activities.

Action Plan Requirements

Program Purpose: The purpose of the Homeowner Grant Assistance program is to provide a one-time grant payment, up to a maximum of \$150,000, to eligible homeowners who suffered flood damage to their primary residence as of August 29, 2005, from Hurricane Katrina. In exchange for the grant payment, a qualifying homeowner must agree to a covenant on their property that establishes building code, flood insurance and elevation requirements for them or any future owner of the land. After certain deductions, the homeowner has complete discretion of the use of grant funds, as allowable by State and Federal law, as they work through their personal disaster recovery situation. MDA is allocating \$3 billion to the Homeowner Grant Assistance Program.

Background: Hurricane Katrina made land fall in Mississippi on August 29, 2005, and turned out to be the worst natural disaster to ever hit the United States. Damage along Mississippi's Gulf Coast was widespread and damage estimates were over \$125 billion dollars. FEMA reported there were 65,380 homes in south Mississippi damaged or destroyed and estimated there were 44 million cubic yards of debris in south Mississippi.

The sheer number of homes damaged or destroyed is one reason the Governor considers the replacement of housing as a number one priority in rebuilding the Mississippi Gulf Coast. Thus, the creation of the Homeowner Grant Assistance Program as described herein. This Program concept served as a primary tenet for housing disaster assistance in HR 2863.

Through HR 2863, \$11.5 billion has been made available to the states of Mississippi, Louisiana, Alabama, Florida and Texas through the U.S. Department of Housing and Urban Development's Community Development Block Grant (CDBG) Program. These monies have been designated for "disaster relief, long-term recovery and restoration of infrastructure in the most impacted and distressed areas related to the consequences of hurricanes in the Gulf of Mexico in 2005." The Legislation also provided for the following:

- allocation of the \$11.5 billion by the Secretary of the U.S. Department of Housing And Urban Development (HUD) to the affected states, with no state receiving more than 54% of the total amount.
- designation by the Governor of an entity or entities to administer the state's allocation of funds.
- submission of a plan to the Secretary of HUD detailing how the funds will be used, with up to 5% of a state's allocation authorized to be used for administrative expenses.

The Mississippi Development Authority (MDA), which already administers the state's CDBG Program funds provided by the federal government each year, will administer Mississippi's share of the Katrina CDBG funds. The MDA has prepared the following Partial Action Plan with regard to \$3 billion of the \$5.058 billion federal appropriation administered by HUD for disaster relief and long-term recovery related to the consequences of Hurricane Katrina.

Future Partial Action Plans will detail the projected expenditure of the remainder of funds that are available from the \$5,058,185,000 grant and will be made available for public comment.

Homeowner Grant Assistance Program

In 1968, Congress created the National Flood Insurance Program (NFIP) in response to the rising cost of taxpayer-funded disaster relief for flood victims and lack of private insurance options for flood insurance. The NFIP is a federally guaranteed insurance program, which is marketed by private insurance agents. In conjunction with this program, the federal government, through FEMA, establishes Special Flood Hazard Areas (commonly known as the flood plain or the flood zone).

When a potential homeowner secures financing to buy, build, or improve their homes, it is routine for the insurance agent who markets the NFIP, and therefore is an agent of the federal government, to inform the homeowner that he or she does not need flood insurance because he or she lives outside of the flood plain. Therefore, most homeowners do not buy flood insurance, rather, they buy homeowners' property and casualty insurance.

To date, approximately 31,000 homeowners whose homes were outside the flood plain have tele-registered with FEMA. All of these homes sustained flooding from Hurricane Katrina's storm surge on the Mississippi Gulf Coast. Approximately 19,000 of these homeowners, having relied on the NFIP with regard to the need to carry flood insurance, did not have flood insurance at the time of the hurricane, thus are left with insufficient insurance to cover the amount of damages they have sustained. An additional 7,800 homeowners carried both homeowner and flood insurance, however, in many instances, the amount of flood insurance carried was minimal and far insufficient to cover the amount of losses incurred. Grant payments under this program will act, in effect, as insurance proceeds for these two groups of homeowners (19,000 + 7,800) replacing in part the losses sustained from lack of coverage.

As stated previously, housing repair and rebuild is a primary need on the Mississippi Gulf Coast. This program concept served as a tenet in the federal legislation for housing-related disaster relief. The fact that an estimated 30,000 homeowners are impacted presents a compelling and urgent need for assistance.

Program Details

Overview

Since August 29, 2005, the residents of the Mississippi Gulf Coast have suffered significant hardships, including financial hardships, as a result of the disaster. This program is for all homeowners who experienced flooding outside the flood plain, having relied to their detriment on the NFIP guidelines on the need to carry flood insurance. It offers recovery assistance for homeowners who, while outside the flood zone, maintained property insurance and in some cases, flood insurance, but in insufficient amounts. By partially filling the insurance gap with the homeowner grant, eligible homeowners can begin their recovery process - all of which will help to drive and stabilize economic development which is crucial for the recovery of the Mississippi Gulf Coast.

The program carries the requirement that the Homeowner attach a covenant to their land, which provides for the following:

- homeowner will obtain and maintain flood insurance
- rebuild and repair will be in accordance with applicable codes and local ordinances
- if rebuilding, home will be elevated in accordance with FEMA advisory flood elevations
- if replacement housing will be manufactured housing, it will comply with HUD's manufactured housing code and be elevated in accordance with FEMA advisory flood levels

If repairs have already been made, the homeowner will have to provide confirmation through the city or county building inspector that repairs have been made in accordance with applicable codes and local ordinances consistent with the covenant.

Additionally:

- Small Business Assistance (SBA) may require repayment of loans with grant proceeds to avoid duplication of benefits.
- Claims will be reduced by insurance claims/payments and FEMA grants representing a duplication of benefits. Unpaid and outstanding insurance claims must be subrogated back to the State.
- Program is limited to owner-occupied primary residences. Rental dwellings and second homes are not eligible.
- All grant amounts are based on damage to a home's "structure" and do not include contents.

Eligibility Requirements

- Homeowner owned and occupied their home as of August 29, 2005.
- Home was located in Harrison, Hancock, Jackson or Pearl River Counties, Mississippi.
- Home was homeowner's primary residence on August 29, 2005.
- Homeowner maintained homeowners insurance on the property.
- Home was located outside the pre-Katrina designated flood zone (FEMA-designated 100-year flood zone) on August 29, 2005, and flooded as a result of Hurricane Katrina.

Only 1 application per home is allowed. If homeowner does not meet all the requirements listed above, they do not qualify for this program.

Grant Calculation

The maximum Grant for the Homeowner Assistance Program is \$150,000. Grants will be calculated as follows:

a) Starting point - The calculation of the grant amount starts with the smallest of the following values:

- 1.) \$150,000
- 2.) The pre-Katrina insured value of the home multiplied by the percent damaged
- 3.) Cost of completed repairs (if the work is substantially complete)
- 4.) An SBA or FEMA Damage Assessment.

Examples

	Example 1	Example 2	Example 3	Example 4
Cap	\$150,000	\$150,000	\$150,000	\$150,000
Insured Value	\$75,000	\$100,000	\$200,000	\$400,000
% Damage	40%	40%	40%	40%
Value X %	\$30,000	\$40,000	\$80,000	\$160,000
Starting Point	\$30,000	\$40,000	\$80,000	\$150,000

b) Reductions/Payoffs/Duplication of Benefits –Grants will be reduced by the following:

- FEMA Grants which represent a duplication of benefits
- Homeowner Insurance Proceeds
- NFIP Insurance Proceeds
- SBA Loans identified by SBA as a duplication of benefits will be paid down/off

c) Grant Amount - The amount that remains is the amount of the Homeowner Assistance Grant.

Eligible Homeowners Who Have Sold Their Homes

The State recognizes that some homeowners, due to the catastrophic losses suffered from Hurricane Katrina, sold their homes prior to the launch of the homeowner assistance program. If that homeowner can establish that they are still in a loss situation, they are encouraged to apply for grant assistance. They will need to provide historical information on the cost of their home, the amount of all insurance and FEMA proceeds on structure, and the sales price. If MDA can confirm that they are still in a loss situation, they may be eligible for a grant, up to \$150,000, of the amount of loss remaining.

Assessment of Damages

If the home is totally destroyed and must be rebuilt, a damage assessment will not be performed. Instead the pre-Katrina insured value of the home will be used, or \$150,000, whichever amount is less.

In all other instances, an MDA Damage Assessor will provide an on-site inspection of the home and will provide to MDA an estimate of the percent damage to the home as a result of Hurricane Katrina. This assessment will include 100% of the damage from the storm. It is not limited to flood, wind, storm surge, or other relevant cause. In certain situations, MDA may use the FEMA damage assessment or an SBA damage assessment if either exists and forgo the on-site assessment.

Once the inspection is performed, the percent of damage will be applied to the insured value of the home for determining the grant amount. The grant amount cannot exceed \$150,000. Further, if the universe of grants to be given exceeds the total available dollars under the homeowner grant assistance program, the grant limit amount may be reduced to a lesser value.

If a homeowner has already completed repairs or is in the midst of making repairs, they can still participate in the program. They must meet all the eligibility requirements and submit valid receipts for the work which has been completed. They also must provide a building permit, a building inspection report, or a certificate of occupancy. MDA's Damage Assessor will conduct an on-site inspection to confirm the repairs have been made and assess a percent of damage remaining, if any.

Program Delivery Costs

Program costs will include title verification costs, adjustor costs for assessing damages, financial counseling, and closing costs. To insure effectiveness of operations as well as accounting and control oversight, many services and processes are required, for instance:

- Legal services to develop the application, determine required documentation, and provide general counsel to the project.
- Accounting and systems services to deliver systems to manage the application process, validation of eligibility, determination of benefit, remittance of grant proceeds and accounting for the monies.
- Communications process to reach the eligible homeowners and direct them as to how to apply for their benefits.
- Facility and call center operations.

Monitoring

The Mississippi Development Authority will utilize monitoring processes to ensure program requirements are met. This will include processes and procedures to insure non-duplication of benefits, provide for continual quality assurance, investigation, and internal audit functions. Responsible staff will report concurrently to the CFO of the Mississippi Development Authority and the Office of the Governor of the State of Mississippi.

Investigation and Mitigating Occurrences of Fraud, Abuse and Mismanagement

MDA will work with HUD to develop procedures for mitigating instances of fraud, abuse, and/or mismanagement. The Auditor of the State of Mississippi will have an investigative team assigned to investigate suspected instances of fraud identified during the application review and eligibility process. Additionally, the Special Katrina Task Force on Fraud comprised of the Department of Justice, FBI, Inspector General and U. S. Attorney's office will work closely with MDA to monitor and investigate instances of fraud.

To augment its existing capabilities, MDA has contracted with certain industry experts who have program relevant expertise, including a CPA firm designated as project manager. This team of experts will have as a primary responsibility the requirement to administer and disburse funds with a zero tolerance for duplication of benefits and instances of program fraud.

A significant control element will be that MDA and its contractors have specific segregated duties, with verification and controls at all levels. It is anticipated that this requirement will be met by establishing separate groups to determine Program Eligibility, Verification, Loss Calculation, Information Technology, Financial Reporting, Quality Control and Auditing, Dispute Resolution and Funds Disbursement.

Disbursement of Funds

Once the homeowner is determined to be eligible, the grant process will be finalized with the homeowner. Documents will include: (i) a certification to be signed by Recipient as to continued truth of all information submitted in the application, (ii) a waiver to be signed by Recipient of all claims against state and federal government, (iii) an assignment by Recipient of all pending insurance claims equal to the grant amount, (iv) the covenants to be signed by Recipient and recorded, (v) the form of Subordination to be signed by all lien holders, and (vi) Recipient's proof of identity.

Funds will be made available to the homeowner through a closing process utilizing a mortgage lender, escrow or closing agent or potentially by electronic funds transfer (EFT). If the homeowner has a mortgage, their first mortgage lender may be a co-pay on the check for the grant proceeds. For these lenders, MDA is requesting that they manage the grant closing process. After working with the homeowner to cover any past-due mortgage balance, at the homeowner's request and direction, the mortgage lender will work with the homeowner on the distribution of funds. Management and use of the net grant proceeds are at the discretion of the homeowner, as allowable by State and Federal law, as the homeowner works through their personal disaster recovery situation.

If the homeowner does not have a mortgage or if the mortgage lender is not a co-pay on the grant award, the check may be made payable directly to the homeowner or deposited via EFT to the homeowner's financial institution. MDA may solicit bids from mortgage lenders, escrow or closing agents or other qualifying entities (Agent) to manage the grant finalization process for these homeowners (including the attachment of the covenant that will run with the land). Management and use of the net grant proceeds are at the discretion of the homeowner, as allowable by State and Federal law, as the homeowner works through their personal disaster recovery situation.

Appeal Policy

Any homeowner may appeal the decision (including, but not limited to, eligibility, damage assessment, amount of assistance and offsets) made by MDA with respect to the Homeowner Assistance Program if the amount in dispute is at least \$10,000. If the amount in dispute is less than \$10,000, the decision of MDA shall be final.

For instance, if the grant amount is \$25,000 and the homeowner believes it should have been \$40,000, a disputed difference of \$15,000, the homeowner has met the \$10,000 dispute threshold and can appeal. Differently, if the grant amount is \$25,000 and the homeowner believes it should have been \$30,000 – the difference of \$5,000, being less than the \$10,000 dispute threshold, is not eligible for appeal.

Appeals from a decision by MDA must be submitted in writing to MDA within 30 days of the homeowner's receipt of MDA's decision. The appeal must explain the specific disagreements with MDA's decision(s), and should include all documentation to support the homeowner's position. There is no specified format for an appeal; however, an appeal must include the homeowner's name and current mailing address, the homeowner's social security number, the street address of the damaged residence and the application number assigned to the homeowner's application.

MDA will promptly forward the appeal to the Mississippi Development Authority Appeals Board (the "Appeals Board"), together with a complete copy of the homeowner's application file and a written explanation of MDA's position. The Appeals Board may request additional information from the homeowner or MDA in such form as the Appeals Board shall determine. In its decision, the Appeals Board may affirm, modify or overturn MDA's decision and may remand any issue to MDA for additional findings or determinations. The decision of the Appeals Board shall be in writing and sent by regular mail to the current address of the homeowner. The decision of the Appeals Board shall be final. The homeowner shall have no right to a judicial review of a decision of the Appeals Board. The applicant must agree to this procedure as part of the application process.

Complaint Referrals

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

MDA will provide a hotline to accept complaints regarding the Homeowner Assistance Program.

Program 2 - Elevation Grants

As a separate activity with an allocation of \$250 million, MDA may offer a separate grant program offering grants of up to \$30,000 to help homeowners defray the costs of elevating their homes. This program would be made available to homeowners who meet the following criteria:

- Homeowner owned and occupied their home as of August 29, 2005.
- Home was located in Harrison, Hancock, Jackson or Pearl River Counties, Mississippi.
- Home was homeowner's primary residence on August 29, 2005. Home was located outside the pre-Katrina designated flood zone (FEMA-designated 100-year flood zone) on August 29, 2005, and home flooded as a result of Hurricane Katrina
- Homeowner maintained homeowners insurance on their home
- Home is being elevated in accordance with newly recommended FEMA flood maps and is being rebuilt in accordance with the International Residential Code of 2003.
- The homeowner has attached covenants to their land which state:
 - homeowner will obtain and maintain flood insurance
 - rebuild and repair will be in accordance with applicable codes and local ordinances
 - if rebuilding, home will be elevated in accordance with FEMA recommended flood elevations
 - if replacement housing will be manufactured housing, it will comply with HUD's manufactured housing code and be elevated in accordance with FEMA recommended flood levels

The homeowner may be eligible for up to a \$30,000 grant for the increased costs of building to the new height regulations. Each property will be subject to an environmental review.

Homeowners who had flood insurance at the time of the flood are not eligible to receive the \$30,000, as they should receive a like amount directly from NFIP.

Program 3 – Local Assistance

Due to the significant amount of construction taking place on the Mississippi Gulf Coast and the need to adequately plan and inspect construction activities, MDA will establish a \$5 million grant pool for grants to local governments in Hancock, Harrison, Pearl River and Jackson counties for costs of additional permitting and building inspector officials for one year. MDA will publish a program of grant assistance to local governments. Applications will be evaluated based on current staffing levels, anticipated work loads and projected staffing levels to meet those work loads as well as needs throughout the coastal counties.

Program 4 – Office of Fraud Prevention and Investigation

MDA will establish a \$5 million program to fund the establishment and operation of a Katrina Fraud Prevention and Investigation team to be managed by the office of the State Auditor. This team would investigate instances of fraud identified during the application review and eligibility process. It would also investigate suspected fraud related to rebuilding efforts in general within the disaster area.

Focus Group/Pilot Program

MDA will utilize these project management techniques to solicit feedback from potential applicants and to test the structure, set-up, and operational efficiency and effectiveness of our systems, processes and procedures.

A focus group has been held with approximately 20 homeowners. They provided feedback on the policies and process in general and many of their ideas have been incorporated into this plan. Prior to launch, we will conduct a pilot program for approximately 100 applicants. The primary purpose of the pilot is to test the functionality of the application process and to use the feedback to help structure our field center processes.

Consultation with Disaster-affected Units of Local Government

During February and March, the Governor and MDA held a series of meetings with units of local government in the disaster area whose citizens qualify for participation in the plan. Feedback has been obtained on policy and process issues and incorporated into the plan design. Additionally, discussions were held about groups of homeowners who need disaster recovery assistance but do not qualify for the homeowner assistance program. Future programs that may provide assistance were also discussed.

The State will distribute funds geographically without regard to a local government or Indian tribe status under any other CDBG program. All the activities funded under this Notice are necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of the hurricanes in communities included in the Presidential disaster declarations.

Capacity Building

As it deems necessary, the State will provide for increasing the capacity for 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.

Procurement

MDA will follow applicable State and Federal Statutes and Regulations for the procurement of goods and services. Any deviations from normal procurement practices will be in compliance with State and Federal policies and procedures and will be appropriately documented.

Eligible Activities and National Objectives

Eligible activities included in this partial plan include:

- 1) Planning and administrative costs estimated as less than 5%. The national objective criteria do not apply separately to planning and administrative activities.
- 2) Homeowner assistance program – total estimated amount of \$3 billion composed of the following separate eligible activities
 - financial grants to homeowners including activity delivery costs and internal control costs
 - financial counseling offered to homeowners who request it offered as a public service (MDA is anticipating allocating approximately \$1 million to this service, but because it is a demand-driven program, MDA cannot establish a fixed-price cost for this service at this time).

All grant payments made to persons of low/mod income meet the national objective of low/mod participation. Payments to those above the low/mod income levels meet the national objective of urgent need.

- 3) Elevation grants – total estimated amount of \$250 million. The national objective for this activity is benefit to low and moderate income persons to the extent that they are low and moderate income persons. Payments to those above low/moderate income levels will meet the objective of urgent need.
- 4) Local assistance to local governments to cover the costs of issuing building permits and conducting building inspections - \$5 million. This qualifies as a public service activity. This activity will meet the national objective criteria of benefiting low/mod persons to the extent that the inspections and assistance is given to low/mod households. All other households above low/mod levels meet the national objective of urgent need.
- 5) Office of Fraud Prevention and Investigation - \$5 million. This program is considered part of the program delivery costs for the Homeowner Grant Assistance program. Therefore it will serve to meet the same national objectives.

Environmental

In consultation with HUD, due to the nature and design of the Homeowner Assistance Grant Program, the State has determined through its environmental review that project level actions are categorically excluded and not subject to related laws.

Land Use Decisions

The State is encouraging local governments to adopt the newly-recommended FEMA flood maps and the International Residential Code of 2003. Additionally, the covenant required by the homeowner assistance program requires the homeowner to elevate homes being rebuilt to the newly recommended FEMA maps.

Where appropriate, the State will apply the same requirements in FEMA Mitigation and Public Assistance projects. Additionally, the State is helping address regulatory barriers to reconstruction through the Mississippi Renewal process and various communities are considering moving to a Smart Code or overlay zoning procedure to speed rebuilding.

Mississippi Overall Plan for Disaster Recovery

The State is promoting sound short and long-term recovery planning at the state and local levels through the MS Renewal process (www.mississippirenewal.com) and the Governor's Commission (www.governorscommission.com). As part of the recovery process, the State called together planners of all disciplines and programs and coordinated planning across many different programs. Additionally, the State is working with the Federal government's ESF-14 long-term recovery planning process.

High Quality, Durable, Energy Efficient and Mold Resistant Construction

The State anticipates that the plan's requirement for a covenant that runs with the land attesting that repairs and rebuild be in compliance with applicable code will serve to address issues of construction quality, durability, energy efficiency and mold resistance.

Special Needs

The State plans to address emergency shelter and transitional housing needs of homeless through the Emergency Shelter Grants Program (ESG). The Stewart B. McKinney Homeless Assistance Act of 1988 as Amended authorizes the Emergency Shelter Grants 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.

The State has chosen to exercise HUD waivers to enable grantees to retain their funds while homeless providers in the areas impacted by Hurricane Katrina seek to rebuild service delivery systems. The State is also exercising the HUD waiver to allow the use of conventional housing owned by private sector landlords to be used as short-term emergency and transitional shelter resources. This will allow maximum flexibility to grantees to meet emergency housing needs.

The State 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. The State is undertaking homeless prevention activities not only through this partial action plan for Homeowner Assistance, but in identifying future programs for which plans will be submitted. These include public housing assistance as well as assistance for those homeowner who had no insurance – perhaps through non-profit housing agencies and faith-based groups. Additionally, the State has organized a Housing Needs team, which is focusing on how best to identify and use all sources of funding with new market and low income tax credits.

Fair Housing

The State has a current Analysis of Impediments (AI) to Fair Housing, which was submitted to HUD in July 2004. Many of the identified impediments have been or will be addressed during the annual application and implementation workshops for the HOME and CDBG programs. The State will request an update of the AI to include any possible impact caused by Hurricane Katrina.

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.

Citizen Participation Plan

MDA has solicited and received a significant amount of public comment regarding the rebuilding of the Gulf Coast. The MDA began the development of the Partial Action Plan with the formation of the Governor's Commission on Recovery. The commission included local officials, community leaders and faith-based leaders.

Since early January 2006, MDA has been conducting TV, radio and newspaper interviews to help make the public aware of the preliminary guidelines and eligibility criteria for the Homeowner Assistance Grant Program. While the information is preliminary in nature, it served to begin a community dialog that generated hundreds of phone calls to MDA with questions about the program.

During this timeframe, MDA has created a page on its website with a prominent link from its home page listing preliminary program guidelines and eligibility criteria. On February 6, Governor Barbour's office issued a press release announcing the preliminary guidelines, further driving public awareness. On February 15, MDA added an email comment form to the HOA Grant page of its website to facilitate citizen's comments. A Gulfport based minority-oriented public relations and advertising firm is on contract to provide grassroots outreach to the coast's minority communities specifically to get public comments and ensure awareness.

In addition, the work with the local officials, the focus group and the pilot program will help further the plan concepts as well as communications. MDA has made public notice of the draft plan through the media including advertisements to solicit public comments through MDA's website and calls to a dedicated call center. The comment period will run approximately one week. The comments will be categorized and analyzed for action and response. Responses to Public Comment will be included in the final plan.

Anti-displacement

The State plans to minimize residential displacement activities. The Homeowner Grant Assistance Program, by its design, allows homeowners to choose whatever personal, post-Katrina recovery action will meet his or her household needs. No displacement is expected as a result of any of the activities now proposed or contemplated.

Substantial Amendments

The State recognizes that any change which changes the nature, purpose, or scope of the programs contained herein will constitute a substantial amendment requiring public comment and approval by HUD. Additions or deletion of program activities or changes in beneficiaries would also constitute the need for a program amendment requiring public comment and approval HUD.

Waivers

Due to the nature of availability of the funds under the design of these programs, which have to be broad to encompass all homeowners who meet the program's criteria, restricting access to the program on a low/mod basis has the potential of confusing and excluding thousands of eligible recipients. Homeowners eligible for this program have been identified as the first priority in housing assistance. However, programs will be announced in the near future that provide funding for public assistance housing as well as to those homeowners who had no insurance.

When all programs have been offered, it is anticipated that the low/mod participation will have been significant. However, that information cannot be derived prior to program launch. The State will request a waiver for the low/mod participation requirement, capture low/mod information throughout its entire assistance program and report participation statistics in the required quarterly reports.

Additionally, a waiver to provide assistance in the form of grants to homeowners will be requested. The specific waivers requested follow the public comments section.

Public Comments

As stated previously, since early January 2006, in addition to issuing several press releases, MDA and the Governor's Office have been conducting TV, radio and newspaper interviews to help make the public aware of the program guidelines and eligibility criteria. A website was created for the program as well and in mid-February, an email comment form was provided. The plan was officially posted for public comment to the website, Mshomehelp.gov on March 8, 2006 with the public comment period ending on March 17, 2006. In addition to being available on-line, hard copies of the plan were available throughout the coastal counties, primarily in the offices of the local governments. Both on-line and hard copy versions were available in Spanish and Vietnamese.

As required by the regulations, a summary of any comments or views not accepted (the number received is shown in parentheses) and the reasons therefore are as follows:

- **Expand the Program.** Expand the program to include renters, seniors, uninsured homeowners, and owners of rental property, to homeowners whose homes suffered damage from any source, to everyone in the flood plain and to homeowners beyond the 4 coastal counties. Displeased with waiver request on low/mod. (1756)
- **Eligibility.** Allow homeowners who cancelled their flood insurance or whose coverage was dropped; include under-insured and pay based on need not insurance coverage. Set an income limit for eligibility. Concern that the eligibility requirements were discriminatory. (171)
- **Assessment of Damages.** Use assessments by insurance companies, SBA, lender institutions or FEMA. Expand the assessment of damages to include mold and wind, contents, and houses under construction. (31)
- **Calculation of Grant Amount.** Pay everyone \$150,000, have no limit on the grant amount, cut the maximum grant amount to \$75,000, do not deduct insurance proceeds, use insured value not historical value on homes that have been sold, use replacement costs instead of insured value and use cost of repairs rather than a percentage of damage. Compensate homeowners for "do-it-yourself" labor. (53)
- **General Comments.** General comments were made on the length of time it is taking to implement the program and the complexity of the application process. Requests were made that certain homeowners, i.e. senior citizens or homeowners in temporary dwellings, be given priority; criticism of mortgage lenders and insurance providers was received. Comments included requests that appeals be made to someone other than MDA and that there be no limit on disputes eligible for appeal. Mortgage lenders expressed concern that grant proceeds were not required to be placed in escrow and disbursed similar to construction loans or insurance proceeds, thus allowing them greater oversight over the use of funds. (252)

Response – With regard to expanding the program and eligibility, the program remains unchanged. This unprecedented program, as designed, is consistent with the underlying basis of the legislation passed by Congress. MDA is working with HUD to create programs of assistance for homeowners who had no insurance (both inside and outside the flood zone) and to the public housing authorities. The Governor’s Office and MDA are also working to identify other programs (federal and state) that may provide assistance to those not eligible for these programs.

Because in many instances, assessments performed to date are limited to a specific type of damage, and to provide consistency, MDA has deemed that the best approach in most instances will be to perform an independent assessment. In certain instances, MDA may opt to use an assessment provided by FEMA, SBA or an insurance provider.

The maximum grant amount of \$150,000 remains unchanged unless demand exceeds the funds available. If this occurs, the maximum grant amount will be reduced. This allows all eligible homeowners to participate. Due to the difficulty of assessing a fair value for contents or self-provided labor, the program remains limited to a damage assessment on structure.

With regard to the general comments, it is the intent to take in most of the universe of applications, prior to disbursing funds. This allows verification and damage assessment work to take place concurrently and allows MDA to ensure total funds are sufficient to meet demand. Payments to all applicants will be made at the conclusion of this process. As MDA has designed the program including program requirements, it must be the administrator of the appeals process. To streamline requests, a limit to the disputed amount of \$10,000 has been set. Regarding the management of grant proceeds, the State, working with HUD, has decided the current methodology is the most effective in providing assistance in this time of urgent need.

MDA and HUD are focused on providing grant assistance to homeowners as soon as possible. To accomplish this, infrastructure must be created to, among other things, be able to accept applications, determine grant amounts and disburse funds. Additionally, each aspect of the program must comply with federal regulations. While these are timely pursuits, recognizing the urgency of need for assistance, MDA has worked diligently with HUD to streamline wherever possible to deliver this unprecedented program.

Requested Waivers

1. It is requested that the requirement that 50% of funds for activities that benefit low and moderate income persons at 42 USC 5304 (b)(3)(A) and 24 CFR 570.484 be waived as well as certifications/assurances (i)(2) & (3).

The State of Mississippi requests that the precise minimum of 50-percentage requirement that funds made available under the State's Homeowner Assistance Grant program be made available to persons of low and moderate income be waived. The Governor has determined that the first initiative for the use of these funds as an element of the overall plan in Mississippi is for homeowner assistance focusing on homeowners who had some form of insurance.

Because of the nature of the availability of the funds under this program's design, which had to be broad to encompass all homeowners who met the program's criteria, restricting access to the program has the potential of confusing and excluding eligible recipients. The State believes that many applicants who would not have qualified as low and moderate income prior to August 29, 2005, will currently qualify due to a loss of jobs and or income. Since the program is open to all homeowners who meet the program's criteria (with the cap of \$150,000 being reduced if the program is oversubscribed) there is no practical program design possible to ensure on the front-end that non-low and moderate income households will receive 50 percent or less in program funds. The State agrees to collect current household income, based upon applicant self-certifications (with rights for audit verification), by household size and appropriate income categories so that actual low and moderate income household participation will be provided. Therefore, the State believes there is a compelling need, and thus requests a waiver of precise percentage participation by low and moderate households in the Homeowner Assistance Grant program.

2. It is requested that 42 USC 5306 (d)(2) or Section 106(d)(2) and 42 USC 5304 (a) & (b) or Section 104 (a) & (b) be waived.

These sections address distribution of funds by the states to units of general and local government. MDA is requesting these sections be waived to allow the agency to make grants directly to homeowners.

3. A waiver of Section 105(a) on eligible activities is requested.

This section provides a list of eligible activities for the CDBG program. It does not include grants for compensation. In order for the Homeowner Grant Assistance Program to be implemented, it is requested that this section be waived.

4. A waiver of Section 104 (j) is requested to allow the State to retain as program income funds earned in whole or in part by activities carried out by programs that the State administers directly. Such funds would continue to be used for eligible activities carried out by the State.

CERTIFICATIONS/ASSURANCES

Certifications for state governments, waiver and alternative requirement. Section 91.325 of title 24 Code of Federal Regulations is waived. Each state must make the following certifications prior to receiving a CDBG disaster recovery grant:

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

- i. The state certifies that it is complying with each of the following criteria:
 - (1) Funds will be used solely for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of the Gulf Coast hurricanes of 2005 in communities included in Presidential disaster declarations.
 - (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.