

STATE OF MISSOURI

ACTION PLAN

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

Federal Register: September 11, 2008

**MISSOURI DEPARTMENT OF ECONOMIC
DEVELOPMENT**

December 2008

Effect of the disaster and Missouri's recovery needs

2008 brought several weather related disasters to Missouri, including severe flooding in several areas and tornadoes and other severe storms in other areas.

There were two significant flooding events that resulted in federal disaster declarations; one in March (1749) primarily in southern Missouri, and one in June (1773) primarily in northern Missouri. Flood recovery activities with CDBG funds for the March event were addressed with existing CDBG funding. Flood recovery activities for the June event are the subject of this supplemental appropriation, along with a separate disaster declaration (1760) for three counties in southwest Missouri that were affected by severe storms in May.

For declared disaster 1773, 2,421 homes were impacted by the flooding, with 582 being affected, 535 sustaining minor damage, 225 sustaining major damage, and 1,079 being destroyed.

For declared disaster 1760, 550 homes were impacted by the weather events, with 80 being affected, 338 sustaining minor damage, 58 sustaining major damage, and 154 being destroyed.

At least 22 levees were affected by the flood; total estimated repair cost is \$36,139,000. U.S. Army Corps of Engineers funding will address the bulk of this; however, the match requirement for local governments and levee districts is significant. A portion of these levees are being addressed with existing CDBG funds, but total assistance needed by local governments and levee districts greatly exceeds existing funding.

At least two communities in northeast Missouri have reported businesses affected to the extent that buyout and relocation of these businesses is desired. The attached map shows the locations of businesses within the floodplain in northeast Missouri.

Widespread damage to public infrastructure has been reported by communities and regional planning commissions.

We have consulted with local governments, Regional Planning Commissions, the State Emergency Management Agency (SEMA) and the Federal Emergency Management Agency (FEMA) to determine the impacts of the disaster, and the proposed response.

Federally Designated Areas Eligible for Assistance (through this supplemental appropriation)

Missouri has been allocated \$11,032,438 in supplemental CDBG funding for disaster recovery. The federal disaster declarations that are relevant to this supplemental appropriation are 1760 and 1773. For areas eligible for assistance, please see attached FEMA maps of the two declared disasters.

Promotion of Short and Long Term Recovery Planning

Nearly 20,000 communities across the United States and its territories participate in the NFIP by adopting and enforcing floodplain management ordinances to reduce future flood damage. In exchange, the NFIP makes federally backed flood insurance available to homeowners, renters, and business owners in these communities. Community participation in the NFIP is voluntary.

At the request of FEMA, each Governor has designated an agency of State or territorial government to coordinate that State's or territory's NFIP activities. These agencies often assist communities in developing and adopting necessary floodplain management measures. In Missouri, this responsibility is the statutory responsibility of the Missouri State Emergency Management Agency (SEMA). As of November 2008, there is about \$4.26 billion in property coverage in force for some 605 Missouri communities that participate in the NFIP.

Flood insurance is designed to provide an alternative to disaster assistance to reduce the escalating costs of repairing damage to buildings and their contents caused by floods. Flood damage is reduced by nearly \$1 billion a year through communities implementing sound floodplain management requirements and property owners purchasing of flood insurance. Additionally, buildings constructed in compliance with NFIP building standards suffer approximately 80 percent less damage annually than those not built in compliance. And, every \$3 paid in flood insurance claims saves \$1 in disaster assistance payments.

In addition to providing flood insurance and reducing flood damages through floodplain management regulations, the NFIP identifies and maps the Nation's floodplains. Mapping flood hazards creates broad-based awareness of the flood hazards and provides the data needed for floodplain management programs and to actuarially rate new construction for flood insurance.

When the community chooses to join the NFIP, it must adopt and enforce minimum floodplain management standards for participation. FEMA works closely with State and local officials to identify flood hazard areas and flood risks. The floodplain management requirements within the SFHA are designed to prevent new development from increasing the flood threat and to protect new and existing buildings from anticipated flood events.

The community must require permits for all development in the SFHA and ensure that construction materials and methods used will minimize future flood damage. Permit files must contain documentation to substantiate how buildings were actually constructed. In return, the Federal Government makes flood insurance available for almost every building and its contents within the community.

Communities also must ensure that their adopted floodplain management ordinance and enforcement procedures meet program requirements. Local regulations must be updated

when additional data are provided by FEMA or when Federal or State standards are revised.

The regulatory requirements set forth by FEMA are the minimum measures acceptable for NFIP participation. More stringent requirements adopted by the local community or State take precedence over the minimum regulatory requirements established for flood insurance availability.

"Floodplain management measures" refers to an overall community program of corrective and preventive measures for reducing future flood damage. These measures take a variety of forms and generally include zoning, subdivision, or building requirements, and special-purpose floodplain ordinances.

The minimum federal requirements affect existing buildings only when an existing building is substantially damaged or improved. There may also be situations where a building has been constructed in accordance with a local floodplain management ordinance, and the owner subsequently alters it in violation of the local building code, without a permit. Such unapproved modifications to an existing building may not meet the minimum Federal requirements.

"Substantial damage" means damage of any origin sustained by a building when the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the building before the damage occurred. Substantial damage is determined regardless of the actual repair work performed. "Substantial improvement" means any rehabilitation, addition, or other improvement of a building when the cost of the improvement equals or exceeds 50 percent of the market value of the building before start of construction of the improvement. The term includes buildings that have incurred "substantial damage."

Substantial improvement or damage does not, however, include any project for improvement of a building to correct existing violations of State or local health, sanitary, or safety code specifications identified by local code enforcement officials as the minimum specifications necessary to assure safe living conditions. Also excluded from the substantial improvement requirement are alterations to historic buildings as defined by the NFIP.

Missouri has suffered through 14 Presidential Declarations during the last three years. After each disaster event, Missouri SEMA sent notices to each participating community in the declaration to remind them to perform a "substantial damage" survey of affected properties and notify the owner of each structure declared substantially damaged of the requirement to comply with the NFIP rules to meet the federal standards.

Promotion of high quality, durable, energy efficient, and mold resistant construction methods

All newly constructed, or rehabilitated, housing units must meet all locally adopted and enforced building codes, standards and ordinances.

Providing adequate, flood resistant housing for all income groups that live in the flood impacted areas

Missouri's immediate response to the flood included state agencies and their partners such as the Red Cross, the Salvation Army, DSS, United Way-211 and other agencies that provided sheltering and housing assistance in the emergency phase.

Following was emergency assistance from the same partner agencies to assist displaced persons with rent, hotel stays or emergency minor home repair if they did not have insurance or their insurance was insufficient. The State Emergency Management Agency (SEMA) Flood Plain management assisted individuals and communities with flood insurance issues.

Debris removal teams, clean-up teams and emergency minor home repair teams went to work to return people to their homes when practical.

In areas where the disaster was federally declared, we then supported FEMA (with resources and in some cases with 25% cost share) to provide housing and home repair assistance.

Now the state is supporting thirty- plus community long-term recovery committees to assist residents with long term housing assistance to meet unmet disaster related housing needs whenever feasible. SEMA is coordinating, collaborating, communicating and cooperating with many may government and private agency partners to bring in funds, volunteers, materials and other resources to assist people relocate, rebuild, repair or appropriately address their housing needs.

SEMA and the Department of Economic Development are assisting communities with buy-out projects.

Homeless shelters and transitional housing units impacted by the flood are eligible for assistance through this plan, if these facilities are located outside the 100 year flood plain. If they are/were located within the 100 year flood plain, the facility could be eligible for assistance in rebuilding outside the flood plain.

Method of Distribution

Applications for this allocation of CDBG supplemental appropriation for disaster recovery are due in the CDBG office by 5:00 pm on January 15, 2009. Note that the applications must be delivered no later than that time and date; an application simply being postmarked by that date is not acceptable.

The application for supplemental CDBG funding is available on the DED-BCS website: www.missouridevelopment.org

Applications will be accepted in the following categories:

Housing: Includes rehabilitation of damaged homes (outside of the 100 year floodplain), new housing construction. See Housing section below.

Business Assistance: Loans to flood affected business (or businesses). Revolving loan funds are eligible. Job retention is applicable. See Business Assistance section below.

Buyout: Includes residential and commercial buyout. For residential buyout, priority is providing match for FEMA funding. See Buyout section below.

Levee repair: Priority is providing match for Corps levees.

Demolition/debris removal: Cleanup and debris removal activities not covered by FEMA.

Other unmet needs: Includes infrastructure repair. Applicant must demonstrate need and lack of other sources (FEMA, etc.) of funding.

The supplemental appropriation will have no specific set-asides for these individual categories. All applications will be evaluated on the criteria listed in the Application Evaluation section (see below).

Guidelines for Application

Unless otherwise noted in these guidelines, all CDBG rules apply to the use of the funds. The disaster recovery funds are intended for activities related to long term disaster recovery and they may not otherwise replace other federal, state, or local financial assistance available for any project.

Eligible applicants:

Only those cities and counties listed in Federally Declared Disasters in May and June of 2008 shall qualify for access to these funds. The county must be listed in DR 1760, declared May 23, 2008 or DR 1773, declared June 25, 2008. Please see attached FEMA maps.

Duplication of Benefits:

Any use of the funds to assist homeowners, renters or businesses directly, must consider and deduct any duplication of benefits. The DED will work with the FEMA Region VII offices and the State Emergency Management offices to assist local governments in determining any such duplication.

National Objective and LMI benefit requirement:

The national objective of LMI benefit is not entirely waived. Fifty percent of the funds allocated to Missouri must be used for activities that meet the LMI national objective of benefiting at least 51% of persons at 80 % of median household income or below. The LMI benefit may use area benefit, direct benefit (such as housing), jobs, or limited clientele. The other 50% of the funds may be used to meet the national objective of an urgent threat to health and safety (without regard to income). Each applicant will have to identify the proposed national objective and selections and awards will be made where the State can achieve compliance with the regulation.

Entitlement communities:

The DED may accept applications for these funds directly from entitlement communities within the declared counties of DR 1760 and DR 1773.

Citizen Participation (state):

The DED drafted an action plan for the use of the funds and posted the plan on the website with adequate notification to Regional Planning Commissions and local media for a period of not less than 15 days for comment. All comments were reviewed and incorporated into the draft plan for submission to HUD (see below).

DED conducted a public meeting on December 18, 2008 to discuss this plan and take comments. This meeting was held in:

Harry S Truman Building
Room 492
301 West High Street
Jefferson City, Missouri 65101
9am – noon

Comments were accepted through the close of business, December 24, 2008. A summary of comments/questions follows:

Q: Why did the state limit the supplemental funding to declared disasters 1760 and 1773?

A: That limitation was specific in the federal register notice covering this supplemental appropriation.

Q: Regarding the 50% LMI requirement for these funds, since the flood didn't discriminate by income, how will buyout be considered? Will that LMI requirement have any impact on commercial buyout? Can a company qualify as LMI?

A: At least 50% of these supplemental funds must be used for activities that meet the LMI national objective. Urgent need can still be used for buyout purposes. For residential purposes, local governments may choose to use CDBG funds to acquire only LMI properties. That is the choice of the local government, but keep in mind that the 50% LMI requirement is a federal requirement, and will be a part of the application review. A commercial property could be LMI if the owner is LMI, but that generally isn't likely. It could be based on job retention if at least 51% of the jobs are held by LMI persons.

Q: Can business benefits go directly to a business without going through a local government?

A: No. All funds must be awarded to a local government.

Q: Do we have any indication of how many applications for these supplemental funds we will receive?

A: No guess at this time. We have had inquiries and specific questions about possible applications, but those don't always translate into submitted applications.

Q: If a local government (county) wants to apply for several activities, do they submit separate applications or just one with all activities included?

A: It depends on the activities. If they are functionally related, then they can be combined. If the activities are very different in nature (such as buyout and levee repair), separate applications should be submitted.

Q: Does environmental review have to be completed prior to application submission?

A: No. We recommend completion of the ER as soon as possible in order to be able to start the project quickly if/when an award is made, but it does not have to be done prior to application.

Citizen Participation (local):

There are no local public hearings required for the applicants to this fund. Access by citizens to open records at the local level is required.

Reporting:

Each successful grantee will be required to provide reporting on a quarterly basis on a form provided by the DED. The DED will aggregate the reports and provide them to HUD through their DRGR online reporting system as required by the regulation.

Housing Activities:

- New housing construction is an eligible activity with these funds.
- Homeownership assistance may be used for families whose income is up to **120 percent** (not 80%) of the counties median household income.
- Down payment assistance may be as high as 100 percent (not 50%).
- The arms length voluntary purchase requirement by a person that does not have the power of eminent domain is waived for purchase of a principle residence.
- The URA requirements of financial assistance sufficient to reduce a displaced persons rent and utility costs to 30 percent of household income is waived.
- The URA requirement to use the moving expense and relocation allowance schedule published by the Federal Highway Administration is waived provided a reasonable allowance is made.
- Section 104(d), the one for one replacement requirement for demolished of converted low and moderate income housing is waived.
- The relocation assistance requirements under 104 (d) are waived and relocation assistance calculations may use the URA standard for all persons.

Business Activities:

A limited waiver of the anti-pirating requirements allows the flexibility 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, and the business wishes to return.

Application evaluation:

All applications will be evaluated for:

- need (the breadth and depth of the disaster in terms of population affected and sectors (housing, infrastructure, business, environment) affected within the community);
- capacity (the degree of expertise and experience that the local government or contracted agency has to manage the project, administer the funds, and succeed with the outcomes and objectives defined in the application);
- the project's impact on short and long term community recovery (the amount of spin off, community awareness and support and degree to which the activities will lead to further recovery);
- local effort (cash, human resources, in-kind efforts);
- consistency with a local short and long term recovery plans;
- consistency with local and state floodplain management practices;
- project sustainability and future disaster mitigation (the degree to which activities are defined with sound construction practices, quality and durability, energy efficiency and flood control or flood resistance)
- Available funds.

Buyouts:

- Communities must indicate whether they are paying pre-flood acquisition prices or post flood acquisition prices for properties. A uniform use of either method must be made within any applicant community.
- Relocation amounts proposed along with post flood purchases may not exceed \$25,000. The calculation of a relocation payment used with a post flood acquisition payment is typically:
 - Amount of comparable decent safe and sanitary home outside the floodplain
 - Less insurance
 - Less any FEMA real property payments
 - Less post flood acquisition amount paid
 - Equals the actual calculated amount or \$25,000, whichever is less.
- Duplication of benefits includes any FEMA real property payments and private insurance. Any calculation of buyout assistance must deduct these amounts.
- All properties acquired must deed restrict future use to only those activities allowed under Section 404(b)(2) of the Robert T. Stafford Act.

Flood Insurance/Floodplain Restrictions:

Funds may not be used for persons who may have received previous federal assistance (including loans) where purchase and maintenance of flood insurance was a requirement, and have since allowed that flood insurance to lapse.

All grantees must inform participating property owners of the future requirements to purchase and maintain flood insurance.

No funds may be used for any activities in areas delineated as a special flood hazard area in FEMA's most current flood advisory maps unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain.

Monitoring

Monitoring checklists of all compliance areas have evolved over the years of administering the Community Development Block Grant by state staff. These checklists are provided to all grantees during the initial training for grant administration to clarify compliance requirements and to inform the grantees of the areas to be monitored. From the beginning, the grantee has been required to submit to the state field representative for that area all required ordinances/resolutions involving excessive force, anti-lobbying, and fair housing; all financial paperwork setting up the grant; and enough environmental paperwork to be able to allow the release of funds. All federal wage determinations are requested through the CDBG office to assure compliance with labor standards. Start of construction notices must be sent, along with the grantee checking the federal debarred contractors' list, the contractor's certification to do business in Missouri, and documentation of the contractor's approved surety through the state. The field representative will evaluate the new project in terms of risk or need for oversight or assistance. This evaluation will include the grantee's past performance, the

administrator's track record, the complexity of the project, and the amount of CDBG assistance awarded. The field representative will decide, with the consensus of program management, whether the project requires one or two field monitorings. The field monitorings will take place at strategic times in the life of the project. An interim monitoring is set up after the first construction payroll is received by staff on public facilities projects or after first houses are completed on neighborhood development projects. A closeout monitoring is conducted any time after 80% draw-down of funds has occurred.

Technical assistance visits may be scheduled any time necessary, in addition to the required monitoring visit. For economic development grantees, transition meetings are conducted in the field after initial award commitment to introduce the compliance field representative and confirm to all parties involved the intricacies of the grant conditions. Training is conducted on **internal monitoring**, as well as stressed in the administrative manual of the CDBG program. The four primary components of CDBG monitoring are progress on planned activities, program compliance, fiscal management, and fiscal compliance. It is the responsibility of each CDBG grant recipient to develop a system to assure that the financial and program compliance provisions established by federal and state law and supporting regulations and provisions are met. In addition to complying with all appropriate provisions, recipients must be assured that outside contractors and delegate agencies are likewise in compliance with the various laws and regulations. This will require development of a monitoring system that will allow recipients to:

- Manage their community development program as a whole, and individual projects and activities substantially, as described in the approved CDBG application;
- Maintain program or project progress;
- Determine that costs charged to the project are eligible;
- Ensure that all program activities comply with all applicable laws and regulations and terms of the grant agreement; and
- Minimize the opportunity for fraud, waste, and mismanagement.

Administration

Up to 5% of the total allocation (\$551,621) is allowed for state administrative (including local administration on awarded projects). The amount to be allocated to local governments as part of their grant award, plus the amount to be used by the state for administrative costs, will not exceed the 5% cap. Local administration is not expected to exceed \$250,000; state administrative costs will be taken from the balance remaining under the 5% cap.

CERTIFICATIONS FOR STATE GOVERNMENTS, WAIVER AND ALTERNATIVE REQUIREMENT

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

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

Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of recent natural disasters.

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

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

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

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

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

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

2) A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location that is the subject of such 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 that lacks such capacity.

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

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

Signature/Authorized Official

Date: December 30, 2008

Interim Director, Missouri Department of Economic Development
Title