



American Planning Association  
**New Jersey Chapter**

*Making Great Communities Happen*

March 19, 2013

**Via Email:** Sandy.Recovery@dca.state.nj.us

Hon. Richard Constable, Commissioner  
Department of Community Affairs  
State of New Jersey  
PO Box 800  
Trenton, NJ 08625-0800

**Re: Comments on the March 13, 2013, NJDCA CDBG-DR Action Plan**

Dear Commissioner Constable:

On behalf of the New Jersey Chapter of the American Planning (APA-NJ) we respectfully submit the following comments on the State of New Jersey's proposed Community Development Block Grant Disaster Recovery (CDBG-DR) Action Plan, which describes how the state proposes to spend the \$1.83 billion, the first installment of CDBG-DR funding for Sandy recovery.

APA-NJ is comprised of New Jersey-licensed professional planners with considerable experience and expertise in the field of environmental, redevelopment, and housing planning, who provide advice and guidance to the 1,100 chapter members and to New Jersey governmental officials on planning policy issues, programs, legislative proposals, and regulations.

APA-NJ fully appreciates the unprecedented scope and limited time frame that the Department of Community Affairs (DCA) has had to address so many issues in its first efforts to bring New Jersey and its citizens and businesses back on their feet. That said, coordinating between state, federal and local agencies and building capacity to properly and effectively administer the \$1.8 billion in funding must be a first priority.

We have identified the four primary areas of concern in the Action Plan, followed by detailed comments below:

**1. Omission of technical requirements per the HUD Notice.** The NJ Action Plan needs to address certain HUD technical requirements that are essential for assessing unmet needs in the state.

**2. Needs assessment.** In addition to not satisfying HUD's technical requirements, the Needs Assessment does not identify needs (and unmet needs) on a county, municipal and neighborhood basis. While some county data has been provided on "storm impact", there is no analysis of needs or unmet needs on even the county level.

3. Insufficient technical data. The Action Plan doesn't incorporate recent data published by other agencies and organizations that would inform the needs assessment, including, but not limited to the Enterprise Partners' "FEMA Assistance Analysis,"<sup>1</sup> which stated that as low-income renters were most impacted by the effects of Superstorm Sandy, they are in greatest need of resources.

4. Resiliency, sustainability and HUD Livability Principles. We understand that the limited time and enormous scope of the need have led to the NJ Action Plan being a compendium of re-build programs and small business grants offered outside the necessary context of a long-term vision for resiliency or sustainable planning concepts. However, promoting re-build without a full understanding of the long-term environmental consequences and planning alternatives to reduce risks is counter to the principles of mitigation and recovery planning. All CDBG-DR programs should incorporate long-term sustainable and resiliency principles. In addition, the state may want to consider asking HUD to utilize the State Strategic Plan Garden State Values as a state-driven proxy.

## **ENDORSEMENT OF COMMENT LETTER OF THE BROAD COALITION OF NEW JERSEY HOUSING & COMMUNITY ADVOCATES**

APA-NJ fully endorses and joins with the broad coalition of civil rights, community development, housing, labor, religious, special needs, smart growth, and other groups and individuals that are calling upon the Department of Community Affairs (DCA) to amend its Draft CDBG-DR Action Plan, prior to its submission to HUD, in order to build upon the positive aspects of the Plan and to address the significant concerns with the CDBG-DR that have been outlined in considerable detail in that jointly submitted comment letter.

We specifically call your attention to the coalition's comments regarding the necessity for the Action Plan to be revised to more fairly address the unmet needs of storm-impacted low- and moderate-income renters, as documented – by postal zip code – in the Enterprise Community Partners report. We have a particular concern about the persistence of exclusionary zoning and land use patterns and practices in New Jersey. This concern has been addressed in the coalition's comments regarding the need for the Action Plan to comply with HUD's CDBG-DR requirements for an Analysis of Impediments to the provision of affordable housing on a non-discriminatory basis in the affected areas.

### **1. Need for the CDBG-DR Funding for Tenant-based Rental Vouchers:**

The NJ Action Plan rightly acknowledges the lack of affordable rental housing in the high-cost New Jersey housing market, as well as additional pressures on the rental market caused by the storm damage to the rental stock *and* by the competition for available units from displaced homeowners. Using available FEMA data, the Enterprise Community Partners have documented the disproportionate housing-cost burden that lower-income renters will bear in this constrained market.

We recommend that the Action Plan be revised to include funding for a multi-year - - perhaps four (4) year tenant-based rental voucher program. Such a tenant-based program will help to bridge the gap between the present crisis and the planned-for provision of additional supply of rental housing. Clearly, the rehabilitation, rebuilding and construction of affordable housing will take a number of years. Cost-burdened displaced renters cannot afford to wait for these construction efforts.

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<sup>1</sup> <http://www.practitionerresources.org/cache/documents/678/67899.pdf>

## 2. Need for Adequate Relocation Assistance – particularly for Renter Households:

As others have commented, the Action Plan heavily targets funding toward the re-housing of storm-affected residents in-situ. Realistically, some households will find that prospect daunting and will choose to relocate. Additionally, renters – with limited control over the repair of their dwellings, with no home equity to tap and with their lower household incomes – can be expected to have greater difficulty remaining in their storm-damaged apartments. Other displaced households that have been temporarily relocated will seek to return to their rebuilt communities in coming years. Accordingly, the Action Plan needs to provide for an on-going program of relocation assistance – well beyond the emergency assistance period.

Additionally, the Action Plan will need to address the State of New Jersey’s present inadequate level of relocation assistance payments – which have not been increased in decades. Households displaced by the governmental enforcement of housing and building codes are entitled to assistance pursuant to the Uniform Relocation and Property Acquisition Act. The Action Plan should be revised to accommodate the unique circumstances of storm-affected households who may require future relocation assistance during the anticipated multi-year recovery period.

### COMMENTS ON SPECIFIC GRANTEE REQUIREMENTS

The following sections of the published Notice of grantee requirements for CDBG-DR Sandy Recovery funds, **Federal Register** / Vol. 78, No. 43, appear to have not been properly addressed in the NJ Action Plan. These elements are critical to a successful recovery and should be included in a revised Action Plan.

1. The following sub-sections of VI.A.1.a.(1) need to be better addressed:

- *“Impacts must be described by type at the lowest geographic level practicable (e.g., city/county level or lower if available). (...)Grantees must pay special attention to neighborhoods with high percentages of damaged homes and provide a demographic analysis.”*

**Comment:** While some Sandy storm impacts were recognized at the county level, and a few anecdotal stories were conveyed about municipalities, the needs assessment is summarized by figures aggregated at the state level. A county and municipal level of analysis is critical for determining actual damage, recovery needs, unmet needs and a program for distribution of funds. We recommend projecting the impact areas on top of mapped geographic areas and discuss each area by locality and region with all of the elements analyzed comprehensively. The mitigation, resiliency and sustainable planning principles could be incorporated into this analysis.

- *“Emergency shelter needs and housing needs: interim and permanent; owner and rental; single family and multifamily; public, HUD-assisted, affordable, and market rate”* must be included in the Plan.

**Comment:** The Action Plan does not provide shelter or housing needs on a county or municipal basis. The lack of information makes it impossible to render a fair plan for distribution of funds.

- The Plan should include *“Neighborhoods with high percentages of damaged homes and provide*

*a demographic analysis (e.g., race, ethnicity, disability, age, tenure, income, home value, structure type) in those neighborhoods to identify any special needs that will need to be addressed.”*

**Comment:** The NJ Action Plan has provided no needs assessment of neighborhoods with high percentages of damaged homes, although clearly some neighborhoods have been devastated. This lack of information makes it impossible to render a fair plan for distribution of funds.

- *The types of businesses (including the North American Industry Classification System code, the standard used by Federal statistical agencies in classifying business establishments and available at [www.census.gov/eos/www/naics/](http://www.census.gov/eos/www/naics/)) most impacted with a description of their likely barriers to recovery.*

**Comment:** The action plan does not provide NAICS codes and has a very limited analysis of business impact, with a reliance on anecdotal information. Additionally, no data has been provided at the county or municipal level. The Plan also indicates that 93% of SBA applications submitted by affected small businesses were denied federal funding. The Plan should provide additional information on why such a large percentage of applications were refused funding.

2. The following sub-sections of VI.A.1.a.(3) have not been addressed:

- *A description of how the grantee will promote (a) sound, sustainable long-term recovery planning informed by a post-disaster evaluation of hazard risk, especially land-use decisions that reflect responsible flood plain management and take into account possible sea level rise (for example, by using the new FEMA floodplain maps and designs applying the new Advisory Based Flood Elevations (ABFE) or higher), and (b) how it will coordinate with other local and regional planning efforts to ensure consistency;*

**Comment:** The NJ Action Plan focuses on rebuilding and doesn't quite consider sound long-term sustainable planning that would mitigate future hazardous and life-threatening conditions. Section 3.1, Long-Term Recovery Recommendations indicates the state will continue to take steps towards a sustainable and resilient recovery. However, the Plan does not offer any further details about this approach. This same section indicates the DCA Office of Local Planning Services will “work to provide municipalities with sound planning strategies to ensure long term recovery.” No other details are provided about these planning strategies or the planning process.

3. The following sub-section of VI.A.1.a.(4) has not been addressed:

- *A description of how the grantee will leverage CDBG–DR funds with funding provided by other Federal, state, local, private, and non-profit sources to generate a more effective and comprehensive recovery.*

**Comments:** The NJ Action Plan provides no details on how funds will be leveraged other than acknowledging that it intends to do so. Section 3.2 of the Action Plan indicates, “additional guidance on this process will be provided at a later date.”

4. The following sub-section of VI.A.1.a.(5) has not been addressed:

- *HUD strongly encourages grantees to consider sustainable rebuilding scenarios such as the use of different development patterns, infill development and its reuse, alternative neighborhood designs, and the use of green infrastructure. (...) The Partnership for Sustainable Communities' six Livability Principles should serve as a guide to grantees working in areas that were*

*substantially destroyed. When grantees seek to rebuild such areas, grantees should describe how they will consider sustainable urban design and construction in their redevelopment planning process.*

**Comment:** The NJ Action Plan has not provided any information on alternative development patterns or rebuilding scenarios. Further, the needs assessment does not identify areas that were substantially destroyed, which precludes any planned strategy to address those needs. The absence of any planning strategy for sustainable rebuilding patterns is a huge omission in the Action Plan and risks repeated mistakes that lead to property damage and loss of human life. Sustainable planning and HUDs Livability Principles should be incorporated into the criteria of all recovery programs. The Plan should ensure that existing efforts to develop the next generation of climate adaptation planning and decision support tools are supported; both in terms of resources to develop the tools, and resources to deploy the tools. The new Sustainable Jersey Climate Adaptation and Flooding Action is one such example of a tool that can be improved, and also better deployed. While the State and Federal Agencies will eventually take a leading role in developing guidance on all of these hazards, support for NGO efforts will enable more widespread deployment in the short term and experimentation that leads to better tools in the long term.

5. The following sub-section of VI.A.1.a.(12) has not been addressed:

- *A description demonstrating the adequacy of the grantee's capacity, and the capacity of any UGLG or other organization expected to carry out disaster recovery programs. (...) This assessment shall include a description of how the grantee will provide for increasing the capacity of UGLGs or other organizations, as needed and where capacity deficiencies (e.g., outstanding Office of Inspector General audit findings) have been identified.*

**Comment:** The NJ Action Plan indicates that the DCA and Office of Emergency Management will assist municipalities in the recovery efforts. However, the Plan offers no assessment of the capacity of either the state offices or municipalities. In Section 6.6.1, the Plan indicates that the DCA "may" increase its staffing capacity, which does not begin to describe the substantial need for building capacity. The administration of the \$1.8 billion grant surpasses, by order of magnitude, any program that this office has administered to date. This lack of capacity analysis makes it impossible to discern the allocation of \$80 million that has been reserved for administration and planning.

6. The following sub-sections of VI.A.1.b have not been addressed:

- *How (the state) will distribute funds to UGLGs (i.e., its method of distribution). Each Plan must also describe how the State's needs assessment informs the allocation(s) identified in the Plan, and how unmet needs that have been identified but not yet addressed will be addressed in a subsequent amendment to the Plan.*

**Comment:** The NJ Action Plan is completely silent on the distribution of funds to municipalities. The entire Plan refers to the collective counties in need, and offers no indication as to how municipalities may be funded. Also, significantly, the needs assessment does not clearly inform the allocation of funds since neither the needs assessment nor funding distribution section are county or municipal based.

In addition, we offer the following comments related to the various sections of the NJ Action Plan:

7. NJ Action Plan Section 4, Method of Distribution

The criteria for nearly all proposed housing and business assistance programs is on a “first-come first served” basis for the nine impacted counties. However, the degree of impact among these counties varies significantly. A more equitable approach might be to allocate blocks of funds to specific geographical areas, based upon need. However, this is virtually impossible to do until the needs assessment is complete.

#### 8. NJ Action Plan Section 4.1.2, Homeowner Settlement Program

The Homeowner Settlement Program provides \$200 million for incentives for homeowners not to abandon their homes, and to stay and rebuild, with a maximum grant of \$10,000 per home. This is a program offered on a first come-first serve basis to property owners who have sustained major and severe damage. The goal of the program is to “stabilize neighborhoods by encouraging homeowners to stay and rebuild.” Additional information should be provided as to how the program intends to provide an incentive, rather than provide another grant to homeowners who already intend to stay and rebuild. If the goal is for neighborhood and community-building, the monies might be better appropriated in the form of community planning strategies.

#### 9. NJ Action Plan Section 4.4.2 Continuation and Enhancement of Essential (of) Public Services to Facilitate Short-Term Sustainability and Long-Term Recovery

The Plan indicates “financial assistance will be made available to local governments... to allow for the continuation of critical/essential public services such as... health and welfare... (water and sewer)” yet it does not provide any guidance or assurance that planning for more sustainable infrastructure will be supported by financial assistance. It is implied that municipalities will be able to continue service through existing infrastructure brought back on-line, but not be able to plan for updates or upgrades to more efficient and resilient facilities. As stated in Section 2.5.2 Utility Infrastructure, “94 wastewater treatment systems suffered failures or disruptions...”. The Plan should be clear that Planning / Admin funds can be used toward evaluation of existing infrastructure and planning for more efficient, decentralized systems in order to avoid future potential damage.

#### 10. NJ Action Plan Section 4.6, Planning, Oversight and Monitoring

This is the administration section of the Action Plan, of which \$84 million has been allocated. The section begins with an overview of timely expenditure of funds and monitoring for grant disbursement. Planning is then discussed as an afterthought – without a detailed discussion. The Plan states “planning grant assistance is available on a local and/or regional basis in order to guide long-term recovery and redevelopment.” Other than examples of such activities, e.g. comprehensive plans, economic development plans, etc., the Plan offers no details on the type and level of assistance that will be offered to municipalities for long-term planning. The only figure that is provided is the \$2.5 million for historic preservation, archaeology plans and other HUD requirement plans for implementation. The Action Plan must further break down the remaining \$82 million into state administrative costs and local planning grants. We recommend, at a minimum, that 50% of the \$82 million be allocated to local and state land use planning grants. Funding should be available to both local and county governments, as well as non-profit organizations that have traditionally played a role in local planning. Municipalities should be encouraged to utilize best practices for recovery planning, including FEMA self-help and community documents and the PAS documents published by the American Planning Association on Hazard Mitigation and Recovery Planning.

#### 11. NJ Action Plan 6.2.1, Sea Level Rise

The NJ Action Plan indicates it will “incorporate, where applicable, appropriate mitigation measures and floodplain management throughout proposed programs.” No other information is provided on the potential impact of sea level rise and how the Plan will address it through planning strategies and funding programs. The Plan should take into account predicted climate change, particularly sea level rise and the interaction of inland and coastal flooding occurring at the same time. Additional information must be provided utilizing current research and planning tools from state and regional organizations.

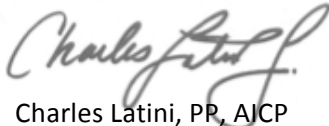
12. NJ Action Plan 6.9, Citizen Participation

While the NJ DCA satisfied the minimum seven calendar day notice for the comments on the Action Plan, a week's notice for commenting on an 80 page document does not constitute "reasonable and timely access," with which the Plan attests, especially in dealing with such a large disbursement of money. Additionally, the release of the Plan within only two days following the publication of the federal requirements placed an unfair and unanticipated burden on the public to give both documents the attention they deserve.

In summary, the Action Plan has provided a solid overall framework for the receipt and distribution of the CDBG-DR funds, and we believe the Plan has touched on a lot of important areas. However, we have outlined a number of critical issues that we feel must be addressed to make this a truly effective Plan that meets the State's long-term recovery, rebuilding, and revitalization needs. We appreciate the opportunity to provide comment on this Recovery Action Plan, and look forward to a revised plan that addresses these concerns.

Understanding the enormous pressure on all of us, we appreciate your time and effort. APA-NJ continues to be available for assistance to the State of New Jersey moving forward.

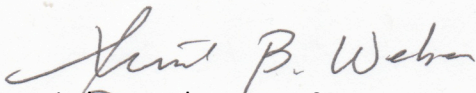
Respectfully submitted,



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