

# EXAMINING THE COMMUNITY DEVELOPMENT BLOCK GRANT-DISASTER RECOVERY PROGRAM

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## HEARING BEFORE THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE COMMITTEE ON FINANCIAL SERVICES U.S. HOUSE OF REPRESENTATIVES ONE HUNDRED FIFTEENTH CONGRESS FIRST SESSION

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## **EXAMINING THE COMMUNITY DEVELOPMENT BLOCK GRANT- DISASTER RECOVERY PROGRAM**

**Wednesday, November 1, 2017**

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON OVERSIGHT  
AND INVESTIGATIONS,  
COMMITTEE ON FINANCIAL SERVICES,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 10:30 a.m., in room 2128, Rayburn House Office Building, Hon. Ann Wagner [chairwoman of the subcommittee] presiding.

Present: Representatives Wagner, Tipton, Ross, Zeldin, Trott, Loudermilk, Kustoff, Tenney, Hollingsworth, Green, Cleaver, Beatty, and Crist.

Also present: Representative Velazquez.

Chairwoman WAGNER. I think some members are still wandering in here, but we will get started. The Subcommittee on Oversight and Investigations will come to order.

Today's hearing is entitled "Examining the Community Development Block Grant-Disaster Recovery Program." Without objection, the chair is authorized to declare a recess of the subcommittee at any time. Without objection, all members will have 5 legislative days within which to submit extraneous materials to the chair for inclusion in the record. And without objection, the members of the full committee who are not members of the subcommittee may participate in today's hearing for the purposes of making an opening statement and questioning the witness.

The chair now recognizes herself for 4 minutes for an opening statement.

When a terrible disaster strikes, the Federal Government plays an important role when delivering much-needed emergency aid. Today's hearing is about a related point upon which we can all, I think, agree.

It is critical to ensure that taxpayer money being spent on disaster relief is spent smartly, efficiently, and effectively. Every disaster relief dollar that is diverted to an inefficient or wasteful use is a dollar that is not going to help individuals in need, and that is wrong.

The Community Development Block Grant-Disaster Recovery Program is comprised of relief funds which are designated to allow communities to start the recovery process by helping those commu-

nities and neighborhoods with limited resources to rebuild critical infrastructure after a catastrophic event.

Today's hearing will focus on whether the Department of Housing and Urban Development's administration of the CDBG-DR program lives up to the ideals I mentioned a moment ago. It will also, I hope, initiate a constructive dialog between Congress, HUD, and the HUD Office of Inspector General about how this CDBG-DR program can be reformed to increase oversight, to increase accountability, and ensure disaster relief dollars go directly and expeditiously to those who need them the most.

As we will hear today from our witness, the Acting HUD Inspector General, Helen Albert, the HUD OIG has routinely identified serious systemic problems with the CDBG-Disaster Recovery Program. Money appropriated to this program often failed to reach those who need it most and instead was diverted to wasteful or inefficient uses.

As a recent example, a 2017 OIG report on Hurricane Sandy revealed \$450 million in questionable costs. The HUD OIG's important work has also documented instances of grantees who regularly failed to maintain proper documentation supporting the cost of performed work, as well as awarding duplicate or ineligible assistance.

HUD OIG's work also demonstrates that these problems have occurred throughout the Nation. Even in my own home State of Missouri, they have seen misuse of some of these funds.

The OIG's work also reveals another troubling trend: \$11.5 billion of CDBG-DR funds appropriated for disasters, going all the way back to September 11, remain unspent.

While rebuilding communities isn't done overnight and takes time, at a certain point it appears that billions of dollars are simply sitting lost or forgotten about in grantee bank accounts. When put in context with the \$7.4 billion Congress recently appropriated to HUD in the first relief package for Hurricane Harvey and Irma, Congress must do better, a better job, recouping the lost money, so to speak, for future disasters. Again, disaster funds should go to those who need them most.

And I am so pleased to see that it is not just the HUD OIG who recognizes that the Community Development Block Grant-Disaster Recovery Program needs reforms to ensure disaster funds reach disaster victims, but Secretary Carson understands these problems exist and is open to working to address them. In testimony before the full committee just weeks ago, Secretary Carson noted that some of the things done through the CDBG-Disaster Recovery Program have been, in his words, questionable.

Ms. Albert, I look forward to hearing your testimony and recommendations this morning.

And with that, I yield back the balance of my time.

I now recognize the gentleman from Texas, Mr. Green, the ranking member, for 5 minutes.

Mr. GREEN. Thank you, Madam Chair. I thank the witness for appearing as well.

Madam Chair, you can't be the Secretary of HUD without being the Secretary of HUD. Let me explain.

It is an honor to have the witness before us today who will talk to us about some of our needs. She will talk to us about a good



many issues related to waste, fraud, and abuse. She will talk about procedures and processes.

But there are some things that we have to talk about that relate to policy. As you indicated, the Secretary was here earlier, and he made some comments that would lead me to believe that he should return. It is my belief that the Secretary should return to this committee and visit with us, be prepared to answer questions about certain questionable policies related to HUD. And I hope that he will come.

And such that he will not be surprised, I would like to give some indication as to the areas of concern. The areas of concern would include options for temporary and long-term housing for victims after a national disaster. Types of construction standards we should require for public housing in areas where we have a history of severe weather or fires. We need to know more about the loss of private housing stock as it relates to Section 8 choice vouchers.

We need to know more about the devastation of the housing stock in areas like Puerto Rico and the Virgin Islands where we have people who are suffering currently. What is happening in Puerto Rico and the Virgin Islands is shameful and sinful. We need to know more about this.

Should low-, moderate-income ratio be waived in the wake of disasters? The LMI is something that is set at 70 percent. Should we lower this, given the lawsuits and settlements that we have had in this area?

Protecting the housing of our Nation's senior citizens when we have national disasters. Protecting the housing of the disabled when we have national disasters.

We should talk about providing temporary housing assistance to HUD-assisted families that were displaced by storms.

We should look at the cost, the estimated cost, of HUD properties damaged. We need to know what we can do to repair and replace properties.

These are some of the areas of concern that the Secretary should be concerned with and should be prepared to address.

I believe that it is important for us to discuss waste, fraud, and abuse, and my hope is that we will have a very fruitful discussion today. But I also know that Mr. Long, who is the FEMA Director, Mr. Long, Brock Long, FEMA Director, appeared before the Senate Homeland Security Committee yesterday for a hearing. And he will be appearing tomorrow at the Transportation and Infrastructure Committee.

This is important. There are many things about waste, fraud, and abuse associated with FEMA that we can and should discuss, and my hope is that they will be discussed in this Congress.

But I also know that his appearance before these committees has much to do with what is happening right now as it relates to the storms that we have had to encounter. What happened in Texas and Florida and the Virgin Islands and Puerto Rico is of great importance to us. And just as Mr. Brock Long is testifying, the Secretary of HUD should be testifying as well.

I know that the request was made for this hearing, and it has been set for some time. I am OK with that. But I do believe that I shall now do something that is important, and that is make a re-

quest for us to bring the Secretary of HUD before the committee so that the Secretary can give some answers to questions of concern.

I would also add this, that I would like, without objection, to place a letter in the record requesting that the Secretary appear, along with some of the areas of concern that we would like for the Secretary to address.

I opened by saying, you can't be the Secretary of HUD without being the Secretary of HUD. This means that you can't secret yourself someplace at a time when your presence is needed elsewhere. You have to appear and let the public know where you stand, where HUD stands, and what some of these policies are that we need to help you with.

If there are things that we need to correct, let's talk about the correction process. If there are things that we cannot correct and we should eliminate, let's talk about these things as well.

But the point to be made is, we need to talk to the Secretary of HUD. You can't be the Secretary of HUD without appearing before the Financial Services Committee, which has oversight jurisdiction, and this committee, this subcommittee has specific oversight jurisdiction, and we do ask that the Secretary appear.

I yield back.

Chairwoman WAGNER. The gentleman yields back. And the gentleman's letter will be submitted to the record, without objection.

The chair now recognizes the vice chair of the Oversight and Investigations Subcommittee, the gentleman from Colorado, Mr. Tipton, for 1 minute for an opening.

Mr. TIPTON. Thank you, Chairman Wagner.

Providing relief to Americans impacted by natural disaster is a critical function of Congress. Disaster relief can help Americans and their towns put their lives back on track after what are often life-altering disasters. While fulfilling this critical function, however, we must also remember to fulfill another charge: to be good stewards of taxpayer dollars.

In my home State of Colorado, Community Development Block Grants for Disaster Recovery have been used for flood and fire recovery programs. These programs addressing housing, infrastructure, planning, and economic development needs have proven to be effective tools in responding to the aftermath of a disaster.

In Colorado, the Department of Local Affairs administers CDBG-DR funding. I have confidence in the Department of Local Affairs to faithfully distribute these funds.

I also believe that it is important that HUD have the ability to be able to track these dollars down to the local level, whether it be independently or working with State agencies. It is crucial that taxpayer dollars allocated for disaster relief are used for their intended purpose. And I look forward to learning how Congress can create more accountability in these programs here today.

Thank you. And I yield back.

Chairwoman WAGNER. The gentleman yields back.

We now welcome today's witness, Ms. Helen Albert. Helen Albert was appointed as the Acting Inspector General for the U.S. Department of Housing and Urban Development beginning in June 2017. Ms. Albert previously served as the Deputy Inspector General at

HUD and the Assistant Inspector General for Management and Policy.

Prior to joining HUD, Ms. Albert was Director of External Operations at the Department of Health and Human Services, Office of Inspector General, and spent a decade in the U.S. Senate, where she served as chief investigator and professional staff for two Senate committees, primarily focusing on counternarcotics and fraud-related issues.

Ms. Albert is a native of New York City and received her bachelor of arts from the State University of New York at Binghamton.

Without objection, the witness' written statement will be made a part of the record following her oral remarks. Once the witness is finished presenting her testimony, each member of the subcommittee will have 5 minutes within which to ask questions.

Ms. Albert, on your table there are three lights. Green means go, yellow means you have 1 minute left, and red means your time is up.

With that, the witness will now be recognized for 5 minutes to give an oral presentation of her testimony.

**STATEMENT OF MS. HELEN ALBERT, ACTING INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Ms. ALBERT. Thank you, Chairman Wagner, Ranking Member Green, and members of the subcommittee. I am Helen Albert, the Acting Inspector General of the Department of Housing and Urban Development. Thank you for the opportunity to highlight our perspectives of HUD's oversight of disaster assistance funding, particularly in light of the immense challenges faced by this Nation to respond to destructive hurricanes and fires.

This country has never been hit by multiple hurricanes as strong as Harvey, Irma, and Maria, with other hurricanes hitting shortly after, in the same season in modern times. This has been followed by devastating wildfires, which, like the storms, have caused extensive destruction and loss of human life.

As part of our initial response, our special agents, the Federal law enforcement side of our agency, assisted in search-and-rescue efforts in Houston, teamed with disaster medical assistant units to be the first into the Keys, and helped locate unaccounted-for HUD employees in all affected areas, and delivered food and supplies to the elderly.

Additionally, our auditors and evaluators with our agents are currently working to conduct quick capacity reviews to determine the ability of local entities to administer funds.

I could not be more proud of the critical work our IG staff is undertaking.

From 2001 til 2016, Congress appropriated more than \$47 billion in funding to address long-term recovery to HUD in the wake of a wide range of disasters, including the terrorist attacks of 9/11, Hurricane Katrina in 2005, Hurricanes Ike and Gustav in 2008, Hurricane Sandy in 2012, and Hurricane Matthew in 2016. In comparison, from 1993 to 1999, HUD disaster funding totaled less than \$1.7 billion.

The States primarily use the funding to repair housing, compensate homeowners, repair infrastructure, and provide economic development. We note, for the last large disaster, now exactly 5 years ago, approximately 50 percent of Sandy funds are still unexpended.

Over the years, HUD has gained more experience and has made progress with assisting communities, but faces significant challenges monitoring funds provided to various grantees, including States and cities.

Oversight is made more different due to the diverse nature of projects and the fact that some can take 5 to 10 years to complete. HUD must be diligent to ensure grantees have identified timelines and are keeping up with them and goals are met and expectations are achieved.

But it continues to face the following challenges in administering these grants: ensuring that expenditures are eligible and supportive; certifying that grantees are following procurement regulations; addressing concerns that citizens encounter when seeking assistance; and conducting consistent and sufficient monitoring efforts on grants.

We have developed a series of integrity bulletins aimed at providing the grantees with information to help safeguard program funds and to ensure that communities get the full benefit of funding. The benefits were sent to grantees over the last few years and are posted on our website.

We also recently developed a fraud alert for homeowners, which we hope that you will pass out to your constituents, on how to avoid scams and where to go if they need help.

Additionally, our work in capacity studies has begun. We are conducting these to bring awareness to potential areas of waste, fraud, and abuse specific to the environments the Department is about to enter.

Finally, lessons learned from over 15 years of oversight activities lead us to an overarching recommendation to suggest codifying a single disaster recovery program at HUD in order to ensure a more permanent, formal framework, to reduce the volume and provide consistency of notices used to provide informal guidance for each disaster, and to mitigate time delays in implementing guidance.

In conclusion, Chairman Wagner, the Department's role has greatly increased, as it has had to deal with unanticipated disasters and economic crises that have, in addition to its other missions, increased its vital role in providing services that impact the lives of our citizens.

My office is strongly committed to working with the Department and Congress to ensure that the program operates efficiently and effectively and is intended for the benefits of Americans now and into the future.

I look forward to answering all of your questions.

[The prepared statement of Ms. Albert can be found on page 30 of the appendix.]

Chairwoman WAGNER. The chair thanks the witness for her opening statement. And the chair now recognizes herself for 5 minutes of questioning.

Ms. ALBERT, I wanted to spend my time discussing action plans submitted by States and how changes and revisions to stated guidelines invite potential misuse of CDBG-Disaster Recovery funds.

In your written testimony, you note that HUD has issued a number of waivers and accepted an even greater number of amendments or revisions to States' action plans. What are some of the issues with allowing HUD and the States to very easily revise plans to provide disaster recovery to victims?

Ms. ALBERT. The Department under the CDBG program actually needs flexibility. It has to have the ability to do things and allow localities, depending on the disaster, to be able to react in certain ways.

However, when you allow these waiver upon waivers, and HUD has, along with FEMA actually, has waived quite a bit, what happens is, is you lose the intended purpose of the program.

Chairwoman WAGNER. Can you speak up a little bit? You are saying, lose the intended purpose? Yes.

Ms. ALBERT. The intended purpose of the program. So for instance, in the State of Louisiana there had been a grant program that was designed to elevate homes. A worthy program. Moneys had already been given out to homeowners to renovate and rebuilt. But in the flood zones they wanted those areas to try and elevate so that if there was another flood they could withstand it.

What happened in that instance was we went and did a sample audit to see whether the elevation took place. It was about \$650 million that was given for this intended purpose. We did a sample of about 199 homes, and when we went, 148 of the homes had not been elevated.

Chairwoman WAGNER. Wow.

Ms. ALBERT. So we had spoken to HUD and we had asked them to actually recapture the funds, because, frankly, it wasn't for the intended purpose.

HUD cannot recapture, it only can recapture from the States, because it signs an agreement with the grantee. What HUD did in that instance was they decided to change the intent of the program. So they said: If you can prove to us that you actually rehabilitated your home and/or elevated, we will accept that, although the name of the program was Home Elevation.

So then we went back and we said: Then show us the documentation to show that the money was actually used to rehabilitate, because they that received other moneys to do that. They could not do that.

So after a variety of different changing of the intended purposes, of waiving what had been put in the action plan to begin with, we ended up closing down that evaluation because we could not close out the finding and recommendation because it kept changing.

Chairwoman WAGNER. In your written testimony you note that for Hurricanes Katrina and Rita, HUD accepted 66 amendments from Louisiana for Hurricane Sandy—yes, for Hurricane Sandy—accepted 17 amendments from New York. Are these extreme cases or do States so frequently amend their action plans? And how often does HUD reject action plans or ask States to revise and resubmit them for review?

Ms. ALBERT. Sometimes they do reject. In one of the cases that I know, Ranking Member Green mentioned, had to do with low and moderate income. In the case of Texas, they actually did reject southern Texas' action plan in the valley because it did not meet some of the low-and moderate-income requirements. There were lawsuits, as he mentioned, and other things that had occurred.

But they don't tend to do that often. They tend to accept the amendments. They believe that there is something called maximum feasible deference, which means that the locality or the grantee or the State, whoever is administering it, has deference to do with it pretty much as they think they need to, except in certain instances like LMI where they sought action, but that is not typical.

Chairwoman WAGNER. Ms. Albert, and I have so many more questions, I will have to submit some for the record or do it in a second round. But let me ask one final question.

Once a State has submitted an action plan and HUD accepts it, should HUD require unused funds under the action plan to be returned rather than have those dollars repurposed or the action plan amended to allow for more spending for a new purpose?

Ms. ALBERT. As a law enforcement agency and an auditing agency, we typically see that it usually takes about 6 to 8 years for redevelopment to take place. As money ages beyond that, that is when you start seeing more problems with the funds, more improper uses, more repurposing, finding uses for the money that is sitting there. There is \$360 million still sitting from 9/11, which is now 16 years ago.

Chairwoman WAGNER. Wow.

Ms. ALBERT. At some point you have to say what was the intended purpose? And that is a whole other story about the action plans, whether HUD is going back and seeing that the expectations were actually met.

But that is a very complicated issue, and we do believe that some funding after a certain amount of time should be either recaptured or repurposed.

Chairwoman WAGNER. Recaptured or repurposed. Thank you very much.

The chair now recognizes my friend and the distinguished gentleman from Missouri, Mr. Cleaver, for 5 minutes.

Mr. CLEAVER. Thank you, Madam Chair.

Thank you, Ms. Albert.

My goal today is to hopefully get all of us thinking toward making some corrections and some improvements. And I do think that the HUD program for disaster relief has been successful and is something that we don't need to discontinue unless we find something better.

Here is the problem. When there is a disaster, particularly in the Midwest, it is usually going to be a tornado, and in some instances the Mississippi or the Missouri will come out of its banks and we will have some flooding, nothing like what happened on the Gulf Coast or Superstorm Sandy.

So what happens is that we have all of these nonentitlement cities that will experience a major problem that devastates and decimates the community, and then FEMA can't step in because the

threshold is \$8 million. So you get a little town like Orrick, which you probably never heard of, which is in my congressional district. There are 800 people. You could wipe out the whole town and not meet the FEMA threshold.

So what we have to do then is depend on the State, that the non-entitlement dollars that come to the States would be disbursed. That creates a problem if you are talking about trying to respond quickly.

And the other problem is the entitlement cities, Kansas City, largest, St. Louis, second, Springfield, Independence, I think those are the only entitlement cities in the State. So the money that goes to the State in Jefferson City began to dwindle, and they are not—the State is not getting the dollars at a level that the cities are getting anyway. So it reduces the opportunity for HUD dollars to be used in the other small towns.

So if you live in a small town, you get slapped with an event, and then you get slapped because you have to go to the State. And I think that is a problem. I think there is some kind of way FEMA and HUD, we need to work this out so that we don't discriminate against small towns, and that is exactly what is happening right now.

Can you fix that? We have 2 minutes for you to fix it.

Ms. ALBERT. As the Inspector General, I will try to talk about it in the framework of what I do.

It is interesting because Community Development Block Grants for disaster recovery actually don't go to entitlement communities, they go to—the normal funding goes to—

Mr. CLEAVER. Yes, I know that. Maybe I wasn't clear. I know it doesn't go—

Ms. ALBERT. Right.

Mr. CLEAVER. That is not the problem. The entitlement cities, they would probably go—as a former mayor, we probably would go to our rainy day fund. And if there is some housing issue, we would probably go to CDBG. So that is not what I am saying.

What I am saying is, small towns get hit, if the damage is \$5 million, they are in trouble in terms of some assistance. They have to go to the State. If they get the State money it is reducing the State pot, which was not designed just for disaster relief.

Ms. ALBERT. Right.

Mr. CLEAVER. It is for all CDBG programs, including 108 funds and everything else. So small towns get hit. Is this not—do I need to fix it some more?

Ms. ALBERT. Let me say this from the jurisdiction of HUD as it relates to FEMA. One of the things that we are advocating is actually a synthesization of more of the program, for at least HUD's perspective, as a statutory codification. And these issues could be talked about as HUD makes this a statutory program: What type of funding from CDBG should go to what areas?

So if there is an inequity between small and large and who gets more. This is sort of the problem in Puerto Rico right now, that the determination has been made that the power goes to the larger cities, and so the smaller areas are not getting it.

But these are things that Congress can get involved with it if it takes up our recommendation, which is to codify the program, put

in statute some sort of language from HUD's perspective, and then you can get those issues addressed.

Mr. CLEAVER. We are on the same page. Maybe we will get it. Thank you. I yield back.

Chairwoman WAGNER. The gentleman yields back.

The chair now recognizes the vice chair of the Oversight and Investigations Subcommittee, the gentleman from Colorado, Mr. Tipton, for 5 minutes.

Mr. TIPTON. Thank you, Madam Chair.

And thank you, Ms. Albert, for taking time to be here.

I wanted to follow up a little bit on one of the answers that you had to Chairman Wagner. You made the comment that HUD likes to see if the money was used for the intended purposes. And we have noted in the State of Colorado that you have pretty much the policy of maximum feasible deference to the State's interpretation of the statutory requirement.

Would you see a benefit, from HUD's perspective, in terms of being able to establish formal regulations for the CDBG-DR requirements? Would that be helpful to HUD in terms of executing the mission when it comes to natural disasters?

Ms. ALBERT. Absolutely. So at this juncture, after Harvey and Irma hit, we really took a sort of a lessons learned inward look, and we said this was an unprecedented time as far as disasters, three hurricanes, fires, other hurricanes coming that were also destructive, and at this time we felt we really need to assess what needs to be done for the future. Because for HUD, when I say it is a peripheral mission, I don't mean that HUD uses it as a peripheral, but it is not part of its core statute and not part of what it was founded on in its authorizing language.

And so what HUD does is it responds to supplementals per each disaster and it writes Federal Register notices, and this is because Congress hasn't directed it to do so. For instance, this happens to be Sandy's. There are 30-something Federal Register notices. There are a lot of Federal Register notices. It needs to have a codification, a core statutory mission. And in that can be described some areas that we know have been abusive and that need clarification and others where there is a need for flexibility.

So what we do tend to find is with maximum feasible deference there tends to be an overuse of it. And these are things that we would hope, as they codify and look to rulemaking, that they try to address. We do see that if you do end up codifying the CDBG program that you will formalize it, get away from these informal guidances, which sometimes are inconsistent from disaster to disaster, and will eliminate some of the delays in implementation.

The interesting point is, though, that when we did a review, we did an audit of Sandy money with the entire IG community that has been involved. The top eight IGs came together. It was surprising that HUD actually surpassed FEMA and other departments in the amount of money it disbursed. And that being so, it really at this juncture needs to codify and to accept the fact that, unfortunately, disasters are here to stay for this Department and its mission.



Mr. TIPTON. When you are talking about the money exceeding what FEMA had even spent, are you comfortable that the dollars were well-spent for the intended purpose?

Ms. ALBERT. For Sandy money, which is really the last big disaster, which is now 5 years ago almost exactly to this month, we note that of the \$15.2 billion that HUD received from Congress in the supplemental legislation, half is still unexpended.

So like I said, in the beginning it can take 6 to 8 years to redevelop, but half is a great number.

Mr. TIPTON. Yes. I believe in the State of Colorado we had \$320 million of moneys that had come in. I believe right now \$130 million has been disbursed. They are anticipating that the balance of that will be done by 2019.

I think we probably share—I have a little reluctance to try and force it because you made the comment of overuse of dollars. You don't want them to be directed where they shouldn't be going.

Can you describe maybe your idea in terms of how we get that accountability, make sure the dollars are going where they need to and are expended in an appropriate period of time?

Ms. ALBERT. So I will pick a topic that is important, although I don't seem to have a lot of time, and it is a lengthy topic. Maybe we can get it with other members.

But one of the areas that we tend to see a problem is in procurement. And procurement is a big area when you are delivering moneys out in the supplemental to the States and localities. We tend to see abuses with procurement that really need to be fixed as we go forward.

Certainly, the experience that we have all read about in the last week with Puerto Rico and the power contract that was given there highlights what IGs across the government see. I think without exception the top eight IGs that oversee this program think that procurement in contracting is probably its number 1 topic.

Mr. TIPTON. Thank you. I yield back, Chair.

Chairwoman WAGNER. The gentleman yields back.

The chair now recognizes the gentlewoman from Ohio, Mrs. Beatty, for 5 minutes.

Mrs. BEATTY. Thank you so much, Madam Chairwoman and Ranking Member.

And thank you for being here as our witness today, Ms. Albert.

We have spent a fair amount of time talking about the disasters, and I noticed in the beginning of your written testimony you acknowledge that the United States has never seen a hurricane season like the one we just experienced.

And for the audience and those who are watching, you are probably making reference to Harvey in Texas, that was a Category 4, that was in August; and then Irma, that was a Category 5, that was in September, hitting Florida, Georgia, and South Carolina; and then Maria, of course, in Puerto Rico and the Virgin Islands, Category 4 again, in September, just a couple weeks apart.

I know in part how devastating that was. Right before Maria hit in Puerto Rico, I was there about 10 days before that, having an opportunity to be there and see the beauty of that territory. And so you can imagine how devastating it was.

My executive assistant who works for me in my D.C. office, that is his home, his parents are there, his grandparents, his godfather, who is the health and human services director there and a surgeon, and they have all been devastated by this. And not to mention the Members of Congress who live in and have families in those States that have been affected by Harvey and Irma and Maria, and then, of course, Nate in Mississippi.

So where I am going with this question, when you talked about how devastating financially this is, with that said, do you think that HUD has enough resources within the Department to adequately administer the CDBG-Disaster Relief Program, in your opinion?

Ms. ALBERT. No, I don't think they have enough resources.

Mrs. BEATTY. So in your role and being part of that team, one of the questions when Secretary Carson was here a few weeks ago, as you probably are aware, that he did a minus 15 percent reduction request in his budget for this year. So one of the questions I asked him—because at that time we knew about Harvey and Irma and Maria, so if we don't have enough money, we have been devastated.

As a personal note, for me, when I look at the \$58 billion that we recently passed for Texas, I also feel there are some disparities when you start talking about how communities in Puerto Rico and the Virgin Islands are being treated with the moneys that are there.

Just this morning I had an opportunity to listen to the mayor of San Juan, and she talked a lot about infrastructure and the dollars and what they need. So if you, as a part of the team, recognize there is not enough money, I am going to be like Congressman Cleaver, you have about a minute and a half to tell me how we get the money and how we fix it.

Ms. ALBERT. I think there are certain things that can be done first. We talked about the codification, which is an authorizing issue, that is not an appropriating issue, and I think that will create some efficiencies that need to be going forward.

Along with that, once you do authorizing language, which this is the committee of authorization, so it would have to come from this committee, there will be certain aspects of it as you go to codify the program within HUD that can be discussed. Such as we really believe that there needs to be something like a jump team, like something that you see in the military and in law enforcement, where a team of HUD officials come in that are dedicated, not from all these different organizations, but that are dedicated in HUD to going into these localities as these disasters happen.

There certainly needs to be funding for this. They will be able to take some of it from their existing programs and put it into that. But if you are going to have an amalgamated team that is available to go at any minute, you will have to discuss, along with that authorization, some funding.

Mrs. BEATTY. But I am hesitant about making HUD pursue this codification in the midst of this disaster effort, because I don't know if they have enough resources to accomplish this.

My time has expired. I yield back.

Chairwoman WAGNER. The gentlelady yields back.

The chair now recognizes the gentleman from Michigan, Mr. Trott, for 5 minutes.

Mr. TROTT. Thank you, Madam Chair.

And I want to thank the witness for her time this morning.

And before I get into a few questions, I want to just respond to my friend from Texas' opening remarks regarding Secretary Carson's appearance before our committee. He was here about 4 hours. We have an awful lot of ground to cover. I would agree that we need to have him come back.

But I found his testimony and comments to be some of the more productive hearings we have had. He actually listened to the questions and did his best to respond to our questions. So I can't blame the Secretary for the problems we are discussing today necessarily.

But I think it is important we have this conversation because we are talking about a lot of money, these disasters are occurring more frequently, and it is almost inevitable that when a disaster does strike a community that the response is almost always deemed to be inadequate and too slow, certainly by the people that are affected by the disaster. So it is important.

And with respect to this program, my concern is it is so fragmented and there is a lack of accountability and a lack of transparency. And I wonder preliminarily whether the maximum feasibility deference standard really puts the Department in a position where there is no adequate way to review the States' performance.

Ms. ALBERT. Let me address the first part of your comment, which is fragmentation. I do think that the overall disaster scheme, schemata, actually, that has evolved over time with the government response has evolved in a fragmentary manner. It has evolved where programs were in the government and therefore it was siloed within those programs.

Now, for instance, FEMA, this is their mission. This is all they do. This is disaster response. It is emergency response, emergency management. But for the other departments, some of whom actually surpass FEMA in funding, such as HUD—and, believe it or not, the Department of Transportation spends more money than FEMA and gets supplemental money more than FEMA, at least for Sandy it did—these are tangential missions and so they fit within the tranches of whatever they come from.

When you discuss fragmentation, part of the issue is what happens to the homeowner when they have to go to this type of amalgamation and congealing of government agencies, and there is confusion and there are delays.

For instance, I will give you one example. When you go to a disaster recovery center that FEMA runs and you happen to be a resident who has been flooded, you will get funding from FEMA first—food, clothing, repairing your home, at least for you to live in—and then you will go to SBA, to the Small Business Administration.

There is an alphabet soup of government agencies that the residents and homeowners have no idea about. And they then meet with SBA. Now, you would think, as I did actually for the longest time until my staff actually corrected me, that if you got an SBA loan you were a small business. That is not true. You can get a homeowner loan from the Small Business Administration.

But here is the problem. If you do, you then are not available because there is a sequence that HUD comes to meet the unmet needs. You will not be able to get a grant from HUD. And a grant is not repayable.

So there are these confusions that emanate from the fragmentation of how the disaster program was set up, and they really need to be addressed going forward. That is not to say that the government hasn't gotten better at disaster response, it has, compared to—I came into HUD from the HHS IG right after 9/11, and compared to even Katrina, it is a lot different now.

However, there are real confusions and inefficiencies that really need to be streamlined and synthesized, because the homeowner suffers when that happens.

Mr. TROTT. So it was a great comment and goes to the heart of my concern with this issue as we try and codify a solution. So some poor homeowner doesn't get what they need from HUD, and they go to FEMA. FEMA says: It is not our area of responsibility, you need to call HUD, or you need to call the SBA.

And I know one thing from my days in the business world, if you have an important project or mission that is critical, you need to have someone in charge. At the end of the day, someone needs to be coordinating all of the efforts so that people can't point fingers at each other.

Would you say that is a legitimate concern as we approach this problem? Because right now, not only is the poor homeowner confused by the myriad of agencies and departments, but there is no one accountable.

Ms. ALBERT. When you are the homeowner and you go into these initial disaster recovery centers—and some of them go early. Sometimes going early, you can be penalized. Sometimes you are better off waiting. Because the system right now is not a linear system, it is actually a circuitous system. And depending where you enter can affect where you end up. And there is a lot of confusion.

So I think they have gotten better, but there needs to be more done.

Mr. TROTT. I appreciate your comments, and I am out of time. But I am interested to hear about any instances of criminality that you have discovered in the IG's office as it relates to fraud.

But thank you. I yield back.

Chairwoman WAGNER. The gentleman's time has expired.

And the chair now recognizes the gentlelady from New York, Ms. Velazquez for 5 minutes.

Ms. VELAZQUEZ. Thank you, Madam Chair.

Ms. Albert, in your answer one of the questions that Mrs. Beatty posed to you, you said that more resources are needed to HUD. What do you mean by that? Do you mean increasing additional staffing?

Ms. ALBERT. Yes. I think if you could codify this program like we are recommending—and don't forget, we have just come to this recommendation.

Ms. VELAZQUEZ. So it is good enough. So one area where we could make an improvement, in terms of your recommendations, is increasing the staffing for HUD.

Ms. ALBERT. For this area.

Ms. VELAZQUEZ. For this area.

Ms. ALBERT. Yes.

Ms. VELAZQUEZ. So I am a Puerto Rican American and all my family is in Puerto Rico. So what is happening in Puerto Rico, there is no other way to describe it. I was just there this weekend. The Puerto Rico that I know no longer exists. People are dying in Puerto Rico because there is no power being restored, 70 percent of the hospitals are operating with power generators.

So my question to you is, I am all for preventing fraud, waste, and abuse. I do not support putting people's lives at risk when natural disaster strikes just for the sake of preventing fraud and abuse. They need our assistance. The Federal Government must show up.

So do you think that failure to document or the failure to get an independent cost estimate should be justification enough to withhold CDBG-DR funds from the citizens of Puerto Rico, many of whom are facing life-threatening conditions, yes or no?

Ms. ALBERT. No. There has to be some reasonableness on any efforts—

Ms. VELAZQUEZ. But that is the reality. As of yesterday, the money from the supplemental has not been allocated to Puerto Rico or Texas or Florida because they haven't been able to make the estimates regarding Puerto Rico.

Ms. ALBERT. Right. So when HUD gets its supplemental funding, it goes through a calculation of—my understanding, we are not part of that, but from my understanding there are internal meetings on how unmet needs are. Because HUD comes after FEMA and SBA, it typically isn't there in the beginning, although it assists, but it really comes into the unmet needs. It will then make a determination based on Puerto Rico's situation on what FEMA and the other first responders, in this case SBA, would expend and what the disaster is.

But I want to explain something to you, too. I have staff down there. And I have to tell you that it was a very difficult road for us as well. Half of my organization is law enforcement and the other side are auditors, and I have a presence of both in Puerto Rico.

I spent quite a bit of time the first few weeks getting my staff water and getting them food so that they could go out and assess the damage for HUD. Because they have law enforcement vehicles, they could see what HUD was not able to see. And so they didn't have the basic necessities.

The other side of my organization in the last few weeks has been going out to nursing homes and making sure that the elderly—this is an unusual role for the HUD IG. We are doing what we have to do because it is for the public good.

So this situation is a real humanitarian crisis, and I understand that more than most because my own staff have been affected by it.

Ms. VELAZQUEZ. It is very easy to come here and make the argument that we must be the steward of taxpayers' money, but at what cost? We should not—the issue is—are we looking to the real issues when we are dealing with CDBG-DR?

We are using arguments just to cut the funding for an agency that has failed American citizens because of the lack of manpower to be able to come up with a report and the estimates that we need in order to allocate the money that will make the people of Puerto Rico whole. That is the real issue here.

Ms. ALBERT. Yes. And I agree with you, they should not be cut.

Chairwoman WAGNER. The gentlelady's time has expired.

The chair now recognizes the gentleman from Georgia, Mr. Loudermilk, for 5 minutes.

Mr. LOUDERMILK. Thank you, Madam Chair.

And thank you, Ms. Albert, for being here today.

And I appreciate the comments of my colleagues from New York. I have worked in disaster relief and recovery in a volunteer basis for many years. I can't even imagine—anybody in America imagine—the devastation that Puerto Rico is seeing today. And it is bureaucracy that is clearly in the way of getting the relief to the people. I am working with some nonprofits right now in trying to get some relief to Puerto Rico, and because of how things are stalled there, it is even hard to get that relief out there.

On the other hand, without proper oversight also costs lives. We have seen it time and time again that when the people that the funds are designated to do not receive the funds because it is diverted to another area, it costs lives as well.

This is an extreme example, but you don't have to go any further than 1993 in Mogadishu when the U.N. was providing food to those that are in need, but the warlords were intercepting that food and it was never getting to who it needed to, and it resulted in the incident we know as Black Hawk Down. So we have to find that way to put that oversight into place.

I want to make sure I understand this right. So the funds are given to a grantee, who may be a State government, a local government, a city government, et cetera. Then they can grant those funds to a subgrantee. Who might that be? What type of entity might that be?

Ms. ALBERT. There will be local agencies, developmental authorities typical—for instance, if it is in a city, typical agencies that would normally deal with economic development and other things.

Mr. LOUDERMILK. Is it ever a private entity? I know in Georgia—

Ms. ALBERT. Could be.

Mr. LOUDERMILK. It could be, lack of better term, a developer who actually builds HUD homes.

Ms. ALBERT. Could be. Uh-huh.

Mr. LOUDERMILK. And I know that you have said that the diversity of HUD projects is part of the problem. So these funds could be used for any HUD-type project, is that what I am understanding?

Ms. ALBERT. They are typically for—in a disaster they are typically—because the CDBG program is for an overarching.

Mr. LOUDERMILK. Right.

Ms. ALBERT. But this is disaster recovery. They will do home repair, economic development, infrastructure as well. This is typical of what HUD does.

But I do have to mention, though, one thing as you are talking about the money flowing down. When HUD, in the disaster recov-

ery, signs an agreement with the State or locality and then it goes to, as you said, the subgrantee, it then loses the oversight for the subgrantee because it signed the agreement with the State or the locality. Therefore, it becomes very difficult to monitor the funds when it goes to that level.

Mr. LOUDERMILK. So really the challenge is, you can monitor the grantee, but is it the grantee who is responsible to monitor the subgrantee to make sure the work is done?

Ms. ALBERT. They are.

Mr. LOUDERMILK. Are they equipped properly to do that in every case?

Ms. ALBERT. No. Not always. And so we have actually made a recommendation from our lessons learned. One of the interesting scenarios was after 9/11 when lower Manhattan was devastated. The city of New York, particularly their Department of Investigations, which is a law enforcement entity, knew that it was going to have issues with reconstruction in Lower Manhattan. It was very worried about organized crime getting involved in the construction of the World Trade Center.

And so therefore they had had a history of vendor problems and had a problem where they had these independent or integrity monitors, that they were called, inserted, if they were a large enough subgrantee, and monitoring. And then they would go back to the States and let them know, with eyes on the ground, what they were seeing.

The only issue with that is that then the State or locality gets the viewpoint of the integrity and independent monitor, but we in the IG and we in HUD lose that. So we want to make sure that if you are going to require these independent monitors, which we think are a good idea, that we at least get the benefit of knowing what problems they are seeing at the subgrantee level.

Mr. LOUDERMILK. Within the last few seconds, as we move forward to authorize this and put constraints, what else can HUD and Congress do besides the monitoring to make sure that the funds do go to those who need it and that the proper repair or—the money is used for the proper thing?

Ms. ALBERT. I think we, at our level, should have oversight of subgrantees, too. We should have some sort of tie to be able to take action if something happens.

Mr. LOUDERMILK. Thank you. I yield back.

Chairwoman WAGNER. The gentleman yields back.

And the chair now recognizes the gentleman from Florida, Mr. Crist, for 5 minutes.

Mr. CRIST. Thank you very much.

And thank you, Ms. Albert, for being here.

I would like to talk about duplication of benefits and how a well-intentioned practice can sometimes perhaps disadvantage homeowners.

As you know, FEMA is often the first place that natural disaster survivors turn for assistance. And during discussions with FEMA about the options available to them, many homeowners are encouraged to also apply through the Small Business Administration for disaster recovery loans.

Those who choose to apply, are approved for the loan, can then begin the process of rebuilding. Months later, however, that same homeowner may see his or her neighbor, who did not seek immediate assistance from the SBA, rebuilding their home with a Community Development Block Grant-Disaster Recovery grant, I should say, money that doesn't require a cost share nor needs to be paid back.

But when the homeowner first tries to get the same funding, they are denied due to duplication of benefits. Or worse, they are mistakenly approved for CDBG-Disaster Recovery, Grant-Disaster Recovery dollars, only to be audited later and forced to repay those funds. In both cases, the homeowner is rightfully upset and often feels perhaps duped by the Federal Government.

I fully agree that it is important to guard against waste. I think we all would. But this seems inherently unfair to those homeowners who seek early assistance in the rebuilding effort, often at the direction of the government.

You recommend that the Department of Housing and Urban Development generate guidance to help victims better navigate the programs available to them following a disaster. But because Community Development Block Grant-Disaster Recovery funding almost always comes after FEMA and Small Business Administration, shouldn't disaster victims be notified, made aware, if you will, of any potential duplication of benefits from FEMA and the SBA first?

Ms. ALBERT. Yes. Easy answer. This issue of the confusion for the homeowner is one that we have brought to the staff here right after Harvey and Irma, but before Maria. We know that there is confusion between particularly the SBA and HUD that needs to be deconflicted. There are inequities that come as a result.

Now, technically the reason that HUD comes after SBA is because SBA loans are supposed to go for higher income who can afford to repay; and the grants, as Ranking Member Green was talking about, are supposed to be given to low and moderate income.

That doesn't always happen. They don't always go to the intended. So you could end up with a HUD grant going to somebody who is not low and moderate income, and then the person who ended up getting the loan is disadvantaged because somebody else got a better situation than they did, which is not to have to repay the loan.

We absolutely agree that this deconfliction and seamless issue needs to be addressed as you, as the authorizing committee, go forward with how you see disaster across the government.

This is a result of what I said is the fragmentation of how the disaster program emanated, primarily after 9/11. Whoever had what function in what department ended up dealing with their program. Some of them overlapped; some of them didn't. The government has gotten better at trying to make it more of a seamless scenario. However, like I said, it is not a linear route; it is a circuitous route. And when you come into it at different aspects of it, you could be disadvantaged, and that is why I think you need to address that.

Mr. CRIST. We the Congress?



Ms. ALBERT. Yes. HUD right now deals, like I said, with it in the Federal Register, because it has never been directed in a statute. And it will look to the supplemental, and it will look to the guidance that comes from the supplemental. Sometimes it is very broad and it is very general. This is why they give the maximum feasible deference. They won't put a lot of specificity in it.

And so you will end up with the inequities that are already built into the system if you don't have at least the ground rules set out.

Mr. CRIST. So it is not in statute currently?

Ms. ALBERT. For HUD.

Mr. CRIST. Right. It is a reg?

Ms. ALBERT. It is dealt with by Federal Register notices.

Mr. CRIST. Could it be fixed there then?

Ms. ALBERT. I think that the more Federal Register notices you use, the more inconsistency you will find from disaster to disaster.

Mr. CRIST. That is unfortunate. OK. Thank you.

Chairwoman WAGNER. The gentleman's time has expired. And it is unfortunate. It is no way to govern, by Federal Register, or to have oversight.

The chair now recognizes the gentleman from Tennessee, Mr. Kustoff, for 5 minutes.

Mr. KUSTOFF. Thank you, Madam Chair.

And thank you, Ms. Albert, for being here this morning. If you could I will maybe dial it back a little bit, can you explain the role of the CDBG-DR and specifically why the program exists, considering the number of other programs designed to provide similar relief among different agencies?

Ms. ALBERT. The CDBG program, which has traditionally been the HUD program, is the preeminent Community Development Block Grant out there. So while FEMA responds to disasters and emergency management eventually they leave and it is HUD that really stays. So when you talk about the 6 to 8 years of a traditional redevelopment after a disaster, it is really HUD that is there, and that is because of the Community Development Block Grant which was set to make economic and community development.

Mr. KUSTOFF. Ms. Albert, are you familiar or can you speak to the level of coordination in disaster relief efforts between HUD, FEMA, and SBA?

Ms. ALBERT. Sure. So when a disaster initially hits, FEMA is the first in under the Stafford Act, which is the governing statute for disasters. And it will come in and it will set up a number of systems: Disaster recovery centers for residents and those affected to come into, joint operations command centers, and so forth.

And it will pull in from the Federal Government staff, which is exactly what happened to us in the beginning, because, as I said, half my organization is law enforcement. We then fell under the public safety and security and did sort of nontraditional IG roles, but we were, under the Stafford Act, required to do that. We went out and did search and rescue. We did other functions, including force protection. So that is initial.

Then, as time goes on and you get sort of past the immediate after effects, other areas start taking over, and that is really where HUD comes in. It is the long-term economic development and re-

talization of a disaster area. But in the initial stages, it is really FEMA; and depending on the various support functions, it is different departments. For instance, under public safety and security, which is called ESF 13, which you always have an acronym in the government, that is ATF that coordinates for all the Federal. And they are set up in various support functions of who takes over and what.

But that is very short-term. Eventually, there is the long-term, which is where we are at with Sandy right now, 5 years out, and it is really the CDBG that is there.

Mr. KUSTOFF. Again, along those lines, now, I will tell you I am a lawyer, was a lawyer before I was elected to Congress. And in legal terms, sometimes you talk about forum shopping, where you try to pick a court, a particular court that you think may be better inclined to handle your matters. Not that I ever did anything like that.

But do you ever see any forum shopping or venue shopping, if you will, between grantees seeking the best deal between these various agencies?

Ms. ALBERT. As a law enforcement agency, we absolutely do see fraud, and we see it in a number of different ways.

First of all, getting to the forms and you saying that you are an attorney, one of the things that we really try to insist, it doesn't always happen, but HUD has been very good when we point it out to them. We want to make sure that those forms that people sign, have the correct certifications on them that actually say that you are certifying that what you are signing for is truthful, that you are the actual homeowner and so forth. If those certifications aren't in the form, it is very difficult to prosecute later on for actual improper activities. So that is a preventative thing.

But we do see issues of fraud in a variety of different ways. You are not supposed to seek moneys to rebuild if your home is a vacation home, for instance, but yet we have people seeking moneys which were supposed to be for low and moderate income who have vacation homes and are saying that their home was destroyed and they live there year round and they are low and moderate income and so forth. Those absolutely do happen.

Mr. KUSTOFF. Thank you, Ms. Albert.

Now, I see that my time is expiring. I yield back the balance of my time, Madam Chairman.

Chairwoman WAGNER. The gentleman yields back his time.

The chair now recognizes the distinguished ranking member Mr. Green for 5 minutes.

Mr. GREEN. Thank you, Madam Chair.

Again, I would like to thank the witness for appearing. I have great respect for this witness, and I greatly appreciate what you have done in Puerto Rico. You indicated that you dispatched some of your personnel to Puerto Rico to acquire information such that HUD could react rapidly. Can you say just a little bit more about this? I think it is important for us to know.

And by the way, before you do, you don't work for HUD. I think the record needs to have a clear indication that you do not. Is that a fair statement, you don't work for HUD?

Ms. ALBERT. Yes. Inspector generals are independent entities within the executive branch, and we are actually sort of strange creatures, because we actually report to Congress. So we sit and reside in the executive branch, but we have a dual responsibility to report to Congress.

Mr. GREEN. Thank you. Now, if you would, Puerto Rico and some of the things that you have been able to accomplish.

Ms. ALBERT. So early on, with the humanitarian crisis that was happening in Puerto Rico, we sent—we had a limited staff in Puerto Rico, so, unfortunately, over the years our staff itself has gone down and so we have had to diminish some of our actual field offices, and Puerto Rico was one of them, although we still had a presence.

We were trying quickly, because we knew that HUD was not able to get around and, frankly, was having a great deal of difficulty even finding its own staff. So we would go out in the first days after Maria to try and locate HUD staff, let the Department know that its staff was OK—many of them were in shelters, they had evacuated—and just let them know that they were there and where they were. So that was the very, very beginning was actually locating people.

After that, we went into and did a variety of things. We, along with the U.S. Attorney's Office and the FBI, were part of the Viejito task force which tried to deal with the issue of hoarding, which always happens in a disaster when there is limited fuel and supplies. We went into nursing homes, Section 202 and Section 232 facilities that are HUD but others as well, to make sure that the situation that happened with Irma in Florida where the horrible nursing home situation happened didn't happen in Puerto Rico.

So we took valued water, supplies, and other things with our agents. And we had to go, unfortunately, with our agents, because we had to protect the trucks, but not only that, we had to navigate the streets, which were dangerous, with downed wires and other things, to get those things to the elderly and disabled.

Mr. GREEN. Let me intercede for just a moment, because your list is rather extensive, and I greatly appreciate all that you are saying.

Notwithstanding all that was done, and you have obviously made a Herculean effort, but notwithstanding all that is done, we can visually see that there is still great work to be done in Puerto Rico. I heard General Honore, who was in Louisiana after Katrina, literally was in charge of a good amount of the disaster recovery effort, he indicated that circumstances such as what we see in Puerto Rico might require a lot more flexibility. The accountability obviously should be there, but it might require a lot more flexibility.

Now, he used a term that I am not suggesting that we use, and I don't think he meant it literally. Maybe he did. But he said, listen, let the person who needs to make the request just write it out on a piece of paper and just send it in, because of the dire circumstances that are having to be dealt with.

At some point, in places like Puerto Rico, we have to dispatch more of our resources and we have to do it in a much more expeditious fashion. I appreciate greatly what you are trying to do to help acquire the intelligence. Somehow, we cannot leave people stranded

in the middle of the ocean, as has been called to our attention. We really have to find a way to get help in as quickly as possible.

And on that point of getting help to them, in my district we had a town meeting. And for us to explain to my constituents what was available, we had to bring in nine people, nine people to explain. And at the end, I am convinced that people were thoroughly confused after having all of this siloed information presented. It is just overwhelming. And you are trying to get back home. Your kids are at someplace where they are probably being kept by someone.

Somehow we have to do more for Puerto Rico. Can you just quickly give some indication, based on your observations, as to how we might move expeditiously?

Ms. ALBERT. So it is always a balancing act. Obviously, there is a great humanitarian crisis in Puerto Rico that exists that is unique to that area. And getting people just basic necessities—food, electricity, water—is paramount.

By the same token, we also have to look to the fact that the capacity of Puerto Rico to now take the vast amounts of billions of dollars that are going to come—that those structures that need to be set up—and they do there, because they are in bankruptcy and they have some problem agencies—need to be done quickly but done well, with good accounting principles and other things.

So that—just take the lessons learned. Disasters—you don't need to reinvent the wheel—disasters have occurred: 9/11, Katrina, Sandy. Take those lessons, make sure that you have the best of those and put it in place where you know that there will be capacity issues.

Chairwoman WAGNER. The gentleman's time has expired.

The chair now recognizes the gentlelady from New York, Ms. Tenney, for 5 minutes.

Ms. TENNEY. Thank you, Chairwoman Wagner.

And I really appreciate the inspector general, Ms. Albert, being here today to discuss and examine the Community Development Block Grant-Disaster Recovery Program, which is intended to deliver emergency help to communities and neighborhoods with limited resources post-natural disaster to help rebuild their livelihood. I just want to make that really clear. Over the last decade, the Housing and Urban Development inspector generals audited grantees, which include States and local governments, where they found many areas this program can improve on to be run more efficiently.

And I heard your testimony earlier. Obviously, I have numerous sheets of some of the work you have done, which looks very comprehensive, and some issues my colleague mentioned about some of the Sandy funding not coming out. I am really happy to report that with all the natural disasters, and it is particularly in the flooding realm, that there are none of my local communities or anyone in my district that has been reported as not getting their funding out.

But there are a couple things I just wanted to talk to you about as the inspector general, and one of them is the thresholds in determining how we get to some of the disaster aid for, especially in my community, it seems that the flooding and the natural disasters we have almost cruelly go to the poorer areas and the poorer neighborhoods, and they are the ones that need the most resources. And I have walked through the muddy streams. I have walked into cel-

lars where the basements are 5 feet of mud, and these people don't have the resources.

How do we get around—I don't want to say get around, but get to the threshold so they actually meet—some of them are dollar amounts, some are per capita. How would you recommend we actually get to some of these people who are caught without having—and especially in an area like mine where our values are much lower than, say, New York City or other areas.

Ms. ALBERT. First of all, to get to your point about that some of the poorer communities often flood this, unfortunately, is a reality. You saw it with Katrina, New Orleans. Some of the areas that have been developed that are the poorer areas were in the ninth ward, were flood zones. And this is why they flood, they were built in flood zones. We see this, unfortunately, even with public housing, that they are built, some of them, in flood zones, which gets to another issue which we have audited, which is that public housing sometimes doesn't buy flood insurance even though they are in a flood zone.

But as far as the inequities of receiving funding HUD's allocation when it gets a supplemental and it goes to CDBG-R, CDBG is formula-based, but CDBG-R is a whole different allocation. And it looks to FEMA and SBA and the first responders and it sees what unmet needs are there, and then it makes a decision based on what it has determined the destruction has been in a particular area, and then it goes into a calculation of what is the unmet need.

I think that if you feel that there are inequities—again, this is not a statutory program. So it is an interpretation by them and Federal Register over supplemental language.

Ms. TENNEY. If I may just say, one of my concerns is that our local governments have taken a lot of the burden in my region, and some of our local officials have actually become quite knowledgeable on some of the disasters, especially related to flooding.

And it seems that when the Federal Government comes in, we don't take into account their local knowledge and their ability to solve the problem. And I am wondering if that is something the inspector general can dive in and say, look, these guys know what is going on, how can we give them the opportunity to provide the solutions, and then better spend the money that is coming in.

And often we find that tens of thousands of dollars come in on projects that could have been solved—we have already studied these, we have analyzed them, and sometimes our input isn't taken into consideration. Is that something that we can do through your office or we can fix? Because it is a huge problem.

Ms. ALBERT. I think that this is an issue you can discuss when you talk about codification in an authorizing language, because typically under CDBG disaster recovery funding, it will go to the States as opposed to an entitlement community, which could be lower, a locality, which is where traditional CDBG goes.

So this inequity rises because you have different funding streams of who gets the money. And maybe this is something that you could discuss while you are dealing with your authorizing language.

Ms. TENNEY. Thank you. Because really, we do need to focus on so many of these communities. We know what we should have done, could have done. It doesn't get done. And then we have a few

years later a heavy rain, not even a major storm, and we are in catastrophic flooding again like we experienced this year in my district on July 1st. And where's the Federal Government? We are still tied up. We are still not responding the way we should be to our needy communities.

And I do thank you. My time has expired, but I thank you very much for your great testimony.

Chairwoman WAGNER. The gentlelady's time has expired.

And the chair now recognizes the gentleman from Indiana, Mr. Hollingsworth, for 5 minutes.

Mr. HOLLINGSWORTH. Good morning. Thank you so much for being here. And in addition to thanking you for being here, thank you for the hard work that you put in every day, you and your team. I know that you do that with a great amount of diligence. You can see that in your testimony here today and the way that you are thoughtfully answering questions and you are focused on ensuring not only that we do everything we can to help those that need it, but also that we do everything we can to be good, thoughtful stewards of taxpayer dollars.

From a bigger picture perspective that I wanted to ask about, what I kind of heard throughout the course of your testimony today and some of the questions my colleagues have been asking is in the event that we respond to something like this, "we" being the Federal Government, there are two big risks and concerns, right?

One is that there is a lot of overlap and duplicative work and resources that are put to the same missions. In other words, the two circles of the Venn diagram are too much overlapped, right? But then there is also another big risk, right, that those circles don't overlap at all and people fall through the cracks and aren't able to get the resources that they want.

And you and certainly the Department overall are trying to find the place where you can marry those two up at exactly the point where there is no overlap, no duplicative waste of resources, but also that no one falls through the cracks.

And so really, what I wanted to ask first was, have you encountered any challenges inside the Department in being able to execute upon your mission of ensuring that there are stewards of taxpayer dollars thinking through at each of these points? Is there anything that we need to provide you, resources or tools, to help you and your office accomplish their mission more thoroughly throughout the Department itself?

Ms. ALBERT. Thank you for that question. Nobody takes the job of an inspector general because they want to win a popularity contest. I will be honest with you. It is maybe one of the toughest jobs in government, because you are criticizing programs, but you are criticizing them in a way that you hope to make them better.

Mr. HOLLINGSWORTH. Right.

Ms. ALBERT. But, of course, the message is not always one that is well-received by many.

From the inspector general's perspective, it has been a tough road for us. Not only have we now had to deal with natural disasters, but, frankly, HUD, during the great economic crisis after 2011, was, frankly, the major entity supporting the economy through housing. I don't know if people realize that FHA became

30 percent of the mortgage industry at that point for new home sales. And when you add refinances in, it was as high as 70 percent.

Concurrently, while it has had to oversee that, for instance, I have to oversee a \$1.5 trillion FHA fund and a \$1.5 trillion Ginnie Mae remaining principal balance. That is \$3 trillion, including HUD's \$48 billion regular appropriation and \$47 billion disaster.

When Sandy started, I had 711 staff. Today, I have 574. So you can see that something gives. And while I am very proud of our organization—we have returned more than \$60 in the last few years to the government for every dollar you spend on us—there is only so much we can look at.

Mr. HOLLINGSWORTH. Is it just a question of resources or do you need more of a cultural shift or a push from Congress on how important your role is, how important auditing generally is, how important the inspector general role can be?

Ms. ALBERT. One thing I have to say about this committee, this committee has always been, as our authorizing committee, very supportive of the inspector general. We have enjoyed a great relationship as our authorizers. But I think there are more things that this committee, as an authorizing committee, could do to help maybe alleviate, and certainly in this area, not only just codification, extending our oversight to subgrantees ensuring that procurement rules are met, because we know there can be great abuse in procurement. These are really things that could help facilitate us and would actually help our dialog with the Department.

Now, I can say that I meet regularly with the Secretary. As a matter of fact, I have a meeting with him tomorrow. And he and I have had conversations about the critical juncture we are at right now and the need to do something different.

Mr. HOLLINGSWORTH. I totally agree with that. And I think that certainly maybe many people see you and your role as a problem; I see it as the key to the solution and ensuring that we accomplish the mission that we want, but also do it effectively.

My good friend and colleague that also sits on this committee, not this subcommittee, French Hill, this is a matter of passion for him as well. I know that he has done a great amount of work after Katrina, as president of the Rotary Club, Cooperative Baptist Fellowship, and ensuring that homes were rebuilt down in Louisiana.

And he was astounded to see what he felt like was a waste of resources and not long-term sustainably helping individuals build above the floodplain so they wouldn't have this issue again. And so he and I are going to continue to work together to do everything we can to support you in your role and the Department generally in accomplishing its mission, but also in being a good steward.

With that, I yield back.

Chairwoman WAGNER. The gentleman's time has expired.

I am going to take a point of privilege from the chair and recognize my good friend from Missouri, Mr. Cleaver, for a quick follow up question, please.

Mr. CLEAVER. Thank you. Let me thank you, Madam Chair, for the hearing, and thank the IG for being here.

In many ways, some of the questions, maybe the majority of the questions we ask were not what you do. We put you in the position in defending HUD.

But I want to go back to what you might be able to do. You talked about the fragmentation, which is what I was trying to talk about earlier. Again, if Mayview is hit by a disaster, Mayview, Missouri, in my district, 222 people, if we followed the law of the CDBG—I know a little bit about CDBG, so I know the requirements. If we followed the regulations, before Mayview can get Federal assistance, there is supposed to be a Presidential declaration. There has not been a Presidential declaration for any of these small towns that have had disasters.

And there is also a requirement, a HUD requirement for a community hearing. And I think you guys probably are the people that check up on this. There is supposed to be a community hearing. You are supposed to have a written notice of the hearing, and the plan is supposed to be presented. None of that happens.

We have a problem. I have seen it firsthand. I have talked about it. I don't know what we can do. Looking at your recommendations, your legislative recommendations, and maybe it is all entangled into your recommendations, but there needs to probably be some clarity.

This is a problem, and it is just a matter of time we are going to have another situation where in Biloxi, Mississippi, the ranking member and I went down there right after Katrina. They had rebuilt a yacht dock for yachts. People—downtown, the windows were still out of stores. Anyway, this is frustrating.

Thank you so much for being here.

Thank you, Madam Chair, for allowing me to follow up.

Ms. ALBERT. Can I make one point, though? You are absolutely right that for HUD, you have to have a Presidentially declared disaster zone for them to come in, traditionally, after FEMA and SBA.

FEMA can come in—I don't know if I have this title correct—when there is an emergency zone created, so that they can preposition and get in before the disaster. So like when Harvey was hitting, they would get in there before.

This is why I am recommending that HUD actually have these jump teams, so that they can get in and do what they have to. And this may be part of your authorizing languages. When does HUD come in? Does it have to wait for the declared zone.

Chairwoman WAGNER. I thank the gentleman for his secondary question. And I thank you, Ms. Albert, for your testimony today and the wonderful collaboration between your office and the Oversight and Investigation Committee here of Financial Services. I know we have varied in some of our questioning here today with you.

And knowing that Congress thus far in the 115th Congress has only authorized and appropriated, in fact, \$7.5 billion in Community Development Block Grant-Disaster Recovery funds, and they were specifically I know for Harvey and Irma. Many of us spoke today about the horrific conditions and tragedy and devastation in Puerto Rico. Knowing that there are not specific CDBG-DR funds that have been appropriated there yet, I just thank you for your



perspective on some of the ways that we can work together to reform the system.

The ranking member and I are committed to working together to come up to some of your recommendations, some of your thoughts about how we can streamline this so that in the end, this money does, in fact, reach those who need it the most and that we are—while remaining good stewards of the taxpayers' dollars.

So I thank you, Ms. Albert.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

And this hearing is now adjourned.

[Whereupon, at 12:01 p.m., the subcommittee was adjourned.]



# **A P P E N D I X**

November 1, 2017

Testimony Before the  
United States House of Representatives  
Committee on Financial Services  
Subcommittee on Oversight and  
Investigations

Reforming the Community Development Block Grant-  
Disaster Recovery Program



Testimony of  
Helen M. Albert  
Acting Inspector General  
Office of Inspector General  
U.S. Department of Housing and Urban Development

November 1, 2017

Chairman Wagner, Vice Chairman Tipton, Ranking Member Green, and Members of the Subcommittee, I am Helen M. Albert, Acting Inspector General of the U.S. Department of Housing and Urban Development (HUD). Thank you for the opportunity to highlight our perspectives on HUD's oversight of disaster assistance funding, particularly in light of the unprecedented challenges faced by this Nation to respond to the destructive hurricanes and fires that recently hit the United States. The United States has never been hit by multiple hurricanes as strong as Harvey in Texas; Irma in Florida, Georgia, South Carolina, and the U.S. Virgin Islands; Maria in Puerto Rico and the Virgin Islands; and Hurricane Nate along the coast of Mississippi in the same season in modern times. These storms have been followed by devastating wildfires in northern and southern California, which have also, like the storms, caused extensive destruction and loss of human life.

Almost immediately after Hurricane Harvey, our Office of Inspector General (OIG) staff helped to locate unaccounted for HUD employees in the affected areas, as well as providing search and rescue and first responder assistance. In one case, special agents in the Houston area used boats to rescue people stranded in their homes by flood waters (one rescuing nearly 70 individuals over 3 days). Others came in from Baton Rouge to work midnight shifts in Pasadena to feed local law enforcement responders. In another example, under the Stafford Act (Emergency Support Function 13, Public Safety and Security), a team of our special agents went to Florida to assist in providing force protection for a Disaster Medical Assistance unit, being the first Federal law enforcement Quick Response Team into the Keys to assist with medical missions.

Between Hurricanes Irma and Maria, our special agents in Puerto Rico flew by military helicopter to the Virgin Islands to assess the destroyed public housing. In Puerto Rico, our agents located HUD staff disbursed after the storm and then escorted other HUD employees as they together delivered food, water, and supplies to staff so it could be operational. Other agents, accompanied by the Federal Bureau of Investigation and local Puerto Rican law enforcement, provided security for trucks and delivered provisions to the elderly and disabled and also assessed senior housing and nursing homes for the Department. We have also provided transportation and protection to HUD officials as they conducted initial damage assessments. Currently, our auditors and agents are quickly assessing the capacity of the Puerto Rican entities that will likely receive billions of dollars in Federal assistance shortly. We are also working on capacity reviews for other areas that will be receiving disaster recovery funding. I could not be more proud of the work our OIG staff has done in these disaster-affected areas.

As just one example of exposure to the hurricane devastation, an estimated 213,000 Federal Housing Administration (FHA)-insured single-family homes in the area affected by Hurricane Harvey lacked flood insurance, although not all were damaged. A media report puts the number of homes damaged or destroyed by Hurricane Harvey at 185,000, with at least 80 percent of those lacking flood insurance. All of the islands of Puerto Rico and the U.S. Virgin Islands and the States of Florida, Georgia, South Carolina, Mississippi, Texas, and California are in the process of fully assessing the massive destruction from the hurricanes and wildfires and the recovery efforts that will be needed there. The amount of HUD funding ultimately needed to assist with recovery for these most recent disasters will be enormous. HUD's efforts to provide assistance to affected families and communities after the storms and wildfires will be essential to that recovery. Indeed, if you look to the last big hurricane, Sandy, HUD was number one in

terms of total funds disbursed. The Department will continue to have challenges for years to come in helping communities in their long-term recovery process.

### **Background**

The Department's primary mission is to create strong, sustainable, inclusive communities and quality, affordable homes for all. HUD seeks to accomplish this mission through a wide variety of housing and community development grant, subsidy, and loan programs. HUD also has responsibility for administering disaster assistance programs, a role that has expanded substantially over the years. Congress has provided supplemental appropriations through HUD's Community Development Block Grant (CDBG) program to help communities recover from both natural and man-made disasters. The CDBG program is flexible and allows CDBG Disaster Recovery (CDBG-DR) grants to address a wide range of challenges. Since 2001 (through 2016), Congress has appropriated more than \$47 billion in supplemental funding to HUD to address long-term recovery in the wake of a wide range of disasters, including the terrorist attacks of September 11, 2001; Hurricanes Katrina, Rita, and Wilma in 2005; Hurricanes Ike and Gustav and Midwest flooding in 2008; Hurricane Sandy in 2012; and Hurricane Matthew in 2016. We note that 5 years after Hurricane Sandy, approximately 50 percent of the recovery funds have not yet been spent. From 1993 through 1999, HUD disaster funding totaled less than \$1.7 billion. Historically, CDBG-DR funding was appropriated as "no year" funding and is available until spent with no time limit. This changed with Hurricane Sandy funding, which had to be obligated by the end of fiscal year 2017. However, funding for subsequent years' disasters was again appropriated as "no year" funding.

### **Management Challenges Faced by HUD in Administering Its Disaster Program**

The Department faces significant challenges in monitoring disaster program funds provided to various grantees, including States, cities, and local governments under its purview. This challenge is particularly pressing for HUD because of the limited resources to directly perform oversight, the broad nature of HUD projects, the length of time needed to complete some of these projects, the ability of the Department to waive certain program requirements, and the lack of understanding of disaster assistance grants by the grantees. HUD must ensure that the grantees complete their projects in a timely manner and that they use the funds for their intended purposes. Since HUD disaster assistance may fund a variety of recovery activities, HUD can help communities and neighborhoods that otherwise might not recover due to limited resources. However, oversight of these projects is made more difficult due to the diverse nature of HUD projects and the fact that some construction projects may take between 5 and 10 years to complete. HUD must be diligent in its oversight to ensure that grantees have identified project timelines and are keeping up with them. HUD also must ensure that grantee goals are being met and that expectations are achieved.

HUD OIG has had extensive audit and investigative experience with the Department's CDBG-DR program, most notably with grants relating to recovery after Hurricane Sandy in 2012, Hurricane Katrina in 2005, and the terrorist attacks of September 11, 2001. Over the years, HUD has gained more experience and made progress in assisting communities recovering from disasters, but it continues to face the following challenges in administering these grants:

- Ensuring that expenditures are eligible and supported.
- Certifying that grantees are following Federal procurement regulations.
- Addressing concerns that citizens encounter when seeking disaster assistance.
- Conducting consistent and sufficient monitoring efforts on disaster grants.

OIG has completed 38 audits and 4 evaluations as well as extensive investigation-related actions relating to CDBG-DR funding for Hurricane Sandy and other eligible events occurring in calendar years 2011, 2012, and 2013. We have identified \$119.6 million in ineligible or unnecessary costs, \$465 million in unsupported costs, and \$5.3 billion in funds put to better use. A number of other audits and evaluations, as well as investigative work, are currently underway. Before Hurricane Sandy, as mentioned above, OIG had extensive audit and investigative experience with the CDBG-DR program, most notably with grants relating to recovery after Hurricane Katrina, Hurricanes Ike and Gustav, and the terrorist attacks of September 11, 2001. While over the years, HUD has gained more experience and made progress in assisting communities recovering from disasters, it continues to face challenges in administering these grants.

#### **Ensuring That Expenditures Are Eligible and Supported**

HUD faces a significant management challenge to ensure that funds disbursed for disaster recovery programs are used for eligible and supported items. We have highlighted several of our reports that illustrate these challenges for HUD in administering disaster recovery programs.

- In our review of St. Tammany Parish's (Louisiana) Disaster Recovery grant program,<sup>1</sup> we determined that the Parish did not (1) support that it performed an independent cost estimate and adequate cost analyses or maintained complete procurement files; (2) maintain a complete monitoring policy and finalize and fully implement its policy to aid in detecting fraud, waste, and abuse or have an internal audit function; or (3) include all required information on its public website. As a result of these systemic deficiencies, the Parish could not provide reasonable assurance to HUD that it would properly administer, adequately safeguard, and spend its remaining \$8.67 million allocated for CDBG DR funding in accordance with requirements and paid more than \$400,000 in questioned costs.
- In our report on the City of Springfield, MA's management of its CDBG-DR grants,<sup>2</sup> we found that the City did not always properly procure vendors in accordance with Federal requirements and some payments to vendors were not adequately supported. The City also did not always properly document the duplication of benefits review in accordance with Federal requirements and City

<sup>1</sup> Audit Report 2017-FW-1004, St. Tammany Parish, Mandeville LA, Did Not Always Administer Its CDBG Disaster Recovery Grant in Accordance With HUD Requirements or as Certified, April 6, 2017

<sup>2</sup> Audit Report 2017-BO-1002, The City of Springfield, MA, Needs To Improve Its Compliance With Federal Regulations for Its Community Development Block Grant Disaster Recovery Assistance Grant, October 17, 2016

policies. As a result, HUD lacked assurance that \$1.9 million in CDBG-DR funds was provided for supported, necessary, and reasonable costs.

- In our review of the City of New York's Build it Back Single Family program,<sup>3</sup> we determined that City officials did not establish adequate controls to ensure that CDBG-DR funds were disbursed in accordance with the HUD-approved action plan and to ensure compliance with HUD's Lead Safe Housing Rule requirements. As a result, the City could not ensure that all eligible homeowners received fair and equitable treatment, and it did not show that more than \$1 million disbursed was for lead-safe homes.
- In our review of the State of Connecticut's management of its Sandy CDBG-DR grants,<sup>4</sup> we found that the State did not always comply with the requirements for its owner-occupied rehabilitation and reimbursement programs. Specific issues included that procurements were not always executed in accordance with HUD requirements, environmental reviews were not completed in accordance with requirements, and the State did not always support the low- and moderate-income national objective. As a result, more than \$2.4 million in CDBG-DR funds was ineligible, and more than \$13.5 million was unsupported.

We attributed these conditions to the grantees' weaknesses in maintaining supporting documentation, unfamiliarity with HUD rules and regulations, inadequate controls over its rehabilitation and reimbursement program, noncompliance with existing policies and procedures, and failure to follow State and Federal procurement regulations.

#### **Certifying That Disaster Grantees Are Following Federal Procurement Regulations**

We continue to have concerns about HUD's ability to ensure that disaster grantees are following Federal procurement regulations. Under Public Law 113-2, grant recipients of HUD CDBG-DR funds must provide a copy of their procurement standards and indicate the sections of their procurement standards that incorporate the Federal standards. States and their subgrantees may follow their own State and local laws, so long as their standards are "equivalent" to the applicable Federal law and standards. Further, a State is required to establish requirements for procurement policies and procedures based on full and open competition. In addition, all subgrantees of a State are subject to the procurement policies and procedures required by the State, so long as the procurements conform to applicable Federal laws and standards.

Our audits of disaster programs funded under Public Law 113-2 found CDBG procurement violations and other contracting problems. We issued 15 audit reports on disaster grantees with questioned costs totaling more than \$391.6 million related to procurement. Ten of the reports and more than \$371 million of the more than \$391.6

<sup>3</sup> Audit Report 2017-NY-1001, The City of New York, NY, Implemented Policies That Did Not Always Ensure That Community Development Block Grant Disaster Recovery Funds Were Disbursed in Accordance With Its Action Plan and Federal Requirements, November 2, 2016

<sup>4</sup> Audit Report 2017-BO-1001, The State of Connecticut, Community Development Block Grant Disaster Recovery Assistance Funds, October 12, 2016



million involved State grantees. For example, in our audit of the State of New Jersey's CDBG-DR-funded Sandy Integrated Recovery Operations and Management System,<sup>5</sup> we found that the State did not procure services and products for its disaster management system in accordance with the Federal procurement requirements in 24 CFR (Code of Federal Regulations) 85.36 (b) through (i). Specifically, the State (1) had not prepared an independent cost estimate and analysis before awarding the system contract to the only responsive bidder, (2) did not ensure that option years were awarded competitively, (3) included provisions in its request for quotation that restricted competition, and (4) did not ensure that software was purchased competitively. The State did not adopt the Federal procurement standards but certified that its standards were equivalent to the Federal procurement standards. OIG concluded that the State's certification to HUD that it had proficient procurement processes was inaccurate. HUD disagreed. To resolve the recommendations from this audit, on January 10, 2017, 1 day before her departure, HUD's then Deputy Secretary issued a memorandum stating that a State grantee that followed its procurement policy was not required to follow the Federal requirements.

In another audit of HUD's controls over its certifications of State disaster recovery grantee procurement processes,<sup>6</sup> we found that HUD did not always provide accurate and supported certifications of State disaster grantee procurement processes. Specifically, HUD (1) allowed conflicting information on its certification checklists, (2) did not ensure that required supporting documentation was included with the certification checklists, and (3) did not adequately evaluate the supporting documentation submitted by the grantees. As a result, HUD did not have assurance that State grantees had proficient procurement processes in place, and the Secretary's certifications did not meet the intent of the Disaster Relief Appropriations Act of 2013. HUD again disagreed with the recommendations in this audit. It stated that our disagreement regarding the definition of a proficient procurement process as it related to State disaster grantees and the meaning of "equivalent" as it related to a State's procurement policies and procedures being "equivalent to" or "aligned with" the Federal procurement standards was closed by the former Deputy Secretary in her January 10, 2017, decision regarding the New Jersey audit. Based on that decision, HUD believed it was appropriate to close all of the recommendations. We disagreed and referred these recommendations to the then Acting Deputy Secretary on March 31, 2017.

Although our audit reports have continued to identify a number of significant procurement issues, HUD has failed to make the substantive changes necessary to address the concerns. In fact, while HUD has revised the procurement requirements for State grantees, these revisions simply endorsed what the State grantees were already doing. For example, under Public Law 113-2, HUD considered that State grantees had a proficient procurement process in place if the State's procurement standards were equivalent to the Federal procurement standards. However, in June 2016, under Public Law 114-113, HUD considered that State grantees had a proficient procurement process

<sup>5</sup> Audit Report 2015-PH-1003, The State of New Jersey, Trenton, NJ, Community Development Block Grant Disaster Recovery-Funded Sandy Integrated Recovery Operations and Management System, June 4, 2015

<sup>6</sup> Audit Report 2016-PH-0005, HUD Certifications of State Disaster Grantee Procurement Processes, September 29, 2016

in place if the effect of the State's procurement standards was equivalent to the effect of the Federal procurement standards, meaning that the standards operate in a manner providing fair and open competition. Later, in November 2016 and January 2017, under Public Laws 114-223 and 114-245, respectively, HUD considered that State grantees had a proficient procurement process in place if the effect of the State's procurement standards was equivalent to the effect of the Federal procurement standards, meaning that the standards, while not identical, operate in a manner that provides for full and open competition. OIG disagrees with the lower procurement standards and will continue to perform audits in this area due to the concerns that we and the Inspector General community have in this particular area. OIG believes that Federal procurement is more than ensuring full and open competition. It also involves the acquisition of products and services at fair and reasonable prices.

#### **Addressing Concerns That Citizens Encounter When Seeking Disaster Assistance**

In response to a request from HUD, we identified the path and process citizens, homeowners, and businesses navigate to obtain disaster recovery assistance and the challenges and barriers they may encounter. Citizens may encounter a variety of challenges throughout the disaster assistance navigation process. These challenges include potential duplication of benefits, slow disbursement of disaster-related funding, and delays in funding for low- and moderate-income citizens. Based on our evaluation,<sup>7</sup> we identified the following challenges citizens may encounter while obtaining such assistance:

- Duplication of benefits is an inherent risk to disaster recovery funding across the government. Benefits from multiple sources of Federal aid can result in citizens' receiving funds that exceed the need for a particular recovery purpose. In these cases, citizens are responsible for repaying any duplicate benefits, which can be a burden to the citizen. A 2016 Congressional Research Service report noted duplication between the Small Business Administration (SBA) Disaster Loan Program and the CDBG-DR grant program. Another issue is that SBA disaster loans are dispersed more quickly than financial assistance from a CDBG-DR grant. As a result, it is possible for some homeowners to receive an SBA disaster loan, which would make them ineligible for a CDBG-DR grant. Therefore, homeowners who sought assistance early on are, in effect, disadvantaged because SBA loans must be repaid, while CDBG-DR grants do not have a repayment requirement.
- In some cases, the slow disbursement of funding created significant problems for citizens navigating the recovery process. For example, in October 2016, the State of New Jersey's legislative committee held a hearing in which several citizens identified problems they encountered navigating the application process at both the Federal and State levels. Almost 4 years after Hurricane Sandy, citizens complained of difficulties in rebuilding their homes while fighting foreclosure actions, being short-changed by contractors, and receiving little or no help from

<sup>7</sup> Evaluation Report 2017-OE-0002S, Navigating the Disaster Assistance Process, April 10, 2017

the State or Federal agencies disbursing funds to help them recover from the storm.

- CBDG-DR spending rates, as well as how funds were disbursed, varied significantly from State to State, creating inconsistencies in recovery efforts. In general, at least half of CDBG-DR funding must benefit low- and moderate-income (LMI) individuals and areas. HUD OIG identified instances in which a significant portion of CDBG-DR funding was not provided to LMI individuals and areas. For example, in 2016, HUD OIG issued a report on the State of Connecticut's CDBG-DR funding for Hurricane Sandy, which found that the State did not always support the LMI national objective. Such instances put low-income citizens at risk of not being able to return to a permanent home.

#### **Conducting Consistent and Sufficient Monitoring Efforts on Disaster Grants**

Another area of concern is HUD's ability to properly monitor all disaster grant recipients. Based on our fiscal year 2015 financial statement audit, we communicated to HUD that it did not always monitor disaster grants in accordance with its policies and procedures. Specifically, monitoring reports were not issued in a timely manner, and followup on monitoring findings was not performed consistently or promptly. Because of limited resources, HUD faces difficulties in performing the oversight of an aggressive monitoring schedule for Hurricane Sandy grantees. The inconsistent nature of the disaster recovery programs and HUD's intense workload continued to beset its efforts to mitigate its challenges and conduct its work in a timely manner. Since HUD disaster assistance may fund a variety of recovery activities, HUD can help communities and neighborhoods that otherwise might not recover. However, HUD must be diligent in its oversight duties to ensure that grantees have completed their projects efficiently and used the funds for their intended purposes. Untimely resolution of grantee performance and financial management issues increases the programs' susceptibility to instances of fraud, waste, abuse, and mismanagement of funds.

#### **Lessons Learned From HUD OIG Oversight**

In March 2013, we issued a comprehensive audit assessing the disaster recovery programs for hurricanes that hit the Gulf Coast States from August 2005 through September 2008.<sup>8</sup> Our objectives were to (1) determine what had been accomplished using the funding and the funds remaining to be spent; (2) compare actual versus projected performance; and (3) identify best practices, issues, and lessons to be learned.

The Gulf Coast States had made progress in recovering from the presidentially declared disasters as a result of several hurricanes. As of August 2012, the States had spent more than 87.5 percent of the available Katrina, Rita, and Wilma funds and 27.2 percent of the available Gustav and Ike funds. Thus, States had received almost \$24 billion and disbursed almost \$18.4 billion, resulting in about \$5.6 billion remaining to be spent. Further, of the total \$24 billion, the States had not budgeted about \$1.4 billion to specific programs or activities several years after receiving the

<sup>8</sup> Audit Report 2013-FW-0001, Generally, HUD's Hurricane Disaster Recovery Program Assisted the Gulf Coast States' Recovery; However, Some Program Improvements Are Needed, March 28, 2013

funds, making the need for those funds questionable. Some of the delay in budgeting funds could have been attributed to the States' revising their programs, State delays encountered due to lawsuits, or HUD's rejection of a State's action plan. The States used the funding primarily to assist communities in repairing and rebuilding housing, compensating homeowners, repairing infrastructure damage, and providing economic development. The States could improve on reporting their activities, as some of their activities had no or nominal progress reported because they did not generally report their progress until the projects were complete. In addition, while the States generally met the various statutory mandates, at the time of the audit, Texas and Louisiana had not yet met two mandates relating to (1) repairing, rehabilitating, and reconstructing affordable rental housing stock and (2) benefiting low- and moderate-income persons.

Although the States had made progress, based on our prior audits and a review of the program's data, there have been some lessons to be learned regarding deadlines, program guidance, information system technology acquisitions, procurements, and homeowners' insurance. While HUD was receptive to many of our recommendations and has made some changes, we continue to have concerns, most notably with the ability of grantees to spend funds in a timely manner. More than 4 years have passed since our report, and significant funds from these disasters remain unspent (\$494.5 million in Katrina, Rita, and Wilma funds and \$852.3 million of the available Gustav and Ike funds). Moreover, more than 10 percent, or \$364 million, of HUD funding relating to the terrorist attacks of September 11, 2001, remains unspent 16 years after that disaster. While placing a time limit on the Hurricane Sandy funding, HUD intends to grant extensions that will extend the expenditure deadline to the end of fiscal year 2022.

#### **Fraud Schemes Encountered by HUD OIG's Investigative Efforts Relating to Hurricanes Katrina and Sandy**

In addition to our audits and evaluations as highlighted above, our office has devoted considerable resources to investigate criminal activity that ultimately occurs following disasters and the expenditure of funds. Following Hurricanes Katrina and Sandy, Congress recognized the need for dedicated oversight and investigative resources targeting HUD's postdisaster and reconstruction efforts. OIG investigations identified unscrupulous contractors and individuals preying on a public that was eager to rebuild, only to be taken advantage of and further traumatized. Other investigations show homeowners and landlords involved in problematic activities. The following is a compilation of the most prevalent fraud schemes identified by OIG criminal investigators during these two catastrophic events:

- Restoration contractors defrauding the public by not completing the work they were contracted to accomplish.
- Unscrupulous contractors defrauding homeowners out of disaster assistance targeted for rebuilding, resulting in the homeowners being victimized twice.
- Public corruption connected to State and local officials and contractors performing work.
- Homeowners fraudulently identifying vacation homes or investment properties as their primary residence and receiving individual disaster grants.
- Homeowners falsely reporting damage to properties that did not sustain damage and receiving individual disaster grants.

- Landlords collecting dual payments from HUD- and Federal Emergency Management Agency (FEMA)-subsidized rental assistance programs.
- Sale of the property before the receipt of the homeowner assistance grant.

#### **Collaboration With Other OIGs**

In view of the significance of funding to multiple agencies to address Hurricane Sandy, HUD OIG led a joint cross-cutting review with seven other OIGs<sup>9</sup> to assess participating Federal entities' funding, expenditures, and monitoring. Our objective was to identify common concerns and make recommendations to improve oversight, enhance collaboration, and report on best practices.

The Disaster Relief Appropriations Act, 2013, allocated \$50.5 billion to 19 Federal agencies to aid in the recovery from Hurricane Sandy and other disasters. Of the 19 agencies, 8 OIGs participated in the Council of the Inspectors General on Integrity and Efficiency (CIGIE) cross-cutting disaster relief review. Congress allocated \$46.5 billion of the \$50.5 billion to these eight agencies.

We found that the eight agencies had made progress in budgeting, obligating, and spending their allocated funds. However, the agencies' progress varied as they had spent only \$15 billion, as of the time of the review, of the \$46.5 billion allocated. In addition, seven of the eight agencies requested and received waivers from the Office of Management and Budget for significant amounts of their funding, which extended their expenditure deadlines. The eight OIGs and agencies monitored their disaster relief funds and activities, but the extent and type of monitoring varied. The review also identified observations and common concerns regarding contracting issues, the significant risk of duplicate assistance, and OIG oversight funding. Further, the review made suggestions for and noted best practices concerning the need to increase coordination, data matching, and the use of analytical tools.

We recommended that CIGIE and the OIGs work with Congress and the agencies to ensure that the remaining funds are budgeted, obligated, and spent in a timely manner. We also recommended that CIGIE work with the agencies and Congress to ensure that the agencies, grantees, and contractors comply with Federal contracting requirements; the various OIGs continue to collaborate to identify and address areas of potential duplication; CIGIE and the OIGs work with Congress to ensure that each OIG receives oversight funding separate from its agency for future disaster relief allocations; and the OIGs' oversight funding does not expire before the agencies and their grantees spent all of their funds.

HUD OIG is partnering in two organizations with CIGIE as it reactivates the Disaster Assistance Working Group (DAWG). The DAWG is chaired by the U.S. Department of Homeland Security Inspector General, who has asked HUD OIG to chair the Investigations and Audit subcommittee groups. This working group, initially established after Hurricane Katrina, serves to coordinate

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<sup>9</sup> In addition to HUD OIG, OIGs from the following agencies are participating: U.S. Department of Homeland Security, U.S. Department of Health and Human Services, U.S. Department of Defense, U.S. Department of the Interior, U.S. Department of Transportation, Small Business Administration, and Environmental Protection Agency. Audit Report 2016-FW-1007, Disaster Relief Appropriations Act 2013, Financial Status, Observations and Concerns, September 12, 2016

and deconflict Inspector General audit, inspection, and investigative activities. Membership is composed of all those Inspectors General whose agencies will be involved in the response and recovery efforts. Given the size, magnitude, and geographical impact of Harvey, Irma, and Maria, coordination with Federal, State, local, and tribal audit activities will be critical in order to provide a broad, yet comprehensive, examination of all phases of response to these storms. The working group will give a forum to provide joint coordination of Inspectors General activities involved with the response and recovery work. It will also enable all OIGs to jointly develop strategies, coordinate efforts, and speak with a unified voice to our stakeholders.

The National Center for Disaster Fraud (NCDF) is the national coordinating body that has responsibility for the intake of disaster fraud complaints and seeks to improve and further the detection, prevention, investigation, and prosecution of fraud related to natural and man-made disasters and to advocate for the victims of such fraud. The NCDF, located in Baton Rouge, LA, reports to the Criminal Division within the U.S. Department of Justice and has been identified by the Deputy Attorney General as the entity and mechanism for receiving disaster-related allegations and complaints. HUD OIG has been involved with this group since its inception following Hurricane Katrina. HUD OIG has opted to have the NCDF refer possible cases involving HUD fraud to our HUD OIG hotline. The hotline will then be responsible for disseminating those referrals to the respective OIG components for further analysis and investigation.

#### **Duplicate Assistance**

Federal law requires that no person receiving Federal financial assistance receive funds for any part of a loss already paid for by insurance or any other source. FEMA regulations require Federal agencies to cooperate to prevent and rectify duplication of benefits. HUD's disaster recovery grants follow FEMA and SBA programs in the designated sequence of Federal disaster assistance. For example, if a homeowner takes out an SBA loan to rebuild after a disaster, that person cannot also receive a disaster recovery grant from HUD.

HUD OIG is now better positioned to assist the Department in looking for instances of duplicate disaster payments with the enactment of the Inspector General Empowerment Act. That recently passed legislation allows Federal OIGs to conduct data matching more quickly and with fewer restrictions to identify improper payments. OIG offers the following observations and recommendations, which can help HUD avoid duplication of benefits:

- HUD should develop guidance that helps the public understand its options for assistance between HUD grants and SBA loans and how to comply with Federal requirements.
- HUD needs to enhance its coordination with other agencies, such as FEMA and SBA, to avoid duplicating assistance.
- HUD should collect information on applicants for disaster recovery grants from grantees so it can check for duplication of assistance and fraudulent activities.
- HUD needs to ensure that its Disaster Information System can identify when duplicate assistance or ineligible assistance has been given, but HUD should be proactive to prevent such instances.
- If agencies give disaster assistance based on addresses, HUD should verify that only one grant is given per address.

### **Recommended Legislative or Regulatory Changes**

Based upon our years of experience in auditing, investigating, and evaluating HUD disaster assistance programs and upon our many work products, we offer the following recommendations for consideration:

HUD has become a primary provider of disaster assistance funding, but it has not formally codified its disaster recovery program since it has not been directed to do so. Instead, it currently uses more than 60 Federal Register notices to issue clarifying guidance, waivers, and alternative requirements to both its Entitlement and State CDBG programs to oversee 113 active disaster recovery grants that have totaled more than \$47 billion. Codifying a single disaster recovery program would ensure that a permanent formal framework is in place for future disasters, reduce the volume of Federal Register notices used and other informal forms of guidance for each disaster, and mitigate time delays in implementing assistance for future disasters.

HUD should work with Congress to include Federal financial management and Federal procurement requirements in its disaster recovery grant requirements to help strengthen and standardize procurements for all recipients receiving disaster recovery funding.

HUD should work with Congress and SBA to ensure that there is a clear and established order of funding priority for recipients (such as where they should go first in order not to impact their ability to get other funding) to ensure that disaster assistance funds are distributed in a fair and equitable manner.

HUD needs to address the issue of casualty insurance for homes assisted with disaster recovery funds to ensure that the Federal funds invested are protected. The States' requirements for homeowner casualty insurance vary from no requirement to strong requirements (such as a transferrable covenant that requires insurance at all times or a requirement to sign an agreement that if the homeowner did not maintain insurance he or she would not be able to obtain future assistance).

HUD should work with Congress and suggest reasonable deadlines for future disaster recovery funds. According to HUD, disaster recovery activities are largely completed after approximately 6 years, yet as noted previously, substantial funds have remained unspent for much longer periods. Alternatively, it may want to consider ways to potentially recover some of the funds, particularly those that have remained unspent for a significant time.

Consideration should be given to requiring grantees to adopt Federal procurement standards, as provided in 2 CFR 200.318 through 200.326,<sup>10</sup> and not "equivalent" standards.

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<sup>10</sup> Before December 26, 2014, the relevant procurement requirements were in 24 CFR 85.36. HUD has since transitioned its uniform administrative requirements, cost principles, and audit requirements for Federal awards to 2 CFR Part 200.

Grantees should ensure that all recipients of HUD disaster funds provide certifications acceptable to the Department that the recipients are eligible to receive the funds and will comply with Federal grant requirements.

Subgrantees administering HUD disaster funds should be required to certify that they participated in training related to HUD grant obligations when submitting applications for subgrants.

### Timeliness of Expenditures

Below is a chart representing disaster recovery funding (as of September 2017), showing available funds still unspent from past disasters from 2001 post-9/11 funding through the 2016 hurricanes, tornados, and flooding:

Disaster Event	Years Occurred	Number of Grants	Total Amount of Grants	Unexpended Grant Amount
Terrorist Attacks of September 11, 2001	2001	3	\$ 3,483,000,000	\$ 364,710,339
Hurricanes Katrina, Rita, and Wilma	2005	6	\$ 19,319,892,908	\$ 494,549,886
Hurricanes Ike and Gustav, and Severe Storms and Flooding	2008	14	\$ 6,108,258,785	\$ 852,272,422
Severe Storms, Tornados, and Flooding	2008	6	\$ 278,416,318	\$ 12,513,160
Severe Storms and Flooding	2010	23	\$ 474,020,676	\$ 191,067,973
Hurricane Irene and Severe Storms, Tornados, and Flooding	2011	1	\$ 24,697,966	\$ 833,324
Hurricanes Irene, Isaac, and Sandy, and Severe Storms and Flooding	2011-2013	47	\$ 15,180,999,750	\$ 7,096,344,335
Hurricanes Joaquin and Patricia, and Severe Storms, Tornados, and Flooding	2015	7	\$ 299,000,000	\$ 278,704,651
Hurricanes Hermine and Matthew, and Severe Storms, Tornados, and Flooding	2016	6	\$ 2,305,976,000	\$ 2,275,436,313
<b>Total</b>		<b>113</b>	<b>\$ 47,474,262,402</b>	<b>\$ 11,566,432,402</b>

In our experience, the further out the funds are spent, the greater the potential for waivers and action plan revisions that may not meet the original intended goals of the program. One such example is the decision to provide a waiver to pay university professors stipends to stay in Louisiana post-Katrina, 2 years after the storm hit, and classifying it as an urgent need activity. Another example is in Harrison County, MS, where more than \$9.6 million in disaster funds was approved for a sewer facility based on an emergency requirement, when the facility did not meet the definition of an emergency requirement. Essentially, a sewer system was built for an undeveloped area with the idea "if we build it they will come." Unfortunately, it did not succeed, and it was not an emergency requirement.

A key example of potential issues with HUD's use of waivers is found in our work reviewing the Louisiana Road Home Elevation Program. We performed two evaluations of the State of Louisiana's Road Home Elevation Incentive Program in 2010 and a followup review in 2012. This review showcased a situation in which HUD waived the program requirements and then retroactively approved the State's amended action plan after the fact when deficiencies were identified. The initial review's objective was to determine whether homeowners used funds to elevate their homes as set out in their grant agreements. The review found that 79 percent of the homes we inspected in our sample had not been elevated, strongly suggesting that the grant program was at risk and could fail to achieve its intended goal of reducing homeowner flood risks from future hurricanes. Our followup review 2 years later in 2012 found that the State did not have conclusive evidence that approximately \$698.5 million in CDBG-DR funds provided to 24,000 homeowners had been used to elevate homes. As an example of a departmental practice



to minimize or eliminate original program requirements, HUD approved the State's Amendment 60 on July 26, 2013, which retroactively allowed homeowners who received a grant under the Road Home program to prove that they used those funds to "either elevate or rehabilitate" their home, although the grant was specifically intended for elevation only. The amendment is contrary to the elevation incentive agreement, which stated that the funds were intended to assist homeowners only to elevate their homes. If the funds were not used for this sole purpose, they were to be repaid to the State.

In August 2015, HUD again unilaterally waived the Road Home program requirements. Specifically, HUD, after allowing rehabilitation or elevation, changed its 2013 documentation requirement for rehabilitation expenses to permit an affidavit by the homeowner and a "valuation inspection" by the State to determine the value of home repairs that were previously performed. This waiver of requirements was due to the fact that HUD was still having difficulty acquiring documentation from homeowners as proof of repair. This new approach did not consider whether recipients previously received grants or insurance funds for rehabilitation and could have resulted in a duplication of benefits. While Congress provided considerable flexibility in the use of CDBG-DR funds, it specifically required HUD to establish procedures that prevented duplication of benefits. HUD had not properly enforced the intent of the Road Home program, instead opting to change the rules ex post facto so that violations could potentially be excused and the necessity for recapturing the funds would be eliminated.

We have seen multiple examples in which grantees have made numerous action plan changes with HUD's approval. For example, the State of Louisiana has had 66 amendments to its action plan for Hurricanes Katrina and Rita, and New York has had 17 amendments for Hurricane Sandy. Our concern is that at the end of the grant, the results may not match the initial action plan and in some cases, may not match the purpose of the program. While flexibility is important to be able to address a large-scale problem, this flexibility can be particularly problematic as the funds age in the unspent category and ways are devised to spend the remaining funds.

The Department's actions and retreat from its position and the original intent of the approved State action plans diminishes its ability to properly administer grant agreements and provide proper oversight and enforcement when needed and lessens the affected homeowners' trust and confidence that the highest standards of efficiency and fairness are maintained in the grant award process.

#### **OIG Collaboration With HUD's Office of Community Planning and Development**

Recently, OIG and HUD's Office of Community Planning and Development began a joint collaboration to assist grantees and subgrantees in the areas in which OIG reported that they were most vulnerable. The work group determined that assistance should be provided in the following areas: procurement and contracting, subrecipient oversight, conflicts of interest, internal controls, documentation and reporting, and financial management. In addition, the former Inspector General last year coauthored a joint letter with the former Principal Assistant Secretary to State and local governments, communicating our effort to encourage efficient operations and effective accountability for the best use of limited resources. We also developed a series of "integrity bulletins" aimed at providing the grantees and subgrantees with information

to help safeguard program funds and ensure that communities get the full benefit of awarded funding. The bulletins were sent to grantees and subgrantees during fiscal years 2016 and 2017 and are posted on our website at [www.hudoig.gov/fraud-prevention](http://www.hudoig.gov/fraud-prevention).

In addition, we have recently posted to our website a fraud alert that we issued with the Department on ways to avoid disaster scams and fraud schemes for those homeowners affected by Hurricanes Harvey, Irma, and Maria (attached at the end of the testimony). This alert lists ways in which individuals can protect themselves from unscrupulous entities that prey on victims and where to go and whom to contact if a homeowner has questions or concerns.

### **Conclusion**

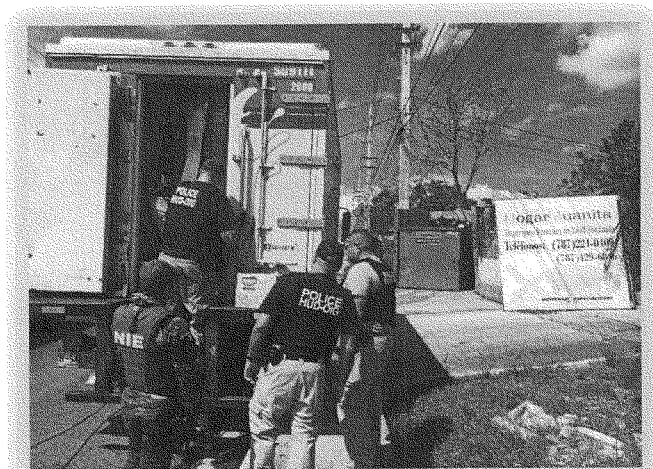
The Department's role has greatly increased over the last 15 years as it has had to deal with unanticipated disasters and significant economic crises that, in addition to its other missions, have increased its visibility and reaffirmed its vital role in providing services that impact the lives of our citizens. Because of the limited capability of the Department to provide direct oversight and Federal budget limitations throughout the government, it is also critically important that program participants and beneficiaries take responsibility for the proper oversight of their programs. My office is strongly committed to working with the Department and Congress to ensure that the CDBG-DR program operates efficiently and effectively and as intended for the benefit of the American taxpayers now and into the future.




*HUD OIG special agents joined other members of the law enforcement community in rescuing survivors of Hurricane Harvey in Texas.*



*HUD OIG special agents conducted a preliminary damage assessment of the Virgin Islands Housing Authority, Estate Tutu Apartments, St. Thomas, U.S. Virgin Islands. This image displays damage post-Hurricane Irma and pre Hurricane Maria.*



*HUD OIG special agents provided protection for trucks bound for the elderly and disabled in Puerto Rico and delivered food, water, and supplies to a nursing home in the aftermath of Hurricane Maria.*



**Integrity Bulletin**  
U.S. Department of Housing and Urban Development  
Office of Inspector General

September 2017

## FRAUD ALERT: Harvey, Irma, and Maria Disaster Scams

The U.S. Department of Housing and Urban Development (HUD) and HUD Office of Inspector General (OIG) warns everyone affected by Hurricanes Harvey, Irma, and Maria to be alert for fraud schemes that commonly occur following a disaster. You need to protect yourself from fraudsters who will take advantage of the confusing nature of information after a major disaster.

**Watch out for scam housing inspectors.** Fraudsters may impersonate inspectors from the Federal Emergency Management Agency (FEMA) or the Small Business Administration. These imposters may ask for banking information, ask for money for fees, or attempt to steer you to a certain repair firm. Others may seek personal information they will use to steal your identity.

**Protect yourself**

- ✓ Real inspectors already have your nine digit registration number and other personal information and will not need to ask for it.
- ✓ Inspectors document the damage to your home; they do not arrange or suggest repairs.
- ✓ Always ask to see government identification before you share information.

**Watch out for scam contractors.** There will be scam contractors rushing to take advantage of homeowners. These scammers often ask for large upfront payments and then do shoddy work or disappear altogether. Because these fly-by-night contractors are not local, you will have no way to find them later if they do not perform the work promised. They have no permanent address, and they do not answer phone calls. Some scammers may low ball their bid and add charges once you have signed a contract.

**Protect yourself:**

- ✓ Only hire contractors for whom you can get references.
  - ✓ In Florida, a general contractor must be licensed to bid on a job, so you can search online <https://www.myfloridalicense.com/wf11.asp?mode=1&SID=&brd=&typ=&lf=&lf=&lf=> if they have a license.
  - ✓ Texas does not license general contractors, only some specialties like electrical, plumbing, and heating and air conditioning. Also, in Texas general contractors do not have to carry liability insurance or have worker's compensation. Ask to see their coverage. If they are not an established local contractor ask to take a photo of the contractor's driver's license, contractor's license, or other photo ID.

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- ✓ Be very suspicious of contractors knocking on your door seeking work. This is a common approach used by unestablished companies. They often demand that you pay the entire amount upfront, saying they need to buy materials. Negotiate to buy the materials yourself. If they won't agree, walk away from the deal.
- ✓ Be suspicious if contractors won't provide a written contract and say they trust your handshake. Always have a written contract that spells out the exact work to be done and a payment schedule that isn't based on time but rather the percentage of work that is done satisfactorily.
- ✓ Get all job changes in writing. Usually job changes mean more cost to the homeowner, so be cautious before agreeing to any changes. If you accept the contractor's explanation of why the problem and cost were missed originally, make sure you receive an amended contract or a work order that you and the contractor sign. The work order should describe the problem, the solution, the cost of labor and materials, and a revised payment schedule.
- ✓ Be suspicious if a contractor tells you building permits are not needed or that the city has waived them for the disaster. Ensure that your contractor obtains needed building permits and that the city conducts any required interim and final inspections on the contractor's work. Call your local building department or planning office to verify what permits you need.
- ✓ Be suspicious if it is a one-time offer, available only today, or a special deal on materials leftover from another job. These are pressure tactics to get you into the deal.
- ✓ Be suspicious of very high bids. Scammers will claim that disaster-related costs are going to be high. Always get another bid or two to protect against overpricing. Although you are eager to get someone in to start repairs, taking the time to protect yourself may save you a lot of money and frustration in the long run.

**Watch out for fake relief programs.** Be suspicious of scammers claiming to be from the government or other relief agencies. Fake officials will ask for application payments or fees to release grants or loans to you. Be suspicious of online charities or door-to-door solicitations. *Hundreds of new websites added the week before Harvey struck are associated with potentially bogus relief efforts.* These sites are not regulated, and it's hard to know which are real and which may be scams.

**Protect yourself**

- ✓ Government agencies do not charge for applications.
- ✓ Knowing that Federal and State employees do not ask for or accept money.
- ✓ Always asking to see the identification cards of those claiming to be with government agencies.

- ✓ Check out charities before donating. If you are unsure of a charity's legitimacy check it out at Charity Navigator, Charity Watch, and Give.org.

**Watch out for flooded cars for resale.** If you or someone you know lost a car to flooding and are in a hurry to replace it, beware of scammers who may clean up previously flooded cars and try to resell them.

**Protect yourself**

- ✓ Enter the vehicle identification number at VINCheck. This a free service from the National Insurance Crime Bureau that could reveal a vehicle's flood damage and previous ownership from a flood location. Carfax and AutoCheck are also good sources.
- ✓ Do your own investigation!
  - ✓ Musty smells indicate mildew is still present.
  - ✓ Overpowering fragrances suggest that the seller may be hiding something suspicious.
  - ✓ Watch out for carpeting that looks too new, is discolored, or has water stains.
  - ✓ Test electrical systems, check for water in lamps and gauges, and look for silt in air vents and other hard to clean places in the car.

*If you suspect any frauds mentioned above, call the FEMA Disaster Fraud Hotline at 866-720-5721.*

*If you are a victim, suspect a home repair scam, are contacted for unsolicited information, or believe a business is practicing price gouging, call*

- *the Office of the Texas Attorney General at 800-252-8011 or*
- *the Florida Attorney General Fraud Hotline: 866-966-7226.*

**Watch out for mortgage rescue scams.** Hundreds of thousands of federally-insured homes have been damaged and some may not have flood insurance. Because many homeowners may have a temporary or permanent loss of income due to the disasters, they may find it hard to make their mortgage payments. In efforts to avoid foreclosures on their homes, these survivors may be targeted for foreclosure or loan modification rescue scams.

**Protect yourself**

- ✓ Be aware that federally-insured mortgages in the disaster areas are subject to a 90-day foreclosure moratorium following a disaster.
- ✓ Be suspicious of companies claiming that they can help you avoid foreclosure or get you a loan modification. They usually charge you a large fee and disappear with your money.
- ✓ Contact your mortgage company to determine options if your home does not have flood insurance or if you are having problems keeping up with mortgage payments

- ✓ If you have a mortgage, talk with your loan servicer immediately. If you cannot reach a loan servicer, call a [HUD counselor](https://www.hud.gov/offices/hsg/sfh/hcc/fo/) about your options. Click or use this link (<https://www.hud.gov/offices/hsg/sfh/hcc/fo/>). You may be eligible to have your mortgage payment suspended for 12 months with no penalty at the end of that time.
- ✓ Call your hazard or homeowners insurance company. It is important to start the paperwork for any coverage you may have.
- ✓ Finally, call FEMA and apply for disaster aid. They have several resources to help. Call 800-621-3362 or visit [disasterassistance.gov](https://www.fema.gov/disasterassistance).

Don't Be Persuaded to Commit Fraud Yourself. As government aid is released, you may have others tell you it is okay to misrepresent your eligibility or misuse the funds you receive.

#### Protect yourself

- ✓ Only apply for aid you are eligible to receive.
- ✓ Do not try to claim a vacation or rental home as a permanent residence.
- ✓ Do not claim damages that were preexisting.
- ✓ Do not apply for duplicate benefits (such as rental vouchers or repair funds) from different government agencies.
- ✓ Do not use repair or elevation funds received for other purposes.
- ✓ If you received federal assistance for previous disasters, and did not maintain flood insurance as required afterwards, you might not be eligible for additional relief.

Violators trying to defraud aid programs will face prison time and/or fines. Be a part of the solution. Don't defraud deserving people of their share, and if you see someone scheming on other people's misfortune, report it.

#### If you suspect fraud, call or write the HUD OIG hotline.

**EMAIL:** [hotline@hud.oig.gov](mailto:hotline@hud.oig.gov)  
**CALL:** 1-800-347-3735  
**FAX:** 202-708-4829  
**WRITE:** HUD Inspector General Hotline (GFI)  
 451 7th Street SW  
 Washington, DC 20410



COMMITTEE ON  
FINANCIAL SERVICES  
RANKING MEMBER  
SUBCOMMITTEE ON  
OVERSIGHT AND INVESTIGATION

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-4309**

November 7, 2017

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The Honorable Jeb Hensarling, Chairman  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Hensarling:

I am writing to respectfully request that the U.S. Department of Housing and Urban Development (HUD) Secretary Ben Carson appear before the Committee on Financial Services (the Committee) immediately to discuss current disaster recovery efforts. As you know, Hurricanes Harvey, Irma, and Maria have devastated communities in Texas, Florida, Puerto Rico, the U.S. Virgin Islands, Georgia and South Carolina. These hurricanes caused extensive damage and destruction to the housing stock in certain impacted areas, as well as to critical infrastructure and community services.

While this Committee recently held a hearing in the Oversight & Investigations Subcommittee on HUD's main disaster recovery program, the Community Development Block Grant Disaster Recovery (CDBG-DR) program, that hearing was solely focused retrospectively on past disasters and left little opportunity to examine existing needs of disaster-impacted communities from the 2017 hurricane season. Further, Secretary Carson's recent appearance before the Committee was not solely focused on current disaster recovery needs, leaving many important questions unanswered. It is extremely important that this Committee hear directly from Secretary Carson about the actions of his department to date in supporting the needs of disaster victims, as well as his vision for long-term recovery efforts for disaster-impacted communities through the administration of the Community Development Block Grant-Disaster Recovery (CDBG-DR) program.

Hurricane Harvey was a Category 4 storm that hit Texas on August 25, 2017. Harvey caused widespread flooding along the southeastern coast of Texas, including Houston, the fifth largest metropolitan area in the country. Harvey resulted in the deaths of over 80 people, displaced more than one million people, and damaged roughly 200,000 homes in a path stretching for more than 300 miles. Hurricane Irma was a Category 5 storm that skirted Puerto Rico on September 7, 2017, weakened slightly to a Category 4 storm as it hit Florida on September 10, 2017. It also

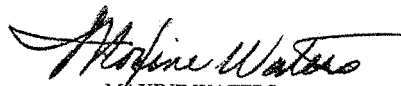
hit Georgia and South Carolina in the following days, causing severe flooding and several deaths. Irma left one million people in Puerto Rico without power. Hurricane Maria was a Category 4 storm that hit Puerto Rico and the U.S. Virgin Islands on September 20, 2017, just 13 days after Irma. Maria has been devastating to Puerto Rico and the U.S.V.I. The storm knocked out power to most of Puerto Rico and caused massive power outages in the U.S. Virgin Islands as well. Many residents are still without housing, and are at risk of death as food and water supplies run low.


Housing is one of the most important resources that is lost during natural disasters. Without it, communities are unable to recover from these catastrophes. Some of the issues that are of interest to the American people that can be addressed by Secretary Carson include:

- The current state of the housing stock, both public and private, in disaster-stricken areas such as Texas, Florida, Puerto Rico, the U.S. Virgin Islands, Georgia and South Carolina;
- Immediate and long-term plans to assist those who are affected by the loss of housing in these affected areas;
- Plans for adequately protecting the housing of seniors and persons with disabilities;
- What waivers HUD is considering in the CDBG-DR program, including whether and to what extent the Department is considering lowering the requirement to serve low and moderate income (LMI) households;
- Plans for providing assistance to homeless persons who are impacted by a natural disaster;
- Options for mid- and long-term housing for victims after a natural disaster; and
- Construction standards required for public housing in areas with a history of severe weather or fires.

Secretary Carson has information that is essential to our continuing effort to support the individuals and families who lost their homes due to natural disasters this year. Given that millions of people were affected by these storms alone, it is important that the Committee exercise its oversight responsibility and conduct hearings on these major events. Thank you for your attention to this matter, and I look forward to your prompt response to this request.

Sincerely,

  
MAXINE WATERS  
Member of Congress

  
AL GREEN  
Member of Congress

**Oversight and Investigation**  
**Community Development Block Grant-Disaster Recovery Program**  
**Witness: Acting IG-HUD, Helen Albert**  
**November 1, 2017**  
**Rep. Ann Wagner**

Questions for the Record:

1. Ms. Albert, how do the various agencies providing federal assistance coordinate their efforts so that their funding isn't duplicated? For instance, how does HUD know whether SBA provided assistance so that it does not duplicate funding?

FEMA is tasked under the Stafford Act with coordinating federal assistance. (44 CFR Part 206). This includes issuing mission assignments, also called "mission directives" to each relevant agency. These are work orders issued to a Federal agency by the Regional Administrator, Assistant Administrator for the Disaster Operations Directorate, or Administrator, directing completion by that agency of a specified task and citing funding, other managerial controls, and guidance. FEMA regulation, 44 CFR 206.191, which implements the duplication of benefits section of the Stafford Act, establishes policies and procedural guidance to ensure uniformity in preventing duplication of benefits. The regulation includes a "delivery sequence" for the delivery of disaster assistance provided by certain Federal agencies and organizations. According to the regulation, the agency or organization that is lower in the delivery sequence should not provide assistance that duplicates assistance provided by a higher level agency or organization. Both FEMA's Regional Administrator and its designated Federal Coordinating Official (CFO) are charged with coordinating all Federal Agency Disaster Relief.

In addition, each effected agency was required to adopt procedures, guidance and/or regulations that are consistent with FEMA's. In this regard, SBA regulation, 13 CFR 123.101(c), states that applicants are not eligible for a home disaster loan if their damaged property can be repaired or replaced with the proceeds of insurance, gifts or other compensation. These amounts must either be deducted from the amount of the claimed losses or, if received after SBA has approved and disbursed a loan, must be paid to SBA as principal payments on their loans.

Guidance provided on HUD's website instructs that grantees could use the CDBG funds for housing, economic development, infrastructure and the prevention of further damage to affected areas, if such use did not duplicate funding available from FEMA, SBA, and the U.S. Army Corps of Engineers. HUD's policy on its place in the hierarchy of disaster benefits is contained in a Federal Register Notice 76 FR 71060. HUD's policy notes that the hierarchy is based on which agency has the primary responsibility for providing assistance following a disaster, not which agency actually delivers the assistance first. While HUD CDBG-DR funds are not specifically referenced in the FEMA regulation, HUD CDBG-DR funding generally comes after FEMA and SBA funding in the sequence. HUD policy further notes that CDBG

disaster recovery provides long term recovery assistance via supplemental congressional appropriations and falls lower in the hierarchy of delivery than FEMA or SBA assistance. The Notice further provides that it is intended to supplement rather than supplant these sources of assistance. 76 FR 71060. Since 2011, HUD has issued numerous Federal Register Notices related to CDBG-DR issues. However, the place that HUD holds in the hierarchy of Federal disaster assistance has not changed.

To receive CDBG benefits, the affected grantees (in this case the states) were required to submit to HUD an action plan that described how they planned to use the grant funds and the procedures that would be implemented to prevent recipients from receiving duplicate benefits.

FEMA's regulation provides that disaster assistance by an agency that is lower in the delivery sequence, such as HUD in this case, should not be used to duplicate assistance that has already been provided by a higher level agency, such as SBA.

Finally, under FEMA's duplication of benefits regulation, agencies and organizations that are considered lower in the delivery sequence are responsible for preventing duplicate benefits. Therefore, it is HUD's responsibility to ensure that state action plans that are submitted in order to receive CDBG funding appropriately assign responsibility for identifying and recovering

It is FEMA policy "to coordinate the effort of agencies providing assistance so that each agency understands the prevention and remedial policies of the others and is able to fulfill its own responsibilities regarding duplication of benefits." [44 CFR 206.191(c)(4)] Furthermore, 44 CFR 206.191(e)(3) states that, while each agency is responsible for preventing and rectifying duplications, the FEMA Regional Administrator shall examine a random sample of case files and document whether duplications occurred.

However, it is the subordinate source's responsibility to consider what other resources have been committed at the time of the award. [44 CFR 206.191(d)(3)(ii)] If assistance was provided out-of-sequence, the disrupting agency is responsible for rectifying the duplication. [44 CFR 206.191(d)(1)(ii)]

2. Is there any hierarchical list of funding sources that allows agencies distributing disaster aid to know when to provide money and when not to duplicate others' efforts?

Yes, there is a hierarchical delivery sequence in FEMA regulations and it is found at 44 CFR 206.191(d)(2):

- i. Volunteer agencies' emergency assistance (except expendable items such as clothes, linens, and basic kitchenware); insurance (including flood insurance);
- ii. Housing assistance pursuant to section 408 of the Stafford Act.
- iii. Small Business Administration and Farmers Home Administration disaster loans;
- iv. Other Needs assistance, pursuant to section 408 of the Stafford Act or its predecessor program, the Individual and Family Grant Program.

- v. Volunteer agencies' "additional assistance" programs; and
- vi. The "Cora Brown Fund.

An agency's position in the sequence determines the order in which it should provide assistance and what other resources it must consider before it does so. If an agency provides assistance out-of-sequence, it must rectify the duplication. [44 CFR 206.191(d)]

Therefore, the subordinate assistance is considered the duplicate effort regardless of the timing of the awards. That makes the question of "when not to duplicate" tricky. For example, a homeowner may receive CDBG-DR assistance in March and an SBA loan in April. The timing of the SBA loan created a duplication, but since the CDBG-DR award is subordinate [see answer #4 below], it is viewed as the duplicative effort and must be recaptured. Furthermore, this criteria is an impediment to the idea of letting SBA borrowers use CDBG-DR grants funds to repay their loan; if the victim receives duplicative funding from both sources, he or she must return the grant funds while the loan remains in place.

3. Is there any statutory authority that describes the funding or delivery sequence?

It was the intent of Congress, through the Stafford Act, 42 USC § 5121, et. Seq., to implement special measures designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency services, and the reconstruction and rehabilitation of devastated areas. To accomplish this, the Stafford Act sought to provide an orderly and continuing means of assistance by the Federal Government to State and local governments by, among other measures, requiring greater coordination and responsiveness of disaster preparedness and relief programs. In this regard, the Act established an Interagency Task Force (§ 5134), required the creation of Emergency Support Teams (§ 5144), and the development of verification measures, including an electronic database, to minimize the risk of duplication and fraud. (§ 5174(i)). The President was required to implement these measures by prescribing rules and regulations through designated federal agencies.

The purpose of the FEMA regulations establishing the delivery sequence [44 CFR 206.191] is to implement Section 312 of the Stafford Act, but the statute itself does not identify the sequence. Instead, the statute directs the President to establish the necessary procedures "to ensure uniformity in preventing duplication of benefits."

4. Does the regulation identify where in the delivery sequence CDBG-DR funding is?

HUD CDBG grants are not specifically listed in the delivery sequence. However, guidance since issued by FEMA considers these grants to be "other Federal ... funds" that follow SBA disaster assistance loans in the sequence of disaster benefits. SBA's Standard Operating procedure 50 30 6 reiterates FEMA's delivery sequence, and specifically states that CDBG funds are lower than SBA disaster loans in the sequence of delivery. Similarly, HUD policy further notes that CDBG disaster recovery provides long term recovery assistance via supplemental congressional appropriations and falls lower in the hierarchy of delivery than FEMA or SBA assistance.

We note that the Federal Register 76 FR 71060 [Vol. 76, No. 221 11/16/2011] identifies CDBG-DR funding as lower in the hierarchy than FEMA or SBA assistance

5. The delivery sequence at the very least appears to be incomplete. Are there instances where CDBG-DR funds were found to have duplicated efforts and funding from other agencies or sources?

The delivery sequence could be amended to specifically list HUD CDBG-DR grants, although such grants would fall under Other Needs assistance, pursuant to section 408 of the Stafford Act. HUD OIG audits and investigations have identified a number of instances of duplicated funding.

We observed duplications involving CDBG-DR and the National Flood Insurance Program. Contractors processing the initial NFIP claims after Hurricane Sandy were apparently underpaying thousands of households. NFIP reconsidered these claims and provided supplemental claims after CDBG-DR funds had been awarded. In September 2015, the HUD Deputy Secretary decided it was not in the best interests of the Federal Government to recover CDBG-DR duplications of up to \$20,000 that were caused by homeowners' receipt of additional flood insurance payouts. [Legal Opinion Memo "Duplication of Benefits in Disaster Relief Efforts" 6/13/2016] [<http://www.app.com/story/news/local/monmouth-county/sandy-recovery/2015/09/16/fema-sandy-insurance-extension/72345062/>]

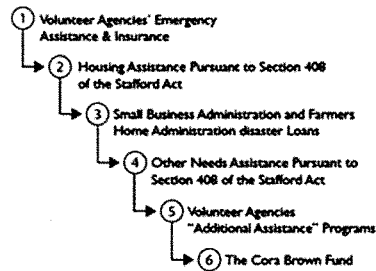
6. Is it difficult for disaster victims, grantees and subgrantees to determine what funding source to use to recover from disasters? Whose responsibility is it to tell people recovering from disasters what the best program is available for them to use and whose should it be?

FEMA regulations require the appointment of Coordinators for FEMA, the state and federal agencies with the FEMA coordinator at the head. The coordinators are part of the team that creates the relief plan and application process. FEMA, each federal agency and State and local governments as well as private providers are all required to fully inform applicants of the availability of assistance.

It is difficult for victims or potential recipients to navigate the disaster assistance programs and determine what source is best suited for their needs. The Stafford Disaster and Emergency Assistance Act was intended to bring about an orderly and systematic approach to federal disaster assistance with a structure for benefit sequence meant to reduce benefit duplication across administering agencies. However the provisions in the Stafford Act and subsequent HUD Notices describe the hierarchical sequence of benefit distribution only in the context of benefit duplication, not in terms of best programs for affected individuals.

Furthermore, each organization is responsible for delivering assistance without regard to duplication later in the sequence (HUD Notice FR-5582-N-01 that references 44 CFR 206.191). The graphic below shows the codified sequence of benefit delivery; FEMA considers CDBG-DR funds as number 4 in the process after FEMA and SBA funds. With this, CDBG-DR may be the best program available for an affected individual because this aid tends to be in the

form of grants and not loans, but these funds are not a first option due to sequence requirements (Congressional Research Service report of July 1, 2016 details these issues). Therefore, benefit sequence requirements supersede the consideration of what program is best for affected individuals.



In terms how HUD interacts with grantees; HUD publishes federal Notices that provide regulatory guidance for citizen participation requirements in response to public law appropriations of federal disaster funds that HUD administers via the Community Planning and Development's (CPD) Community Development Fund (CDF). The HUD disaster Notices allow for alternative requirements or waivers to quicken the citizen outreach process in order to more effectively and efficiently get disaster grant funds available to those affected. A CDBG-DR grantee can then utilize its citizen outreach efforts to provide information and get constituent feedback on planned projects to assist with those affected.

7. The delivery sequence described in FEMA's regulations does not make clear when CDBG-DR funds ought not to duplicate other money. Should FEMA update their regulations to clarify and ambiguities?

This would be consistent with policy options presented in the Congressional Research Service report titled "SBA and CDBG-DR Duplication of Benefits in the Administration of Disaster Assistance" issued July 1, 2016.

"As mentioned previously, FEMA's regulations do not specifically mention CDBG-DR funding in the delivery sequence. In practice, FEMA considers CDBG-DR funding as assistance that follows SBA disaster loans in the delivery sequence. However, leaving CDBG-DR unmentioned in FEMA's regulation could lead to confusion as to where CDBG-DR is ranked in the delivery sequence. It may also be argued that the omission makes the delivery sequence open to interpretation. If Congress is concerned that the omission could lead to confusion or different interpretations of code, Congress could require that 44 C.F.R. 206.191 be revised to specify the location of CDBG-DR within the delivery sequence."

[[https://www.everycrsreport.com/files/20160701\\_R44553\\_b23e1d13aa27b529b1bd906cecf607d828c30140.pdf](https://www.everycrsreport.com/files/20160701_R44553_b23e1d13aa27b529b1bd906cecf607d828c30140.pdf)]

8. What can Congress do to ensure CDBG-DR funds aren't duplicating benefits already received? What can HUD do?

Congress should include language in its disaster appropriations that require all federal and state agencies to share information. Specific language should be included making this sharing exempt from Privacy Act restrictions. HUD can and should pursue MOUs with FEMA, and other federal and state entities.

9. Why is it important to follow Federal procurement standards?

Basically, it is important to follow Federal procurement standards to ensure that contracts are awarded competitively to acquire necessary products and services at fair and reasonable prices.

10. Are CDBG-DR grantees following Federal procurement standards?

Under Public Laws 113-2, 114-113, 114-223, and 114-245, CDBG-DR entitlement grantees were required to follow Federal procurement standards. Under those same Public Laws, States had the option to either (1) adopt the Federal procurement standards or (2) choose to follow their own State and local laws, so long as their standards were "equivalent" to the applicable Federal standards.

CDBG-DR grantees are (1) not always following Federal procurement standards and (2) using their own standards that are not "equivalent" to the Federal procurement standards. Since March 2013, we've issued 17 audit reports on disaster grantees with questioned costs totaling nearly \$391.7 million related to procurement. Of the \$391.7 million, \$356.2 million lacked an independent cost estimate or cost analysis, \$21.7 million lacked competition, and \$13.8 million had other procurement issues. Of the 17 audit reports, 11 were audits of States with questioned costs totaling more than \$371.1 million and 6 were audits of entitlement grantees with questioned costs totaling more than \$20.5 million.

11. Have there been cases where CDBG-DR recipients did not follow Federal procurement standards? What are some notable cases?

Yes, there have been notable cases where CDBG-DR recipients did not follow Federal procurement standards.

In June 2015, we issued a report on our audit of the State of New Jersey's CDBG-DR-funded Sandy Integrated Recovery Operations and Management System. We determined that the State did not procure services and products for its system in accordance with Federal procurement and cost principle requirements. It did not do so because its procurement process was not equivalent to Federal procurement standards. Specifically, it did not prepare an independent cost estimate and analysis before awarding the system contract to the only responsive bidder. Further, it did not ensure that option years were awarded competitively and included provisions in its request



for quotation that restricted competition. Also, the State did not ensure that software was purchased competitively and that the winning contractor had adequate documentation to support labor costs charged by its employees. As a result, the State did not show that the more than \$38.5 million contract price and options years totaling nearly \$21.7 million were fair and reasonable and that the more than \$1.5 million it disbursed was adequately supported.

We reached management decision with HUD on one of the five recommendations included in the report. On March 29, 2016, we referred the other four recommendations to the Deputy Secretary for a decision. On January 10, 2017, the Deputy Secretary provided a final decision on the four recommendations. The Deputy Secretary stated that since the State did not adopt the Federal procurement standards and instead followed its own procurement standards, the Federal procurement standards did not apply to the State and could not be used as a basis for our findings and recommendations. The Deputy Secretary's statements that because all of the recommendations cited the Federal procurement standards as their basis, and they were inapplicable to the State, there was no basis for our finding and recommendations, and therefore, the recommendations warranted no further action other than closing them out. We closed the recommendations with disagreement but maintain that the Federal procurement standards applied to the State because its procedures needed to be equivalent to those Federal standards and the Deputy Secretary's decision did not consider the other bases for the recommendations.

In March 2012, we issued a report on our audit of the State of Texas' use of \$1.3 billion of State CDBG-DR program funds provided for recovery from Hurricane Ike. We determined that the State did not follow Federal and State requirements and best practices for its infrastructure and revitalization professional services and project management services contracts. It failed to do so because it disregarded various requirements. Specifically, the State (1) improperly procured its professional services and project management services contracts, (2) improperly increased the project management services company's contract, (3) included ineligible contract provisions, (4) failed to ensure that the contract payment type was consistent, (5) failed to prevent questionable charges, (6) did not ensure that its budgets clearly assigned costs according to HUD CDBG cost categories, and (7) did not ensure that its project management services contract contained specific and quantifiable performance measures. As a result, the State paid more than \$9 million in questioned costs.

HUD originally agreed with our recommendations in July 2012. However, in December 2013, HUD submitted revised management decisions that disagreed with these recommendations, and it sought to revise the ineligible and unsupported amounts owed to zero and close the recommendations. HUD stated that it had consulted with its Office of General Counsel and determined that the contract was not a "cost plus a percentage of cost" contract. It also stated that it had reviewed the State documentation and found no evidence that any of the costs charged by the contractor were ineligible, unnecessary, or unreasonable. After discussions among HUD and OIG officials the matter was referred to the Deputy Secretary on March 31, 2015. On September 30, 2016, the Deputy Secretary provided a final determination. The Deputy Secretary concluded that we did not establish that the State's contract violated the prohibition against "cost plus percentage of cost" contracts. The Deputy Secretary also determined that the Federal Acquisition Regulations did not apply to the contract. We closed the recommendations with

disagreement but maintain that the State's contract was a "cost plus a percentage of cost" contract and the Federal Acquisition Regulations applied to the audit finding.

12. What has HUD done in the past to resolve cases where the grantee may have improperly certified that their standards were equivalent to the Federal procurement standards?

We are not aware of HUD taking any action to resolve cases where grantees have improperly certified that their standards were equivalent to the Federal procurement standards. In September 2016, we issued a report on our internal audit on HUD's controls over its certifications of State disaster recovery grantee procurement processes. We found that HUD did not always provide accurate and supported certifications of State disaster grantee procurement processes.

Specifically, it (1) allowed conflicting information on its certification checklists, (2) did not ensure that required supporting documentation was included with the certification checklists, and (3) did not adequately evaluate the supporting documentation submitted by the grantees. These conditions occurred because HUD did not have adequate controls over the certification process. Due to the weaknesses identified, HUD did not have assurance that State grantees had proficient procurement processes in place and the Secretary's certifications did not meet the intent of the Disaster Relief Appropriations Act of 2013.

The report included five recommendations. For all of the recommendations, HUD stated that our disagreement regarding the definition of a proficient procurement process as it relates to State disaster grantees and the meaning of "equivalent" as it relates to a State's procurement policies and procedures being "equivalent to" or "aligned with" the Federal procurement standards was closed by the former Deputy Secretary in her decision regarding resolution of recommendations from our audit of New Jersey's Sandy Integrated Recovery Operations and Management System. In the January 10, 2017, decision, the Deputy Secretary wrote that the State certified that its procurement standards were equivalent to the Federal procurement standards and HUD had also certified to the proficiency of the State's policies and procedures. The Deputy Secretary noted that two legal opinions from the Office of General Counsel concluded that the Federal procurement standards did not apply and, therefore, there was no legal basis for the finding and associated recommendations. HUD asserted that the legal opinion for the New Jersey audit applied to this audit. Based on this information, HUD believed it was appropriate to close all of the recommendations. We disagree with HUD's request to close the recommendations in this audit based on the Deputy Secretary's decision to resolve recommendations from our audit of New Jersey's Sandy Integrated Recovery Operations and Management System. We have two main areas of disagreement with the decision: (1) we continue to assert that the Federal procurement standards were applicable to the State because its procedures needed to be equivalent to these Federal standards, and (2) we assert that the applicability of the Federal procurement standards was not the only basis for the recommendations in the New Jersey audit report and believe that the decision failed to consider the other bases of the recommendations. Further, the Deputy Secretary's January 10, 2017 decision did not address all of the issues with HUD's process for certifying State disaster grantee procurement processes that were identified in the internal audit report. On March 31, 2017, we referred these recommendations to the Acting Deputy Secretary.

13. In your testimony, you note that a day before her departure, the former Deputy Secretary, Nani A. Coloretti, issued a memorandum that a State grantee following its procurement

policy was not required to follow the Federal requirements. What can the Secretary do to correct the former Deputy Secretary's action?

The Secretary has statutory authority to make or change prior policies in effect at HUD. All of the statutes that have created HUD programs vest ultimate authority in the Secretary to implement that program through regulation and other guidance. A deputy secretary, like all HUD officials, operates with delegated authority from the Secretary. As such, the Secretary has complete discretion and authority to affirm, revisit or rescind a prior policy decision consistent with statutes.

14. What can HUD do to immediately correct Deputy Secretary Coloretti's opinion?

The Secretary has statutory authority to make or change prior policies in effect at HUD. All of the statutes that have created HUD programs vest ultimate authority in the Secretary to implement that program through regulation and other guidance. A deputy secretary, like all HUD officials, operates with delegated authority from the Secretary. As such, the Secretary has complete discretion and authority to affirm, revisit or rescind a prior policy decision consistent with statutes.

15. How can Congress ensure that states and subgrantees are following Federal procurement standards?

Congress could mandate compliance with Federal grant procurement standards at 2 CFR, Part 200; make it clear the mandate overrides existing CPD regulations regarding grant procurements with CDBG-DR funds; and prohibit the Secretary from waiving this requirement. Congress could also in an appropriation regarding disaster relief, mandate that HUD's policy of providing maximum feasible deference to a State shall not apply to disaster relief.

16. Should Congress require states to perform a cost or price analysis in connection with procurement actions, including contract modifications. Should HUD at least require states to perform independent cost estimates before receiving bids or proposals?

Yes, it would be beneficial if Congress required States to perform a cost or price analysis in connection with procurement actions, including contract modifications. Yes, it would also be beneficial if HUD at least required States to perform independent cost estimates before receiving bids or proposals. However, the greatest benefit can be derived if either Congress or HUD were to require States to (1) perform independent cost estimates before receiving bids or proposals and (2) perform a cost or price analysis in connection with procurement actions, including contract modifications. Also, consideration should be given to the applicability of the requirement. The current Federal procurement standards require a cost or price analysis only in connection with procurement actions in excess of the Simplified Acquisition Threshold which is currently set at \$150,000.

17. Should Congress require HUD to define what “equivalent” means across CDBG-DR appropriations for purposes of a state that has adopted procurement rules other than those specified in the Federal procurement standards?

Yes, Congress should require HUD to define what “equivalent” means across CDBG-DR appropriations for purposes of a State that chosen to use its own procurement standards. However,

- The Department did not define equivalency in the Federal Register notice the corresponded to Public Law 113-2.
- It defined equivalency in the Federal Register notice that corresponded to Public Law 114-113 as meaning that the standards operate in a manner providing for *fair and open competition*.
- It defined equivalency in the Federal Register notices that corresponded to Public Laws 114-223 and 114-245 as meaning that the standards, while not identical, operate in a manner that provides for *full and open competition*.
- We believe that the basic definition of equivalency should include full and open competition of necessary products and services at fair and reasonable prices.

While it would seem that having a universal definition of equivalency for CDBG-DR appropriations would be efficient and effective, it could cause problems for States that have CDBG-DR funds remaining from more than one appropriation to be obligated and spent. For example, Texas received more than \$50.6 million under Public Law 114-113, \$45.2 million under Public Law 114-223, and more than \$177 million under Public Law 114-245. Additionally, Louisiana received more than \$64.3 million under Public Law 113-2, \$437.8 million under Public Law 114-223, and more than \$1.2 billion under Public Law 114-245. There is also another concern. If the procurement requirements for grantees are not consistent across the Departments providing disaster recovery funds (i.e. Department of Transportation, FEMA, the Department of the Interior, etc.) States would have different requirements for acquiring products and services using funds that were made available by the same appropriation. This would be burdensome for the States to track. However, since Congress allocated the largest part of funds available under Public law 113-2 to HUD’s CDBG-DR program and the program is expected to have the largest part of future disaster relief funds allocated to it, consideration should be given to having the other Departments have the same procurement requirements as HUD for their grantees.

18. Should HUD’s definition of equivalency include full and open competition of necessary products and services at fair and reasonable prices?

Congress could mandate compliance with Federal grant procurement standards at 2 CFR, Part 200; make it clear the mandate overrides existing CPD regulations regarding grant procurements with CDBG-DR funds; and prohibit the Secretary from waiving this requirement. Congress could also in an appropriation regarding disaster relief, mandate that HUD’s policy of providing maximum feasible deference to a State shall not apply to disaster relief. If grantees, including States, will not be required to comply with Federal procurement procedures, HUD’s

definition should, at a minimum, require full and open competition of necessary products and services at fair and reasonable prices.

19. Now I know that HUD is responsible for monitoring CDBG-DR grantees to ensure performance and compliance with the program, but who is responsible for monitoring subgrantees?

Grantees are responsible for monitoring subgrantees.

20. Are grantees always equipped to monitor subgrantees? Are there ever any challenges?

Monitoring of grantees and subgrantees is a concern we share.

21. What difficulties hamper HUD in monitoring the use of CDBG-DR funds?

Monitoring is a concern at all levels. In many cases, grantees lack experience and training in this area.

About how much of the CDBG-DR funds appropriated by Congress does your office audit in the course of its work?

We are currently testing compliance with the 24 month requirement of Sandy. We looking at all DRGR vouchers completed as of January 1, 2018, which totaled to more than \$8 billion.

22. Would requiring subgrantee awards to have independent monitors—paid for by CDBG-DR money and matching grantee funds—to verify compliance with the CDBG-DR program help with ensuring funds are properly spent?

To comply with Public Laws 113-2, 114-113, 114-223, and 114-245, HUD required grantees to establish an internal audit activity. In our work related to Public Law 113-2, we found that grantees' implementation of the internal audit requirements varied greatly. Only 1 of 12 grantees reviewed complied with all requirements. Four grantees had no traditional internal audit function despite the requirement. HUD's guidance for implementing the internal audit requirement was vague and its interaction with grantees with regard to the internal audit requirement varied.

Based on our experience, requiring the use of independent monitors would be helpful. However, the requirement should also apply to grantees if it's going to apply to subgrantees. Also, consideration should be given to establishing a threshold amount. The use of independent monitors would be a requirement for those grantees that receive funds above the threshold amount and it could be an option for those grantees that receive funds below the threshold amount.

23. Should Congress consider requiring that the same rules and oversight standards for grantees also apply to subgrantees, who right now are not subject to direct HUD oversight?

Yes, the existing regulations generally require the grantees to monitor subgrantees and comply with HUD requirements. See: 24 CFR §§ 570.489 (g), (m) and (p); 24 CFR §§ 200.330 – 200.332. As such, if grantees are required to follow, for example, 2 CFR, Part 200 grant procurement requirements, then those would flow down from grantee to the sub grantee.

24. In an effort to pay for work that was actually performed, should Congress require recipients to use escrow accounts to draw down money as allowable expenses are approved, rather than pre-fund recipients with money up front?

This approach could add another layer in terms of money getting to recipients in a proficient manner following disaster relief appropriations. However, it is a reasonable approach in terms of providing HUD and grantees a means of verifying proper uses of any disaster relief funds awarded by HUD to grantees.

