

**THE ADMINISTRATION OF DISASTER  
RECOVERY FUNDS IN THE WAKE OF  
HURRICANES HARVEY, IRMA, AND MARIA**

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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 SIXTEENTH CONGRESS  
FIRST SESSION

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MARCH 26, 2019  
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# CONTENTS

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	Page
Hearing held on:	
March 26, 2019 .....	1
Appendix:	
March 26, 2019 .....	35

## WITNESSES

TUESDAY, MARCH 26, 2019

Ensenat, Fernbando Gil, Secretary of Housing, Puerto Rico .....	7
Kirkland, Jeremy, Counsel to the Inspector General, U.S. Department of Housing and Urban Development .....	10
Lemelle, Daphne, Executive Director, Harris County Community Services Deoartment .....	8
Mollegen-McFadden, Marion, Senior Vice President, Enterprise Community Partners .....	12

## APPENDIX

Prepared statements:	
Ensenat, Fernbando Gil .....	36
Lemelle, Daphne, .....	44
Mollegen-McFadden .....	49

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Waters, Hon. Maxine:	
Written statement of the Fair Share Housing Center .....	63
Written statement of Ben Metcalf, Director, California Department of Housing and Community Development .....	67
Green, Hon. Al:	
Letter from Allen Bogard, City Manager, City of Sugar Land, Texas .....	74



# **THE ADMINISTRATION OF DISASTER RECOVERY FUNDS IN THE WAKE OF HURRICANES HARVEY, IRMA, AND MARIA**

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**Tuesday, March 26, 2019**

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

The subcommittee met, pursuant to notice, at 10:03 a.m., in room 2128, Rayburn House Office Building, Hon. Al Green [chairman of the subcommittee] presiding.

Members present: Representatives Green, Beatty, Velazquez, Perlmutter, Tlaib, Casten, Dean, Garcia of Texas, Phillips; Barr, Posey, Zeldin, Loudermilk, Davidson, Rose, and Steil.

Ex officio present: Representatives Waters and McHenry.

Also present: Representatives Axne and Wagner.

Chairman GREEN. Good morning, everyone. For those who may not know, I am Al Green, and it is my preeminent privilege to serve as the chairperson of the Oversight and Investigations Subcommittee.

We have not officially called the hearing to order, and I have not done so because I would like to make a few comments before we actually start this, our first hearing of this session of Congress.

I am honored to be seated next to our ranking member, Mr. Barr. He will make a few comments after I have made my comments. I would like to thank Mr. Barr for his willingness to work with me. He and I have had lunch together and we have discussed some of the issues that are of importance to us and to the American people. This is not to say that we will always agree, but it is to say that we will keep the lines of communication open so that we can talk to each other about these issues as they develop.

I am also very appreciative of Mrs. Wagner—she is not here but sometimes what you say behind a person's back can be more important than what you say in their presence—and in her absence, I would like to thank her for initiating the effort to bring this bill to fruition. Obviously, it is something that we picked up from a hearing that we had but she broached the issue initially and called it to my attention.

We started on this in the last Congress; it was the Wagner-Green bill then. In this Congress, it is the Green-Wagner bill, but by any name it is an important piece of legislation that will benefit the

people of this country, and Mrs. Wagner should be given an enormous amount of credit for calling it to our attention.

I also want to thank the chairperson of the full Financial Services Committee, Chairwoman Waters. This is a great opportunity for us to present some issues and hopefully resolve some concerns. Getting things before the public when you have as many issues as we have in Financial Services can be a challenge, and the chairperson has permitted us to move forward with this hearing, for which I am greatly appreciative.

I would also like to thank Mr. McHenry, who is the ranking member of the Full Committee; he and I have worked together on projects in the past and I look forward to working with him as well.

Mr. MCHENRY. Will the Chair yield for a question?

Chairman GREEN. The Chair yields to Mr. McHenry.

Mr. MCHENRY. Chairman Green, we have worked together. You were previously ranking member when I was chairman of the Oversight Subcommittee, a couple of Congresses back.

If this sort of tactic to start the hearing without starting the hearing is because we have more Members on the Republican side than the Democrat side, I would give the Chair assurances that it is not our intention to adjourn. We agree that this is an important subject matter, and there is bipartisan support for us fixing this program.

I would just kindly announce that we have no intention of motioning to adjourn because we have more Members present than the Democrat's side of the aisle and I would welcome the start of the hearing, if that is the chairman's choice and decision.

But thank you for your leadership and the relationship we have had over the years and open engagement.

I yield back.

Chairman GREEN. Well, thank you. Actually, you can be very proud of your ranking member. He already addressed the concern that you raised and the purpose of this quite candidly is to do something that we rarely do and that is to build a degree of collegiality, which is important for us to move forward, so I appreciate your commentary, and before embarking upon this, I got the consent of your ranking member to do so.

I shall now yield to the ranking member of the subcommittee, Mr. Barr.

Mr. BARR. Thank you, Chairman Green. And I will be brief. Thank you for our lunch, and for getting us off to a great start.

This is a new subcommittee for me. I returned to this subcommittee from my first term in Congress but I very much look forward to the opportunity to work on this subcommittee. Oversight is a critical function for the Congress and although congressional oversight authorities are broad, they are not unlimited, and they certainly need to be connected to legitimate legislative purposes. Today's oversight hearing is a great example of that. There is a very legitimate legislative purpose to ensuring that taxpayers are protected and that victims of disasters receive the assistance that they need in an expeditious manner.

I want to also thank Ranking Member McHenry and the Members on this side of the aisle for having the confidence in me to lead this side of the subcommittee.



And with that, I will turn it back over to Chairman Green, and I look forward to today's hearing.

Chairman GREEN. Thank you, Ranking Member Barr. I greatly appreciate your kind words and I do look forward to working with you.

At this point, we will call the the hearing to order.

Today's hearing is entitled, "The Administration of Disaster Recovery Funds in the Wake of Hurricanes Harvey, Irma, and Maria." And while that is the title of this hearing, I would mention to you that this could easily be about all of the various hurricanes and natural disasters, including wildfires and tornadic activity, that we have had through the years.

This hearing is taking place because we believe that when you have it within your power to solve a problem and you do not do so, you can become the problem. We clearly have it within our power, we the Congress of the United States, to solve a problem, a problem that is plaguing the American people from coast to coast.

What is this problem? It is our failure to codify and standardize the Community Development Block Grant Disaster Recovery (CDBG-DR) Program. Quite candidly, there is no standardized program in place, and as a result of not having codification and standardization, we find ourselves with many things happening.

When we have a natural disaster, we find that there is a lot of finger-pointing. It starts at the top with HUD and OMB having to come together to come to conclusions as to what the rules of the road will be as it relates to a given natural disaster. And this is done after each and every natural disaster. We start all over again.

It really is time for us to stop the reinventing, and to give us a program that we can rely upon.

After HUD and OMB finally come to some agreement as to what the rules of the road will be, they then have to pass these on to the grantees; in the interim, the grantees and the people that they serve are suffering. We need to make sure that money gets to these various entities that are to dispose of them properly, in a timely fashion.

In Texas, we still have not received all of the resources that are available to us from the last hurricane, Hurricane Harvey, which actually was a storm that took many lives. Over those 3 years, we had hurricanes that cost us about \$182.3 billion, and 85 lives were lost. These were hurricanes and natural disasters that occurred prior to 2018 so it is important for us to not overly complicate this issue and for us to seek solutions.

This bill that we have, the Green-Wagner bill, would codify and standardize the CDBG-DR Program. It would give the large metropolitan areas the possibility of receiving direct funding and give smaller areas a better understanding of how they can access resources. My hope is that we will continue to have the bipartisan-ship that we have shown thus far and that we will get this bill passed as quickly as possible.

I now yield 5 minutes to Ranking Member Barr.

Mr. BARR. Thank you, Chairman Green.

And I am going to yield a minute of my time to the former chairwoman of this subcommittee, Ann Wagner, the author, along with

you, of the legislation that is the subject of today's hearing. But again, thank you for holding this important hearing.

Today, we will hear from a wide variety of witnesses including State grantees and the former HUD Administrator for the program, and the Counsel to the Inspector General, who has been involved in many investigations and audits of the Community Development Block Grant Disaster Recovery Program (CDBG-DR). We will also hear from our colleagues, Chairman Green and Congresswoman Wagner, on their working draft of the bill to codify the CDBG-DR Program.

The bill seeks to balance our shared interests in quickly getting money to the people who are recovering from natural disasters and the need for oversight of the distribution of billions of dollars in disaster relief. When disaster strikes it is important that help comes quickly and that communities have a clear understanding of where to turn and how to access CDBG-DR funds.

The CDBG-DR Program is one of several ways Congress and the Federal Government assist the local recovery process; specifically, the program is designed to address unmet needs in our most vulnerable communities to help low- and moderate-income people and small businesses recover fully from the most severe natural disasters.

Congress first appropriated CDBG-DR funds in 1993 to help with recovery efforts following Hurricane Andrew, and since then Congress has appropriated \$87 billion in supplemental funds for CDBG-DR. Recently, the Supplemental Appropriations for Disaster Relief exceeded the annual appropriation for HUD's Community Development Block Grant Program. There are too many dollars at stake to manage this program on an ad hoc basis.

One of our best allies in the effort to make sure disaster recovery money is spent efficiently and effectively is the HUD Office of Inspector General (OIG). The HUD OIG has spent years conducting audits and investigations of the CDBG-DR Program and advocating for codification of the Program. We are grateful for that work and I look forward to hearing testimony from Mr. Kirkland about the OIG's findings.

Every time Congress passes another Supplemental Appropriation for CDBG-DR, HUD uses CDBG Program staff to administer and oversee the distribution of the funding. This program is too transitory with no permanent infrastructure; there is a higher chance of waste, fraud, and abuse. I understand that no disaster is the same and it is important that the affected communities are able to put this money to best use but it is crucial for the program to have the proper controls in place. We must ensure that money spent for recovery efforts and that the action plans approved by HUD are followed.

There are so many stories about grantees using disaster recovery money for purposes outside of the scope of the action plan approved by HUD. For example, Louisiana is unable to account for nearly \$700 million meant to be used to elevate homes in the flood zone. In another Louisiana case, \$10 million allocated for housing purposes was used to build a new wing on the local World War II Museum. Mississippi used recovery funds to build roads and plumbing infrastructure in an area where no one lives. New York and New

Jersey pooled unused disaster recovery money into a slush fund. This is not how the program is meant to work.

HUD's Disaster Recovery Program is supposed to help rebuild homes and infrastructure damaged by a natural disaster and provide assistance to affected business owners with an emphasis on helping low- and moderate-income areas, but those requirements are often waived and money winds up being used for other purposes.

It is my hope that in today's hearing we can better understand how to maintain the flexibility needed at the local level to apply disaster recovery money to unmet needs while increasing oversight of the program. I applaud my colleagues for their bipartisan effort and I want to thank the HUD OIG for its work to identify vulnerabilities in this important program. Communities affected by natural disasters need our help and they are counting on us to get this right.

And with that, I will now yield 1 minute to the gentlelady from Missouri, Mrs. Wagner.

Mrs. WAGNER. I thank my friend Andy Barr, the ranking member of the Oversight and Investigations Subcommittee, for yielding time.

And, Mr. Chairman, I want to thank you. You have been a great partner in this endeavor and I appreciate your willingness to work with me to make sure disaster relief is being spent on the victims of natural disasters who need assistance. When a natural disaster strikes, the Community Development Block Grant Disaster Recovery Program helps rebuild our communities. These relief funds provide essential emergency aid and jump start the recovery process for those most in need.

Last Congress, the Subcommittee on Oversight and Investigations began a bipartisan effort examining ways to improve the CDBG-DR Program.

Mr. Chairman, I am proud to say that today's legislation is a product of that work and I look forward to working with you again this Congress to codify the CDBG-DR Program.

With that, I yield back.

Chairman GREEN. Thank you.

I will now yield time to the chairwoman of the Full Committee, Chairwoman Waters.

Chairwoman WATERS. Thank you very much, Chairman Green. I want to start by saying congratulations to you on convening your first hearing. And I want to thank the witnesses for being here today.

Mr. Chairman, many of our communities continue to struggle following the destruction of Hurricanes Harvey, Irma, and Maria, the wildfires in California in the West, and numerous other natural disasters across America. I am deeply concerned that 2 years after these disasters struck, and more than a year after Congress appropriated funding, not one penny has gone to the victims. The CDBG Disaster Recovery funding process is in desperate need of reform. It is also important for us to be diligent in our oversight of the Federal programs that aid recovery efforts.

Historically, we have seen troubling inequality in how the Federal Government responds to a natural disaster. The U.S. Govern-

ment Accountability Office reported that Federal disaster assistance has primarily benefited wealthy homeowners at the expense of lower-income renters.

When the government does not prioritize the rebuilding of affordable rental housing it pushes out low-income residents who once lived in those areas, which can deepen segregation in our neighborhoods. We are also aware of racial inequalities in the distribution of funding, as took place with Louisiana's Road Home Program, and I think about that; I am very much aware of what happened there.

These well-documented inequalities are precisely why this committee must ensure that our ongoing and future disaster recovery efforts are fair, transparent, efficient, and consistent, so I am looking forward to hearing from our witnesses today about how we can improve our response in the aftermath of disasters.

Thank you. And I yield back the balance of my time.

Chairman GREEN. Thank you, Madam Chairwoman.

I would like to, without objection, submit my entire opening statement for the record.

I would like to also submit for the record a statement from HUD concerning disaster relief, which codifies what you have said in terms of their encouraging us to take affirmative action.

Also, I would like to submit for the record, without objection, a chart that will give some indication as to the amount of time it takes for the resources to be agreed upon and to get to the various grantees.

Without objection, it is so ordered.

And moving forward, I would like to welcome the witnesses who are appearing today. I want to thank you for being here.

First, we have with us today Mr. Fernando Gil Ensenat, the Secretary of Housing for Puerto Rico. I had the preeminent privilege of visiting his country just recently.

Second, we have Ms. Daphne Lemelle. She is the executive director of Harris County Community Services in Texas, in Houston, I might add.

Third, we have Mr. Jeremy Kirkland, the Counsel to the Inspector General at the U.S. Department of Housing and Urban Development.

And finally, representing Enterprise Community Partners is its vice president, Marion Mollegen-McFadden.

Welcome to all of the witnesses. I want to thank you again. You will each have 5 minutes to make your opening statements. And without objection, your written statements will be made a part of the record.

Once the witnesses have finished presenting their testimony, each member of the subcommittee will have 5 minutes within which to ask questions of the witnesses.

I will remind the witnesses that while you are not under oath, you are subject to 18 U.S.C. Section 1001, which makes it a crime to knowingly give a false statement in a proceeding such as this one. You have lights before you, and you will note that the three lights are there for a reason. The green light indicates that you should start your testimony. The yellow light indicates that you

will have one minute left. And then of course there is a red light which means that you are out of time.

Mr. Ensenat, you are now recognized for 5 minutes to make your opening statement.

**STATEMENT OF FERNANDO GIL ENSENAT, SECRETARY OF  
HOUSING, PUERTO RICO**

Mr. ENSENAT. Chairman Green, Ranking Member Barr, members of the subcommittee, thank you very much for the invitation to appear before you today regarding the administration of disaster recovery funds in the wake of Hurricanes Harvey, Irma, and Maria.

One of the greatest lessons my parents taught me is the virtue of being grateful. And I would like to take the opportunity to personally thank you for all the overwhelming support that Congress has shown to Puerto Rico after the impacts of Hurricanes Maria and Irma.

The proactive approach taken by our Resident Commissioner Gonzalez-Colon and Governor Rossello set the pace for swift congressional action in the wake of the devastation of these storms to appropriate resources for our recovery. The support has been bipartisan and it is a symbol of the U.S. citizens, of how we can come together in times of need putting aside our difference and acting for the good of all members in this great nation. On behalf of the 3.2 million U.S. citizens who live in Puerto Rico, I thank you.

I would also like to thank our partners in HUD from Secretary Carson, Assistant Secretary Wolf, CFO Irv Dennis, their respective staffs and all the people who work at HUD for their support that they have given us to enhance our recovery strategies and drive us to enhance our capabilities.

My most sincere appreciation to Miss Tennille Parker who has been working with us since day one and especially to my Agency, the Department of Housing in Puerto Rico and all my coworkers there; to Governor Rossello and my family who has shown unconditional support.

Mr. Chairman, it has not been an easy road for us. The devastation wrought upon Puerto Rico by these hurricanes was immense, but as terrible as those storms were, the recovery has been equally grueling. As Secretary of the Puerto Rico Department of Housing, I oversee over half a billion dollars in Federal funding; I manage the second largest public housing authority in the nation, as well as many other HUD programs.

As familiar as I can be with HUD's statutes, regulations, and policies and with other Federal funding programs, CDBG-DR, a program which changes from disaster appropriation to appropriation is in a class of its own. We were very fortunate to find contractors to help guide us through the maze and help us—our vision in actionable plans.

From the moment the dollars were appropriated, even before the HUD allocation, we sprang into action working on preparing a myriad of required documents and then solicited comments from stakeholders and executing a comprehensive citizen participation plan. In all, we have been allocated almost \$20 billion from the September 2017 appropriations bill and the February 2018 bill.

Since CDBG-DR is not an authorized program, the regulations stem from the language of each appropriations act and can be at the mercy of the policy preference of the political leadership at the time. This has meant multiple Federal Register notices and action plans workflows.

In our case, because of the new leadership, some programs approved in July 2018 were reversed in March 2019. Our first amendment to the action plan has been approved but we are currently waiting for a grant agreement from HUD so we can access the next tranche of \$8.2 billion. This amendment included 9 new programs plus the 19 programs previously approved in the areas of economic development, housing, infrastructure, and planning.

Each of our tranches of recovery funding will come from a unique grant agreement. We are hopeful that since our initial action plan and first amendment are substantially similar, it won't take HUD that long to send us the agreement and that version to be-current executive agreement.

In that sense I am fully supportive of any efforts to make disaster recovery easier, and having authorized programs and processes in place that will help that cause, but I have some concerns. Flexibility is one of the greatest aspects of CDBG-DR and understandably with flexibility, complexity shouldn't be bound to it however just because monitoring a complex program is hard, it does not mean we should remove the flexibility that allows grantees to meet unique pressing recurring needs on our jurisdiction.

Regarding HUD to determine what is credible, distribution within activities and geographic distributions for a grantee based on FEMA and SBA data is based on an assumption that FEMA and SBA have the correct data. According to available data as of September of 2018, FEMA registered 1.1 million applicants in Puerto Rico, however the data reveals that only less than 217,000 were approved for housing repairs and repairs assistance.

Removing grantee ability to reclassify eligible projects as the recovery matures and evolve, 3 months maximum difference. I have other things to say Mr. Chairman but I believe that standardization and the expertise between the recovery framework should be one thing that leads to a better codification of this law.

And again, thank you all for inviting me to appear before you today. And thank you for your continued partnership as we seek not just to recover from the horrific storms but to transform the future Puerto Rico and the 3.2 million U.S. citizens who live on the island, under disparate treatment due to our non-inclusive territorial status. Thank you.

[The prepared statement of Secretary Ensenat can be found on page 36 of the appendix.]

Chairman GREEN. Thank you for using your time efficaciously. You have set a good example for the rest of us.

Let us move now to Ms. Lemelle. You are recognized for 5 minutes.

**STATEMENT OF DAPHNE LEMELLE, EXECUTIVE DIRECTOR,  
HARRIS COUNTY COMMUNITY SERVICES DEPARTMENT**

Ms. LEMELLE. Good morning, Chairman Green, Ranking Member Barr, and members of the subcommittee.

As executive director of the Harris County Community Services Department, I serve in the capacity as administrator of the County's Community Development Block Grant Program, for both the County's Entitlement Program and the Disaster Recovery activities.

Thank you for the opportunity to provide information on recovery efforts and activities in Harris County following the aftermath of Hurricane Harvey, specifically related to the local perspective in carrying out CDBG-DR activities.

First, I want to express my gratitude to the committee for holding this hearing and for the work that has been done to ensure that disaster relief to our residents who are still in recovery are flowing to them.

For context it is important to understand the County's makeup. Harris County, Texas, is the third most populous county in the United States. It is home to the City of Houston; the Texas Medical Center; the Port of Houston; the NASA Johnson Space Center; and one of the largest petrochemical industry clusters in the country. At the end of last year, Harris County had a total population of 4.8 million persons.

One unique aspect of the county is that nearly half of the population resides in unincorporated areas of the county, and if incorporated would make up the second largest city in Texas and the fifth largest city in the country.

Understandably, Hurricane Harvey impacted this population. It dumped more than 1 trillion gallons of water on the county for a 1-day period, covered Harris County 1,778 square miles with an average of 33 inches of water. Per FEMA individual assistance data, 160,000 households applied for assistance with only a little more than 53 percent of those receiving any kind of immediate relief following the storm.

Harris County has also been impacted by six presidentially-declared disasters in the last 10 years. In 2015 and 2016, we saw 4 major flood disasters. The cumulative impact of these disasters with Hurricane Harvey has been devastating to local residents, businesses, and institutions. Recovery from one disaster has been exacerbated by those floods that followed.

CDBG-DR is a critical relief program for our community. Harris County has suffered from significant natural disasters and without CDBG-DR we would not be able to rebuild and recover appropriately. Most recently, we did a Hurricane Ike Recovery Program following the 2008 storm, CDBG-DR was critical in helping our residents and also standing up a local Infrastructure Recovery Program.

For Hurricane Harvey, Harris County is utilizing a \$1.2 billion allocation from CDBG-DR from the State of Texas to again stand up recovery programs that will aid in the buy-out, rebuilding and replacement of housing, and implementation of local drainage improvement systems.

At this point my testimony will focus on our local perspective, as a subgrantee of the State, while CDBG-DR has been an effective funding source and program assisting Harris County's recovery the process by which the county has received its funds has often been fraught with delays and other impediments to efficient recovery.

The delays have occurred because Harris County is not a direct grantee but is a subgrantee of the State and the nature of subgranteeing inherently adds time to the implementation of recovery programs.

While Harris County did experience some improvement in reduction of time with Harvey, when compared to prior disasters the processing time is still far too long. Harris County executed its contract for \$909 million of its \$1.2 billion in CDBG-DR funds with the State of Texas on January 29, 2019, 17 months post-storm.

As a subgrantee Harris County had to await the State's publications of its plan. Following approval of the State plan, we had to await approval of our local plan, while the county has steadfastly developed its recovery activities and preparing its local plan, the subgrantee process delayed distribution of needed recovery resources.

As a direct grantee Harris County may submit its plan and receive its grant agreement directly from HUD, removing the estimated timeframe to receive the funds. Harris County is a HUD-entitlement community and has capacity to implement its own programs.

Lastly program flexibility, CDBG-DR is a very flexible program but it is important to recognize and understand that the local control and recovery plan is driven by its residents. Harris County CDBG-DR recovery programs become an extension of the State's plan and at times may conflict with the State's plan which adds more time to delivery.

In closing, I would just add that I do support the codification and permanent authorization of the CDBG-DR Program. It would mean speeding up of the time for receipt of funds, and any reform to CDBG-DR, consider the facts that I have provided today and in my written testimony.

Again, I appreciate the opportunity to appear here before the committee. Thank you for your support. And I will be glad to answer any questions.

[The prepared statement of Ms. Lemelle can be found on page 44 of the appendix.]

Chairman GREEN. Thank you very much.

You have utilized your time wisely, thank you.

Moving on to our next witness, Mr. Kirkland will be recognized for 5 minutes.

**STATEMENT OF JEREMY KIRKLAND, COUNSEL TO THE INSPECTOR GENERAL, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Mr. KIRKLAND. Good morning, Chairman Green, Ranking Member Barr, Chairwoman Waters, and members of the subcommittee. I am Jeremy Kirkland, Counsel to the Inspector General of the Department of Housing and Urban Development. It is a pleasure to be here with you today to talk about our work in disaster recovery oversight.

I could not be more proud of our staff and their work in this important area.

Since 2002 we have issued 119 audits, 7 evaluation reports, and have opened more than 600 investigations on this topic. Through-



out our work we have noticed recurring themes including the need for codification, the need for model programs that provide clear, consistent, expectations for strong internal controls, and the need for accountability for and expenditure of funds at late stages in the process. And we know that mitigation of future disasters is important for this accountability.

We believe the CDBG-DR's mission is an important one, one that is so important that we believe that it should be codified into its own program within HUD. One thing we know is that disasters aren't going away; in fact, in the past 12 years, there have been at least 10 separate disaster supplemental funding bills.

We have all heard concerns about how long it takes funds to get out to those in need. The process is not only lengthy but confusing for everyone involved. Currently, there are 72 active Federal Register notices going all the way back to 9/11, which grantees must navigate to determine how to design and implement their local programs. It is difficult to determine what applies or does not apply, and oftentimes grantees may be brand new or inexperienced, further complicating an already cumbersome process.

We strongly recommend a permanent framework to bring transparency and efficiency to this program. We believe it will reduce the time between appropriation and disbursement and provide clarity around the requirements of the CDBG-DR Program. We also hope any permanent authorization considers identifying core program activities more clearly.

There is often a steep learning curve for new grantees, and adoptable core functions would mitigate the delay and mistakes in having each new grantee create its own disaster program. We believe that codifying even just the requirements for grantee action plans could trim 2 to 4 months off of this lengthy process.

The OIG's work has demonstrated the need for strong internal controls. Our work has demonstrated that any grantee program should include good internal policies. It should include strong monitoring policies and procedures. It should include clear understanding of reporting responsibilities. It should include good financial management policies, procedures, and systems. It should include information systems that ensure accurate and timely reporting of receipts and expenses in HUD systems. It should include clear conflict-of-interest policies and procedures, and training for all employees on conflict of interest. And it should include strong, proficient, written procurement policies and procedures.

Our work has continued to highlight that CDBG-DR could and should provide a clear, unequivocal blueprint for all grantees to follow, to meet expected strong internal controls.

Finally, we have a concern regarding the late planning and expenditure of funds on projects, in some cases, 5 or more years after the disaster occurred. Examples of this include sewer and infrastructure development on land where homes are never built; dredging projects for commercial shipping ports; and a multimillion-dollar museum addition, among others. Then, there is the question of unspent funds, sometimes more than a decade after a disaster, and whether we can reprogram those for a greater existing need today.

I want to thank the committee for their work on this legislation, and I look forward to your questions.

Chairman GREEN. And we thank you as well for staying within the timeframe.

Let us move forward next to Ms. Mollegen-McFadden.

**STATEMENT OF MARION MOLLEGEN-MCFADDEN, SENIOR  
VICE PRESIDENT, ENTERPRISE COMMUNITY PARTNERS**

Ms. MOLLEGEN-MCFADDEN. Chairman Green, Ranking Member Barr, Chairwoman Waters, and members of the Oversight and Investigations Subcommittee, thank you so much for the opportunity to be here this morning to testify about the CDBG-DR Program and offer my recommendations which can shave months of needless delay from the time when Congress appropriates funding to when rebuilding begins. I am Marion McFadden, the senior vice president for public policy and senior advisor for resilience at Enterprise Community Partners.

Enterprise is a non-profit organization, committed to making well-designed homes affordable. For more than 35 years, Enterprise has helped build capacity in both the public and private sector. We have invested more than \$43 billion nationwide to produce or preserve homes in all 50 States, the District of Columbia, and Puerto Rico.

Enterprise has helped communities rebuild after disasters. Since Hurricane Katrina, our current work in recovery and mitigation initiatives includes Texas, Florida, Louisiana, New York, California, Puerto Rico, and the U.S. Virgin Islands.

I worked on disaster recovery at HUD for more than 15 years, dating all the way back to the first multibillion-dollar grant after 9/11, working as Legal Counsel for the CDBG Program and Deputy Assistant Secretary for Grant Programs. I have worked in disaster-impacted communities all over the country.

One of my greatest frustrations is that the lessons learned in one disaster have to be relearned over and over in subsequent disasters. The Federal Government has not been quick enough in improving support for disaster survivors. I commend the members of the subcommittee for making it a priority today.

This morning I will emphasize the importance of CDBG-DR to all kinds of communities—urban, suburban, and rural—and recommend opportunities for making the program more efficient and fair.

As the frequency and intensity of natural disasters continue to grow, CDBG-DR is an increasingly important funding source for recovering communities. After catastrophes, CDBG-DR is the last available source of assistance for property owners whose insurance proceeds, FEMA grants, Small Business Administration homeowner loans, and other sources have been insufficient to repair their homes or get them to stable new housing.

This CDBG-DR assistance prevents families from entering years of financial hardship and distress. CDBG-DR is particularly valuable because it allows and requires States and localities to rebuild stronger and safer, helping to move households out of harm's way and ensuring existing and new housing is more resilient to future disasters.

Mitigation measures more than pay for themselves, saving an average of six dollars in future disaster recovery costs for every dollar spent on mitigation.

I would like to take a moment to highlight two major challenges for the CDBG-DR Program: first, the time it takes for HUD funds to reach communities after a disaster; and second, ensuring grant funds reach the people who are most in need.

The disaster component of the CDBG Program, as you well know, lacks standing authority. This means that HUD must write new Federal Register notices after each appropriation and shockingly, unlike permanently authorized FEMA and Small Business Administration disaster programs, HUD's multibillion-dollar CDBG Disaster Program has never gone through a Notice-and-Comment Rulemaking. The public has never once been invited to offer comments on HUD's rules for disaster recovery; it is time to bring transparency to the post-disaster rule-making process.

Once HUD issues its temporary rules, it is typically more than a year before HUD programs began serving families, meanwhile disaster survivors wait, often in unsafe housing, in hotels, doubled up with other families or worse. While reducing the time it takes to rebuild housing and infrastructure is challenging, codifying CDBG-DR will reduce bureaucratic delay in moving resources from Congress to impacted communities.

In addition to improving the speed of the program, I ask that you make changes to ensure that disaster funds serve the people who are hardest hit. It is often said that storms, tornadoes, and fires are equal opportunity, causing damage regardless of race or income, however anyone who has worked in disaster recovery knows that is not the full picture.

Low-income people are more likely to live in areas that are physically vulnerable, where land costs are lower, and they are more likely to live in poor quality buildings which are less stable in the high winds of hurricanes or tornadoes.

Disaster recovery programs have too often prioritized homeowners over renters who are more likely to be lower income and people of color. HUD's largest fair housing settlement resulted from New Jersey's failure to fairly balance Hurricane Sandy recovery resources, among apartment buildings, mobile homes, and single-family homes, and to communicate the availability of resources to people of limited English proficiency.

By engaging in a comprehensive process to make CDBG-DR a standing program, Congress and HUD can focus on ensuring that this never happens again.

In conclusion, CDBG-DR provides a quarter of the nation's disaster recovery funds and its permanent authorization would allow HUD to take steps to eliminate the months of unnecessary delay resulting from the makeshift structure. Rulemaking will also increase protections against fraud, waste, and abuse.

I look forward to working together to better protect safety and property and communities resulting in fair outcomes for the most vulnerable households, and ensuring that the taxpayer dollars are invested with the future in mind. Thank you.

[The prepared statement of Ms. Mollegen-McFadden can be found on page 49 of the appendix.]

Chairman GREEN. I thank all of you for your testimony.

Mr. Ranking Member, without objection, persons who are members of the Full Committee, but not members of the subcommittee, will be allowed to participate in this hearing today.

Without objection, it is so ordered.

I now recognize myself for 5 minutes.

And I would like to start with Mr. Kirkland. Mr. Kirkland, is it true that you or someone associated with your agency has communicated with HUD, and HUD has indicated that it has some concerns with the codification and standardization of these rules?

Mr. KIRKLAND. As part of our audit on codification, they did communicate back to us that they did not see the need for codification as part of that audit.

Chairman GREEN. And you have indicated in your testimony today that you clearly believe that there is a need for transparency and codification, is this correct?

Mr. KIRKLAND. Yes, sir. Over the course of the time of all of these Federal Register notices, we have identified 59 either direct duplications or very similar Federal Registers across all of these disasters; we certainly see an ability to codify a program as part of that.

Chairman GREEN. And if we don't have HUD as the entity that will step forward and take this affirmative action, to codify and provide the transparency, then of course it does fall upon Congress, obviously Congress could step in at any time but Congress is the court of last resort as it were with reference to these issues?

Mr. KIRKLAND. I would agree with that, Mr. Chairman.

Chairman GREEN. Thank you. I greatly appreciate what you have given us by way of testimony and encouragement to go forward with these issues.

Let me go next to the three members of the panel who are remaining, I would like for you, notwithstanding all that you have shared with us and you have given us some salient points, but I would like for each of you to give me one point, one thing that you think is preeminent in your thinking with reference to the legislation that we should consider.

And I will start with Ms. McFadden.

Ms. MOLLEGEN-MCFADDEN. Thank you, Mr. Chairman. I would like to start with a very practical point, which is in order to make any real improvement in this program, HUD must devote more employees to its administration.

Mr. Kirkland mentioned 72 active grants dating all the way back to 9/11. Those grants all have to have grant managers, and currently there are less than two dozen full-time permanent staff working on disaster recovery at HUD, so in order to really get HUD to put its muscle into improving the program, we just need to take more load off the individual public servants.

Chairman GREEN. Thank you very much.

Mr. Secretary, you will be next but before you testify, let me just assure you, I did visit Puerto Rico and had an opportunity to visit one of the hospitals. I saw up close the needs that exist, and talked to many people associated with NGOs and the government and concluded that we have to do more to help Puerto Rico. With that said, would you kindly give us your one outstanding point?

Mr. ENSENAT. Sure. And thank you, Chairman Green, for that, and thank you for the visit. And my point would be like standardization law, that the rules for a grantee be the same for anyone, that we can then standardize procurement, standardize pre-approved housing programs and standardized data coordination and especially damage assessment which varies between agencies from SBA, to FEMA to CDBG-DR and that will give us a greater scope into that sense.

So I concur with Ms. McFadden, too, in terms of the employment and I urge you all to provide more staffing to HUD in that sense or funding so that they can have more staff.

Chairman GREEN. Thank you very much.

Ms. Lemelle, you are from my home State and the very County that I happen to represent. Can you kindly give us your most important point?

Ms. LEMELLE. Yes, Mr. Chairman. The point would be that in any codification of CDBG-DR, that similar to the regular CDBG Program, direct allocations be made to large communities or urban cities and counties that have the capacity to administer such programs, and that would also reduce the timeframe.

In the case of Harris County, we have a long history of grant agreements directly with HUD to carry out such programs and that would be greatly beneficial to our residents and our local ability to recover quickly.

Chairman GREEN. Thank you.

One of the things that we seek to do in the bill is provide some direct funding to the entities that are capable of managing the resources appropriately. Mr. Kirkland has indicated that there is a lot of concern for this and I assure you, Mr. Kirkland, we take this admonition seriously, we will work to this end but to all of you let me just share this thought.

This is an important day for us because it provides us an opportunity to make a difference in the lives of people who are still suffering. I thank you for your testimony.

And I shall now yield 5 minutes to the ranking member, having stayed within my time.

Mr. BARR. Thank you, Mr. Chairman.

Mr. Kirkland, the IG's Office has released dozens of reports with details about waste, fraud, and abuse within the CDBG-DR Program. Obviously, our committee is trying to balance the needs of people waiting for disaster relief against the taxpayers' interests in ensuring that the program has proper controls in place to prevent waste, fraud, and abuse. Your office has found a series of cases where disaster recovery money was not used for its intended purpose, and those cases do make clear that there is room for improvement with respect to the program.

Earlier, I referenced multiple cases in which your office uncovered millions of dollars that were misused or went missing. These demonstrate a concerning trend that suggests a lack of oversight over these funds. How does HUD currently track disaster recovery funds to prevent waste, fraud, and abuse?

Mr. KIRKLAND. They do have a system that currently tracks the money as it is expended. I do know that HUD has communicated to us their intention to track that money more in real time than

they have been traditionally been able to do; I think they are working on upgrading their systems.

As I pointed out in my testimony, I think it is very important that as HUD works with all of the grantees to ensure that all of those systems work together in collaboration so the grantees and HUD can have insight into what is being spent.

Mr. BARR. My understanding is that the Secretary can waive program requirements so long as he or she finds “good cause” to do so, is that a weakness in the program?

Mr. KIRKLAND. We have expressed consistent concerns on the ability in the waiver process. We have seen and certainly understand that there is a need for waiver in certain circumstances but we have seen that abused in many, many circumstances, some of the circumstances that you pointed out, other situations where the waiver process, multiple waiver processes were used to basically allow for the expenditure of the funds in any way ultimately that—

Mr. BARR. Whether or not it has anything connected to do with a natural disaster?

Mr. KIRKLAND. Whether or not it had anything to do a disaster.

Mr. BARR. And are waivers ever granted retroactively?

Mr. KIRKLAND. There are waivers granted retroactively all the time.

Mr. BARR. It is a big concern because if you don’t get pre-approval you just spend the money however you see fit, whether it is connected to a disaster recovery or not and then you seek permission after the fact or forgiveness perhaps as opposed to permission in advance. I think that obviously is something that needs to be addressed in the legislation.

How would codifying the program help HUD and your office make sure that the money goes to where it is supposed to go?

Mr. KIRKLAND. As we have noted, the concern that we see is that in every disaster, we basically reinvent the whole process, and that seems a very inefficient approach. As we have noted there are a lot of inconsistencies across all disasters and finding ways to efficiently approach that, and ultimately the goal is to get the money to the people who need it most and that is not being achieved by this inefficient process.

Mr. BARR. We have heard a lot about the pace of fund delivery and the slow pace of fund delivery, that is a problem because obviously if vulnerable victims of disasters are not getting their relief in a timely manner, it is not much help. In fact, many of the people affected by the 2017 disaster still haven’t seen a single dollar from HUD, in most cases. Is that unusual or does it typically take 2-plus years to even see the first dollar?

Mr. KIRKLAND. The circumstances of this disaster have taken significantly longer than prior disasters. As we have noted, typically the first Federal Register notices go out in about 35 to 45 days; that is unnecessary time but that is the typical time that it takes. In this case, I think it took about 154 days.

Mr. BARR. Codification and rulemaking under a permanent program would expedite preventing that Federal Register—

Mr. KIRKLAND. That is correct.

Mr. BARR. —notice.

And then Ms. Lemelle's argument about direct assistance, is that, I mean, obviously Houston is a sophisticated jurisdiction, is that the right approach?

Mr. KIRKLAND. So obviously we have had experience with, like New York City did get a direct allocation of disaster relief. The internal controls are the important aspect from the work that we have done, ensuring that those are in place, whomever gets the money, I think those are the important things.

Mr. BARR. My time has expired. Thank you.

Chairman GREEN. The Chair now yields 5 minutes to the Chairwoman of the Full Committee, Chairwoman Waters.

Chairwoman WATERS. Thank you very much, Mr. Chairman, and members.

I want to just find out from you, Mr. Kirkland, if you know what is happening in California. We have had the Thomas fires, the Woolsey fires, the Camp fires, and I understand that there is some problem with OMB that may be holding up the process for rules. Do you know what is going on with California?

Mr. KIRKLAND. I do not know specifically whether OMB is holding that up. We can certainly check into that and get back to you on that.

We have expressed and do have concerns that there may not be the level of expertise to understand how to respond from a disaster front as it comes to fires just because we have experienced many natural disasters but maybe from the standpoint of the expertise available, understanding how to respond to a natural disaster that is a fire. Anecdotally, we have had some concerns there, we don't have any specific work on that but that is a concern that we have expressed.

Chairwoman WATERS. Well, I want you to know that it was unfortunate but we were not able to get the California Department of Housing and Community Development representative here today, Mr. Ben Metcalf, but he did send a statement and I ask unanimous consent that it be included in the record, Mr. Green?

Chairman GREEN. Without objection, it is so ordered.

Chairwoman WATERS. Thank you very much.

Let me just ask you because I have heard a lot about Puerto Rico and we are all concerned about Puerto Rico. We are concerned that perhaps Puerto Rico has not been assisted in the way that it should be assisted. Is there any interference in getting that assistance to Puerto Rico from any part of the government? We know that, we have heard about HUD, we heard that HUD is not staffed properly, that they are basically not doing the job that they should be doing. Is there any interference from the White House?

Mr. KIRKLAND. We have obviously received a request from Members of Congress to look into that interference. We are in the process of looking into whether or not there has been any interference and do plan to report back to Congress on what we find.

Chairwoman WATERS. How long is it going to take you?

Mr. KIRKLAND. We will expeditiously do so and I know that our folks are out there right now doing that and we do intend to get back to you as soon as possible.

Chairwoman WATERS. When was it started? When was your investigation into this issue first started?

Mr. KIRKLAND. I believe we received the request during the shutdown and so our review of it started right after the shutdown.

Chairwoman WATERS. Well, it has been over a year and a half since Hurricane Maria devastated Puerto Rico, which resulted in billions of dollars of destruction and thousands of hurricane-related deaths. In response, Congress appropriated \$20 billion in disaster recovery grants to help Puerto Rico rebuild and protect against future disasters. To date again, HUD has only made a fraction of this money available to Puerto Rico. Has the HUD IG—you said you are looking into what has been happening and whether or not there was interference, so tell me how your investigation is framed? Are you looking into whether or not there has been interference or are you just looking at HUD and its inability to do its job?

Mr. KIRKLAND. The questions raised to us did relate to the total of what you have asked about. Obviously, we may have some limitations on our jurisdictional ability to look into the totality of that but where we can, we have asked those questions that Congress asked us to get to the bottom of.

Chairwoman WATERS. Thank you very much, Mr. Chairman. And I yield back the balance of my time.

Chairman GREEN. Thank you, Madam Chairwoman.

The Chair now recognizes the gentleman from Florida, Mr. Posey, for 5 minutes.

Mr. POSEY. Thank you, Mr. Chairman, for holding this hearing. And we thank the witnesses for your appearance today.

Mr. Kirkland, as noted, the Green-Wagner Bill lays out some very general activities to be authorized by a codified CDBG-DR Program. The HUD Inspector General concluded that the agency already has sufficient authority to codify the Program. I assume that means you believe the existing statutes provide some clarity about which kinds of activities to fund and which kinds probably should not be funded. Has the IG's audit of the Program developed a set of principles for deciding when a CDBG grant would be duplicative of other Federal programs and if so, could you give us some examples?

Mr. KIRKLAND. Obviously, we are concerned that more progress has not been made on coordination and collaboration between the agencies that are responsible for putting out disaster relief, specifically FEMA, SBA, and HUD. We do think there needs to be additional collaboration to ensure that relief is being provided in whatever form necessary but also that the agencies are coordinating and collaborating on that front. We don't think that has been done enough, and then obviously Congress did pass some legislation directing that to be addressed last year; we don't know that a lot of progress has been made on that front, though.

Mr. POSEY. Okay. Thank you very much for this; great answer.

Ms. McFadden, your testimony runs counter to the direction of the Green-Wagner bill with respect to duplication of agency programs. As noted, the Green-Wagner bill would prohibit using funds for Flood hazard mitigation work that can be done under the National Flood Insurance Program already or FEMA programs. You recommend that reform explicitly state that eligible hazard mitigation projects include all activities permitted in FEMA's Hazard Mitigation Grant Program and Pre-Disaster Mitigation Program.



Could you explain why that would be the right way to proceed with this program as opposed to adequately and consistently funding such work underneath FEMA rather than supplanting those efforts with the HUD money?

Ms. MOLLEGEN-MCFADDEN. Thank you for the question. And I certainly am not in favor of duplicating any funding that is already being provided for the same purpose but CDBG-DR is often used by communities to wrap around existing FEMA funds so communities often do not get sufficient FEMA dollars to complete the mitigation projects that are necessary and generally the CDBG-DR funding is coming later in time and so it can fill those gaps.

Mr. POSEY. Okay.

Do the other members of the panel agree with that answer?

Mr. Kirkland?

Mr. KIRKLAND. We do feel that—our work has demonstrated that duplication of benefits—we think that is a policy call for obviously Congress working together with HUD, to HUD and the other agencies to decide. We do think though that the agencies need to make sure they coordinate and collaborate whatever decision they make.

Mr. POSEY. Okay.

Mr. Secretary, would you care to weigh in on that?

Mr. ENSENAT. I definitely concur and I think the expertise is a key to it, and HUD should be focusing on housing, for example; if it is energy, it should go to the the Department of Energy; if it is related to infrastructure, it can be DOT or the related agency, the Army Corps of Engineers, and that way we will definitely eliminate the duplication of benefits because each area will be handled by a single entity with the expertise.

Mr. POSEY. Okay.

Ms. Lemelle, your response?

Ms. LEMELLE. I would just add that yes, there needs to be closer coordination between FEMA and HUD programming. I would just caution that funding to FEMA for mitigation, we need to make sure we are looking at the cost-benefit analysis and ensuring that it is equally and fairly being distributed across all the residents if we are going to go that route.

FEMA historically, especially in the Hazard Mitigation Program, has looked at cost benefit, that in our community has benefited those more wealthier and higher-income areas. CDBG-DR has always been used to help those communities that otherwise would not receive assistance from FEMA.

Mr. POSEY. Okay.

Well, thank you for your answers.

I see my time is up. I yield back, Mr. Chairman.

Chairman GREEN. Well, thank you sir.

The Chair now recognizes the gentlewoman from New York, Ms. Velazquez.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Secretary Gil, in announcing the most recent award of \$18 billion, HUD also announced that it will require financial controls on this new tranche. What has HUD communicated to you about those fiscal controls and how will the controls impact your action plans?

Mr. ENSENAT. It's nice to see you, and thank you for the question, Congresswoman Velasquez. But HUD preapproved our fiscal

internal controls before actually approving the action plan. Afterwards they have been working shoulder to shoulder with us just strengthening some of the controls that we have and based on best practice.

Last week for example, Mr. Irv Dennis, the CFO, led a delegation with about 15 people from the HUD Office who were there at the Puerto Rico Department of Housing, just to go and see the whole system work and the implementation process end to end.

And based on previous stories and previous remarks from last year, I believe that HUD also is taking a corrective action plan in terms of wasted money from more than 20 years, and I think Mr. Kirkland already, the OIG did a hearing in which they established that between the Department of Defense and HUD, there was around \$21 trillion missing in more than 20 years. And well, I can see that they are taking more direct control into it so they don't waste taxpayers' money. If that is the case, then I am all for it. I am all for controls, I am all for compliance, but that communication has to be faster and it has to be quicker in that sense in order for us to implement faster.

Ms. VELAZQUEZ. Thank you.

Mr. Kirkland, I, together with Bennie Thompson and Raul Grijalva, Natural Resources, Homeland Security, and I am the Chair of the Small Business Committee, we sent to you or to Helen Albert, a letter on January 17th, asking for an investigation regarding the fact that there were reports that Deputy Secretary Pamela Patenaude has resigned due to disagreements in part over Administration directives to interfere with the release of Puerto Rico Disaster Relief Funds. And this is disturbing, yet you are saying that you—have you opened the investigation?

Mr. KIRKLAND. We are currently looking into the request and we have currently—

Ms. VELAZQUEZ. Are you going to depose Deputy Secretary Pamela Patenaude?

Mr. KIRKLAND. We are taking active steps to look into all of the information that was provided to us and we do intend to report back the results of that.

Ms. VELAZQUEZ. Do you understand that this is an important issue for 3.4 million Americans in Puerto Rico whose lives are at risk, given the vulnerability of the infrastructure, whether the hospital, the power grid, and yet if we have an Administration that is obsessed with the fact that Puerto Ricans—American citizens are not deserving of our help?

Mr. KIRKLAND. We absolutely see the importance of that—

Ms. VELAZQUEZ. This is about life and death.

Mr. KIRKLAND. In December of 2017, I had the great honor of going down to Puerto Rico and seeing for myself the extreme devastation that occurred on that Island and the impact that it had on those 3.4 million people.

I experienced a tropical cyclone when I was in American Samoa and I know the absolute vulnerability that living on an island, following that type of devastation can bring and I can assure you we are taking those allegations very seriously.

Ms. VELAZQUEZ. Well, I expect that because yesterday The Washington Post reported that at an Oval Office meeting on February

22nd—we sent this letter on January 17th—Mr. Trump asked top advisers for ways to limit Federal support from going to Puerto Rico, believing it is taking money that should be going to the mainland, according to senior Administration officials. So this is disgraceful; it is a disgraceful way to treat United States citizens who have made so many contributions to this country. My uncle served in the Korean War, we owe the people of Puerto Rico an explanation, enough is enough.

I yield back.

Chairman GREEN. The gentlelady yields back.

The Chair now recognizes the gentlewoman from Michigan, Ms. Tlaib.

Ms. TLAIB. Thank you, Mr. Chairman.

Good morning to all of you.

The City of Detroit was rated, I think, one of the five least likely cities to have a natural disaster, however in 2014, several cities in Michigan and in the Metro Detroit area were impacted by major unexpected flooding, meaning that any city, at any point, could be impacted by a natural disaster and it is important to make that note.

Disaster relief has been inequitably restricted amongst people of different races, ethnicities, and economic classes, and I am so glad that we are talking about home ownership status, meaning renters versus homeowners. According to the Fair Housing Act, recipients of Federal housing funds are required to quote—and I am learning what the interpretation of this is, is, Affirmatively Furthering Fair Housing. This requirement means that State and local governments must use disaster recovery grants to take meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination.

Disaster recovery funds have been shown to be incredibly hard for people with the greatest needs as some of you have testified, including low-income renters, people with disabilities, and people experiencing homelessness, to relatively higher-income homeowners.

Ms. McFadden, how can HUD—and I am asking you because—and I am new here, Mr. Chairman, but we call the liaisons for various departments and the HUD liaison doesn't call us back, and I just want to put that on record; it's the only department that doesn't call me back.

How can HUD ensure that communities are rebuilt in a way that actively deconstructs racial housing segregation and promotes accessible housing opportunities for people with disabilities?

Ms. MOLLEGEN-MCFADDEN. Thank you for the question, Congresswoman. CDBG disaster recovery funds only show up in communities when there has been catastrophic devastation so the silver lining—and I don't mean that disrespectfully—but the silver lining that comes with the award of CDBG-DR funds is the opportunity to fix mistakes of the past. So that includes when rebuilding housing, thinking about where low-income housing was located and the lessons that we have learned about the impact on children's lives, of what it means to grow up in a segregated low-income area versus a more robust community of opportunities. So one oppor-

tunity there is to locate new affordable housing in communities of opportunity.

And another issue that I would highlight is the impact on homeless people. There is a misconception that people who were homeless before the disaster aren't really impacted because they didn't lose a home. But the reality is that people who were struggling to maintain their daily lives before the disaster have compounded traumas after going through catastrophic events, and are often really in hard times after FEMA rejects the ability to serve them permanently.

So one recommendation I have there would be to direct HUD to work more closely with the Homeless Office inside of HUD as well as to direct the recipients of funding to work closely with the Continuum of Care providers of homeless assistance.

Ms. TLAIB. And historically what, as Members of Congress and those folks, we can direct various States to use certain things and various departments but what are some of the things we can do in accountability? Do we hold that money? What are some of the specific actions that we could take to push this really important element of the part of trying to really address natural disasters and the impact on especially renters and our homeless neighbors and our disabled residents?

Ms. MOLLEGEN-MCFADDEN. I agree. Oversight is a critical function of the Federal Government, and after making more strides in setting up the recipients of funding for success, they need to come in on the backside and look at the data. The numbers won't lie. Let us take a look at who the programs are serving by income, by race, by housing type, and look at that against the data on where the need was the greatest, based on where the disaster struck.

Ms. TLAIB. Yes. Well, thank you so much, all of you for your testimony and your advocacy today.

Thank you, Mr. Chairman. I yield back.

Chairman GREEN. Thank you. The gentlelady yields back.

The Chair now recognizes Mr. Steil for 5 minutes.

Mr. STEIL. I appreciate you all coming in to testify. Mr. Kirkland, I understand there were concerns about whether disaster recovery funds were equitably distributed and whether community is rich or poor, urban, or rural, they should be able to get the same help it needs from a disaster recovery standpoint. As we debate codifying this program what can we do to ensure the future distributions have a positive impact on all communities, could you just comment on that please?

Mr. KIRKLAND. I do think it is incumbent on CDBG-DR to work with the grantee to identify what the needs are and but I think once those needs are identified, our concern has been you see sort of a moving target from the standpoint of are you really addressing the needs that were originally identified.

And the waiver process is obviously a concern of ours, we do recognize there needs to be flexibility in ensuring that certain requirements can be waived for particular disasters and the like, but using the waiver process to allow anything and everything to change is, I think, a dangerous position to be in.

Mr. STEIL. Thank you.

Ms. McFadden, in your testimony you suggested requiring grantees to develop mitigation plans that anticipate future likely disasters and form the basis for proposed projects. Can you give an example of where that has been successfully done, maybe on a voluntary basis? Have you seen that play out?

Ms. MOLLEGEN-MCFADDEN. Well, one example I would cite would be through HUD's Rebuild by Design Competition. After Hurricane Sandy, HUD worked closely with philanthropy, the private sector and cities, counties, and States that were impacted by Hurricane Sandy, to come up with comprehensive plans for protecting their communities, looking not just at what would it take to make them physically safe but also how they could use the opportunity to achieve multiple benefits from the serious infrastructure investments that will be made.

Mr. STEIL. Thank you.

I appreciate your time here and I have learned a lot from today's discussion.

I yield back my time.

Chairman GREEN. Thank you.

The Chair now recognizes the gentlewoman from Missouri, Mrs. Wagner, who has been a great partner to work with on this legislation.

Mrs. WAGNER. Thank you, Mr. Chairman.

And I thank the witnesses for being here.

Mr. Kirkland, in 2018, the HUD IG released an audit entitled, "HUD's Office of Block Grant Assistance Had Not Codified the Community Development Block Grant Disaster Recovery Program." In that report, the IG's Office laid out reasons why it is so important to codify the CDBG-DR Program. Did you work on that audit sir?

Mr. KIRKLAND. Our Office worked with the Office of Audit. At the time I was the Acting Deputy Inspector General so obviously I worked directly with the Audit staff that was working on that.

Mrs. WAGNER. Wonderful. Can you summarize why you think codifying the program would lead to better outcomes, please?

Mr. KIRKLAND. So as we noted as part of that audit, we identified 59 either direct duplications or similarities in—

Mrs. WAGNER. Fifty-nine?

Mr. KIRKLAND. Fifty-nine in the Federal Register notices associated with the disasters over the years. That type of commonality seems to point to a consistency of approach, however the failure to take advantage of a consistency in approach leaves these grantees in a position that they can't act until HUD acts, they have to wait for HUD to do something first and that delay is absolutely unnecessary.

Mrs. WAGNER. So those who need the assistance the fastest are delayed by a year, 2 years, depending upon how long it takes to set up.

I know the purpose of using CDBG funds for disaster recovery is to help the most vulnerable people and businesses take care of needs that were not met by other disaster relief programs but in most cases those people and businesses have to wait years for CDBG-DR money to reach their community. The people affected by the 2017 disasters as has probably been stated, still haven't seen

a single dollar from HUD in most cases. And I was there, and I voted to appropriate this money.

Mr. Kirkland, is that unusual or does it typically take one to two years to disperse DR funds?

Mr. KIRKLAND. There are always delays in the process and as I noted in my testimony, even getting the action plan, the Federal Register notice out normally takes 2 to 4 months to do it, in this case it took 154 days so obviously a significantly longer time as part of these disasters. We do recognize that these were unprecedented disasters. But we think that argues even more for codification.

Mrs. WAGNER. And so why is a process so slow, is it codification or there are other things we can do to streamline these disaster relief funds?

Mr. KIRKLAND. Our understanding obviously, this time around—well part of it is understanding what the money is and I think making sure HUD goes through its processes but as we noted in our audit report, a lot of those processes are, we believe, unnecessary.

Mrs. WAGNER. What can we do to expedite the process so we can get these dollars to the people who really need the help rebuilding their lives?

Mr. KIRKLAND. I think you are well on your way in this bill that you all have introduced to creating a process that will streamline this.

Mrs. WAGNER. Terrific. And that is great news, Mr. Chairman.

One last question, Mr. Kirkland, what can Congress do to ensure CDBG-DR funds aren't duplicating benefits already received, and what can HUD do? For instance, how does HUD know whether SBA provided assistance already, so that it does not duplicate funding?

Mr. KIRKLAND. I think we have continue to encourage HUD to work with the other agencies that do provide benefits to coordinate their efforts, to ensure that they are communicating. I do think that ensuring that, as part of this bill, there is a dictate for sharing of information between State, local, Federal, agencies, to ensure there is transparency in that process for everyone involved, I think would be a good aspect.

Mrs. WAGNER. And I thank you for that testimony, Mr. Kirkland, because I couldn't agree more. FEMA has to be speaking with SBA, with HUD, with the State, and local, everyone needs to be coordinating so that we can get the proper assistance to those in need, in the fastest manner forward; codifying this program, making sure that these organizations are working together is key along with the claw-back provisions to make sure too that this money isn't lingering out there and the billions of dollars for years and years and years.

I thank all of the witnesses.

I thank you, Mr. Chairman, for your tremendous work on this.

I thank my friend, Andy Barr, who is the ranking member of the subcommittee for taking this mantle up also.

And I yield back.

Chairman GREEN. I thank the gentlelady for her kind comments.

The Chair now recognizes the gentlewoman from Harris County, Houston, Texas, Ms. Garcia.

Ms. GARCIA OF TEXAS. Thank you, Mr. Chairman. And I too want to thank you for bringing attention to this very critical issue. You and I both know that Texas and of course our Houston, Harris County has had more than its share of incidents that we have had to wrestle with as was stated earlier by one of our witnesses, in the last 10 years. So first I want to thank you for having this hearing and I know that it is, as well as everyone knows as well as I do that there has just been shocking devastation that Harvey has left not only in Harris County but in most of the Gulf Coast region of Texas.

And while our recovery from Harvey has been impressive, it is beyond frustrating that we sit here today, 578 days after Harvey made landfall, still trying to grapple with these recovery programs. While Harvey may have drowned Harris County in rain, it has almost been drowned in red tape, both the Federal and State Government has piled on undue additional restrictions and delays, and now we must face the fact that a delayed recovery may become no recovery at all for many people, especially in my district.

This committee has the opportunity to make sure that these holdups are not repeated with the next disaster, whether it be in Harris County or anywhere else in the country and unfortunately, we all know there will be a next time because there is always a next time. Let us learn from what we have heard here today so that we aren't back here after the next season of hurricanes, fires, or anything else in our country, asking again, what happened.

Mr. Chairman, again I applaud you for working on this legislation and I look forward to working with you to make sure that CDBG-DR is codified and we thank you for your service on this important issue.

And with this I want to begin my questioning, and I have so many because for those who don't know me, I have been dealing directly with many of these incidents in Harris County for many, many years, either as City Controller in Houston, watching the dollars and how our dollars have been spent or as a Harris County Commissioner, wrestling with recovery.

So Ms. Lemelle, I want to start with you. You and I have worked together on many of these—it is really great to see you. I read your testimony. I really agree with everything you have mentioned. And you have mentioned the thing that we have wrestled with many, many times, which is the need for huge cities and cities that have the capacity to deal with these issues firsthand particularly the spending and the accountability issues. Is that the one thing that you wish got changed, was being able to receive the direct grants or is it precertification or is it cutting some of the red tape, if you could tell us the one thing we really need to get done that would help you tomorrow, what would that be?

Ms. LEMELLE. Thank you, Congresswoman Garcia. And I appreciate the question. The one thing is that direct allocation for Harris County and the City of Houston would be beneficial and would cut a lot of the red tape.

The other thing that has already been mentioned is that permanently authorizing CDBG-DR would also allow that to happen, that

if you have the rules, we could start our planning much earlier; we could start our planning immediately following a disaster, even pre-disaster in the case of a hurricane, that we know will be hitting us. We know what the rules are prior to a disaster and having the codification of CDBG-DR would give us a lot of that. Under the other regular CDBG Program we do that on an annual basis, we pre-identify upfront, we go out to our community, work with our nonprofits—

Ms. GARCIA OF TEXAS. Right. We have worked on a lot of those together but—

Ms. LEMELLE. Yes.

Ms. GARCIA OF TEXAS. I guess my concern would be, a concern I forget, somebody has raised it—we know that Harris County can handle—you were equipped to do that but I know that when I represented Houston as County Commissioner I also represented about 12 other municipalities around Houston, much smaller who couldn't so they went to Harris County for us to administer the program for them. How would we determine or what threshold would we use to be able to say, Harris County you get direct allocation but maybe Austin you don't or Boston you get it but maybe Baltimore doesn't—what guidance would you give us on that?

Ms. LEMELLE. I would say that any institution that receives CDBG-DR and is a direct grantee, they have the monitoring history, they also have a pre-history of OIG audits; we are regularly audited and we are reviewed and I think capacity is shown via previous audits and ability to carry out these programs. HUD has a lot of the ways of looking at grantees already, I would say, and any ability to do that should be part of the review and capacity review to allow that to happen.

In cases where a community does not have capacity or wishes not to be a direct grantee, you can always give that to the State to administer if that is your choice. I think the choice should be for a community to lead its direction and local ability to plan, and carry out those activities, are best for its residents.

Ms. GARCIA OF TEXAS. Mr. Kirkland, very quickly, I was really puzzled with your response to the chairwoman regarding—I'm sorry—well, I will submit my question in writing.

Thank you.

Chairman GREEN. The Chair will now recognize Mr. Loudermilk for 5 minutes.

Mr. LOUDERMILK. Thank you, Mr. Chairman.

I appreciate the panel being here today and from most of what I have seen and from testimony we have heard and questions, a lot of the inefficiencies and delays in grant funding come from what appears to be the front end and the back end of the entire process and I know that a lot of my colleagues have already addressed the inefficiencies, delays, because of lack of formal structure and how codifying would benefit that. I want to look at the back end of that and see what we can do there.

Mr. Kirkland, on the back end, it seems that there is a lot of unspent funds that end up sitting into the coffers that could be used for other things, it could be used in different areas, it seems to me that if we had an expiration date, on the use of those funds and if they are not utilized they go back into the Treasury would



be one thing, a better use of taxpayer money but also may incentivize those funds to be used more efficiently. What do you think about a 6-year timeline or what are your thoughts about how to better improve that back-end process?

Mr. KIRKLAND. Obviously, we would want to leave the decision on the specific timeframe to the policymakers on exactly how long that should be. Our experience though has been the longer you get out from a disaster, the more troublesome issues that we see in the expenditure of funds; the more creative ways that we see that grantees use to expend funds, the further you get out, the more problematic that is from our perspective.

And obviously we do think—and HUD I think has self-imposed a 6-year term but then they consistently waive that 6-year term. We do think a time limit should be set. We also recognize that there is money sitting out for many different disasters, long past—dating all the way back to 9/11, money is still sitting in the coffers of those particular disaster recovery efforts.

Mr. LOUDERMILK. So do you ever see when money sits out there for a longer period of time, there may be some localities or jurisdictions, little creativity in how that money could be spent?

Mr. KIRKLAND. That is where we see probably the most creativity of money being spent is the further you get out from a disaster.

Mr. LOUDERMILK. So you have this pot of money that we have utilized what we could for the initial disaster relief but there is still this pot of money that we need to figure out how we can use it, does that kind of summarize some of what we are—

Mr. KIRKLAND. Agreed.

Mr. LOUDERMILK. And a time period would obviously resolve some of that?

Mr. KIRKLAND. I do agree, yes.

Mr. LOUDERMILK. Okay. Thank you.

I would also like to move on to the environmental review process and I know Ms. McFadden, you testified to that in your written remarks, what are some of the specific issues in the environmental review process that cause these back-end delays?

Ms. MOLLEGEN-MCFADDEN. Well, I think if you ask any recipients what their biggest headache is with Federal funding, they will probably tell environmental reviews—

Mr. LOUDERMILK. Yes.

Ms. MOLLEGEN-MCFADDEN. So while it is absolutely good public policy to have standards to ensure that when you are making a Federal investment in a property, it will for example do no harm to the environment or do no harm to the people who are living in or using the building; after a disaster some of the real pain points are when you are simply getting people back into their homes but having to do long and expensive reviews on properties which don't yield any benefit at all.

Mr. LOUDERMILK. What can be done to streamline that process?

Ms. MOLLEGEN-MCFADDEN. So the last several appropriations have taken great steps to allow HUD recipients to adopt a FEMA environmental review, that has been done, and I think that is a terrific effort and we would like to see some more loosening of the standards around rebuilding single-family and multi-family properties that are where they were before the disaster.

Mr. LOUDERMILK. While we are on the subject of the environment, because this kind of ties into it, I appreciate some of the things that you guys are looking at doing at flood risk mitigation, I think that is something that has been overlooked, I think that is something that we have looked at on this side in our National Flood Insurance Program Reauthorization, and my understanding is that if we properly do some type of mitigation, especially moving people out of harm's way, it is a six to one savings for every one dollar of Federal funds spent save, six dollars. Can you give us an update on HUD's implementation of the CDBG-DR mitigation and what are your recommendations?

Ms. MOLLEGEN-MCFADDEN. Being short on time, I would say it has been more than a year since Congress provided the funds, in February of last year, and Secretary Carson said recently that we could expect to see the rules for how to use that money in May, that is a call for codification and rulemaking right there so that we never have to see that kind of delay between when you make the funding available and when recipients learn how it can even be used.

Mr. LOUDERMILK. Okay. Thank you.

I yield back.

Chairman GREEN. The gentleman yields back.

The Chair will now recognize the gentlewoman from Pennsylvania, Ms. Dean.

Ms. DEAN. Thank you, Mr. Chairman. I thank you for calling this hearing. And I thank those who have come to testify before us. We certainly know that in the last several years, especially this last year, our country has suffered tremendous losses and the need for disaster relief and the appropriate and prompt distribution of disaster relief is something we in Congress grapple with, and I thank you, Mr. Chairman, for the bill that you have crafted.

I would like to at this time yield my time to Ms. Garcia.

Chairman GREEN. Ms. Garcia is recognized.

Ms. GARCIA OF TEXAS. I thank the gentlelady from Pennsylvania. And thank you, Mr. Chairman, for the additional time.

I was caught in the middle of asking you a question—I was really troubled with your responses to the chairwoman regarding the disaster recovery dollars for Puerto Rico.

I have seen more than one report about the White House either directly or indirectly through some of its agencies or some of its staff asking for delays or different criteria, restrictions, on Puerto Rico that have not been placed on other States and you said you were looking at that but your responses never seem to tell us anything specific. I think you used the words, “we are actively doing it.” What is going on and why is it taking you so long?

Because it seems to me that for a group of people who are supposed to be reviewing the red tape to provide the inefficiencies and ineffectiveness that you are talking about, it seems like you are suffering from the same red tape.

Mr. KIRKLAND. We are making every effort to look into—

Ms. GARCIA OF TEXAS. And what does that mean, what are you doing—

Mr. KIRKLAND. That is including—

Ms. GARCIA OF TEXAS. And meanwhile, as my colleague from New York mentioned, meanwhile there are people waiting in Puerto Rico, I went to Puerto Rico, I have seen it firsthand—

Mr. KIRKLAND. Sure.

Ms. GARCIA OF TEXAS. There are more tarps than I wanted to count. I went to Ponce with the mayor, I visited San Juan, and I just was stunned at the lack of response.

Mr. KIRKLAND. We are—

Ms. GARCIA OF TEXAS. Your job is to review that and make sure that we know that it can happen quicker.

Mr. KIRKLAND. We are interviewing a number of folks. Obviously, some of those folks have subsequently left HUD so tracking those individuals down and going through the process of gathering information from them, we are working diligently to do so and we will make every effort to get that done as quickly as possible and report that.

Ms. GARCIA OF TEXAS. How many people do you have doing this as compared to any other review that you have done somewhere else or are you doing less also just as the President apparently, according to some reports, wants all the other agencies providing the relief in response?

Mr. KIRKLAND. The inquiry is a priority for us. We have dedicated a team of agents and attorneys that are working together to get the answers to those questions.

Ms. GARCIA OF TEXAS. And what is your timeline for a response?

Mr. KIRKLAND. As soon as possible. We did get—

Ms. GARCIA OF TEXAS. Well, tomorrow—

Mr. KIRKLAND. A report from—

Ms. GARCIA OF TEXAS. Next month—

Mr. KIRKLAND. We did—

Ms. GARCIA OF TEXAS. Next year? Again, the people in Puerto Rico are waiting.

Mr. KIRKLAND. We are prioritizing that. We obviously never know where a particular inquiry will take us so I hesitate to put a timeline on it but I give you every guarantee that our agency is providing every resource to ensure that we can get you the answers as quickly as possible.

Ms. GARCIA OF TEXAS. Well, I join many of my colleague who are concerned about this issue particularly—Ms. Velazquez and others because again I know how audits work. I was a comptroller, we did audits. And the key to an audit is, to go in and do it quickly as possible, as effectively and efficiently as you can so that you can get the lessons learned and the things that need to be done to ensure that the dollars get where they need to go. And sir, from, we are sorry, if we could hurry it up, we would. Because I do think that when you look at how some of the dollars have come in the past, yes, it is always slow. But it just seems that with Puerto Rico, it is just damn slow, and we need to get it going.

Thank you so much.

And thank you, Mr. Chairman. I yield back my time.

Chairman GREEN. Would the gentlelady yield the final 24 seconds to me, please?

Ms. DEAN. Absolutely. I yield to the Chair.

Chairman GREEN. Thank you.

Mr. Kirkland, quickly, do you know, the number of people in HUD who are working on the DR Program? At one time I am told that we had but a handful of people.

Mr. KIRKLAND. So the last number that I heard obviously was between 20 and 25; the number I heard was 24.

Chairman GREEN. Twenty-four?

Mr. KIRKLAND. Permanent employees.

Chairman GREEN. Thank you very much.

The Chair will now yield 5 minutes the gentleman from New York, Mr. Zeldin.

Mr. ZELDIN. Thank you, Mr. Chairman, and Mr. Ranking Member, for holding this hearing. And I thank the witnesses for being here.

And as I was listening to the last questions and comments, the two words that certainly ring true and really is the purpose of this hearing are the two words, "lessons learned." My background is the Army, I have spent about 16 years or so between active and reserves and I think one of the things that makes our Military the greatest Military in the world is our ability to learn lessons of what works well and what doesn't work well.

I will tell you from another perspective, which is more directly related to today's hearing, I would like to speak as a Long Islander who went through Superstorm Sandy and to share a few thoughts with regards to lessons learned from that experience, I hope the Chair doesn't mind just indulging me because it is personal for us on Long Island.

At that time when so much was yielded to State and local governments to administer these programs for the Federal Government, very quickly there was a responsibility to staff up from zero to a hundred staffers. It was hundreds of staffers and it had to happen quickly.

And there was a huge turnover with the staffing, changing of responsibilities. People would submit their paperwork and go several months not knowing that their paperwork was incomplete and they just assumed that they had submitted everything because they never heard back. They decided to follow up 6 or 9 months later and they are told, well your paperwork is incomplete. You hear these stories from individuals, you hear these stories from businesses, and that was a problem.

Here's another problem, people finishing their entire casework, completing their packet, or the government is telling them your paperwork is completed and then not hearing anything for several months, and when you follow-up it turns out that the staffer who was working on your case had left and the new staffer who is assigned to your case says, "I have no documentation whatsoever," and you have to start all over.

I believe that if our subcommittee, and the Full Committee, and this House, is able to draft legislation, learning lessons from some of those disasters most recently I would just request that we go back, even further, at the Chair and the Full Committee's indulgence to look at what went well, and what didn't, with the response to Superstorm Sandy.

We have a lot of personal stories on Long Island, and I believe that we can never allow any other region of our country to experience what we went through on the East End of Long Island.

I don't know if any of the witnesses have any perspective from that component with the lessons learned but I do have a couple of minutes remaining in my time, so feel free.

Ms. LEMELLE. Yes, Congressman. I would just add, in Harris County we have learned lessons. We saw some of that after Hurricane Ike, which was in 2008, and we were prepared for this with Harvey. We understand our residents and I constantly tell our team that even if it is difficult for our staff in the office, it is difficult for us, we are looking at making it easier for the applicant and keeping them informed. That is a high priority for us in Texas.

We understand many of our folks have gone through 3 floods in the last 3 years and so we are very sensitive to that and we keep constant communication, and we set up a program where we are constantly giving folks a way to call us, we reach out to them but we have lived that experience and we understand our residents and we are staffing for that.

Ms. MOLLEGEN-MCFADDEN. Congressman, I have a perspective to add. I served on the President's Hurricane Sandy Rebuilding Task Force as Chief Operating Officer and later acting Executive Director. And I would say one of the innovations that came from the Sandy work was the repayment of work that homeowners did before they entered the program so allowing them to be reimbursed for work they did themselves rather than telling everyone, you have to wait until our contractor can come to you, and that is something that HUD has continued to permit and should continue to be permitted so that those homeowners who have the ability to go out and hire their own contractors or do the work themselves don't have to stop and wait for their turn.

Mr. ZELDIN. That is a hugely important lesson learned and I could certainly echo just thousands of examples from Long Island on that point.

Mr. ENSENAT. I am just going to mention something quickly and it is between all the places that CDBG-DR has been implemented. HUD has always been taking the same IT system or the same kind of controls into it and I think HUD should have an IT system just dedicated to it and to all the grantees, and in that sense they can see real time, where the expenditure, who was served, and who was not and they don't have that so it is something that we want to be done.

Mr. ZELDIN. Okay. Thank you.

My time is up. I yield back.

Chairman GREEN. The gentleman yields back.

The Chair will now, with the consent of the ranking member, accord the ranking member and the Chair 3 additional minutes for questions and/or comments.

Mr. Ranking Member, you are recognized for 3 minutes.

Mr. BARR. Thank you, Mr. Chairman. Again, thank you for holding this hearing. Thank you, to the witnesses for their testimony and I would ask unanimous consent that our statements about today's hearings that occurred prior to the gavel be included in the hearing record.

No objection?

Thank you.

Chairman GREEN. Without objection, it is so ordered.

Mr. BARR. Thank you.

A couple of final questions for Mr. Kirkland. On procurement standards, procurement standards are part of most HUD programs except for this, except for CDBG-DR. Based on your office's audit of the current program what are the risks of not using procurement standards when it dealing with disaster relief contractors?

Mr. KIRKLAND. We are absolutely perplexed by not having consistent procurement standards. Obviously, that lack of consistency creates amazing risks associated with fraud, waste, and abuse; that is open for being taken advantage of. We will note that FEMA requires standard procurements, standard—

Mr. BARR. Yes.

Mr. KIRKLAND. So we are not quite sure why HUD cannot.

Mr. BARR. I have heard some anecdotal stories of big problems with this program, with the lack of procurement standards and I urge the chairman and Ms. Wagner to address that in their legislation if it is not already.

Final question, we have heard a lot about Puerto Rico today so let me just ask you, Mr. Kirkland, in November of 2017 your office issued a report that identified a number of concerns regarding Puerto Rico's newly created Office of Socioeconomic and Community Development Policy. This is the office that is charged with administering Puerto Rico CDBG?

Mr. KIRKLAND. It is not currently. I think that one of—

Mr. BARR. It is the Secretary now, correct?

Mr. KIRKLAND. It is the Secretary now, correct.

Mr. BARR. But was it before?

Mr. KIRKLAND. So that was initially one of the major concerns immediately after the disaster even identifying who the potential grantee would be. I do think there was some confusion in the time right after the disaster in concluding who the grantee would be but at that time that was the entity that was identified to us as the most likely grantee—

Mr. BARR. And so—

Mr. KIRKLAND. But obviously that is not so.

Mr. BARR. And one of your chief concerns at the time was that office staff consisted mostly of former employees from its predecessor which had a track record of mismanaging HUD funds?

Mr. KIRKLAND. That is correct.

Mr. BARR. Okay. And so obviously we have a new administrator now. But the point is that there were some concerns initially with who was going to be administering some of these HUD dollars?

Mr. KIRKLAND. That is correct.

Mr. BARR. And that could be a contributing factor to wanting some additional assurances that we have program integrity now in the Administration.

And Mr. Secretary, thank you for what you are doing and working with HUD to make sure that the dollars are not just getting to the people of Puerto Rico in a timely way but with integrity so that there is not waste, fraud, and abuse in the process.

Mr. ENSENAT. Accountability and transparency, that is right.

Mr. BARR. I yield back. And I thank you for your time.

Chairman GREEN. I thank the ranking member as well.

I will now yield 3 minutes to myself.

Mr. Kirkland, would you please address the staffing at HUD, because of this enormous amount of money and the limited staffing. Can you give us some indication as to how you think the staffing impacts the process?

Mr. KIRKLAND. We obviously have concerns with the current staffing in CDBG-DR. I think the 24 permanent staff members within HUD who oversee this, oversee over a billion dollars each in their portfolio—

Chairman GREEN. Was that a “million” or a “billion?”

Mr. KIRKLAND. A “billion.”

Chairman GREEN. Okay.

Mr. KIRKLAND. And \$1.9 billion, I think to be exact, \$43 billion total overseen by 24 HUD employees. Compare that to HUD’s overall budget for everything else of \$54 billion overseen by 7,500 employees, it does seem a bit desperate.

Chairman GREEN. Well, I thank you very much.

Let me move now to my closing comments.

I had the opportunity to visit Puerto Rico and I did visit with the governor. I met with mayors. And I met with persons who were part of NGOs, visited various facilities in the Commonwealth of Puerto Rico, I must add the Commonwealth, where all of the persons are citizens of the United States of America. So these are our people. I understand the passion associated with what is happening there after having made my visit.

And I want to just give an assurance that we do want to do all that we can—and I am speaking for myself, I suppose, and those who agree with me so when I say we, I and all who agree with me. We want to do all that we can to be of assistance to the Commonwealth of Puerto Rico simply because of the need that exist and the fact that these are American citizens.

So I thank each of you for your testimony, and I would like to thank the witnesses for devoting your time and resources so that we could share your expertise.

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.

I do thank all of you.

And I will now adjourn this, the first hearing of the subcommittee for this Congress.

[Whereupon, at 11:51 a.m., the hearing was adjourned.]





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

March 26, 2019



GOVERNMENT OF PUERTO RICO  
Department of Housing

Testimony of the Honorable Fernando Gil Enseñat  
March 26, 2019

Chairman Green, Ranking Member Barr, Members of the Committee, thank you very much for the invitation to appear before you today regarding the administration of disaster recovery funds in the wake of Hurricanes Harvey, Irma and Maria.

I would like to take this opportunity to personally thank you all for the overwhelming support the Congress has shown Puerto Rico after the impacts of Maria and Irma. Congress acted swiftly in the wake of the devastation of these storms to appropriate resources for our recovery. The support has been bipartisan and is a symbol to all Americans of how we can come together in times of need, put aside our differences, and act for the good of our fellow citizens. On behalf of the 3.2 million U.S citizens who live in Puerto Rico, I thank you.

I would also like to thank our partners at HUD. Secretary Carson, Assistant Secretary David Woll, CFO Irv Dennis and their staffs who continue to work with us on approving our action plans and strengthening our previously approved internal controls so that we can get this much needed aid to Puerto Rico. Their tireless work has helped us develop smarter recovery strategies and drives us to be better. While we may occasionally have our policy differences, I know they always seek to put our residents, our fellow American citizens in Puerto Rico, first.

I'd also like to extend my sincere appreciation to Tennille Parker, Director of the Disaster Recovery and Special Issues Division, who is not only responsible for overseeing the Division within HUD that administers all CDBG-DR grants across the country, but has worked shoulder-to-shoulder with us from the beginning to ensure we are well prepared and have laid a solid foundation for our recovery. So many others throughout the agency have shown such dedication and worked so hard to get us to this point. I want to underscore our thanks to them.

Mr. Chairman, this has not been an easy road. The devastation wrought by these hurricanes was immense, but as terrible as those storms were, the recovery has been equally as grueling.

As Secretary of the Puerto Rico's Department of Housing, I oversee over half a billion dollars in federal funding and manage one of the largest number of public housing units in the country as well as many other HUD programs. As familiar as I am with HUD's statutes, regulations and policies, CDBG-DR, a

program which changes from disaster appropriation to appropriation, is in a class all its own. We were very fortunate to find contractors who could guide us through the maze and help translate our vision into actionable plans. As we reflect on lessons learned, however, it should not be this hard.

From the moment the dollars were appropriated, even before the HUD allocation, we sprang into action working on preparing the myriad of required documents and then soliciting comments from stakeholders.

All in all, we have been allocated almost \$20B from the September 2017 appropriations bill and the February 2018 bill. Since CDBG-DR is not an authorized program, the regulations stem from the language in each appropriations act and can be at the mercy of the policy preferences of the political leadership at the time. This has meant multiple federal register notices and action plan work flows. In our case, because of new leadership, some programs approved in July 2018 were reversed in March 2019.

This has been frustrating, but we are working very well with our partners at HUD and we are in agreement on the path forward. While we lost some time due to the shutdown, HUD staff worked quickly to get the approvals completed once the federal government reopened giving us full access to our first tranche of funding, \$1,507,179,000.

Our first amendment to the action plan has been approved, but we are currently waiting for a grant agreement from HUD to give us access to this next tranche of \$8,220,783,000. Each of our tranches of recovery funding will come with a unique grant agreement. We are hopeful that since our initial action plan and first amendment are substantially similar, it won't take HUD long to send us the agreement and that this version will be similar to our current executed agreement.

All we ask for with these agreements is equity and parity with our sister states on the mainland. We look forward to reporting back you Mr. Chairman, on how our discussions progress.

We are also waiting on federal register notices for the \$1.9B for the electrical grid and \$8.3B in mitigation money.

It's notable that the one-year anniversary of the appropriation of the mitigation money was on Feb 9<sup>th</sup>. As I believe Commissioner George P. Bush in Texas observed, billions of dollars of recovery money are held up because no notices have yet been published for the remaining tranches of funding. The HUD professionals working on this have more than a full plate. This fact speaks less about a problem with HUD and more about the need to reform this process.

Some have said this mitigation money is for the future and not an immediate need. That may or may not be true, but planning takes time with CDBG. Since the rules can change from notice to notice, we need to see how these dollars can fit with other dollars. But, again, I know HUD is working hard to get this notice out. I'm consistently amazed by the amount of work they do with such limited staff.

And while we'd like to have those notices now for planning purposes, we have our plates full as well. Currently, we are busy working on deploying the funding we have in hand.

In order to assist homeowners repairing damaged homes and/or rebuilding substantially damaged homes in non-hazard areas, we've created the Homeowner Repair, Reconstruction, or Relocation (R3) program and allocated \$2,175,570,050. The maximum award for repairs is \$60,000, while maximum awards for reconstruction or relocation is \$150,000. This program will build on the STEP program we successfully launched using FEMA funding focused on immediate repairs to return properties back to basic habitability. We're proud of our work on STEP and we expect R3 to continue these positive results.

Another significant challenge we have in Puerto Rico is in establishing clear title. To assist homeowners throughout the hurricane-impacted area, we've created a title clearance program with \$40,000,000. This will help create long-term sustainability and security for residents.

A balanced recovery must include renters. Toward that end, we've created a CDBG-DR Low Income Housing Tax Credit fund of \$400,000,000 to provide gap funding for properties being developed with LIHTC, thus maximizing the benefit of CDBG-DR and LIHTC funding streams. We've also created the Multi-Family Reconstruction, Repair, and Resilience \$300,000,000 fund to provide capital for necessary expenses related to long-term recovery and restoration of multi-family housing. This program will increase the availability of affordable housing through strategic investments in multi-family buildings and by supporting code compliance updates in existing buildings.

We've also created a Rental Assistance Program with \$10,000,000. This program will provide temporary rental assistance to elderly residents of storm-impacted areas who are experiencing homelessness or are at risk of becoming homeless, such as persons living in unstable or overcrowded housing, those forced to move frequently due to economic hardship, those being evicted from a private dwelling unit and lacking support to obtain other housing, and those living in shelter or transitional housing, among others.

We're creating a Social Interest Housing fund with \$32,500,000. This program will create housing capacity for special needs populations such as: homeless, senior citizens, domestic violence victims, persons with intellectual disabilities, persons with developmental and/or physical disabilities, persons living with HIV/AIDS, individuals recovering from addiction, and individuals with other function or access needs.

And we're investing in Housing Counseling Programs with \$17,500,000. This program will provide recovering residents with wrap-around educational services to promote understanding of housing and financial options such as: financial literacy, homebuyer counseling, credit repair counseling, in order to mitigate default/foreclosure proceedings, etc.

We're also investing \$436,000,000 in our communities with energy and water resilience installations. This program will provide eligible homeowners or renters with vouchers for resilient equipment, installation, and related equipment so that residents can perform basic functions such as showering and preparing meals at home in the event of a power outage, as well as provide for community-level resilience installations.

We're creating a Homebuyer Assistance Program by investing \$350,000,000 to help citizens purchase homes through a variety of support mechanisms, thereby increasing the level of homeownership in impacted communities and contributing to long-term sustainability and viability of communities across the island.

We're also creating a Small Business Financing and Incubator and Accelerator program by investing \$200,000,000 and \$35,000,000, respectively, to provide a range of flexible and thoroughly underwritten grant and loan options to assist with storm recovery and expansion of local businesses as well as support growth and success of start ups and new businesses.

We will be investing in our people with an investment in a workforce training program of \$20,000,000. This program will help unemployed and underemployed residents find employment by providing job training skills in areas related to the recovery efforts. We are committed to making Section 3 work during this recovery and this is one way we plan to do that.

We are also investing \$100,000,000 in a construction and commercial revolving loan program to provide local contractors access to start-up and mobilization capital to build local reconstruction capacity and maximize the amount of funds recirculated into the island's economy.

We'll be investing in our agricultural community as well through a \$100,000,000 dollar investment in the Re-Grow PR program. This is an urban and rural agriculture program to promote and increase food security island-wide. It will enhance and expand agricultural production that was decimated by the hurricanes.

Critically, we will also be investing in Tourism & Business Marketing with \$25,000,000 in funding to facilitate a comprehensive marketing effort to promote that Puerto Rico is open for business. This investment will attract new businesses and external capital that will contribute additional capital to the economy. Given our potential use of Opportunity Zones, this investment is very important as we look to enhance our long-term economic viability.

We will also invest in strategic projects and commercial redevelopment with \$150,000,000 to provide investments for improvements in infrastructure, amenities, and commercial real estate properties in targeted commercial districts, bringing commercial structures up to code and improving overall appeal of the areas.

We are investing \$800,000,000 in an economic development investment portfolio for growth to provide funding for large-scale commercial or industrial developments covering a wide variety of economic development tasks that may include the development/redevelopment of retail centers and infrastructure.

We will also invest \$400,000,000 in a critical infrastructure program to fund the rebuilding, hardening, and improvement of critical infrastructure, such as roads, bridges, channels, and healthcare facilities across the island, making it more resilient, adaptable to changing conditions, and able to withstand and recover rapidly from disruptions caused by future disasters.

A key lesson learned from Maria and Irma was the need for more centers where people can go during an extreme weather event. We will be investing \$75,000,000 in Community Resilience Centers (CRCs) to increase resource distribution and short-term sheltering capacity on the island. The CRCs will be able to provide support for residents and critical services during future events.

We have also reserved up to \$1,000,000,000 from the first two tranches to be dedicated to FEMA match. The total necessary number for match has not yet been decided upon, so this number will change. Interestingly, we are working with FEMA's Federal Coordinating Officer and Disaster Recovery Coordinator, (FCO) Mike Byrne, to develop standard operating procedures for implementing a global match approach for the use of CDBG-DR funding to satisfy the non-

federal cost share for the Public Assistance Program. This approach has been used successfully under the Hazard Mitigation Grant Program. We have some work to do with FEMA in Washington, but the FCO has been very supportive. If successful, this will be a best practice to be adopted in future recovery efforts.

While we are rebuilding homes and buildings, we believe it is also important to revitalize cities. So we will be investing \$1,200,000,000 to provide funds to municipalities to enable a variety of critical recovery activities aimed at reinvigorating urban centers and key community corridors to focus investment, reduce sprawl, and create a symbiotic environment to nurture complimentary investments from the private sector.

We have also learned from HUD's rebuild by design programs of the past and we are creating "Puerto Rico by Design." We will invest \$700,000,000 for an international design-build competition to seek best-in-class submissions, from which the best, most feasible, and cost reasonable options will be constructed to simultaneously address the holistic damage wrought by the hurricanes and capitalize on the unique opportunity to re-think major development initiatives in strategic areas.

And keeping with that effort, we will announce whole community resilience planning with an investment of \$55,000,000; coupled with \$50,000,000 for agency planning initiatives; and \$22,500,000 for economic recovery planning. Together, these initiatives will craft recovery solutions for all communities, including high-risk areas to increase individual and collective preparedness to future events and ensure greater resiliency at both the community and national levels. We will build data sets for properties across the island to ensure land use is correctly permitted, planned, inspected, insured, and viewable to the Municipalities. And we will have an overarching planning effort to create strategies for job creation through promotion and communication, efficient public service delivery, business creation, and public investments that will have an impact for decades into the future.

So as you can see, we have a lot to do and there are a lot of pieces for us to fit together. Predictability is critically important. This brings me to the "Reforming Disaster Recovery Act." I am fully supportive of any effort to make disaster recovery easier. Having an authorized program and processes in place would help that cause, but I have a few concerns.

Flexibility is one of the greatest aspects of the CDBG-DR framework. Understandably, with flexibility comes complexity. However, just because monitoring a complex program is hard does not mean we should remove the

flexibility that allows grantees to meet the unique, pressing recovery needs of our jurisdictions.

Requiring HUD to determine what is “equitable” distribution between activities and geographic distribution for a grantee, based on FEMA and SBA data, is based on an assumption that the FEMA and SBA processes and data are in and of themselves the best indicator of equity. According to available data as of September 9, 2018, FEMA registered over 1,138,000 applicants in Puerto Rico. However, the data reveals significant ineligible rates and low payouts, with only 216,431 approved for housing repair or replace assistance. A closer look into applicant-level FEMA data revealed limited details about the reasons for ineligible determinations. Grantees must be allowed to determine the appropriate recovery models for their jurisdictions, based on locally informed data and stakeholder engagement. Thus, allowing HUD to determine what is “equitable” removes maximum feasible deference.

Removing grantee ability to reclassify eligible projects as the recovery matures and evolves removes maximum feasible deference.

Placing complaint resolution in the hands of non-profits provides governing authority to non-governmental organizations, which could tie the hands of grantees in the recovery process. This is something we must proceed very cautiously with because it is the states, by and large, who are responsible for the spending of these federal monies.

One suggestion to alleviate complexity and create some speed might be standardization. Standardized off-the-shelf procurement guidance will enable grantees to bring on help quickly and in a compliant fashion.

Perhaps standardizing program elements as well? As you can imagine, gaining rapid access to funds is key to any recovery. One recommendation to consider would be to provide for pre-approved housing programs to be utilized for immediate permanent housing repair while action plans are created, reviewed, and approved for the balance of funds.

The coordination of data is critical as well. To be useful, data needs to be real-time and address household-specific impact. Ideally, there would be a shared disaster recovery database between FEMA, SBA, HUD and grantees using uniform addresses, uniform beneficiary demographic information, and uniform housing typologies (i.e. single family home, duplex, fourplex, etc.).

The bill requires grantees to report data up; but does not provide the same level of reciprocity for full data-sharing. The language of the bill should accomplish the same level of reciprocity. Data sharing must be two ways.



FEMA, SBA, and HUD grantees all conduct different damage inspections, using different standards and methods for evaluation. The FEMA and SBA damage inspection processes should be re-framed to form a consolidated comprehensive evaluation of total damage using industry standards utilized in the CDBG-DR and SBA programs, which provide a more comprehensive evaluation of total housing damage. This would allow for a seamless transition and service delivery across the FEMA to SBA to CDBG-DR evolution.

And Mr. Chairman, let me make a personal request on behalf of my partners at HUD. They are doing a phenomenal job working through the challenges they face in monitoring disaster programs and providing timely guidance. I can only imagine that additional staffing funds would help HUD build internal capacity and provide better oversight.

So Mr. Chairman, the enactment of a long-term regulatory framework for CDBG-DR is a good thing. However, it should be built to ease the pace and efficiency of recovery by grantees, not hamstringing it. But above all it must be fair. The rules for one grantee should be the same for another. Perhaps the authorized program might alleviate the occasional inconsistencies we currently see.

Again, thank you all for inviting me to appear before you today and thank you for your continued partnership as we seek not just to recover from these horrific storms, but to transform the future of Puerto Rico for the 3.2 million U.S. citizens who live on the island.

Governor Rosselló has laid out an ambitious vision for Puerto Rico and with your support and the support of our partners at HUD, Treasury, FEMA and the Administration at large, we will transform our island forever and turn this tragedy into an inflection point of achievement for future generations.

Thank you.

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**Daphne Lemelle**  
Executive Director

## **HARRIS COUNTY, TEXAS**

### **COMMUNITY SERVICES DEPARTMENT**

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March 26, 2019

United States House of Representatives  
Subcommittee on Oversight and Investigations  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, D.C. 20515

#### Written Testimony

Daphne Lemelle, Executive Director, Harris County Community Services Department  
Statement before the Subcommittee on Oversight and Investigations Committee  
"The Administration of Disaster Recovery Funds in the Wake of Hurricanes Harvey, Irma and Maria"  
March 26, 2019, 10:00 a.m.  
Room 2128 Rayburn House Office Building.

#### **Introduction**

Good morning Chairwoman Waters, Ranking Member McHenry and members of the subcommittee. As Executive Director of the Harris County Community Services Department, I serve in the capacity of administrator of the County's Community Development Block Grant program for both the County Entitlement and Disaster Recovery (CDBG-DR) activities.

Thank you for the opportunity to provide information on recovery efforts and activities in Harris County following the aftermath of Harvey, specifically related to the local perspective in carrying out CDBG-DR activities. First I want to express my gratitude to the committee for holding this hearing and for the work that has been done for ensuring disaster relief for the residents of Harris County who are still in recovery 18 months post storm.

For context, it is important to understand the County's make-up. Harris County, Texas, is the third most populous county in the United States and is home to the city of Houston, Texas Medical Center, Port of Houston, NASA Johnson Space Center, and one of the largest petro-chemical industry clusters in the country. By the end of last year (2018), Harris County's total population was estimated to be 4.8 million, up from 3.4 million since the 2000 census. One unique aspect of the county is that nearly half of the population resides in unincorporated areas of the county, and if incorporated it would make up the second largest city in Texas and the fifth largest city in the country.

Hurricane Harvey was the second most costly tropical cyclone impacting the United States, and particularly affecting Harris County with the most devastating flooding in recorded history in the county.

A total of 1 trillion gallons of water fell across Harris County over the four-day period and covered Harris County's 1,778 sq. miles with an average of 33.7 inches of water. Per the FEMA Individual Assistance (IA) data, 160,695 households applied for assistance in Harris County (not including the City of Houston), of which only slightly over 53 percent were provided FEMA assistance for immediate recovery.

**Hurricane Harvey, FEMA Individual Assistance in Harris County (excluding City of Houston)**

	<b>FEMA Registrants</b>	<b>FEMA LMI* Registrants</b>
<b>Number Registrants reporting damaged</b>	<b>160,695</b>	<b>112,753</b>
<b>FEMA Verified Loss (FVL)</b>	<b>\$566,569,381.64</b>	<b>\$308,563,212.90</b>
Total FEMA Assistance	\$416,901,867.43	\$240,393,369.51
Average FEMA Assistance	\$5,867.73	\$4,883.27
Registrants that Received Assistance	71,050	49,228
Unmet Need	\$2,357,612,518	\$1,395,382,607
<b>Number Owners</b>	<b>94,208</b>	<b>56,973</b>
Owners with a FEMA Verified Loss	\$516,957,788.80	\$268,585,806.60
Owners Average FEMA Assistance	\$7,909.77	\$6,956.78
Owners that Received Assistance	44,371	26,874
<b>Owners Unmet Need</b>	<b>\$1,729,324,743</b>	<b>\$895,223,885</b>
<b>Number Renters</b>	<b>65,922</b>	<b>55,331</b>
Renters with a FVL	\$49,558,079.05	\$39,935,825.38
Renters Average FEMA Assistance	\$2,476.35	\$2,395.65
Renters that Received Assistance	26,588	22,273
<b>Renters Unmet Need</b>	<b>\$628,287,775</b>	<b>\$500,158,722</b>

\*Low and Moderate Income

**Prior Disasters**

Harris County has been impacted by six Presidentially Declared Disasters in the last ten years.

On September 13, 2008, Hurricane Ike, a Category 2 storm, made landfall along the upper Texas Gulf Coast and was at the time the third most destructive hurricane and the third costliest U.S. hurricane. Harris County took a direct hit from the storm, with projected cost of \$3.58 billion in residential housing damage to over 230,502 housing units and infrastructure damage was estimated at \$582 million to repair critical infrastructure and facilities.

In 2015 and 2016, Harris County suffered four Presidentially Declared Disasters: the Memorial Day floods (DR 4223) of 2015, October floods (DR 4245) of 2015, Tax Day floods (DR 4269) of 2016, and May/June floods (DR 4272) of 2016.

In the 2015 events, FEMA Individual Assistance (IA) reported \$10,553,227 in housing damage. The 2016 events were higher in severity, with \$74,642,169 in FEMA reported housing damage affecting 11,164 housing units. The unmet housing need was \$37,553,806.

The cumulative impact of these past disasters with Hurricane Harvey has been devastating to local residents, businesses, and institutions. Recovery from one disaster has been exacerbated by those floods that followed.

#### **Harris County and CDBG DR**

While FEMA is the lead agency in the immediate aftermath of disasters, HUD's role has typically been to aid states and local governments in longer-term recovery and rebuilding efforts, in large part through CDBG-DR appropriations. Harris County has suffered from significant natural disasters as noted earlier, and CDBG-DR funding has helped us to recover and rebuild.

Following Hurricane Ike, Harris County stood up the Harris County Homeowner Disaster Recovery Program (HDRP). HDRP processed nearly 2000 applications, served more than 500 homeowners with home repair and reconstruction throughout the County, and expended more than \$56M. Additionally, Harris County implemented a Local Infrastructure Recovery program that includes road and drainage improvements, public facility improvements, and resiliency improvements which included the installation of more than 28 generators and hurricane proof shutters in public and non-profit facilities.

For Hurricane Harvey, Harris County is utilizing the \$1.2 billion allocation in CDBG-DR from the State of Texas to again stand up recovery programs that will aid in the buyout, rebuilding and replacement of housing and the implementation of local drainage improvement programs county-wide.

#### **Local Experience as Subgrantee of the State**

##### **Timelines**

While CDBG-DR has been an effective funding source and program assisting Harris County in its recovery, the process by which the County has received its funds has often been fraught with delays and other impediments to efficient recovery. The delays have occurred because Harris County is not a direct grantee but is a subgrantee of the State. The nature of sub-granting inherently adds time to the implementation of recovery programs due to the required contract negotiations, and pass-through rules and other requirements of the prime grantee. While Harris County did experience some improvement in the reduction of time with Harvey when compared with prior disasters, the processing time frame is still far too long. Harris County executed its contract for \$909 million of its \$1.2 billion in CDBG-DR funds with the State of Texas General Land Office on the January 29, 2019—17 months post Harvey land fall.

As a subgrantee, Harris County had to await the State's publication of its plan, and following the approval of the State's plan had to await approval of our own local plan for use of funds. While the County was steadfastly developing its recovery activities and preparing its local plan, the subgrantee process delayed

the distribution of needed recovery resources to our communities simply due to the administrative process.

As a direct grantee, Harris County may submit its plan and receive its grant agreement directly from HUD removing the estimated three to six month delay in receipt of its funds. Harris County is a HUD entitlement community, and has capacity to implement its own programs, and administer grant agreements directly under HUD.

<b>Harris County Timeline- CDBG-DR Harvey Recovery</b>	
<b>August 27-30, 2017</b>	Hurricane Harvey creates historic flooding in Harris County
<b>October 30, 2017</b>	launch of <b>Harvey Project Recovery portal</b> for Harris County citizens to complete pre-application/survey registering unmet needs for long-term recovery assistance
<b>February 9, 2018</b>	HUD allocates \$5.025 billion to the State of Texas
<b>June 25, 2018</b>	HUD approves Texas Action Plan for Harvey Recovery
<b>July 10, 2018</b>	Commissioners Court approves submission of local Action Plan
<b>September 6, 2018</b>	Texas General Land Office (GLO) publishes Amendment 1 including Houston and Harris County's local plans to State Harvey Action Plan
<b>October 12, 2018</b>	GLO submits Amendment 1 to HUD for review and approval
<b>October 23, 2018</b>	Commissioners Court approves Method of Distribution (MOD) for \$120 million for local impacted cities and unincorporated Harris County
<b>December 11, 2018</b>	HUD approves Amendment 1 to State Harvey Action Plan
<b>January 29, 2019</b>	Execution of Contract between Texas GLO and Harris County for first \$909 million of \$1.2 billion includes housing, planning and administrative funding

#### **Program Flexibility**

Every disaster is different and requires local flexibility to effectively respond and recover. As a subgrantee, Harris County's CDBG-DR recovery programs become an extension of the State's plan which at times may conflict with rules and priorities that are set at the state level. When conflict arises it may be necessary to amend the plan which may again delay program implementation, but in some cases may impact the local delivery of recovery programs.

For example, Harris County is currently opposing a state implemented rule that requires rebuilding of homes based on household size even if it means a reduction in home value. Harris County believes this rule to be detrimental to the local homeowners and housing stock, as well as may have a discriminatory impact on certain households.

As a direct grantee, Harris County would not be subject to State level rule making that is based on a broad geography of a state that must encompass a multitude of communities. Harris County would have the local control and flexibility to respond to the needs of its local residents and stand up programs with rules in the best interest of building a more resilient Harris County and community.

#### **Conclusion**

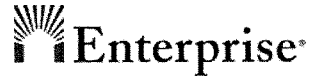
In general, while the regular CDBG program is known to be quite flexible, the CDBG-DR program is considered even more flexible in large part due to the broad waiver authority usually granted by the Secretary, in order to allow states and local governments to quickly and effectively respond to the disaster recovery needs of their communities.

However, given the issues highlighted above with timeliness and the layering of additional rules, it is important to explore options to expedite the recovery process. Previous legislation has provided the Secretary of HUD with the discretion to make direct allocations to local governments. Harris County, home to over 4 million residents, has not been awarded such an allocation, but must continue to operate as a subgrantee of the State.

I would encourage the committee to consider that as a part of any CDBG-DR reform or codification of the CDBG-DR program include the requirement of direct allocation to entitlement communities similar to the process followed for cities and urban counties with populations over 50,000 under the CDBG program. As an added measure, the allocation could be made contingent upon good standing with a community's administration of its CDBG entitlement funds to ensure local capacity to administer. Alternatively, local grantees could always have the option to defer any CDBG-DR allocation to the State.

It is my hope that any reform of CDBG-DR consider these facts and allow recipients the flexibility they need to respond and recover as quickly as possible from such disastrous events as they occur.

In closing, I appreciate the opportunity to appear before this committee and thank you for the support that you have shown to Harris County, Texas in the aftermath of one of the costliest natural disasters in U.S. history. I welcome any questions you may have.



**Testimony of Marion Mollegen McFadden**  
**Senior Vice President for Public Policy**  
**& Senior Advisor, Resilience**  
**Enterprise Community Partners**  
**Washington, DC**  
**House Financial Services Subcommittee on Oversight and Investigations**  
**Hearing on the Administration of Disaster Recovery Funds**  
**in the Wake of Hurricanes Harvey, Irma, and Maria**  
**March 26, 2019**

#### INTRODUCTION

Chairman Green, Ranking Member Barr, and members of the House Financial Services Oversight & Investigations Subcommittee, thank you for the opportunity to submit this testimony. I am the Senior Vice President for Public Policy and Senior Advisor for Resilience at Enterprise Community Partners. Enterprise is a nonprofit organization committed to making well-designed homes affordable so that communities can thrive. We have eleven regional offices and in the past several years have worked in more than 425 communities nationwide. For more than 35 years, Enterprise has been committed to helping communities break down silos and build organizational capacity in both the public and private sectors so that funding is deployed more effectively. We have invested more than \$43 billion in capital to help create or preserve 585,000 homes in all 50 states plus the District of Columbia and Puerto Rico. We also compete for and regularly receive both HUD technical assistance contracts and Section 4 capacity building funds from HUD, which we use in part to support disaster-impacted communities.

Enterprise invests in disaster recovery and resilience work because people of modest means are most likely to be harmed by disasters and tend to be the slowest to recover. We work to ensure that the people who need help the most are able to get back on their feet more quickly. We have worked to help communities rebuild from disasters since Hurricane Katrina, when we established an office in the Gulf Coast to assist in Louisiana and Mississippi's recovery. Enterprise assisted New Jersey and New York in their recovery from Hurricane Sandy, advising New Jersey on the design of CDBG-DR-funded recovery programs and providing pro bono assistance to multifamily building owners in New York to make their residents and properties safer from future disasters. We are working to address the mitigation needs of public housing in New York State. The Enterprise team supported the State of Colorado in designing CDBG-DR-funded programs to repair housing and infrastructure damage caused by severe flooding in 2013, which was especially devastating to rural communities.

After Hurricane Harvey, Enterprise worked closely with Harris County, TX, to design equitable housing recovery programs and supported the City of Houston's extensive community engagement efforts. After Hurricanes Irma and Maria, we contributed our housing and mitigation expertise to the Governor of Puerto Rico's rebuilding plan and offered free technical assistance in response to proposed CDBG-DR Action Plans. In Puerto Rico, we are convening a nonprofit housing recovery network in Puerto Rico in partnership with NeighborWorks America and the Puerto Rico Community Foundation and are also



standing up a Caribbean Resiliency Network to work directly with Puerto Rican Municipalities along with the U.S. Virgin Islands to help tackle local issues, engage in peer exchange and provide comprehensive multisectoral cooperative approaches. In response to the wildfires in California, we are assisting Sonoma County with its recovery planning and leading resilience finance and planning efforts in Northern and Southern California.

Enterprise is also partnering with the University of Florida's Shimberg Center for Affordable Housing to study the impact of disasters on rents and affordability; and we are producing a resilient rebuilding guide for use in Florida, Puerto Rico and the U.S. Virgin Islands. We are partnering with the Urban Institute to study the economic impacts of disaster evacuees on the communities that receive them. At the federal level, last year we convened thought leaders and offered HUD significant policy recommendations <sup>1</sup> for administering the \$15.9 billion in CDBG-DR mitigation appropriated in February 2018 that has not yet been implemented.<sup>2</sup> Our CDBG-DR mitigation recommendations are included in this written testimony.

I have worked on disaster recovery since 9/11. When I was a year out of law school, beginning my career as a lawyer for the CDBG program at HUD, I lost a dear family friend in the World Trade Center attacks. I considered myself privileged to have a role in the recovery of Lower Manhattan, administering HUD's first multi-billion dollar CDBG-DR effort. During more than 15 years of service at HUD, I held multiple roles in the Office of General Counsel and in 2013 served as Chief Operating Officer and Acting Executive Director of the federal Hurricane Sandy Rebuilding Task Force. From 2014-2016, I served as Deputy Assistant Secretary for Grant Programs in the HUD Office of Community Planning and Development, where I was directly responsible for the administration of the National Housing Trust Fund, the HOME Program, and the Community Development Block Grant Program, including at that time an open portfolio of more than \$20 billion in disaster recovery funds and administration of the National Disaster Resilience Competition.

In the years since 9/11, CDBG-DR has become a critically important resource for communities recovering from natural disasters, including after coastal and riverine flooding, tornados, wildfires, and mudslides. I commend the House Financial Services Committee Subcommittee on Oversight and Investigations for your commitment to examining the program and seeking the input of HUD, its grantees, and my organization on how to strengthen the program and prevent fraud, waste, and abuse, so that taxpayer dollars can be better used to serve the people who need them most.

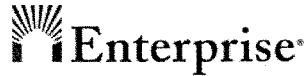
Through this testimony, I would like to take the opportunity to emphasize that:

- 1) CDBG-DR's flexibility makes it a necessary tool of disaster recovery
- 2) Through permanent authorization and a formal rulemaking process, CDBG-DR can be improved so that federal funds reach communities more quickly and efficiently
- 3) Use of disaster funds must prioritize the most-impacted disaster survivors and result in fair outcomes for households and communities

<sup>1</sup> "10 Recommendations for maximizing HUD's recommendations in mitigation." September 2018. <https://www.enterprisecommunity.org/sites/default/files/Enterprise%20Mitigation%20Recommendations%209-28-2018.pdf>

<sup>2</sup> Martin, Carlos, McFadden, Marion, Udvardy, Shana. "Disaster-stricken communities aren't receiving the funds they were promised." March 2018. <https://thehill.com/opinion/energy-environment/433523-disaster-stricken-communities-arent-receiving-the-funds-they-were>





**4) Communities must rebuild with the future in mind and mitigate natural hazard risk to avoid throwing good money after bad**

After catastrophic disasters, CDBG-DR's housing program assistance is critical for displaced families, preventing them from entering years of financial hardship and distress. However as valuable as the CDBG-DR program is, improvements to its structure are urgently needed. While recovery can never be fast enough for survivors, there is much Congress can do to eliminate unnecessary delays and ensure funds reach survivors who need them most - without increasing risk to the taxpayer. Collectively, Members of Congress, HUD and other federal agencies experienced with disaster recovery, past and current recipients of CDBG-DR, the business community, universities, and community organizations can learn from the mistakes and successes of past recovery efforts to shore up the program for future recoveries.

**CDBG-DR FUNDS ARE ESSENTIAL FOR LONG-TERM RECOVERY**

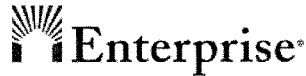
As the frequency and intensity of natural disasters continue to grow, CDBG-DR has become an increasingly important program for recovering communities. In 2017 alone, natural disasters caused a record-breaking \$306 billion in damages in the United States, including \$125 billion from Hurricane Harvey, \$90 billion from Hurricane Maria, and \$50 billion from Hurricane Irma.<sup>3</sup> In the past two years, Congress approved over \$36 billion for CDBG-DR, and a quarter of all disaster appropriations in 2017 were in the form of CDBG-DR.<sup>4</sup> Despite tens of billions of dollars appropriated in the past two decades, the disaster component of the CDBG program lacks standing authority. This means that HUD must write a new Federal Register notice for each one-off appropriation that Congress provides. And most remarkably, unlike permanently authorized FEMA and SBA disaster programs, HUD's CDBG-DR program has never gone through notice and comment rulemaking. The general public has not once been invited to respond and offer comments on HUD's rules for disaster recovery.

We have reached a point where more than a dozen natural disasters causing over \$1 billion in damage in a year is the norm rather than the exception. Natural disasters can happen anywhere, and communities must prepare for the risk of hurricanes, floods, tornados, and fires, as well as the risk of extreme heat and water shortages.

It has been said that there is never a time when people need the federal government more than after a disaster. After major catastrophes, CDBG-DR is the difference maker for property owners whose insurance proceeds, FEMA grants, and SBA homeowner loans have been insufficient to repair their homes or get them to stable new housing. CDBG-DR is the line of last defense, designed to cover the gaps left when all other sources have fallen short. It pays for repairs and rebuilding of apartment buildings. It helps small businesses cover uninsured losses and allows them to retool to meet the realities of a disaster-impacted economy. CDBG-DR dollars are also used to repair damaged infrastructure and reopen hospitals, schools, and shopping centers.

<sup>3</sup> National Oceanic and Atmospheric Administration (NOAA), <https://coast.noaa.gov/states/fast-facts/hurricane-costs.html>

<sup>4</sup>Martin, Carlos. "The Evidence Base on How CDBG-DR Works for State and Local Stakeholders." May 17, 2018. [https://www.urban.org/sites/default/files/publication/98463/the\\_evidence\\_base\\_on\\_how\\_cdbg-dr\\_works\\_for\\_state\\_and\\_local\\_stakeholders\\_0.pdf](https://www.urban.org/sites/default/files/publication/98463/the_evidence_base_on_how_cdbg-dr_works_for_state_and_local_stakeholders_0.pdf)



CDBG-DR gives states and communities control over how to design their rebuilding programs. Some jurisdictions may choose to focus on homeowner rehabilitation, while other states emphasize buyout programs to move people from harm's way. CDBG-DR is flexible and is used as leverage for other public funds and private resources. For example, after Hurricane Katrina, Enterprise and Providence Community Housing combined CDBG-DR grant dollars with significant private capital through the use of the Low-Income Housing Tax Credit. Repair and replacement of housing is just one of many examples of how, after major disasters, CDBG-DR helps the families and communities who need help the most get back on their feet.

#### **SPEED UP DELIVERY OF RECOVERY FUNDS TO COMMUNITIES**

We recommend permanent authorization of CDBG-DR, which would spur HUD to write regulations and develop model programs, policies, and systems that grantees could adopt to shorten the time it takes to get people home again permanently. Authorization of CDBG-DR could also settle key matters of policy that have been treated inconsistently over time by Congress, HUD, or the states and local governments administering CDBG-DR assistance. These policy areas include whether income caps should be placed on eligibility for housing assistance, the total amount of housing assistance a family can receive, and whether some requirements for environmental review may be streamlined.

Agency officials working on disaster recovery across all levels of government should be held in high regard for diving into the taxing and unpredictable work of rebuilding communities that have been torn apart by a major disaster. However, it is indisputable that our nation's disaster recovery must be improved so that taxpayer dollars get to work on the ground rebuilding communities with greater speed and accountability.

One of the most pervasive challenges facing communities is the time it takes for HUD funds to reach them. FEMA, the Small Business Administration, and other federal agencies have standing resources to serve communities when disasters strike. However, HUD only receives disaster recovery funding when Congress passes special appropriations for CDBG-DR. Congressional appropriation of CDBG-DR after the worst disasters has become the rule, not the exception. Congress appropriated CDBG-DR funds for disasters occurring in almost every year since 2010. After each supplemental appropriation, there is a significant delay in the flow of funds, because HUD assesses uninsured damage and unmet needs and then writes a new set of waivers and alternative requirements to guide grantees. CDBG-DR grantees then need to study the rules, make policy choices, and stand up their own disaster recovery programs. According to research from the Urban Institute, grantees typically take 9-12 months after an Action Plan is approved to hire staff, procure contractors and develop grant management systems. Meanwhile families wait in unsafe housing, in hotels, or doubled up with other families. While reducing the time it actually takes to rebuild housing and infrastructure is challenging, codifying CDBG-DR will reduce bureaucratic delay in moving resources from Congress to the ground.<sup>5</sup>

Even after Congress has done its part to appropriate CDBG-DR dollars, homeowners may have to wait 18 months or more to receive the benefit of them because HUD and its grantees are not immediately prepared to implement them. This unnecessary delay compounds the harm that individuals and families

<sup>5</sup> Martin, Carlos. "The Evidence Base on How CDBG-DR Works for State and Local Stakeholders." May 17, 2018. [https://www.urban.org/sites/default/files/publication/98463/the\\_evidence\\_base\\_on\\_how\\_cdbg-dr\\_works\\_for\\_state\\_and\\_local\\_stakeholders\\_0.pdf](https://www.urban.org/sites/default/files/publication/98463/the_evidence_base_on_how_cdbg-dr_works_for_state_and_local_stakeholders_0.pdf)



suffer. Homeowners stretch their finances to pay for repairs. It is not uncommon for many who will ultimately qualify for help from HUD to max out their credit cards and deplete not only their saving accounts, but also college and retirement accounts while they wait. Homeowners whose homes suffered the worst damage may later receive both repair dollars and interim mortgage assistance to prevent them from having to pay both the mortgage and rent on a temporary home.

#### ENSURE THAT DISASTER FUNDS SERVE THE HARDEST HIT AND RESULT IN FAIR OUTCOMES

It's often said that storms, tornados, and fires are equal-opportunity disasters, causing damage regardless of race or income—but anyone who works in disaster recovery knows that this is not the full picture. While disasters are agnostic to whether a neighborhood is high or low income, low-income households and vulnerable communities generally pay the highest price when a major disaster strikes.<sup>6</sup> Low-income populations and communities of color are less likely to have the resources necessary to prepare for a storm and are more likely to be housing-cost burdened and lack savings before disasters strike. Evacuating alone can be too costly for many, given that fewer than 40 percent of Americans have enough savings to cover a \$1,000 emergency.<sup>7</sup> Socially vulnerable populations are more likely to live in physically vulnerable areas that have greater natural hazard risks due to historical, economic, and political factors, and thus cost less than homes in safer locations. Lower-quality homes are less stable in the high winds of hurricanes and tornados, posing additional risk to individuals and families who cannot afford to pay for something safer.

Experience shows that natural disasters exacerbate wealth inequality. Disadvantaged communities are oftentimes the slowest to recover, because they have the most difficulty accessing recovery funds<sup>8</sup> and often get the short end of the stick when resources are allocated<sup>9</sup>. Disaster recovery programs have too often prioritized homeowners over renters, who are more likely to be lower-income and people of color. For example, HUD's largest fair housing settlement resulted from New Jersey's failure to fairly balance resources to address the rebuilding of apartment buildings, mobile homes, and single family homes and communicate the ability of assistance to people of limited English proficiency.<sup>10</sup> Survivors should not have to sue to access the assistance Congress appropriated for them.

The CDBG-DR process is an opportunity to address existing housing disparities across disaster-impacted areas and prevent resegregation of cities and regions. In order to better target recovery funds to the residents with the greatest needs, in making formula allocations, HUD's unmet needs calculations must better consider pre-existing factors like poverty and income. To maximize the impact of their disaster

<sup>6</sup> Krause, Eleanor, Reeves, Richard V. "Hurricanes hit the poor the hardest." September 18, 2017. <https://www.brookings.edu/blog/social-mobility-memos/2017/09/18/hurricanes-hit-the-poor-the-hardest/>

<sup>7</sup> Blatchford, Laurel. "Climate Change Disproportionately Affects Low-Income Communities." December 7, 2018. <https://www.enterprisecommunity.org/blog/2018/12/climate-change-disproportionately-affects-low-income-communities>

<sup>8</sup> Goldberg, Eleanor. "Hurricane Victims Who Need the Most Help Have the Hardest Time Getting It." November 9, 2018. [https://www.huffingtonpost.com/entry/hurricane-victims-hard-time-relief\\_us\\_5bd8cf4ce4b0da7bfc14d4d5](https://www.huffingtonpost.com/entry/hurricane-victims-hard-time-relief_us_5bd8cf4ce4b0da7bfc14d4d5)

<sup>9</sup> Capps, Kriston, "Why Are These Tiny Towns Getting So Much Hurricane Harvey Aid?" October 3, 2018. <https://www.citylab.com/equity/2018/10/whos-losing-out-on-hurricane-harvey-aid-in-texas/571327/>

<sup>10</sup> "HUD and New Jersey Announce Agreement to Expand Hurricane Sandy Recovery Programs." May 30, 2014. <https://archives.hud.gov/news/2014/pr14-062.cfm>



recovery programs, HUD should teach grantees to adopt approaches that recognize the impact of implicit bias, racial inequities and systemic prejudices. Grantees and HUD should prioritize recovery assistance not only based on the economic loss directly caused by a disaster but should also consider the pre-existing economic conditions of communities pre-disaster and how that affects how severe the post-disaster needs are.

While every impacted resident feels the economic consequences of natural disasters, the inequities exacerbated by disasters are further compounded by relief and recovery policy responses, more affluent homeowners are likely to have myriad sources for recovery, including private or NFIP insurance, low-interest SBA loans, FEMA Individual Assistance grants, and bank loans, in addition to personal savings. Lower-income households and communities are often locked out of these types of assistance. CDBG-DR can be used to fill the gap, allowing impacted families to occupy (or re-occupy) decent, safe, and sanitary housing. Equitable practices may include prioritizing multifamily rental projects built in low-poverty neighborhoods. HUD should conduct greater oversight of program outcomes by collecting data on where unmet needs were greatest and who was served overlaid with census level data on income, race, education, and housing situation.

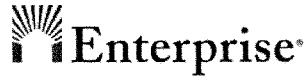
CDBG-DR provides states and communities the flexibility to address their unique recovery and mitigation challenges, but outcomes need to be better tracked to ensure that funds are being spent on the most impacted households. Grantees should improve their community engagement and information sharing efforts. Enterprise supported the City of Houston in their impressive community engagement process to ensure that the rebuilding program incorporated a diverse range of stakeholder voices that accurately represented community needs and goals. In May and June of 2018, Houston's Housing and Community Development Department convened 17 public meetings, 8 focus groups, and gave 7 presentations. HUD should encapsulate best practices so that new grantees can learn from other successful community engagement processes.

#### MITIGATION IS AN ESSENTIAL PART OF FEDERAL INVESTMENTS IN RECOVERY

Individual extreme weather events like hurricanes and wildfires might be challenging to predict, but their impact on property and safety are predictable and preventable through mitigation. The increasing intensity and frequency of natural disasters we are already seeing, compounded by sea level rise and changing precipitation patterns, will continue to place more people in harm's way. Floods are by far our nation's most costly disasters. According to research from the Union of Concerned Scientists, properties at risk of chronic coastal flooding by 2045 house about 550,000 people and contribute nearly \$1.5 billion today's property tax base.<sup>11</sup> As more people continue to move towards vulnerable coastal areas, the risk of major disasters will continue to mount. Furthermore, changing precipitation patterns can also devastate communities - such as what the Midwest has experienced this month - when too much rain falls over regions in short periods of time.

CDBG-DR allows states and localities to rebuild in a forward-facing manner, not putting back what was lost as it was, but rather rebuilding stronger and safer so that federal dollars do not put people back in harm's way. Uses of CDBG-DR for mitigation include buying out homes most likely to experience

<sup>11</sup> "Underwater: Rising Seas, Chronic Floods, and the Implications for US Coastal Real Estate. 2018. <https://www.ucsusa.org/global-warming/global-warming-impacts/sea-level-rise-chronic-floods-and-us-coastal-real-estate-implications>



repeated flooding and moving residents to higher ground, then restricting the future use of the property to green space; creating gray and green infrastructure solutions to prevent flooding, such as natural berms and installing pumps and erecting sea walls; attaching roof straps and hardening structures in tornado- and earthquake-prone areas; and installing windows rated to withstand high winds. Enterprise applauds Congress's commitment to making communities safer by providing mitigation dollars in the recent CDBG-DR appropriations, and we are pleased to see HUD's ongoing commitment to ensuring that properties that are newly constructed or substantially reconstructed after disasters are built with an eye toward the future.

Mitigation measures have been proven to more than pay for themselves. A FEMA-endorsed study by the National Institute of Building Science found that taxpayers save an average of \$6 in future disaster recovery costs for every dollar spent on hazard mitigation.<sup>12</sup> At Enterprise, we saw that firsthand in 2017. When a very heavy rainfall flooded New Orleans, residents found their streets waist-deep in water, but the new Faubourg-Lafitte development escaped harm<sup>13</sup> because homes were built two feet above the base flood elevation, taking into consideration the possibility of future harm. Water did not breach the first floor, so homes were unharmed and there was no need to make a claim on the development's National Flood Insurance Program policy. While building two feet above the base flood elevation was not required at the time, HUD now wisely requires that level of elevation when properties in the flood plain are substantially assisted with recovery dollars.

Many communities and homeowners do not fully understand their risk of disasters, especially flooding. Research suggests that FEMA flood maps only account for one-third of buildings at risk of serious flooding.<sup>14</sup> HUD requires elevation of critical facilities, such as nursing homes and hospitals, even higher above the base flood elevation when they are located in flood plains and substantially assisted with CDBG-DR. We recommend that Congress codify these standards for both CDBG-DR and non-disaster CDBG funds, since the need for mitigation is based on the risk of future harm, not the source of funds used for construction. There is no reason why HUD's various programs should apply different elevation standards for buildings, and the lack of consistency generates unnecessary red tape for grantees who may need to demonstrate compliance with multiple federal standards.

It is an economic and safety imperative that Congress and federal agencies improve the disaster recovery framework to enable faster recovery so that federal funds more effectively and equitably serve communities and survivors. The federal government must also significantly increase investments in hazard mitigation and increase awareness about the actual hazard risks communities face.

Congress and this Committee in particular have shown bipartisan leadership on improving the disaster recovery process and the CDBG-DR Program. We thank Chairman Green from Texas for initiating this bipartisan effort and thank Representative Wagner from Missouri for taking a stand on this issue last Congress. We look forward to working together to enact solutions that better protect safety and property in communities, result in fair outcomes for the most vulnerable households, and ensure that taxpayer dollars are invested with an eye towards the future.

<sup>12</sup> National Institute of Building Science, <https://www.nibs.org/page/mitigationsaves>

<sup>13</sup> The Times-Picayune's Michael DeMocker captured a photo of the 2017 flooding at this property: [http://www.nola.com/politics/index.ssf/2018/05/root\\_cause\\_report\\_aug\\_5\\_sewera.html](http://www.nola.com/politics/index.ssf/2018/05/root_cause_report_aug_5_sewera.html). Note that while the street is severely flooded, the floodwaters are below the doorway.

<sup>14</sup> Wing, Bates, Smith, et al. "Estimates of present and future flood risk in the coterminous United States. *Environmental Research Letters*. <http://iopscience.iop.org/article/10.1088/1748-9326/aaac65/pdf>



## MITIGATION RECOMMENDATIONS

These recommendations were developed by Enterprise Community Partners after consultation with experts with significant disaster recovery, mitigation, and resilience planning experience. The recommendations are predicated on the notion that the HUD mitigation dollars are just a down payment on the full mitigation needs of communities nationwide; that they are intended to encourage mitigation actions that cannot be funded (or are unlikely to be funded) with conventional CDBG-DR funds, or with normal FEMA Hazard Mitigation Grant Program funds; that the HUD funds are not intended to fund the same activities as the funds appropriated for Corps of Engineers flood and storm damage reduction projects; and that at some point HUD or others will report on the relative benefits that these mitigation dollars provide (relative to recovery expenditures). These recommendations are also biased toward use of the funds that deliver on-going, long-term benefits to grantees in terms of future risk and hazard understanding and mitigation.

### 1) Require and support local determinations of current and future risk from all hazards.

Risk and vulnerability vary among communities. A community with fewer resources faces greater vulnerability to hazards like floods, wind, and fire than a community with more resources. Resources should therefore be parsed out to support the underlying vulnerabilities faced by communities. Grantees should invest mitigation funds in projects relative to risk and benefit to LMI communities, and each overall mitigation plan must consider the regional systems affecting risk, including codependencies and cascading impacts, such as water, power, health, and the environment. Maximizing the use of resources for planning will allow grantees to better comprehend their current and future risk and ensure that this unprecedented investment of taxpayer dollars will not throw good money after bad. The mitigation and resilience field is growing by leaps and bounds due to advances in science and technology, and requiring grantees to incorporate multidisciplinary perspectives on mitigation will ensure best efforts to protect people, property, jobs, and sensitive natural habitats from harm, lessening the possibility that federal funds will be needed to rebuild and recovery these areas in the future.

Specific recommendations:

- Direct grantees to spend a fixed percentage of their grant on planning. That percentage should be set by regulation or Federal Register Notice, taking into consideration the size of the grant. For grants below \$1 billion, we recommend that grantees be required to spend 15 percent on planning. For grants greater than \$1 billion, grantees should be required to spend a minimum of \$150 million or three percent, whichever is greater.
- If not already developed and in use, require grantees to develop a comprehensive mitigation plan as well as other plans that address specific storm impacts (e.g. drainage plans in areas subject to repetitive flooding); are forward looking taking into account the likelihood of disasters based on a prospective rather than retrospective evaluation of risk; and require that these plans be used to form the basis for any proposed projects. Grantees lacking these plans, should be required to develop such a plan as part of their initial implementation plan. We recommend that HUD explicitly include universities in this planning process to tap into existing technical and local



expertise. Grantees should ensure that new mitigations are aligned with existing comprehensive, land use, transportation, and economic development plans.

- Require grantees to conduct an upstream risk assessment to rank order the risks facing each impacted area and use that assessment to fund projects in an objective manner.
- Clarify that states may use CDBG-DR Mitigation funds towards projects addressing risks and hazards across the entire jurisdiction, not just the most impacted and distressed areas affected by prior disasters, given that the benefits to low- and moderate-income communities is demonstrated.
- Use a portion of the CDBG-DR TA set-aside to educate grantees about successful planning efforts from past grants, including through Iowa's recovery from 2008 floods, the Greater New Orleans Water Plan, HUD's Rebuild by Design competition and National Disaster Resilience Competition, and NY Rising.

**2) Maintain a continuous feedback loop on whether programs are sufficient to meet community needs with evergreen CDBG-DR community participation requirements.**

Given the historic scale of CDBG projects possible with CDBG-DR mitigation funds and the experience of past communities recovering from major disasters, we recommend carving out a role for public engagement throughout the life of the grants. This ongoing engagement can take many forms but must facilitate and document ongoing community input in both the planning and implementation of mitigation projects. Structured bodies for feedback on multi-million dollar initiatives will help ensure that they achieve their objectives and best positions the grantees to see what their programs and projects may be missing. This may also reduce litigation risk.

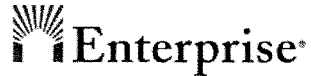
Specific recommendations:

- Direct grantees to conduct a minimum number of public hearings to maximize community input and buy-in and for all major projects and programs.
- Direct grantees to create advisory bodies of affected populations (including homeowners participating in buy-out programs, small business owners receiving loans for their properties, residents and businesses living near infrastructure projects with \$50 million or more of federal funding, etc.) to consider ongoing decisions and input as programs and projects progress. Advisory bodies should produce periodic reports detailing why proposed changes were accepted or not accepted.

**3) Encourage grantees to maximize the use of one-time funding through loans, guarantees, and creative financing vehicles that allow one dollar to support multiple projects over time.**

Specific recommendations:

- Incentivize states/localities to put their own funds towards mitigation through a disaster resilience enhancement fund. Such a program could include a 1:1 match for each dollar grantees put towards mitigation and require a local/state match of HUD funds. Specify that eligible activities include creation and capitalization of mitigation banks (which may require waivers) as well as grants to CDFIs and other economic development entities for loans or other forms of credit subsidies to individual property owners.



- Allow funds to be used for payments in lieu of taxes (PILOTs) for up to 10 years as a result of lost tax base from private property buyouts.
- Require that program income generated must be used for mitigation, so that CDBG-DR Mitigation funds do not lose their designated purpose for mitigation.
- Allow funding to be used to capitalize a local, regional, or state-level Resilience Revolving Loan Fund to incentivize states/localities to put their own funds towards mitigation through a disaster resilience enhancement fund. Such a program could include a 1:1 match for each dollar grantees put towards mitigation and require a local/state match of HUD funds.
- Permit communities across jurisdictions to pool mitigation resources to address regional watershed and other multi-jurisdictional challenges.

#### **4) Identify and expedite activities known to mitigate risk.**

Spelling out known mitigation activities in the CDBG-DR Mitigation Notice will save grantees from facing uncertainty about major categories of activities or the burden of requesting waivers or making lengthy determinations beyond initial benefit-cost analyses that projects do in fact mitigate risk.

Specific recommendations:

- Explicitly state that eligible hazard mitigation projects include all activities permitted in FEMA's Hazard Mitigation Grant Program and Pre-Disaster Mitigation Program.
- Create catalogue of best practice mitigation strategies states can pre-approve and pre-authorize for grantees.
- Maintain properties that have flooded multiple times as open space in perpetuity and deed restricted, or used productively for water management or similar mitigation purposes.
- Encourage grantees to use funds for green infrastructure projects or other nonstructural, nature-based flood protections that are known to adapt to as well as mitigate flood risk and provide multiple co-benefits. Also allow funds to be used for operation and maintenance of green infrastructure projects.
- Allow and encourage other activities that reduce risk and benefit LMI communities.

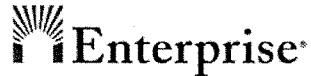
#### **5) Set physical standards for mitigation projects that meet or exceed the standards laid out in previous CDBG-DR Federal Register notices and permit the use of funds for adoption and enforcement of forward-looking building codes and land use regulations**

We recommend that HUD continue its strong standards for requiring elevation of flood-prone buildings and infrastructure above the base flood elevation, taking into consideration future risk. We note that Congress codified standards similar to HUD's own for the military in last year's National Defense Authorization Act. Recovery and mitigation dollars will have the greatest possible impact if they can influence the use of non-HUD funds. As knowledge about risk and mitigation measures increases, so must building codes and land use regulations.

Specific recommendations:

- Require that rebuilding and replacement of substantially damaged structures (i.e., structures damaged in excess of 50% of their value, including both buildings and infrastructure) be conducted in accordance with HUD's February 9, 2018 Federal Register Notice.





- Where appropriate, mandate that future environmental conditions over the design life of new facilities and infrastructure be incorporated into hazard mitigation planning, construction designs, and modifications, such as language that is included in the recent FY 2019 National Defense Authorization Act (NDAA).
- Allow funds to be used for preparation of educational materials and briefings about the connection between known risk and available mitigation options and technical drafting service for the appropriate legislative body.
- Incentivize grantees to require adoption of forward-looking building codes and land use regulations that mitigate risk as a condition of receipt of funds by governmental subrecipients.
- Incentivize grantees to use funds for time-delineated initiatives that include the enforcement of existing building codes and standards, staff and administrative purposes, and the development and adoption of more protective building codes and land use ordinances.
- Require projects to consider design standards and approaches so that they can accommodate future adaptations and modifications to address changing future conditions (e.g. flooding from extreme precipitation events and sea level rise beyond 2050 could follow a range of trajectories, so it may make sense in certain circumstances to build to a certain level now and use a design that could be built to a more protective standard at a later date). Grantees may use funds for technical assistance to assist in developing forward-looking codes.

**6) Prioritize use of taxpayer dollars for projects that both reduce risk and deliver other needed benefits for low- and moderate-income communities**

The influx of millions or even hundreds of millions of dollars into local communities presents what may be a once-in-a-lifetime opportunity to address systemic challenges like jobs available to entry-level workers and areas safe from natural hazards for vulnerable populations, in keeping with the statutory purpose of the CDBG Program to create livable communities. The mitigation projects in Norfolk, Virginia and New Orleans, Louisiana are good examples of neighborhood-based initiatives that, not only create a healthier, greener environment, but also create jobs for residents. These mitigation projects and others conducted by CDBG-DR grantees have demonstrated model approaches to realizing multiple benefits and spending each dollar multiple ways (such as parks that absorb flood waters during storms and provide recreation to the community every day).

Specific recommendations:

- Require that mitigation projects deliver a benefit greater than risk reduction alone.
- Encourage CDBG-eligible activities that produce risk reduction along with other co-benefits to low-income communities.
- Prioritize mitigation investments in communities with the highest vulnerability to hazards.

**7) Section 3 requirements to ensure that training and job opportunities created with CDBG-DR funds are actually made available to and occupied by low-income residents**

Section 3 of the HUD Act of 1968 (12 USC 1701u) requires that certain HUD-funded contracts support employment and opportunities for training go to low-income residents. CDBG-DR funding provides



exactly the kind of funding that can be used to ensure that it is feasible to connect low-income local residents to training and job opportunities across a grantee's mitigation platform. CDBG-DR grantees must also address the needs of affected small businesses. While programs do exist to support small businesses after disasters, most small businesses have never applied for a loan and past recovery efforts show that small businesses usually need help understanding and applying for disaster recovery loans.

Specific recommendations:

- Require dedicated Section 3 coordinators who actively train contractors and subrecipients on requirements and best practices; host job fairs to match employees with opportunities; report regularly to HUD; and share lessons learned with HUD on an annual basis.
- Create a network of peer-to-peer exchange among Section 3 coordinators and hold annual conferences and webinars so that the rest of the nation can understand and learn from their efforts to implement the statutory purpose of Section 3.
- Encourage grantees to address the small businesses climate disaster vulnerabilities by setting aside grant funds to community organizations that work closely with small businesses to offer technical assistance and business counseling.
- To ensure that best efforts are made and result in actual advancement of low-income workers, the CDBG-DR Section 3 requirements can be more direct – and align with evolving industry practices:
  - Instead of 30% local hire being a “best effort” by CDBG-funded contractors, require that it is a minimum industry standard.
  - Require compliance by ensuring that the contractors provide certified payrolls that will demonstrate when an eligible individual is hired, retained over time, and properly compensated for their work.
  - Provide ongoing monitoring to enhance compliance and quickly address any questions or clarifications.
  - For bid opportunities, provide weight and value in a contractor having met, if not exceeded, the local hire requirements. In effect, contractors that meet the letter and intent of the local hire requirements will be providing a needed local community economic and employment benefit – as well as future competitive benefit and advantage for themselves during future CDBG-funded competitions. If key stakeholders believe these requirements may pose a challenging regulatory barrier, make the CDBG-DR mitigation local hire require a pilot – and then rigorously evaluate each funded project's work requirement formation and outcomes to determine best practices, which can be applied in the future.

**8) Require grantees and any jurisdiction receiving funding as a subgrantee to use a portion of their funding to gather, assess, and disseminate updated hazard risk information.**

Many homeowners and small business owners do not know or accurately understand their natural hazard risk, while many others don't know what they can do to address it. For flooding, providing survey elevation certificates or other types of elevation information informs individual owners of the base flood elevation and allows the grantee to create or supplement a centralized database of flood risk. Grantees



can then better assess the need for community-scale infrastructure solutions (such as berms, flood walls, pumps, levee setbacks, living shorelines, etc.) and tailor site-specific solutions for individual property owners (such as loans for small business owners or non-LMI homeowners to elevate their properties). In addition, the degree to which mitigation measures reduce a community's overall natural hazard risk profile can only be determined if such a profile has been developed. It is important that cities, counties, and states all understand their risk profile and have established methods by which to measure its change over time.

Specific recommendations:

- Require survey elevation certificates for all properties that receive HUD funding or are insured by the National Flood Insurance Program.
- Allow funding to be used for acquisition of area-wide elevation data, using technologies such as LIDAR, for use in hazard mitigation planning or advisory flood map creation.
- Allow funding to be used to create Advisory Flood Maps that account for future conditions that exacerbate flood risk, like sea level rise, land subsidence, extreme weather events and projected development as well as socio-economic factors that identify areas of vulnerable populations. *Advisory maps do not affect FEMA/NFIP flood insurance premiums.*
- Allow funds to be used to update existing Flood Insurance Rate Maps (FIRMs) or update wildfire hazard maps.
- Encourage funding for resilience audits of single and multi-family residential properties to identify both specific and area-wide solutions and recommendations.
- Encourage funds to be used to establish standardized multi-hazard risk profiles at city, county, and state levels.
- Encourage funds to be used for hydrologic and drainage studies, particularly in urban areas for which none exist.

**9) Educate property owners of the importance of implementing both individual and area-wide mitigation measures as a means of reducing the cost of flood insurance.**

Given the tremendous amount of taxpayer dollars used to repair and rebuild private properties without flood insurance, we recommend that the Department coordinate with FEMA to require specific reporting on flood insurance coverage and implement requirements related to flood insurance coverage.

Specific recommendations:

- Allow funding to be used for flood insurance outreach and enrollment events and activities, including funding sub-recipients to undertake these activities.
- Require grantees to set and meet targets for increasing flood insurance coverage among the general public—not just among recipients of federal funds who are required to obtain and maintain flood insurance.
- Require that subrecipients certify that any buildings or infrastructure built, rebuilt, retrofitted, or repaired are covered by flood insurance, that subrecipients certify that they are self-insuring,



or that they have secured other financial instruments (such as catastrophe bonds or resilience bonds) that will provide funding to address future repairs or replacement.

- Set up educational programs that teach mitigation in schools.

#### **10) Conduct performance measurement on mitigation investments.**

Grantees must conduct an impact and outcome analysis with every project and the overall program using a HUD-prescribed approach so that success can be measured across grantees and time. While previous Federal Register Notices established measures for reporting on CDBG-DR grants for unmet need, the performance of the mitigation investments needs to be measured over a longer period of time in order to capture the full impact of the mitigation projects on risk reduction. These longer-term performance measurements will be essential to informing future mitigation investments.

Specific recommendations:

- Require grantees to report mitigation activities in the DRGR system to collect data for HUD review, including Quarterly Performance Reports.
- Require grantees to continue tracking mitigation investments for no less than 10 years following project completion data to measure the performance of mitigation investments.
- Share performance data among grantees so that grantees can learn from best practices.

Thank you again for the opportunity to submit this testimony.



Peter J. O'Connor, Esq.  
Kevin D. Walsh, Esq.  
Adam M. Gordon, Esq.  
Laura Smith-Denker, Esq.  
David T. Rammier, Esq.  
Joshua D. Bauers, Esq.

April 1, 2019

The Honorable Maxine Waters, Chair  
House Financial Services Committee

The Honorable Al Green, Chair  
Subcommittee on Oversight and Investigations of the  
House Financial Services Committee

The Honorable Andy Barr, Ranking Member  
Subcommittee on Oversight and Investigations of the  
House Financial Services Committee

**Re: "Reforming Disaster Recovery Act of 2019" (DRAFT)  
Supplemental material to March 26, 2019 Hearing**

Dear Chairwoman Waters, Chairman Green, Ranking Member Barr and members of the  
Committee and Subcommittee:

Fair Share Housing Center (FSHC) submits this letter to supplement the March 26, 2019  
hearing of the House Committee on Financial Services, Subcommittee on Oversight and  
Investigations regarding the draft "Reforming Disaster Recovery Act of 2019".

FSHC has, for over forty-five years, worked to advance the development and preservation  
of affordable working class and lower income housing in communities of opportunity in  
New Jersey. Our work has resulted in the creation of over 70,000 homes in hundreds of  
communities across the entire state.

As you know, New Jersey experienced catastrophic damage caused by Superstorm  
Sandy on October 29, 2012. Beginning right after the storm, we directed our attention to  
the impact of Sandy on New Jersey's lower-income homeowners and renters. For years,  
in a rebuilding effort that continues even to this day, we have worked with people  
devastated by Sandy to ensure that recovery funding meets the needs of all people  
impacted, regardless of race, ethnicity, or economic status.

Marion McFadden, Senior Vice President for Public Policy and Senior Advisor for  
Resilience at Enterprise Community Partners, described the impact of our work when she  
testified at the March 26, 2019 hearing. *"HUD's largest Fair Housing Settlement resulted  
from New Jersey's failure to fairly balance Hurricane Sandy recovery resources among  
apartment buildings, mobile homes and single family homes and to communicate the  
availability of resources to people of limited English Proficiency."* In the over fifty years  
since the passage of the federal Fair Housing Act, there has never been another case  
resulting in as large a monetary impact, in excess of a half-billion dollars.

As a result, over 7,000 apartments and homes damaged by Sandy have been  
rehabilitated or replaced in locations and in forms of construction that reduce the risk from  
future storms in one of the most vulnerable parts of the nation to severe hurricanes and

flooding. Absent the settlement, many of the most impacted communities in the state, especially lower-income communities and communities of color, would have seen federal recovery funds at a far lower rate than the damage they sustained would have suggested. And, as a result of the settlement, New Jersey implemented programs to address the needs of lower income homeowners, reach residents of limited English proficiency, and engage community organizations and non-profits to assist a much greater portion of those not equally treated by the disaster.

That said, it is undoubtedly the case that if the issues raised by our action, in which FSHC represented New Jersey's Latino Action Network and the New Jersey State Conference of the NAACP as co-complainants, had been addressed up front as part of the initial allocation of CDBG-DR funding in New Jersey, everyone would have been better off. The settlement did not come easily. The resolution took fourteen (14) months. The enforcement and oversight of the settlement continues, six and one-half years after Sandy, to be an active component of New Jersey's recovery process.

The CDBG-DR program, as it existed in 2012 and continues today, posed significant hurdles to fairly allocating much-needed federal recovery funds. As Chairwoman Maxine Waters, CA concisely framed the challenges at the hearing: "The Government Accountability Office reported that federal disaster assistance has primarily helped wealthier homeowners at the expense of lower income renters" and the failure to "prioritize the rebuilding of affordable rental housing ... [results in] deepen[ed] racial inequalities in our neighborhoods."

A critical requirement for understanding the nature and degree of the discriminatory potential of the state's CDBG-DR Action Plan was access to basic, granular data. FSHC filed dozens of state information requests, sought hard to obtain data from FEMA and HUD, collaborated with community and advocacy organizations and engaged outside data analysis experts to help build an accurate understanding.

A key and extremely disturbing finding of our analysis was the disparity between unmet needs set out in the New Jersey Action Plan and the reality being lived by survivors. The Plan claimed that: "approximately 22% of all housing damage occurred to rental stock." Our experts concluded that 43% of New Jersey households registering for FEMA assistance were renters and that 80% of all New Jersey households earning under \$30,000 per year impacted by Sandy were renters. The very fact that there could be such a large disparity in the analysis speaks to the lack of authoritative and transparent data on the impacts of major disasters, a recurring problem in disasters that Congress should address.

Another large part of our efforts focused on the actual implementation of CDBG-DR programs. As eloquently stated by Subcommittee member Rep. Lee Zeldin of New York at the March 26 hearing, the lack of proper resident assistance application file development and maintenance was pervasive and devastating across post-Sandy grantee jurisdictions. The Congressman described dysfunction in Long Island DR programs identical to that experienced in New Jersey: of lost applications, lost documents, failure of case handlers to communicate with applicants, rapid and unmanaged case handler turnover, and more. We repeatedly worked with survivors who had to visit program offices a dozen times or more to get assistance; and the state had no real tracking system to figure out how many people eligible for aid gave up along the way, though we do know that thousands of people deemed eligible for assistance never received a penny after giving up on highly dysfunctional programs. Without a mandatory, functional, consistent

system for identifying unmet needs and meeting those needs though organized application of available resources, hundreds of thousands of households will never benefit from the best of intentions of Congress or FEMA or HUD.

Over the nearly six and one-half years since Superstorm Sandy, FSHC has collaborated with communities and advocates from the Gulf Coast and the eastern seaboard, Puerto Rico, California, and flooded communities in the heartland. We have learned a great deal, and we have conveyed our hard earned knowledge of the workings of FEMA, HUD and grantee implementation of the DR program to those impacted by disasters. We know that there will be future disasters, increasing in frequency and intensity, and believe it is critical for Congress to stop treating disasters as one off events with one time appropriations and rather as an unfortunately predictable feature of American life deserving of better thought out, and more permanent, policy.

We were struck by the repeated calls by Subcommittee witness Jeremy Kirkland, Counsel to the Inspector General – HUD OIG, for “additional collaboration among FEMA, SBA and HUD to ensure that relief is being provided, in whatever form necessary” and his reference to HUD’s efforts to “track ... money more in real-time...”. These comments were responsive to questions of waste, fraud and abuse and concerns over duplication of efforts. They are equally relevant to comments by Congressman Zeldin and Ms. McFadden as to why these programs do not actually work for the people they are designed to help. Without the cooperative and collaborative exchange of all available data, in real-time, from pre-event to resilient home or community rebuilding, it is impossible for state and local government to effectively rebuild and individual people to know where they are in the process and what comes next.

Supported by our significant experience in advocating with lower-income communities and communities of color and for both homeowners and renters of all backgrounds, we propose that the “Reforming Disaster Recovery Act of 2019”, or other similarly intentioned bill, mandate the following set of behaviors that can be commonly applied in future disasters to enhance equity, transparency, and efficiency in federally assisted disaster response.

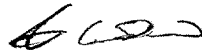
- FEMA, HUD, SBA and other data collectors should develop standardized, integrated data collection tools containing a comprehensive set of fields that can be filled in as additional information is identified or changes of status occur, that will provide an accurate and continually updated picture of true recovery needs.
- FEMA, HUD and the SBA should enter all damage and unmet needs data each gathers, for the Preliminary Damage Assessment and in each entity’s investigation and operations processes, into these collection tools and post the tools on a joint, dedicated, FEMA-HUD-SBA internet location.
- HUD should post, on that same dedicated internet location, all of the acquired damage and loss data, (as soon after collection as FEMA, the SBA or HUD can verify its accuracy and completeness).
- There should be a common application process for disaster aid instead of a myriad of programs and processes that waste government resources without producing better results. HUD, FEMA, state and local governments and other appropriate entities such as VOADs and LTRGs should maintain real-time updates of integrated individual resident files that respond to this process, including an indexed scanned file of all documents conveyed by the resident to the entity processing their request for assistance and from such entity to the

resident.

- HUD, FEMA, and state and local governments should provide transparency to people impacted by disasters as to the status of their applications for recovery programs. These same agencies should also provide significant, real-time public access to detailed data on recovery progress with private information removed.
- There should be a standard and easy process for state and local governments and other appropriate entities such as VOADs and LTRGs to receive federal data instead of endless negotiations over transferring these data after every disaster.
- HUD should develop and apply a methodology for assessing the FEMA, SBA, insurance and other damage and loss data, including the Joint Preliminary Damage Assessment data, separate from that it has employed to allocate recovery funds among competing state /tribal, and local DR applicants, to more accurately assess unmet renters' and lower income homeowners needs that are not well assessed by FEMA. This assessment should be used to allocate disaster appropriations funds with equitable regard for the challenges of rebuilding in lower income communities and communities of color. This assessment should also take into account the cost of rebuilding in a way that will reduce federal expenditures over the medium and long term by reducing risk from future disasters, especially in areas highly vulnerable to future disasters.
- HUD should create a set of CDBG-DR Action Plan evaluation standards that give proper weight to strict compliance by applicants with allocation criteria designed to accurately and adequately ensure the protection and recovery of vulnerable individuals and communities, including LMI renters and classes of residents protected under civil rights laws.

Thank you for your consideration of our concerns and suggestions. We are available to discuss these matters with your offices and to provide background materials and supporting documents if there is anything we can do to be of help.

Very truly yours,



Adam Gordon  
Associate Director  
Fair Share Housing Center





STATEMENT FOR THE RECORD

Ben Metcalf

Director

California Department of Housing and Community Development

BEFORE

U.S. House of Representatives

Committee on Financial Services

Subcommittee on Oversight and Investigations

ON

"The Administration of Disaster Recovery Funds in the Wake of  
Hurricanes Harvey, Irma and Maria"

March 26, 2019

Washington, D.C.

It is an honor to present this statement for the record to discuss California's experience administering Community Development Block Grant- Disaster Recovery (CDBG-DR) funds. California receives approximately \$390 million in annual CDBG funds and has received multiple rounds of Disaster Recovery funds over the program's history. While disasters are not new to the state, the wildfires of the last several years have been notable for the frequency and severity. This statement is intended to provide a brief summary of their wildfire events of the last two years and to offer suggestions for ways to improve and expedite the delivery of much needed disaster recovery funding to the communities that need it.

#### Scope of the 2017 and 2018 California wildfires

The record-setting toll on life and property from the 2017-18 fires is staggering -- 17,500 wildfires, 3.2 million acres burned, 133 lives lost, more than 24,000 homes destroyed and overall damage estimated to date at \$21.5 billion.

In 2017, 9,133 fires burned nearly 1.4 million acres of land, destroying or damaging more than 10,000 structures, killing 47 people (45 residents and 2 firefighters), and causing \$18 billion in damages (including \$13.2 billion in insured losses, \$3 billion in other economic losses, and \$1.8 billion in fire suppression costs). The total economic cost to the state tops \$180 billion. Economic cost includes loss of property and loss of future economic benefit from housing, business, tourism, and agriculture, among others. CalFIRE, the state's fire response department, expended \$700 million during Fiscal Year 2017, far exceeding its \$426 million budget. The total number of structures destroyed or damaged was more than the previous nine years combined.

The year 2018 set a record for the most destructive wildfire season of all time. In this year, 8,527 fires burned an area of nearly 1.9 million acres (slightly larger than the entire state of Delaware with 1.6 million acres) and caused more than \$3.5 billion in damages. Fire suppression costs that year were nearly \$1.8 billion, \$432 million spent by CalFIRE solely on its operations.

The Mendocino Complex Fire alone burned more than 459,000 acres, becoming the largest complex fire in the state's history, surpassing the Thomas Fire and the Santiago Canyon Fire of 1889. In addition, the Camp Fire killed 86 people, destroyed more than 18,000 structures, and decimated the town of Paradise.

#### Current Status of Community Development Block Grant- Disaster Recovery Funding in California

CDBG-DR has been a critically important tool for the state and local communities in rebuilding given the profound inadequacy of insurance proceeds and Federal Emergency Management Agency (FEMA) and Small Business Administration (SBA) funds to repair

homes and apartment buildings, rehouse individuals, assist small businesses in reopening, and replace damaged infrastructure and community facilities. Notably, CDBG-DR provides states with significant flexibility on program design, allowing communities to deploy it where best suited to address gaps or most fully leverage other public and private funds. In addition, the mitigation component of the 2017 CDBG-DR appropriation is particularly helpful – at a time when wildfire risk and severity is growing, mitigation funds allow us to undertake measures – including structure hardening and forest thinning – that allow us to ensure that recovering communities do not suffer a subsequent disaster down the road.

For the 2017 recovery efforts, the U.S. Department of Housing and Urban Development (HUD) designated \$212 million to California in CDBG-DR funds, which included \$124 million for unmet needs, and another \$88 million for mitigation. While very much appreciated, the level of funding was inadequate to meet California's documented unmet needs of \$2.55 billion from the 2017 fires. In response to HUD's initial Federal Register Notice published August 14, 2018, California submitted its action plan for unmet needs in December of 2018 and HUD approved this plan on March 15, 2019. However, 11 months following appropriation, HUD has yet to issue a federal register notice for the mitigation component which has left the state in a holding pattern, unable to take action to prepare for implementation.

In addition, federal action has yet to be taken on a supplemental appropriation for the 2018 disasters. The State of California is currently working to redirect existing state general funds in anticipation of the appropriation of those federal funds, but is doing so at its own risk given that HUD has not provided formal clarity on how funds will actually be implemented.

#### Challenges Faced by California and Improvement Opportunities for CDBG-DR

The California Department of Housing and Community Development (HCD) has experienced several administrative issues and believes that there are many opportunities to improve the program to meet the ultimate needs of its residents.

##### 1. PROGRAM AUTHORIZATION NEEDED

From a human standpoint, it is extraordinarily difficult for people and communities to not only be victimized by wildfires, but also incur a long and uncertain wait for the delivery of disaster relief. Authorizing CDBG-DR in statute would assist states in planning ahead for disaster recovery and facilitate a more expedient delivery of support to affected residents. Today, survivors of California wildfires unnecessarily stretch their life savings, max out their credit cards, or land in functional homelessness because they cannot bridge the elongated period of time that it takes for help to arrive.

In addition, authorization of the program, along with Congress adequately resourcing HUD's staffing and technical assistance needs, would allow for the development of national pre-approved model programs and systems that future grantees can simply take off the shelf and implement after a fire. Much effort, at significant cost, has been expended contracting with consultants in order for the State of California to reinvent the wheel on CDBG-DR programs that other states have long since pioneered. HUD should design standardized CDBG-DR program components that comply with all of its own requirements, providing grantees a starting point for their own program design or a safe harbor for rapidly deploying proven interventions.

## 2. FIRE VS. FLOOD: UNMET NEED FORMULA DISADVANTAGES FIRE-RELATED DISASTERS.

HUD currently uses a formula based on FEMA and SBA data which determines the unmet need funding available to each state. This formula is based on several factors, which unfortunately do not adequately recognize the different dynamic created by a fire disaster versus a flood disaster.

In a fire disaster, damage to structures tends to be 100 percent, creating a much deeper level of destruction than seen in flood disasters. However, fire typically impacts fewer structures than floods. Because of the level of destruction in fires, recovering from fire disaster becomes a total rebuild of a community and for survivors, their homes and lives.

FEMA currently has a policy to automatically reject fire registrants who are insured, without inspecting the property. It operates from the standpoint that an insured property has no unmet need. Unfortunately, this is untrue. In most fire zones, approximately 60 percent of the homes are underinsured. California has been negatively impacted by this automatic FEMA denial and lack of inspection. Those registrants are listed as having no FEMA verified loss, and thus are not counted by HUD unless they appeal the FEMA decision and have their property inspected.

This practice not only puts the burden on shell-shocked survivors who registered with FEMA, but it also severely undercounts homeowners who are underinsured. Research from Sonoma County in the 2017 wildfires showed about 60 percent of homeowners were underinsured, and 2,000 properties that were fully destroyed were listed by FEMA as having no verified loss, and so were not counted in the unmet recovery needs calculations for funding. This same practice is impacting the 2018 fire survivors as well. This is not so for flood disasters. All properties are inspected and counted as a matter of practice.

We recommend that this formula be reevaluated to serve fire victims in the same capacity as it serves flood victims, including recognizing insurance gaps and inspections of fire damaged properties. We also recommend that local sources of data be allowed to calculate unmet needs, such as CalFIRE data, among others. Local data sources include property by property evaluations of actual damage based upon site visits which are

conducted by building officials. It is more complete, accurate, and nuanced than the data to which FEMA has access.

In addition, HUD counts renters at 50 percent of average median income (AMI) and below in its calculation of unmet recovery needs for rental housing. In California, that methodology will not fund adequate rebuilding of multifamily housing. We recommend that the calculation be based on renters at 80 percent of AMI, at least in those communities where renter households already experience high rates of severe housing cost burden prior to the disaster.

### 3. THE LOW/MODERATE INCOME DEFINITION SHOULD BE MODERNIZED TO INCLUDE MULTIPLIERS FOR COST BURDEN/COST OF LIVING RATHER THAN JUST INCOME.

Cost of living and housing cost burden vary in states across the nation. California is a high-cost state and it has been well documented that income does not keep up with cost of living. Forty-three percent of all California households are lower-income, and 61 percent of renter households are lower-income. Eighty-one percent of the state's low-income renters are cost burdened and 35 percent of the moderate renters are cost burdened. Yet there is no consideration of differences among and between geographic regions. Given the cost burden for housing and living expenses in California, 80 percent of AMI is not an equitable definition of moderate income.

It is challenging for anyone at 80 percent of AMI to own a home in California, even with down payment assistance. Because of this, the 70 percent Overall Benefit to HUD's current definition of low moderate income is not achievable in high-cost areas.

The median price of a single-family home in California is \$538,640. A family would need to earn \$111,500 a year to qualify for a mortgage to buy a home at that price – making payments of \$2,790 per month (including taxes and insurance). A person with this salary would have a take-home pay of \$5,761, paying 48 percent post-tax earnings for the mortgage alone. HUD must be directed to waive the 70 percent Overall Benefit requirement in disaster areas where low and moderate income households can be shown to experience high rates of severe rent burden prior to the disaster.

### 4. NEED FOR ADDITIONAL PROGRAM FLEXIBILITY.

Current program requirements apply to all states regardless of the level of funding received. That means that a state receiving \$100 million will have the same requirements and start-up costs as a state receiving billions. Unfortunately, it requires the same level of intensity to put the action plan together, regardless of grant amount. The data needs to be built from scratch and consultants must be hired to meet the strict 120-day deadline for submission of the action plan to HUD. Flexibility in program standards would aid states with smaller grant amounts to more quickly set up the program. Another approach could be to increase the administration and planning cap to 15 percent given the mega-data

collection and analytics required to complete the action plan. This would more realistically reflect the relationship between recovery and the level of effort needed at the front end. Furthermore, FEMA and SBA should be directed by statute to provide data to avoid the complications and complexities of negotiating data sharing agreements.

#### 5. PROVIDE OPTIONS FOR PHASING IN GRANTS

There has historically been a long delay in release of funds from the date of award. States would benefit from a phasing in of grant delivery funds.

Many communities do not have the local resources to begin administration and planning for recovery, which are critical components to being able to respond in a timely manner when HUD issues the Disaster Federal Register Notice. A practical way to address this might be that at the time of the award letter, HUD releases 20 percent of the funding for administration and planning. This would give the grantee time to hire staff and consultants to assist with development of both the action plan and the implementation and capacity plan, provide training, and provide time to address outstanding monitoring findings related to the grant award. Jurisdictions could then stand up the needed internal infrastructure to effectively run the grant and associated activities.

In return, the grantee could be required to distribute funding within 12 months of signing the grant agreement. The final 80 percent would be unlocked when the implementation and capacity plan is approved.

#### Conclusion:

In conclusion, California's experience with devastating wildfires tells us that these disasters are likely to become the "new normal", not just in the Golden State, but throughout the western United States. It is critical that sustainable solutions to bringing relief to all Americans are adopted.

While state and local governments are working hard to prevent future wildfires, we must also partner with the federal government to work effectively, efficiently, and with greater speed, to restore communities that are the lifeblood of America.

To this end, we believe that the Community Development Block Grant- Disaster Recovery program can best be served if it builds in mechanisms for faster delivery of awards, greater attention to the unique nature of wildfires, added program flexibility, and administrative improvements. It is also important to understand that in communities like California, where fire devastation is widespread and where communities have high rates of both homelessness and severe rent burden prior to the disaster, CDBG-DR cannot be the only solution; other tools like disaster housing vouchers and supplemental investments of federal rental tax credits must be considered and enhanced.

The California Department of Housing and Community Development is committed to working with Congress, HUD, and stakeholders to provide real world experience so that ultimately, together we can benefit those Americans who desperately need recovery and relief.

**CITY OF SUGAR LAND**

March 28, 2019

The Honorable Al Green  
U.S. House of Representatives  
2347 Rayburn House Office Building  
Washington, DC 20515

**RE: SUPPORT – Reforming Disaster Recovery Act of 2019**

Dear Chairman Green,

I am writing on behalf of the City of Sugar Land (City) to express my appreciation and support for your draft legislation Reforming Disaster Recovery Act of 2019. This bill authorizes the Secretary of Housing and Urban Development (HUD) to provide disaster assistance to state and local governments under a community development block grant disaster recovery program.

As City Manager for the City of Sugar Land, I feel that this is an important piece of legislation that will help to codify and standardize the Community Development Block Grant (CDBG) Disaster Recovery (DR) program. At the present time, there are no established Disaster Recovery regulations, so they are set with each appropriation of funds. The lack of clear rules and standards have been a costly problem for the Houston region which has had more than its fair share of natural disasters in recent years. With a standardized program in place, communities can spend less time navigating an ever changing and complex system, and spend more time on recovery.

Additionally, the Reforming Disaster Recovery Act would give large metropolitan areas the possibility of receiving direct funding while also allowing smaller areas to better understand how they can access resources.

Therefore, the City of Sugar Land believes that the Reforming Disaster Recovery Act of 2019 is beneficial legislation that is needed to provide clear legislative guidance whenever natural disasters occur.

Sincerely,

A handwritten signature in black ink that reads "Allen Bogard".

Allen Bogard  
City Manager

