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S. HRG. 113–351

SUPERSTORM SANDY RECOVERY: ENSURING STRONG COORDINATION AMONG FEDERAL, STATE, AND LOCAL STAKEHOLDERS

HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING, TRANSPORTATION, AND COMMUNITY DEVELOPMENT

OF THE

COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

ON

ASSESSING THE STATUS OF RECOVERY AND REBUILDING WORK FROM THE DEVASTATION OF SUPERSTORM SANDY AND THE STATE OF THE COMMUNITIES AFFECTED

MARCH 12, 2014

Printed for the use of the Committee on Banking, Housing, and Urban Affairs

Available at: http://www.fdsys.gov/

U.S. GOVERNMENT PUBLISHING OFFICE

89–352 PDF WASHINGTON : 2015

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

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SUPERSTORM SANDY RECOVERY: ENSURING STRONG COORDINATION AMONG FEDERAL, STATE, AND LOCAL STAKEHOLDERS

WEDNESDAY, MARCH 12, 2014

U.S. SENATE, SUBCOMMITTEE ON HOUSING,
TRANSPORTATION, AND COMMUNITY DEVELOPMENT,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Subcommittee met at 10:00 a.m., in room SD–538, Dirksen Senate Office Building, Hon. Robert Menendez, Chairman of the Subcommittee, presiding.

OPENING STATEMENT OF SENATOR ROBERT MENENDEZ

Senator MENENDEZ. This hearing of the Senate Banking, Housing, and Urban Affairs, Subcommittee on Housing, Transportation, and Community Development will come to order. I am pleased to welcome two panels this morning and to have the chance to hear from the Secretary of Housing and Urban Development, Shaun Donovan. Mr. Secretary, welcome and thank you for joining us.

Today's hearing will focus on the ongoing and often unmet needs of the people devastated by Superstorm Sandy. It has now been almost a year and a half since the storm made landfall on the Jersey coast and wreaked havoc throughout the region. Since the storm, the people of New Jersey and other affected States have worked hard to rebuild. But for too many, that recovery is not as far along as it should be, and too many families are frustrated with the administration of some of the disaster funds meant to help them rebuild from this tragic storm.

With grantees now preparing action plans for the second round of community development block grant disaster funding, we are at a critical moment. Clearly we need to consider lessons learned from the first round so States do not make the same mistakes in the second round. And it is my hope that we will avoid repeating the same problems that, frankly, never should have happened in the first place.

When the storm struck and we began to secure the necessary funding and assistance, I confess that I thought it was a good idea to give States the flexibility and discretion that seemed reasonable, assuming we would all rise to the occasion. And now, frankly, I question the wisdom of that assumption.

I say this because, for the last year and a half, I have heard story after story from family after family, business owners, homeowners, renters, local officials, I have heard from constituents at

roundtables to emails and heart-wrenching telephone calls to my office about their shared experiences that have led us here today. I have heard of paperwork being lost time and time and time again; a lack of clear criteria for awarding assistance; people who have been left waiting and waiting and waiting for permission to start rebuilding.

There has been confusion about how to apply for State-run programs. There has been a clear lack of transparency about the status of applications, incorrect denials of funding, and lack of transparency about the reasons for denial and how applicants can appeal those denials. There have been reported problems with the Spanish language Web site and allegations that minorities are being rejected at disproportionately higher rates.

People simply feel the major State programs are not being run fairly or competently, and from what I have heard, I am inclined to say they have cause for concern.

Bottom line, some have chosen to point the blame at the Federal Government. But I believe it is time to stop fingerpointing and get the job done. We need solutions, not more of the same blame game that has led to delay after delay in helping the people of my State and other States recover. We need greater transparency, clear standards, and responsibility and accountability. I do not think that is too much to ask.

So let me be clear. This is now the third hearing this Subcommittee has held on Sandy recovery, and I will hold a hundred more if that is what it is going to take to get the answers we need and get it right for the people whose lives have been devastated by the storm.

So, Mr. Secretary, we look forward to some of the insights that you can share with us so that the people of my State and every State that has suffered extraordinary damage can finally get their life underway.

We want to be clear about what is working well and how we build on those successes as well as what is going wrong and where the delays are in order to fix the problems quickly and effectively. And in the interest of time, I will ask unanimous consent that the rest of my statement be included in the record.

Senator MENENDEZ. With that, we welcome the Secretary of HUD, Shaun Donovan. Mr. Secretary, your full statement will be included in the record. We would ask you to synthesize it in 5 minutes or so, but if it is important, if you need a little more time, go ahead. And the floor is yours.

STATEMENT OF SHAUN DONOVAN, SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. DONOVAN. Thank you, Mr. Chairman, and thank you for inviting me to testify here today and for your focus on this critical issue.

As you know, in addition to my concern as a citizen and a member of the Administration, Hurricane Sandy was personal to me. As you often remind me, I married up, a Jersey girl, and because of my deep roots in the region as a New Yorker as well, I remain concerned with the devastation that Sandy has caused, and I am espe-

cially honored to have the opportunity to help with recovery efforts across the region.

We both remember the devastation this storm caused: $65 billion in damage and economic loss, 9 million lost power, 650,000 homes that were damaged or completely destroyed. And it was clear to all of us that the road to recovery would be long and difficult.

So we began immediately helping communities put their lives back together, and President Obama quickly pledge his support of these local efforts in order to ensure a full recovery. He created the Hurricane Sandy Rebuilding Task Force to maximize Cabinet-level coordination in support of the work to rebuild this region. I have been proud to chair this effort as we work to achieve two basic goals: one, to get assistance to communities as quickly as possible to meet the immediate needs of the region; and, two to ensure that the region builds stronger and smarter than before so that it is better equipped to deal with future storms.

Let me start with the work of getting assistance to communities quickly and efficiently. As you well know, in January 2013, President Obama, working with you and other Members of Congress, fought tirelessly to get $50 billion in Sandy supplemental funding in order to aid victims of the storm. And ever since, it has been a priority to get these dollars into communities. That is why we thought it was critical to include several measures in the supplemental that facilitated more efficient spending of the dollars, for example, giving HUD the authority to reduce duplicative environmental reviews.

As a result of these and other measures, we have made great progress. More than 265,000 people and small businesses have received direct assistance; more than 99 percent of Sandy-related flood insurance claims have been paid; 97 percent of public beaches were open by Memorial Day of last year; and as of the end of January, HUD has announced more than $11 billion and paid out nearly $1 billion through our CDBG–DR program.

I would note that this pace of spending is 48 percent faster than after Hurricane Katrina and more than 2 ½ times faster than after Hurricane Ike. When you include flood insurance payments, we have allocated nearly $41 billion in total, with roughly $15.5 billion of this already paid out.

So relief is getting to communities, but as you well said, Senator, we know it can never be fast enough, and that is why we have been looking at creative ways to expedite the rebuilding process—faster approvals from SBA during this process; the alignment of FHA and FHFA foreclosure prevention policies to keep homeowners in their homes; streamlined permitting that has cut times for approval of large infrastructure projects; and at your urging, work to make sure that we would not hurt homeowners who may have applied or been awarded SBA funds; and for the very first time, allowing homeowners to receive reimbursements through CDBG funds.

We will continue to look for ways—and I am sure we will discuss that here at the hearing—to remove unnecessary barriers and headaches, ensuring that the billions that flow into the region are put to use as quickly and efficiently as possible.

This, of course, complements our other goal of rebuilding stronger and smarter so that the region is better prepared to withstand

future storms. On August 19, the task force released our rebuilding strategy for the region which included 69 recommendations to help do just that.

For example, one of the most critical concerns we heard from our local partners was that they needed clear, accessible information about current and future flood risk. We have provided exactly that with our new sea level tool. And we have established for the first time a uniform minimum Flood Risk Reduction Standard across the Federal Government to have a single, simplified standard.

We have also worked to connect communities with the most innovative engineering, planning, and design ideas from around the world through an international competition called "Rebuild By Design."

Investing in projects that will make our communities more resilient is vital to their safety, but it is also good for our economy because we know that for every dollar we spend in mitigation, we save $4 in avoided costs in the future.

Finally, Mr. Chairman, I want to be clear that I and my Department will be accountable to the region and to you to see this process through. Every recommendation in the task force rebuilding strategy has a detailed implementation plan, and we are on track.

While we continue working with Federal partners, we are also committed to overseeing CDBG–DR funds that are being distributed by grantees, and I take our role as a steward of Federal dollars very seriously. HUD is working closely with these grantees through weekly conference calls to answer any questions or concerns they may have. We also have twice-a-year onsite monitoring and twice-a-year onsite technical assistance for New York State, New York City, and New Jersey. We completed our first round of onsite monitoring last August. We completed our first round of onsite technical assistance in December. And right now we are going through our second cycle of onsite monitoring. We have completed our second onsite review of New York State. We are literally this week completing our second review of New Jersey. And we will be conducting our second review of New York City by the end of March. And we will stay on it for as long as it takes, knowing that eventually we will emerge stronger and more vibrant than before.

The reality of these storms is that the recovery can never happen fast enough for the Americans that have been affected, but we are making significant progress. Communities are turning the page and looking toward the future with new hope. But we all know, as you have eloquently said, that more work needs to be done. All of us in the Obama administration are committed to working with local partners, Members of Congress, and other stakeholders to get assistance to those in the process of rebuilding, ensure the region is better prepared to withstand future extreme weather events, and work to improve our recovery efforts across the Nation.

I look forward to working with the Committee on those goals. Thank you.

Senator MENENDEZ. Well, thank you, Mr. Secretary.

Let me get into some specifics here. As you know, CDBG funds are meant to help States and communities fill needs that are unmet by other sources of funding. In my State of New Jersey, the State allocated about half of its funding under the first CDBG

tranche to homeowner assurance, with the largest share going to what is called the "Reconstruction, Rehabilitation, Elevation, and Mitigation program," or RREM.

Now, some of the State's programs using CDBG funding may be working well, but as I hope you will become aware, the RREM program has not been one of them. Some initial disorganization may be expected in standing up a completely new program of the scale on a short time line in the aftermath of a major natural disaster. But the problems here have been much larger, lasted much longer than the people of New Jersey should have to accept.

Major issues have been reported with the outreach, application, intake process, as well as customer service, application review, and appeals. In this century where we are at the cutting edge of innovation, I heard story after story of people having their applications handwritten and then lost multiple times. You would think there would be a central data base that is computerized so that any entity across the spectrum who is engaged in providing relief would be able to do so.

And one of the biggest obstacles still facing many people whose homes were damaged in the storm is the inability to start construction almost 15 months later—15 months later. Because they have not been able to start repairs, many of these families are still displaced.

As I understand it, about 12,000 applicants received preliminary clearance into the RREM program. Of these, about 7,000 are now on a waiting list while about 5,000 have been told they are in line to receive funding pending further reviews.

Of the 5,000, only about 2,700 have been told they can start construction. The rest, almost 10,000 people, have been told they cannot start construction without losing their eligibility for reimbursement.

Now, the storm hit in October of 2012. The RREM program started accepting applications in May of 2013, closed in August, and now it is March of 2014. And almost 10,000 people have been told not to start rebuilding their homes or else they will lose eligibility for reimbursement. And to me that is simply unacceptable.

Now, there has been a lot of misinformation, misunderstanding, and fingerpointing over the causes of this delay, so I hope you will be able to help us set the record straight here.

State officials have recently been saying that the main cause of the delay is what they call burdensome red tape of federally required environmental and historical preservation reviews. It is my understanding, though, that HUD and the State's Department of Environmental Protection have worked hard to streamline and expedite these reviews to the point where they take on average about 2 to 4 weeks. The longest I have been told is that they take at most 6 to 8 weeks.

So question number one, is that your understanding as well as to how long these reviews are taking to complete on average?

Mr. DONOVAN. You are exactly right, Senator. In fact, our most recent information is that the typical review is now down to about 2 weeks and that the most complex ones are now down to about 6 weeks.

Senator MENENDEZ. OK. So 2 weeks on the typical and 6 weeks on the max. Now, this accounts for only a few weeks out of the many months that people have been waiting since the RREM program was supposed to start processing applications. Is it correct that once a homeowner gets these environmental and historical preservation reviews completed, they can start or continue to rebuild their home without jeopardizing their eligibility for Federal reimbursement?

Mr. DONOVAN. You are correct, Senator, and I would add that you raised this concern with us early on. We have never before allowed that sort of reimbursement to happen. But because of your advocacy, we did make that available in this case after Sandy.

Senator MENENDEZ. So if the State is requiring homeowners to submit other documentation such as "substantial damage letter" that may be taking a long time to obtain or is taking a long time to process their applications to decide how much funding they will receive, the homeowner can start rebuilding while all of this is going on as long as they have completed the environmental and historical preservation reviews, which take, as you say, normally 2 weeks, a maximum of 6 weeks. Is that a fair statement?

Mr. DONOVAN. That is correct.

Senator MENENDEZ. So right now I understand the State is not even starting environmental reviews for people until it has—my time is not up yet.

[Laughter.]

Senator MENENDEZ. That is one of the benefits of being the Chairman. I understand the State is not even starting environmental reviews for people until it has completed and signed off on all other documentation, a process that for many people has been taking months. I am told that some parts of this process, such as determining the scope of work, may be necessary for some environmental reviews. But these steps do not seem to be the biggest sources of delay.

Wouldn't it be a better idea to have the environmental and historic preservation reviews happening as early as possible in the process so that people can start rebuilding rather than making them complete the most time-consuming steps first when these steps are not even necessary for environmental reviews?

Mr. DONOVAN. That is certainly an option that is available. There is no restriction at the Federal level from them doing that. The only risk from that perspective is that you might end up paying for an environmental for a family that is later determined to be eligible—to be ineligible, excuse me.

Senator MENENDEZ. All right. So let us go to that. So, in other words, it is not the environmental or historical preservation requirements that are slowing things down, because if it was just those, people's wait time would be 2 to 6 weeks, not 7 to 10 months and counting. The bigger problem seems to be making people complete other time-consuming steps first.

So in this regard, my office has been in contact with State officials about this issue, and the State has told us that they are afraid to go ahead with environmental and historical preservation reviews until they have completed all other steps, including making a final determination that a homeowner is both eligible for funding

and that the State has funding available for the homeowner. They said they are afraid that if they pay for environmental and historical preservation reviews for homeowners that ultimately do not receive funding for other reasons, they are afraid that HUD might penalize them or make them repay the money.

Are the State's concerns legitimate? Would you penalize the State for front-loading the environmental and historical reviews for preliminarily approved applicants so they could start rebuilding again?

Mr. DONOVAN. There is no restriction on making that choice by the State. That is a program design issue. The risk for them is that they may end up performing environmental reviews for families that are determined later to be ineligible. We would allow them to cover those costs, but instead of being taken out of the project delivery costs, they would be required to pay them out of the program administration costs, which are capped at 5 percent of the total award. So that is the risk to——

Senator MENENDEZ. And even those 5 percent are Federal dollars, are they not?

Mr. DONOVAN. That is correct.

Senator MENENDEZ. So the bottom line is I am being told—and I listen to family after family—that, you know, the State will not do the environmental and historical review, which your testimony says is 2 weeks, average, 6 weeks, you know, in the more extensive context, and that they will not do it because they are afraid of being penalized—although I think the universe of how many people they would find in that is relatively small. And your testimony is they would not be penalized, they would just have to take it from an administrative pot versus a program pot. Is that a fair statement?

Mr. DONOVAN. If there were funding available there. There is a cap of 5 percent on that pot.

Senator MENENDEZ. OK. So the bottom line is, well, you know, I guess—well, I guess maybe we should not do any more advertising and look toward the next round of tranche and say that we need to ultimately buildup the overall amount so that the 5 percent is bigger.

You know, the bottom line is there are people who have been out of their house for a year and a half—a year and a half—and many who have applied for this program 10 months ago and had to start rebuilding when they submitted their application and who have since been penalized only because they applied as early as possible. So I hope that we can—and I know that your rebuilding strategy task force report, which you testified about in this Subcommittee last September, included as one of its most important recommendations finding ways to improve Federal, State, and interagency cooperation, and to streamline and harmonize review processes like this to cut red tape and unnecessary delays. I think this is a prime example of an opportunity to cut red tape that can have a tangible impact of making people's lives better, because there is no reason to take the one item that is essential to be eligible, which is the environmental and historical review, and back-end it instead of front-end it and be able ultimately to have the wherewithal to know that you can move forward. So I hope that this record makes

it very clear to the State that it is their choice in their program design.

One other issue before—I see Senator Schumer has arrived, so I have a whole bunch of issues, but let me just go to this one. How are we going to review as we look at this next tranche—you know, as one of the Members here who fought in the midst of a fiscal cliff, the end of a congressional session, in the midst of the worst natural disaster at least my State ever had, to get the money, I look at this issue of how the State spends it as an important one, and I look at what the State did with a vendor called HGI. When people whose homes were destroyed do not understand how to apply or what documentation to provide and had a very hard time getting helpful answers when they had questions, they went to intake centers that the State created. They faced a disorganized process where even after they submitted the correct documents and had verification that they submitted the documents, the contractors hired to process them often entered their information incorrectly or misplaced their documents multiple times—multiple times.

When homeowners reached the application review stage, they were unable to get information as to the status of their application. For example, waiting weeks or months in limbo, only to find the review of their applications had not even started because it was missing documents the homeowner did not know they needed to provide.

An independent assessment of the State's data revealed in January that far too many homeowners were being incorrectly rejected. Of the thousands or so who were denied and appealed, 80 percent had their denials overturned—80 percent. More than 2,000 people did not appeal and may have been incorrectly left out.

It is my understanding that the State contracted out almost the entirety of the problematic RREM program to a company called Hammerman & Gainer, Incorporated, or HGI. And after months of what I will term as "gross mismanagement," during which time the State denied the existence of many of these problems, the State finally terminated HGI's contract without public notice in December of last year. For less than 8 months of work, HGI has reportedly billed the State for $51 million of $68 million it was supposed to be paid over 3 years. Twelve percent of the way through the contract, the contractor had burned 75 percent of its funding, with an abysmal performance.

Now, my question is: Are you aware of the State's contract with HGI and the scope of the contract? Combined, the two programs run by HGI were responsible for distributing almost half of the State's first tranche of CDBG funding?

Mr. DONOVAN. Yes, I am.

Senator MENENDEZ. And did the State make clear to HUD the full scope of how much responsibility they had intended to outsource to HGI?

Mr. DONOVAN. We were not notified in the action plan or in other discussions of the precise scope of the contract. We were aware that they planned to contract out portions of the work, but we did not have advance knowledge of the specific work that HGI would be performing.

Senator MENENDEZ. Do you think the State acted quickly enough to identify the problems in HGI's work and appropriately remedy them?

Mr. DONOVAN. Given that we are literally as we speak performing a review that includes looking at that issue, I am not prepared to say, to give a definitive answer on that. I will say, Senator, that the State did set up integrity monitoring. They did find a number of problems relatively early on that I believe led to the concerns and changes that were made in the program. But I do not at this point have a clear answer that I can give you on whether that was sufficient——

Senator MENENDEZ. Well, as HUD is reviewing now—and then I will turn to Senator Schumer—its second tranche, you know, the law that appropriated the Sandy CDBG funding requires HUD to "require grantees in contracting or procuring these funds to incorporate performance requirements and penalties into any such contracts or agreements." So my question, which we asked you to review, is: Did the State officially comply with this requirement? Do you think the State has sufficiently monitored and enforced the applicable performance requirements and penalties with respect to HGI? And, finally, the Sandy recovery appropriation legislation requires the Secretary of Housing and Urban Development to certify in advance that a Sandy CDBG grantee, such as the State of New Jersey, has in place proficient financial controls and procurement processes. A report co-authored last week by Dr. Janice Fine of Rutgers University, who is testifying on our second panel today, identifies serious flaws in the State's processes for contractor hiring and oversight that may have contributed to the problems with HGI.

So I look at this, and, yes, it is a mess that affected people in a way that they should not have been affected. But before we let that second tranche go out—and I certainly want it to go, but I want it to go not to end up with the same results—I hope that HUD is going to review whether the State if going to again hire a contractor. What is the nature of that contractor? What is the quality of that contractor? I am told that this HGI contractor had a checkered past in other disaster recovery situations. And if the State is not going to hire a contractor, are they going to hire up to do what is necessary for this? Because, otherwise, this tranche of money that we fought so hard for is not getting to the people who need relief.

So can I elicit from you a commitment to review both what happened here, because it involves Federal money, and also moving forward, before this tranche moves forward, at least in a New Jersey context, that we are going to have a process that ultimately is going to give greater streamlining and responsiveness to people who are suffering?

Mr. DONOVAN. Senator, you have my assurance that, as we complete this review, we will come back to you with our full determinations about that process. But I would go one step further. Even though those reviews are not complete, we identified enough concerns with the work of the contractor and the oversight of the State that we have worked with them and they have given us assurance that, as part of the second tranche, they will take additional steps

to reach families that may have been left out of eligibility of being able to get funding using that second tranche. We will be following up with you in the next few weeks to give you details of exactly what steps those will be, depending on the specifics of the report, but I have that assurance from the State, and you can rely on my oversight to make sure that we follow through on that.

Senator MENENDEZ. Well, I would like to follow up on that, but let me turn to Senator Schumer.

Senator SCHUMER. Well, thank you, Senator Menendez. Thank you for calling this hearing, which is so important that we continue to do oversight of Sandy. It was a huge amount of money. It was well thought out. But obviously when that happens, there are things that you have to do oversight with because there are glitches all over the place.

Let me start with Bay Park. As you know, FEMA and Nassau County agreed to an $810 million package for the reconstruction of the largest sewage treatment plant project on Long Island. It is also the largest reimbursement for a sewer project in FEMA's entire history. But there are two missing pieces that are really vital that have not been part of the agreement as of yet. This includes the funding for necessary nitrogen removal and, of great importance, an ocean outfall pipe. Because if the raw sewage, when things overflow through storms, goes into the ocean, it is a lot better than going into the Great South Bay. It hurts recreation, it hurts pollution, it hurts fishing, and everything else. And my constituents strongly believe that reconstruction of this plant must include these two areas, and obviously there are CDBG and EPA loans that could help Nassau pay for these costs. But at the moment we have not gotten a commitment from the State or localities about how the costs are being paid for, even though it is Federal money, obviously. My view is this has to be funded federally. The locality cannot afford it, and it is a large amount. I do not think the State can afford it either.

So could you please tell me what you are doing to coordinate the Federal, State, and local agencies to use all Federal Sandy relief resources so that we can get full Federal funding from the Sandy money of both nitrogen removal and particularly the ocean outfall pipe?

Mr. DONOVAN. So, Senator, first of all, thank you for your advocacy——

Senator SCHUMER. And I neglected to thank you. I think you are doing a great job. I am glad you are there. You are on top of it. You care, you know the areas. We could not have a better person doing it, so thank you. I neglected to say that in my excitement about the outfall pipe.

[Laughter.]

Mr. DONOVAN. I appreciate that, Senator. What I will tell you is with your urging, we have been working very closely with FEMA and EPA. We have brought them all together to work closely with the State to try to investigate what exactly can and should be done. We have made very clear that our CDBG notice and requirements, based on the work of the Sandy Task Force, will ensure that work gets done with greater resilience and a focus on environmental quality.

And as I think you also know, we expect to get within the next couple weeks the final request for our plan for the second tranche, and we are certainly hopeful that we will see reflected in that potential funding for those issues.

Senator SCHUMER. I hope you will let the State and localities know how important it is. I can tell you, as the author of the bill here in the Senate, along with Senators Menendez, Gillibrand, and—is there another Senator?

Senator MENENDEZ. Lautenberg.

Senator SCHUMER. Lautenberg—Frank at the time. We miss him—that this is just the type of project we envisioned, a large essential public works project, susceptible to major flooding where the localities could never afford to step in on their own because it is so vital. So I hope you will push all of them to make this request, and I hope you would grant that request. I hope they fully fund it. Do you agree with that?

Mr. DONOVAN. We certainly are working with them closely and are hopeful that these will be—these issues will be included.

Senator SCHUMER. OK, great.

Second question: Rebuild By Design, one of the things—I think we have done really good at creating a plan for Suffolk County, God forbid the next Sandy occurs, the $700 million of FIMP money, long awaited. I met with the Army Corps of Engineers yesterday, in fact, on this, Colonel Owens; talked, in fact, to Congressman Bishop yesterday; and we are making good progress on getting that money available.

But, of course, Nassau County is also susceptible. We have good plans for Long Beach, which is one of the barrier islands, you know, going from Point Lookout to East Atlantic Beach. But we do not yet have a plan in place for the rest of Nassau County. The Rebuild By Design, which I think was excellent and, as you know, I urged that one of the plans at least be chosen that included a plan for Nassau County, Great South Bay, all the problems that occurred throughout the area, you know, all you have to do is go to places like Freeport or Massapequa and see the damage that occurred.

Can you tell me the status of the selection project for the 10 projects? Are you weighing in to make sure a protect Nassau County piece is done? If each little locality does their own piece, we will still have Nassau County susceptible to another, God forbid, big storm like Sandy. So we need a Nassau County plan. You were good enough to help us at least see that one of the Rebuild By Design plans included that. What is the status? How are we going to make sure that some of this Rebuild By Design money goes to protecting the Nassau County southern front the way we have done it in Suffolk County?

Mr. DONOVAN. So briefly, Senator, on the overall Rebuild By Design process, final proposals will be completed by the end of this month. We are going to convene a jury that I will lead in the first week of April, and we are hopeful to make not just decisions about the competition but funding allocations for those by the end of April.

Specifically on Nassau, again, at your urging we have brought together not just the State but also Long Beach and other localities

to make sure that this is a comprehensive plan and that we are getting very specific input from the local——

Senator SCHUMER. Good. Are you optimistic we will get some—I mean, we do have a plan, as I said, for Long Beach. We have a plan for Jones Beach, in that area. But we do not for the Great South Bay, and that is where all the people are. So are you optimistic that we can get something to protect that area, a comprehensive plan to cover that?

Mr. DONOVAN. I am optimistic that the team is working closely to get a good plan. I honestly cannot tell you without seeing the final plan what their chances are in the competition.

Senator SCHUMER. All I can tell you is I will be deeply disappointed if we do not have a Nassau County plan. That is, again, what the Sandy money was entitled for. We do want to help each little area do their own thing, but without a major plan protecting Nassau County, it will be vulnerable and all the little stuff could get washed away. OK?

Mr. DONOVAN. Understood.

Senator SCHUMER. So do whatever you can to make sure—I mean, maybe even look at that Nassau County plan now, have your people look, and see, if it is not quite up to snuff, what can be done to bring it up to snuff so we do not hear on April 30th, well, not a good enough plan. OK?

Mr. DONOVAN. Absolutely.

Senator SCHUMER. Very important. OK, next, another question for you. Small business. Now, this is really disappointing, one of the areas where Sandy money has not worked very well, and that is in the loans to our businesses. In HUD's latest quarterly grant report, the reimbursements for small business repair program were $1.5 million out of a projected $37.5 million. Despite these funds being categorized as urgent need, the progress narrative states that the majority of funds were used for marketing and program delivery costs.

It has been over 18 months since Sandy. I have heard from small business owners who want these loans and are not getting them, and you are not the SBA, but you are the czar, so you have got the clout. In places like Freeport, Mastic Beach, Lindenhurst, Long Beach, Baldwin, Bay Park, Brooklyn, Queens, they are not getting much help here and they need it. What can be done to prevent more delays and to see that the money goes maybe in tranche two or elsewhere so that these small businesses have access to programs to build back their small businesses? I visited Island Park awhile back. Sixty percent of the businesses were wiped out on Main Street because of the flooding, and they need help for all the reasons—my dad was a small business man. He was an exterminator. I know how they struggle. And they do not have resources. They cannot build it back on their own most of the time, unless they have got a rich uncle or something.

So could you comment on that, please?

Mr. DONOVAN. Absolutely. First of all, with your advocacy and also Senator Menendez's, we did obviously allow businesses to be eligible even if they had not applied for SBA loans or if they had gotten an award from SBA and their circumstances had changed. And I will be honest, I have been surprised at the limited number

of businesses that have come in and applied for the programs, not only in New York but also in New Jersey.

We are looking at that. Specifically Mayor de Blasio is reviewing the programs now to look at whether there are additional things that can be done on economic development, and I think this is also a question of making sure, as we do the monitoring reviews that I spoke about earlier, that we are making sure that there is adequate outreach done on that front. So those are the areas that we are looking at.

Senator SCHUMER. OK. One final—is that all right, Mr. Chairman?

Senator MENENDEZ. Yes.

Senator SCHUMER. Thank you. This is speeding up the flow of money to homeowners. OK? I am concerned about the speed of money flowing to New York City. New York State has done a better job here, and about $330 million for housing rehab and construction has been disbursed. That is not close to all the money, but homeowners on Long Island, Nassau, Suffolk, are beginning to tell us that they are getting the money both for reimbursement and others, and I want to make sure they all get it, you know, even if their incomes are, you know, middle class. Nice middle-class incomes, we promised them that they would get money, and that was the intention of the bill.

Unfortunately, while $330 million from New York State has been disbursed, the non-New York City parts, zero dollars has been disbursed in New York City. And to be honest, I am a great fan of Mayor Bloomberg, and he is a good friend, but in this area, in my view, their attitude about the housing money was not robust enough.

I have talked to Mayor de Blasio, and he does not have his people in place yet. We intend to meet to discuss this to improve the money that flows to homeowners.

But, in your view, why is there such a great disparity in getting the money out the door to the city homeowners? What kind of technical support and specific recommendations can HUD exercise to streamline the city process? And is there any specific instruction HUD can offer to grantees to adjust their program to minimize further delays?

Mr. DONOVAN. So, Senator, I share your concern in this area——

Senator SCHUMER. Zero dollars for New York City makes you scratch your head and wonder if something is wrong with the way they set it up.

Mr. DONOVAN. And as you stated, correctly, this is a concern that I have shared for some time now. In fact, I have spoken directly to the mayor a couple times about this, including this week. He has assured me that his team is looking comprehensively at this process, that they will have recommendations for changes to speed up the process within the next few weeks.

Obviously, a transition to a new mayor has meant that, as you said, he needs to get his team in place, but I have expressed my concern that we need to move this as quickly as possible because the money is not getting out fast enough.

Senator SCHUMER. Good. And will you work with him? I think we are going to——

Mr. DONOVAN. Absolutely.

Senator SCHUMER.——need some modifications in the actual New York City program. You obviously want to see the money only go to people who need it and deserve it. You do not want to see duplication of dollars. If people had $80,000 of damage and got $70,000 from their insurance company, the only amount we want them to get is $10,000.

So these are all concerns, but if you make the program so onerous and you have got to dot the "I" and cross the "t" 48 times before you get a nickel, something is wrong. And I suspect something is wrong not just in the execution but in the way the city set up the program. Would you be willing to work with us to try to modify it so we get a careful balance here, not wasting any money but getting the money out to the homeowners?

Mr. DONOVAN. We are doing weekly calls with the grantees to provide technical assistance. I will say on this, we do not have any pending requests for waivers or other changes.

Senator SCHUMER. I know.

Mr. DONOVAN. I believe this really is about program design and getting—just getting it done on execution. I do not think the problems here are red tape or regulations standing in the way. It is about execution.

Senator SCHUMER. OK. Well, that is a little encouraging to hear. I talked to Mayor de Blasio within the last hour about this. He called me, which shows his concern, which I appreciate. And we are going to get together to figure this out. And as always, I know we will have your cooperation.

Mr. DONOVAN. He has assured me his focus is on this as well, as I am sure he——

Senator SCHUMER. One more quick question, with my Chairman's indulgence, and please give a short answer, because he has more to say. No, very serious. When is tranche three coming? What can we expect for New York State and New York City? And are you contemplating any local sub-allocations? You can answer that quickly.

Mr. DONOVAN. Long story short, we are finalizing data from other places around the country. We want to see remaining unmet needs that we will get in the next few weeks from the grantees in their second action plans. And my hope is that we can make final allocations by the end of April.

Senator SCHUMER. Thank you.

Thank you, Mr. Chairman, for your indulgence.

Senator MENENDEZ. Thank you.

Mr. Secretary, there are votes going on, but I would like to get in a couple of questions before so that we can hopefully excuse you and then move to the next panel after the votes.

Going back, just to finish on HGI, you know, I hope that HUD is going to require or encourage the State to seek recovery for HGI from the problems and delays that it caused. Canceling the contract is not enough here. The programs HGI was hired to manage are at the heart of the State's efforts to help homeowners in New Jersey. And administering close to $1 billion worth of recovery money is too significant to be treated like some small boilerplate contract.

So it would be mind-boggling that the company could walk away, get $51 million, you know, 75 percent of its contract, which is supposed to last over 3 years, mess it up so badly that it hurt people, and then at the end of the day, you know, we just cancel the contract and that goes good-bye. That cannot be the case. I assure you that will not be the case. So I hope that HUD in its review here is going to urge the State, because I just do not know how we can do that. So when you have your review, I will look forward to seeing whether or not there is going to be any urging of the State to go after the contract here based upon a horrendous condition.

Three final questions. I heard from everybody, you know, that I have listened to, homeowners who are still trying to get in, they do not know where they are on the list. If I am number 5,000 on the list, no matter how much money there is, I might say, "You know what? I am never going to get it, so I am going to have to make a determination of what I do with my life."

But why the secrecy of not knowing where you are on the list unless you want to play with the list? So can we get the State to just tell somebody they are number 2,000 on the list? There should be transparency.

Mr. DONOVAN. The State has assured us that they are now providing information to homeowners about their place on the list, so what I would suggest, if you have specific——

Senator MENENDEZ. Not the case. Not the case. I do not care what the State is telling you, because when I listen to something so many times, I know it just cannot be one person just happens to be misinformed. They tell them in tranches, "You are between 2,000 and 3,000." I want to know if I am 2,500. I want to know if I am 2,000. I would love to know who the first hundred are on the list. I would like to see where the list was supposedly randomized. What is random? Is it mostly from certain parts of the State? Is it truly randomized in a place in which the universe is spread all over those who were affected by Sandy? I do not know what is the big deal. Let us publish the list. No personal information other than a name and address. This way we can determine the geographics of this, and everybody knows what their standing is.

Mr. DONOVAN. Senator, I share your interest in making sure homeowners have the information that they need to move on with their lives, and——

Senator MENENDEZ. Isn't that something you can require?

Mr. DONOVAN. We do not require exactly how they design their programs in that way, but we can work with you to encourage them to make this information in a way that is useful to homeowners.

Senator MENENDEZ. The list needs transparency. It is basic fundamental fairness to give people, first of all—and a sense of how the list came about, right? If it is randomized, how did you randomize it? Because if everything is, for example, one county or two counties, to the exclusion of all the counties that were affected, something is wrong with that.

Speaking about challenges, I mean, you know, as you know, HUD is required by Executive order to work to ensure that recipients of Federal financial assistance provide meaningful access to applicants and beneficiaries with limited English proficiency.

Now, New Jersey's CDBG action plan says the State will make key documents available in both English and Spanish, but we have seen specific evidence to the contrary. Of particular concern is the State's Spanish language Web site which failed to provide the same information—the same information—about accessing assistance to Spanish speakers as to English speakers.

For example, you will see from the screen shots that we have here—which I am submitting for the record, without objection.

The New Jersey Department of Community Affairs' Spanish Web site was never updated to advise people about the extended August 1st deadline by which applications could be filed for the RREM program. And the Spanish Web site is entirely missing information about how to appeal a rejection.

Unfortunately, it is not just the Web site that has prevented people with limited English proficiency from accessing recovery programs. Earlier this week I met with Angel Mejia who lives in Ironbound in Newark with his wife and children. He went to the Recovery Assistance Center in Newark. There was not one Spanish-speaker who could help him. The only available person who could communicate was a secretary who was not trained in the details of the program. A year and a half later, he is still awaiting an award for his property. And that is just one of many stories.

So it is my understanding that a complaint has been filed with HUD's Office of Fair Housing and Equal Opportunity alleging unequal access for victims with limited English proficiency. Is HUD investigating this complaint?

Mr. DONOVAN. We are. We do have a formal complaint, and we are investigating, and I expect that investigation to be completed in the next few weeks.

Senator MENENDEZ. And can I have your commitment to keep the Committee informed as to the results of that?

Mr. DONOVAN. Absolutely, and, Senator, I would go farther than that. As I said earlier, between our monitoring review and the review we have been doing on the fair housing complaint, we do have concerns, and the State has assured us through the second action plan that they will take steps to reach homeowners and businesses that may have been left out because of language access issues or steps of the contractor.

Senator MENENDEZ. All right. Then, finally, I hope in HUD's review there are—the second panel will have studies that suggest that people from minority communities, citizens from minority communities—African Americans, Latinos, and others—have a disproportionate rejection rate and a whole host of challenges, even though they already started a challenge with what Sandy did to them. I hope that there will be a review of that as well. We need to make this program efficient, transparent, fair, and equitable for everyone. And I know that is your intention. It certainly is the Chair's intention, and we are not going to be happy until we get there. So I hope you will instruct your Department to have a review of that as well.

Mr. DONOVAN. I can assure we are looking at that in great detail, and I want to thank you for your leadership on this issue, not just around Sandy but more broadly.

Senator MENENDEZ. Mr. Secretary, thank you for your testimony here today. We look forward to following up with you on a host of these issues. And with that, I appreciate your time. The Secretary is excused.

Mr. DONOVAN. Thank you.

Senator MENENDEZ. The next panel is going to be held right after these votes, which, unfortunately, unless they are mitigated, there are about 45 minutes' worth of votes. So the Committee will stand in recess subject to the call of the Chair, at which time we will convene the second panel, which is testimony that we desperately want to hear.

The Committee stands in recess.

[Recess.]

Senator MENENDEZ. This hearing will come back to order.

First of all, let me give my apologies to this panel. I do not control when votes take place here in the Senate—at least not yet.

[Laughter.]

Senator MENENDEZ. And we had a series of votes on nominees that went on until right now, so I appreciate your willingness to hang in there with us because I think your testimony, based upon reading your written testimony, is very important, and I would like to get some of that on the record orally as well as have some conversation with you.

Second, I failed at the opening remarks to say that I did invite the State of New Jersey and the Department of Community Affairs commissioner to join us at this hearing, and that offer was rejected by the State. So I do not want anybody to think that I did not give the State an opportunity to make its own presentation here, which I did.

We now have three very important witnesses: Mayor Matt Doherty, the Mayor of Belmar, New Jersey, who had significant damage done to his community, and who has worked to rebuild it with a fair degree of success, but still faces challenges on behalf of some of his citizens. And so we look forward to hearing from him as the perspective of one of our mayors.

Adam Gordon, who is the Staff Attorney at the Fair Share Housing Center, which has done some very significant work in an analysis of some of these programs and what it meant to citizens or where they have fallen short and raised some serious questions about its effect. And so we appreciate your willingness to be here.

And Dr. Janice Fine, who is an Associate Professor of labor studies and employment relations at the Rutgers School of Management and Labor Relations, who I referred to earlier when the Secretary was here about a study that she did about some of the contracting and procurement processes here and the importance of having a greater transparency as well as standards.

So as I said to the Secretary, all of your testimony will be fully included in the record, without objection. I would ask you to summarize in about 5 minutes or so, so that we can enter into some dialog on these issues.

We will start in the order that I introduced you. Mayor Doherty, you will be first. And if you would put your microphone on, press the red button.

Mr. DOHERTY. My first time doing this.

Senator MENENDEZ. That is OK.

STATEMENT OF MATTHEW J. DOHERTY, MAYOR, BELMAR, NEW JERSEY

Mr. DOHERTY. I want to thank you for the opportunity to share with you some of the experiences we have had in Belmar, New Jersey. Based on conversations with other Jersey Shore mayors, it seems that our experiences are similar to what other communities are going through as well.

I want to first thank you and the Members of the Committee and the rest of the Senate and the House of Representatives for appropriating financial resources to both Belmar and the rest of the Jersey Shore since Sandy ravaged our communities on October 29, 2012. I know that while there were some Members who opposed helping us, as a collective body you supported us and for that we are grateful. I would also like to take an opportunity to thank New Jersey's congressional delegation for all of their hard work in securing much needed aid, particularly Senator Bob Menendez, Congressman Frank Pallone, Congressman Bill Pascrell, and Congressman Chris Smith. Having gone through this experience, I can tell you that without Federal assistance both my community, and the rest of the Jersey Shore, would be at risk of becoming a relic of the past. No State, county, or municipality could come back from a terrible hit like the one our communities absorbed without Federal assistance.

I also think it is worth noting that there is no private sector solution to recovery and rebuilding from a storm like Sandy. It is Government, and Government alone, that makes recovery from a storm like Sandy possible.

Sandy destroyed town infrastructure, businesses, and residential properties. I would like to take this opportunity to share with you our experience of working with families that have been hardest impacted. In addition, I would like to humbly offer suggestions for the future allocation for Federal resources for Sandy recovery based on my experiences as the mayor of a town that was hit particularly hard.

We found through this process that businesses seemed to recover rather quickly, far more quickly than residential properties. We are finding that residents affected by Sandy are the ones having the most difficult time recovering. While FEMA and SBA were both on the ground after the storm for 4 months, it is the long-term process of recovery for many families that has proved to be problematic. In many communities along the Jersey Shore, there are still families that have been displaced. As of today, they have been displaced for 500 days—500 days of stress on families; 500 days of living in multiple places; 500 days of living on someone's couch; 500 days of driving children to school 17 miles a day just so they have some semblance of normalcy in their young lives; 500 days of struggling through bureaucratic rules and regulations; 500 days of not knowing when, or even if, they will ever get back home again.

In our small town alone, we have 90 families that have applied for the Reconstruction, Rehabilitation, Elevation, and Mitigation, also known as the RREM grant. Only one in five were approved and funded. The rest are either wait-listed or ineligible. I cannot

stress how difficult this is on these families when all they want to do is get back home.

I would like to share a couple examples. The first one is Frank Murphy and his wife who had twin babies a couple of months before Sandy destroyed their home. They applied for the RREM program and were told that once they applied, they must stop all construction or they will receive nothing. They were denied the grant and began rebuilding their house as they appealed their denial. Over time, their denial was reversed, and they were told that their grant for $30,000 would be funded. But now, since they started to rebuild to get back home, even though their grant was funded and they are eligible, they will receive nothing. No one from the State ever told them that during the appeal process they could not work on their house. How long should they be forced to wait to work on their home, particularly after being denied and subsequently given no timeframe for when they would hear on their appeal? The fact of the matter is that the Murphys are not looking to blame someone for the wrongful denial of their grant application; they just need the resources so they can get back home.

Another example is Krista Sperra. She is a graphic designer who both lives in Belmar and has her business in Belmar. She is married with two children in grammar school. She and her husband paid premiums on their flood insurance every year, for over 10 years, before Sandy hit. Sandy brought water that engulfed Krista's home and surrounded her neighborhood and those of her neighbors for several days. After the water resided, she had a structural engineer look at her foundation. Like many in Belmar, Krista owns an old house with a foundation made of brick and mortar. The engineer told her that she needed a new foundation and that she could not do any work above the foundation until it was completed. She brought this information to her insurance company. They sent someone out to look at it, and they told her that all she needed to do was replace some of the mortar in between the bricks and she would be fine. They gave her $600 and told her that would be sufficient for the mortar. She consulted another engineer, and he told her the same as the first engineer: The entire foundation needed to be replaced.

Krista is now suing her insurance company, displaced from her home and living in the third house since Sandy hit and now needs to find another place to live as her family will be moving out by the end of May. Five hundred days she and her family have been displaced, and she is now suing her insurance company as she looks for a new place to stay. All she wants to do is get herself and her family back home.

These are just two of the countless stories at the Jersey Shore today. But I think they are both indicative of the fact that people are generally not interested in moving anywhere else. They do not want to give up on their communities; rather, they want to stay and rebuild. Again, they simply want to get back home.

From these experiences and many others, I would like to offer a few suggestions on how additional Federal resources could be allocated for the maximum benefit to communities and families still recovering from Sandy.

First, while communities are waiting for Federal funding, allow them to begin projects they need to recover from the storm and reimburse them later. This follows the current FEMA model.

Second, relax rules that would make it difficult for families that did work on their homes right away to receive funding simply because they wanted to get their families back home. This will eliminate the disincentive for being aggressive about getting back home. People should still receive their funding, even if they did the work after the application date.

Third, compel the National Flood Insurance Program to settle with clients through arbitration as opposed to forcing these residents to sue their insurance company. Many of these people have been paying premiums on their insurance for years in order to have help during such an emergency, and they should not have to sue for that coverage.

Fourth, increase the appropriation for housing and infrastructure for Sandy-impacted communities. As we come to the end of the community development block grant allocation, I believe there will be a need for additional financial resources to assist families to fully recover.

Fifth, and last, let us not get caught up in the blame game. Let all of the elected officials from the Federal, State, county, and municipal level work together to help middle-class families during this time of ongoing trouble. We have all done a lot these past 500 days, and now is the time to rededicate ourselves to ensuring that everyone gets back home.

Thank you again for this opportunity to come speak before this Committee and share my experiences and suggestions.

Senator MENENDEZ. Thank you, Mayor.

Mr. Gordon.

STATEMENT OF ADAM GORDON, STAFF ATTORNEY, FAIR SHARE HOUSING CENTER

Mr. GORDON. Thank you, Chairman Menendez. My name is Adam Gordon. I am a Staff Attorney with Fair Share Housing Center, and since Sandy hit, we have worked with impacted organizations, communities, and individuals to make sure that Federal funds for rebuilding are distributed fairly and effectively.

It has been nearly a year and half—as the mayor said, 500 days—since Sandy. But for too many people, it is as if Sandy just happened yesterday. According to a recent poll by Monmouth University, three-quarters of people impacted by Sandy in New Jersey say that the State's recovery process does not care about people like them.

At a recent meeting on the next set of Federal funds, a veteran whose home was devastated by Sandy said that dealing with the State has been harder for him than fighting was in Afghanistan.

It is an absolutely critical time for this hearing. As we heard earlier this morning, New Jersey is about to receive another $1.4 billion in Federal funds, and that allocation provides a singular opportunity—and for many people impacted perhaps the last opportunity—to get this recovery on track and help people rebuild.

We appreciate the Secretary this morning announcing that there are going to be some important changes, which I will talk about in

more detail later, to make sure that people who did not have an opportunity will be able to apply, and we really want to make sure that—with your help, Senator Menendez, you know, make sure that the details on that get nailed down and that this becomes effective and HUD completes its investigation and changes as soon as possible, because people cannot wait any longer and we do not want all the money to be allocated or spent without a fair process being put in place.

I am going to touch on three main areas:

First, we have talked a lot about the RREM and resettlement programs, and I am going to talk about both the problems with those programs and the disparities in those programs that we have already heard a little bit about this morning;

I am going to talk about renters impacted by Sandy and how they have been largely left out of rebuilding;

And, finally, making sure that the money really does focus on the hardest-hit communities, places like Belmar.

First, on RREM and resettlement, as we have already heard a lot about, these programs are just not working the way they should be. We had to sue the State of New Jersey for access to basic documents under our freedom of information law, and only after that lawsuit did we find out that the State and HGI unfairly rejected thousands of applicants for both of these programs. In fact, as we already discussed and, Senator Menendez, as you brought up this morning, 80 percent of people who appealed their denials won.

These problems hit people of every racial and ethnic group and all incomes. But they hit African Americans and Latinos especially hard. African Americans were rejected from these programs at two and a half times as often as white applicants, and Latinos at one and a half times the rate of white, non-Latino applicants, even when you look within the same community.

As we have already talked about, the whole program was shoddily run. Walk-in centers were located far from damaged communities to save on rent. In Monmouth County, the center was in Freehold which is nowhere near the areas of the shore that were impacted. Call centers were told to get people off the phone as quickly as possible instead of helping them solve their problems.

Here is what needs to change. First——

Senator MENENDEZ. Sorry, what did you say? Call centers were told——

Mr. GORDON. Call centers were told, actually given instructions to get people off the phone as quickly as possible and say that they were helping their neighbors, even though in many cases there was not actually anyone on hold. That is in a document that we received through our litigation.

So here is what needs to change to fix this mess.

First, we know that 80 percent of the people who appealed actually were eligible, but we also know that most people, and especially most African Americans and Latinos, did not appeal. What the State needs to do is go back and review every single person who was rejected and find out if they were eligible. People should not have to go through further paperwork and further bureaucracy. When you are wrong four out of the five times, it should be on the

State and not on people who have already suffered so much to go through that process.

Second—and we already heard positive news on this from HUD this morning—the people who were given the wrong information, told that they did not qualify, people given the wrong information on the Web site who spoke Spanish and were told about the wrong deadlines or that they could not appeal, we need a resolution to this. And we are glad to hear that HUD is saying this process is going to be reopened. We need those details to happen, and we need that to happen soon, because a lot of people are giving up hope because they were given the wrong information, were basically told the wrong information, especially if they spoke Spanish.

And, finally, on this, the State promised a grant, 60 percent of Resettlement funds and 70 percent of RREM funds, to low- and moderate-income homeowners. Those targets have not been met, and they need to be because they are the people with the greatest need.

While programs for homeowners are not working well or fairly, in many cases renters have not gotten any money at all. Forty percent of all families impacted by Sandy in New Jersey are renters. Roughly two-thirds of African Americans, Latinos, and low-income people impacted are renters. But so far only a quarter of the money from the housing programs have gone to renters. We hear from people living in isolated areas in campers, doubled up with relatives, sleeping on couches, and they have no idea where they are going to be a few months from now. And we need to make sure everyone is treated fairly, renters and homeowners, based just on damage.

And, finally, related to that, we are very concerned particularly for the rental programs that the two hardest-hit counties, Ocean and Monmouth, had between them most of the damage from the storm, but in the main rental rebuilding program, those two counties have only received about a fifth of the money to date. Much of that scarce money has gone to communities with little or no damage from the storm, places like Belleville instead of Belmar, which makes people actually impacted by the storm very angry.

We know when we talk to landlords and developers they are quite willing to invest in those areas, but they need to be told by the State if those areas will be prioritized, and that is just not happening, and we need to make sure for the next $1.4 billion we are focusing on the areas that were hit the hardest first.

The time to act is now. As I noted before, the next $1.4 billion for many people may be the last chance. And absent that critical action to make sure the State actually changes things now, too many New Jerseyans will just never have a chance to rebuild and move back to their communities.

Thank you very much for your time and inviting me today.

Senator MENENDEZ. Thank you.

Dr. Fine.

STATEMENT OF JANICE FINE, PH.D., ASSOCIATE PROFESSOR, RUTGERS SCHOOL OF MANAGEMENT AND LABOR RELATIONS

Ms. FINE. Hello, Senator Menendez. Thank you for inviting us.

I would like to first introduce Patrice Mareschal, who is my co-investigator from Camden, Rutgers. Thanks for all your help at Rutgers.

So one thing we know, after studying the State's oversight policies and practices for close to 3 years, is that this is not an isolated problem due to emergency circumstances but, rather, a consequence of a deep, systemic problem many years in the making. If the system is already broken, it is only going to be worse in a State of emergency than it already is. So with my brief time, what I want to do is summarize some of the best practices in contracting, what we found to be some of the major issues, then describe the problems with how the State of New Jersey conducted contracting in the aftermath of Sandy.

I will not use this time to make recommendations, but I want to say I have some to offer and would like to have that opportunity.

So in a nutshell, the key to contract oversight is, first, well-written contracts that adequately define the responsibilities of the contractors and the protections of the State; and, second, strong, experienced, well-trained managers with a deep knowledge of the activities they are monitoring and time to do the job well; and, third, data systems that make the process more efficient and more transparent.

Unfortunately, between 2004 and 2011, the size of the State workforce in New Jersey shrank by about 36,319, while the total value of contracts held steady, and in some years, especially in 2013, increased quite significantly.

In all circumstances, good oversight requires strong, overarching institutions. The laws, regulations, and policies governing the process provide the foundation for oversight. The need for strong institutions is especially acute in emergencies because they exacerbate the already significant challenges of contract administration. So creating strong institutions involves: laws ensuring that contracts are managed by qualified individuals with sufficient capacity to engage intimately and over and in real time with the time with the contractor; meta oversight of the contracting process by the State, not just at the agency level but at the top of the State; appropriations for integrated and standardized data systems; and transparency, including the publication of all key documents and details.

Prior to Sandy, we had concluded that lack of oversight had already had significant consequences for vulnerable people and for New Jersey taxpayers and was placing precious Garden State assets at risk. So it is not surprising to us that the State struggled to handle the massive relief program.

On the surface, the State's Action Plan and Executive Order 125 signed by Governor Christie appeared to enhance oversight under special circumstances. However, our findings and the stories that are now coming to light suggest that these paper requirements were insufficient, not followed well, or both.

Executive Order 125 offered three potential enhancements to the existing requirements:

First, it mandated that the comptroller preclear all RFPs prior to bidding. We do not know if any additional capacity, however, was created in the comptroller's office.

The second enhancement was the appointment of accountability officers in each unit responsible for Sandy relief contracts. The qualifications and specific duties of these officers, however, are not specified. Likewise, there is no indication that these would be new staff positions rather than just titles added to already swamped staff members, which was what we found very often in our study.

Finally, Executive Order 125 had a transparency provision that required the creation of a Web site to post contract information on all Sandy contracts. This Web site does, in fact, exist and it provides both contract documents and some nominal aggregate data, although I must say I learned a great deal more from Fair Share Center's Web site.

The HGI contract is available on the Sandy Web site; however, when searching the site for the contract manager, clicking on the HGI contract link leads to an error page.

New Jersey's Action Plan promised further enhancements. Two keys were the creation of a special division to manage the grant and the use of a special audit plan by the DCA's internal auditor. The special division was created, and some documents suggest it may have as many as 95 employees. What is not clear, however, is what roles they are tasked with. Moreover, even if they were all newly hired contract managers, given the sheet complexity and the size of many of the contracts, HGI's contract being a prime example, it would seem that no one contract manager could have adequately handled the process alone.

There is little readily available information on the internal auditor. We do not know how many audits were conducted. We do not know how diligently they were done. We do not know what was found. We do not know the consequences. These are key questions.

The State's response to Hurricane Sandy required the coordinated actions of various organizations who needed to be properly vetted to ensure they had the expertise, capacity, and legitimacy to support the State and recovery efforts. Certainly best practices suggest that contracting units must perform their due diligence and gather information on a contractor's previous record to serve as a basis for contracting decisions and to ensure that they do not have a prior history of poor performance.

Again, on the face of it, New Jersey appeared to have made this part of the RFQ process, but media reports show that the State of New Jersey did not thoroughly vet HGI's performance during Hurricane Katrina. Nine years later, after Hurricane Katrina devastated New Orleans, claims and issues from HGI's services remain unresolved.

Successful contract monitoring, the bottom line is the oversight requires significant managerial aptitude, including the ability to assess costs, identify needs, and critically analyze vendor strengths. No organizational chart is available on the Sandy Recovery Division's Web site. Therefore, we cannot determine whether the 95 staff were actually hired, whether they are contract managers, and what their qualifications and experiences are.

We can surmise that the division is still without the required oversight capacity given the numerous employment vacancies at the department. From what we see, all of the current vacancies in the Sandy Recovery Division are for compliance and monitoring po-

sitions—for example, chief financial officer and assistant director of compliance and monitoring.

Our review of the RFQ for the management and other related services program indicates that the State is developing an MIS system. It remains unclear if the MIS system has been adequately developed and if personnel have been trained on the system. This is particularly important to aid in monitoring and compliance since contractors were required to have data collection and storage systems that were compatible with the States.

To bolster State capacity to oversee contracts, the State enacted the Oversight Monitor Act in order to prevent, detect, and remediate waste, fraud, and abuse. However, the State says that it spent 10 months training the monitors, and to date, no reports on the work of these integrity monitors are publicly available.

Additionally, although the State required Sandy contractors in its RFQ to submit weekly reports on their progress, and HGI promised it would generate and submit a weekly report and also provide a monthly program status report, it did not do so for 8 months. When copies of the reports promised in the bid were requested, Fair Share attorneys were advised by the State that they did not exist. These were essential tools necessary for the State to engage in oversight, and they were ignored. We still do not know how or why this happened.

Despite the deeply flawed service being provided in less than 8 months, we now know that HGI billed the State over $51 million, although it had proposed a 3-year contract for a total of $67 million. There is an ongoing dispute over at least $18 million that HGI claims it owed but the State has not paid. This number may, in fact, grow significantly. HGI claims that the State demanded far more work than the contract originally anticipated, but the lack of reporting makes all of this extremely difficult to assess.

Overall, our analysis suggests that New Jersey lacked the capacity to oversee the contracts involved in such a large and complex natural disaster recovery program. This lack of capacity was compounded by a lack of transparency.

Thank you. I will be glad to answer questions.

Senator MENENDEZ. Thank you. Thank you all for your testimony. It raises many questions.

I would throw this out to any one of the panel who feels that they can answer it. I see that as we were conducting this hearing, the State of New Jersey announced some change, which from my perspective is welcome but nowhere near resolution of the core issue I was raising with the Secretary about environmental and historical reviews as a precedent to get people cleared and moving on to reconstruction.

So as I understand this change—I do not know if any of you have had the opportunity to see the announcement—RREM grant awardees—these are already people, obviously, who have been decided that they have qualified and they are awarded—who are using their own contractor can request an advance payment for 50 percent of their RREM grant. And it goes on to talk about what else they can do. But that is already for someone who, as I understand it, has worked through the process, gotten their clearances,

and have been an awardee. That does not deal with the 10,000 people I was referring to who have not been clear.

Is that a fair statement? Has anybody been able to look at it?

Mr. DOHERTY. I looked at the same statement, yes, Senator, and it is a step in the right direction. However, it still does not address those families that started work prior to that, you know, to the award. So they applied for the award. Some of them may have been rejected. While they appealed, they started working on their house because they did not know when the appeal period would be over. They were granted their appeal and said, you know, their rejection at first was wrong. But since they started their work after that application date, they are no longer eligible.

So they are funded, but as the example I use, they will never receive their money because they violated that principle of doing work after the application date.

Senator MENENDEZ. That is one universe which is clearly a problem.

Mr. Gordon, do you have any sense of t his?

Mr. GORDON. Yes, Senator, I would agree that while it is certainly a positive step, it does not address thousands of people who are not in that narrow situation. I mean, you have to be already approved and you have to be using your own contractor, which is just a fraction of the people that you and the Secretary were discussing this morning. And we would agree that we really should—it is a much better use of a lot of these administrative funds to do those environmental assessments and get the ball rolling. And I think it is part of a troubling pattern overall. There is kind of a hiding of information by the State. Then when it comes to light, there is sort of a begrudging acknowledgment and addressing a very small piece of the problem, but not really addressing the full scope of the problem and coming up with a comprehensive solution that actually addresses the needs of everybody as opposed to a tiny fraction. I think that is true of the 80 percent rejections as well, that they have announced kind of after that came to light, 6 months after they knew about it, and instead of them saying, "We knew that we were rejecting people wrongly," they hid it until we had to sue to get the information. And then afterwards, what they said is, "Well, people can, you know, submit another appeal if they want." Well, again, if you are wrong 80 percent of the time, or in this case—I agree with the mayor—if you are wrongly advised—did not advise people of the program requirements, it should be on the State to fix that and to figure out a way to comprehensively fix it for everyone instead of just, you know, carving up tiny slices of the people who are eligible.

Senator MENENDEZ. It would seem to me that those who were foreclosed as a result of lack of knowledge from an appeal should be allowed to appeal at this point or have their files reviewed prospectively.

Mr. GORDON. Senator——

Senator MENENDEZ. Or not prospectively. Should have the file reviewed by the State retrospectively as it relates to what they had filed in making a determination under the guidelines that obviously produced an 80-percent default rate.

Mr. GORDON. Senator, I would agree with that. I think that the State should start by reviewing every one of those files and basically rerunning those applications. If at that point people then get a denial and want to appeal it, then they should have that right as well. But it should not be in the first instance on people to file an appeal, which, you know, for many people, especially lower-income people, especially people with limited English proficiency, can be a daunting process. It should really be on the State to re-review those applications.

Senator MENENDEZ. Now, Mayor, you mentioned in your testimony that business recovered more quickly than residential properties. Give us an insight as to why you feel that happened.

Mr. DOHERTY. You know, in our case, after the storm, we worked very closely with FEMA. We had a real partnership with FEMA. And one of the things we were able to do was rebuild——

Senator MENENDEZ. I do not know. Are you going to give me a good-news story about FEMA?

[Laughter.]

Senator MENENDEZ. It is not the new "F" word?

Mr. DOHERTY. Well, I would tell you this: If it was not for FEMA, towns like ours and the rest of the Jersey Shore would have a virtually impossible time cleaning up and rebuilding what was there before. So in our case, the important thing for our town was to rebuild our boardwalk and, you know, you were able to be there for our grand opening just before Memorial Day. By being able to rebuild our infrastructure, we knew that tourists were going to come for the summer season. So it incentivized business owners who worked with the SBA and also had insurance money through business interruption insurance to get back on their feet.

So we had the same amount of businesses in our community for Memorial Day as we did the day before Sandy struck. So all the ones that were devastated were able to get back. They were incentivized through the work we were able to do because of FEMA and also because, you know, as you know, Senator, at the Jersey Shore virtually all the businesses are small business owners. This is how they make their livelihood. There are no large corporations outside of Atlantic City. So if they were not up and running for a summer season, it would have been devastating to their financial situation, which ultimately would have led to, you know, a deterioration in the community as businesses would fail and you would have more vacant stores down the road.

Senator MENENDEZ. One other question for you. Do you believe that the way the CDBG funding has been prioritized meets the needs of your constituents? Or are there some needs that you are afraid may not be met or you have a different idea beyond obviously you have made a very clear point about those who started and got denied and should be eligible? Is there any other universe of CDBG as we look at the second tranche of money that should be considered.

Mr. DOHERTY. There are two. And to separate them, one is for infrastructure, municipal infrastructure, government buildings, and the other one is for housing, for individual residential properties.

For the first one, our concern is because of the LMI requirement that some of that money will not actually go to towns like Belmar

or Sea Bright or Seaside that are not LMI areas, up on the beachfront. So where the waves actually came ashore, where they destroyed pavilions and other infrastructure, that those dollars will actually go westward, off the short, to LMI census tract communities. So that is on the community side.

On the residential side, our fear is that the money is going to run out before the residents who were directly impacted are able to get back home. You know, that is not as much of an LMI concern. It is just the fact that the appropriation that came out, as large as it was, was spread over multiple storms. It was not just spread over the impact of Sandy, particularly in New Jersey. So one of our suggestions, which I know it is very difficult to do in today's political environment, would be an additional appropriation through CDBG for residential properties, particularly those folks that are on the wait list, that may be on a wait list a year from now. And, again, remember, the way the guidelines work is if you are on the wait list and you start work on your home, you are no longer eligible for that. And, again, we are on Day 500 of this storm, and some people have not started working on their home at all.

Senator MENENDEZ. Well, that will be a challenge, although maybe one we will consider undertaking, but we are going to have to get it right for the money that exists before we can make the case for the next tranche of money beyond the $1.4 billion.

Mr. Gordon, as you stated in your testimony, your organization had to sue the State for access to data on recovery programs, and you made that determination that almost 80 percent of the people who appealed had their rejections overturned. The State contends that for the 80 percent that won their appeals, this problem has been corrected and people were not substantially harmed. What are your thoughts on that assessment?

Mr. GORDON. Two responses, Senator. I think the first is that, you know, as you actually mentioned before in the colloquy with the Secretary, we are concerned about people are prioritized in RREM. We are concerned about why people are 1st or 1,000th or 7,000th on the wait list. And one of the things that we are looking into now is whether people who appealed were put back in the same place that they would have been if not for the State's error or whether they are going to the bottom of the pile.

It is very hard to determine that when people do not even know where they are on the list, so it is kind of a chicken-and-the-egg-type analysis. But it is a concern that they may have been disadvantaged in some way because the State unfairly rejected them.

But the broader point is that only about a third of the people who were rejected appealed. Two-thirds of the people did not appeal, and that number is even higher for African Americans and Latinos who appealed, and lower-income people, all of whom appealed at lower rates. Not surprising for Latinos given that there is no information on the Spanish language Web site about appealing at all.

And so we really are particularly concerned, and, again, I think the solution is for the State to affirmatively re-examine every rejected application, that that did not actually help most of the people who were denied.

Senator MENENDEZ. Do you believe that the appeal process was clear and easy for people to understand?

Mr. GORDON. No. There were a number of problems with the appeal process. Again, if you were looking at a Spanish language Web site, you did not even know that there was an appeal process. But people were bewildered by the appeal process because, again, with the lack of transparency, people did not even know why they were denied. And so they were asked to submit information about why the decision was wrong when they did not even know what the decision was. And so people were very much perplexed by this process.

Another real problem that we saw was that there actually are a number of things that you can appeal. It is not just whether you are accepted or denied. It is also the amount of the award. We hear a lot of complaints from people who say the RREM award—"We really need $100,000 to rebuild," and they are saying, "We can only give you $20,000." The State, until last month, after we publicized it, never put on their Web site that there is an appeals process for other issues like that. And so they only put an appeals process there for whether you were rejected. And so there is a lot of information—a lot of other things about appeals that the State did not even tell people were possible.

Senator MENENDEZ. And one more line on this line of questioning. Can you talk a little bit about your efforts to gather information on this effort about how we minimize the gap in appeal rates between homeowners? Particularly you mentioned the disproportionate reality among Latinos and African Americans. Can you talk a little bit about your efforts to gather information on the program and whether or not this was an open and transparent process? And what—well, let us start there.

Mr. GORDON. Well, Senator, as you have already referred to, we did have to sue in order to get this information, and that is particularly disturbing in light of how quickly this process is moving and how urgent people's needs are.

You know, we initially asked for this basic information on July 31st. The State asked for a 30-day extension. We had not gotten it at the end of that process, and they asked for even more time. And so at that point we sued, and we filed our lawsuit in early September, and we did not get the information until late in November. So that was 4 months from asking for the information to getting it.

And then based on what we saw there, there was subsequent information that we then had to additionally request and required additional extensions and threats of lawsuit.

So it has been a very untransparent process, and, you know, if you think about how hard it is for a legal organization to get this information with being able to sue and so on, how much harder it is for individual people who have been displaced, who cannot find out even basic information like where they are on the wait list, why it is that they are that sort of number, why haven't they gotten any money. So I think it is——

Senator MENENDEZ. Am I missing something? Maybe to you and Dr. Fine, am I missing something here? Why is it such a big deal to have the transparency of having the list published or available

or online and you go and you find out, I am Joe Schmo and here is my number on the list? Is there some harm that is created by that process?

Mr. GORDON. Absolutely not. And I think more generally it is incredible how there is nothing online or easily available through a phone.

Another thing, with those call center records, people were actively told who worked at the call centers not to tell people their application status when they called in.

Senator MENENDEZ. How do you know that?

Mr. GORDON. We got it through the litigation, the instructions that were given to people working in the call centers.

Senator MENENDEZ. This is HGI?

Mr. GORDON. From HGI, yes. And one of the things they said is that, "You have something in front of you on the screen that says the application status. Do not give that to the person who is calling in."

And so not only you could not call, you could not go online and find out where your application stood, it still is the case that you cannot really get that information. And I see—what you suggested before, I mean, even if there were privacy issues with listing people's names, there is a unique application identification number that is private for everybody. You could just post a list from 1 to 7,000 or whatever of those people, of people's application numbers. I do not know why that is so hard.

Senator MENENDEZ. It is pretty amazing to me.

I want to turn to Dr. Fine, but I have one final question for you. I understand your organization's analysis of the State data found that, as we have talked about, African Americans and Latinos being rejected from the largest program at disproportionate rates. I also understand while you controlled the data for geography, your analysis does not necessarily control for every factor that would explain some other disparity, such as an individual's level of damage suffered by each applicant. And these initial findings certainly, at least to me, suggest a need for further investigation. Even if there was no intent to discriminate, a disparate impact could still be cause for concern.

Has the State provided to you additional data needed to complete a deeper analysis?

Mr. GORDON. We have recently, Senator, gotten some additional data from the State, and we have used, as you mentioned, that data to look at geographic concerns. And even when you are in the same municipality—we looked at Atlantic City, for example, a very hard hit, very diverse municipality. And even within Atlantic City, there is a very large disparity. You see these disparities persist in the same place.

I also think that there is a problem—if you match up the State saying things like, well, you cannot control for the damage data, and this came from disparities in damage data; but then they have also admitted that the data they were relying upon was incorrect. And so I think there is a link between those two things, between the 80-percent appeal success rate and the differences in rejections. I think for some reason that damage data was particularly faulty in Latino and African American communities. Why that is I think

we still have not quite gotten to the bottom of, and we are still going to be requesting even more information from the State and hopefully HUD through its review that it discussed this morning.

Senator MENENDEZ. Have you shared your initial findings with HUD for their review?

Mr. GORDON. We have shared our initial findings in the data that we reviewed with HUD, and we hope that they will review those and require significant changes to address those problems.

Senator MENENDEZ. OK. And one last—I keep saying "one last question," but I just want to make this record as replete as possible so I can have action items to follow up on.

Is the State aware of your overarching list of recommendations? And have they indicated any willingness to address those concerns?

Mr. GORDON. The State should be aware because we released them publicly in a report on January 15th. We also submitted extensive comments with over 70 other groups, such as the Latino Action Network, NAACP, Housing and Community Development Network, a number of faith-based organizations and communities that are impacted, a wide range of groups. We submitted those comments to the State earlier this month, and so we have been very public about what our recommendations are. Unfortunately, we have not gotten a response to that from the State, and generally we have found it to be very difficult to get any kind of response for the State.

Senator MENENDEZ. Have you had any sit-downs with any of the State officials?

Mr. GORDON. We have, but it has been quite a while since that has happened.

Senator MENENDEZ. OK. Dr. Fine, let us start with a series of things I want to ask you about. Number one, based upon the standards you described should exist in your testimony, evidently those standards were not—HGI was not held to those standards. Is that a fair assessment?

Ms. FINE. Yes, I think so.

Senator MENENDEZ. And do you believe that it was a lack of enforcement of standards or a lack of personnel, which you also described as a challenge to pursue the enforcement of those standards? What would you say—I know you are not privy to all the information on HGI, but from what we know publicly, what would you ascribe to some of the challenges of having a contractor that was administering nearly $1 billion of program money, the overwhelming majority, gets $50-some-odd million up front for 7 months worth of work when the whole contract was going to be a little over $60 million for 3 years, and then gets fired? Evidently something in the process here went wrong.

Ms. FINE. That is true. So I guess what we would say is, the first problem we would say is the State did not perform adequate due diligence. The RFQ called for contractors to have a history of successful professional engagements in disaster recovery. This was not the case with HGI whose handling of Katrina in New Orleans drew significant negative press and public discontent.

Problem two, the State did not have a process to ensure weekly and monthly reports were submitted. We do not know why that is, but HGI should not have been allowed to operate for 8 months

without submitting weekly or monthly reports. The State continued to allow HGI to operate unmonitored during what has been described as a critical period. This is particularly problematic because the State essentially could not correct early implementation and execution flaws, which eventually led to widespread systemic failure in the recovery programs.

Problem three, either the RFQ did not adequately specify the scope of work to be performed, or HGI did not fully comprehend the contracting unit's requirement. Either way, there seems to have been a total and complete breakdown in communication between the contracting unit and HGI. This could have been prevented with a more relational contracting approach, which basically means that you have got to be in real-time, regular relationship and communication with your contractor. Someone has got to be—you know, just when the State contracts—when the State lets a contract, it does not absolve itself of responsibility to manage the contract.

Senator MENENDEZ. That is a point I wanted to get to. So while we can have a debate about privatizing any service, even if you choose to privatize that service——

Ms. FINE. That is right.

Senator MENENDEZ.——as you did with HGI, it does not absolve the State of oversight responsibility since the entity receiving the money from the Federal Government is the State of New Jersey, not HGI.

Ms. FINE. Exactly. Exactly right.

Senator MENENDEZ. So you said you had a list of recommendations to make that you did not get to in your oral testimony.

Ms. FINE. Yes.

Senator MENENDEZ. I would be happy to entertain some of those now.

Ms. FINE. OK. So the overarching lessons is that these grants represent enormous increases in the expenditures of relevant State agencies, because so much of the services are carried out by contractors, they will dramatically increase the burden on States' existing oversight capacity. So I just want to make this clear, that when we let a contract, we build in the cost of the contract itself, but we do not think about the cost to the existing State agency that is going to have to oversee the contract. This is an endemic problem. This is what we found across the board in New Jersey, and it was absolutely critical here, right, that if you are going to all of a sudden get this huge raft of money at a really incredible difficult moment, you have got to make sure that you shore up the agencies that are going to be responsible. In this case, that was DCA.

So because so much of the services are carried out by contractors, you have got to make sure that the State's existing oversight capacity is increased. So if you want to make sure Federal resources are not wasted and citizens are not harmed, you have got to make sure the State ramps up oversight.

So here is just five quick things that we would suggest to HUD in terms of requiring of New Jersey's kind of next phase.

One is they have to have a showing of sufficient resources, which would mean three things: the existence of enough contract managers to properly manage all the contracts. There is a really good OMB standard for how many contractors—how many personnel

you need to manage contract personnel. So we know some of that, and it is actually in my testimony. I would be happy to talk to you more about it. So the existence of enough contract managers to properly manage them; detailed qualifications about those managers, demonstrating their substantive expertise; and, the existence of systems that will be used to allocate managers and facilitate contract management.

All contract managers should be civil servants and cannot be subordinate to the contractors. New Jersey's Action Plan is not clear on all these points. The mention of 50 employees in DCA's new division would not be sufficient as it does not demonstrate what they will be doing or what their qualifications are. So that is the first thing.

And we would add, we should have whistleblower protections for—we are recommending at the State level that anybody who is managing these contracts, anybody who works for the contractor, more importantly, anybody who works for a State agency who is managing a contract should be covered by whistleblower requirements, also for quality of service. Right now in the State of New Jersey, only nurses, if they complain about the quality of service, are protected by our SEPA. It should be all employees. And, again, we say this in our study, and I would be happy to talk to you more about it.

So the second is transparency, that States should be required to show in detail how they make critical information beyond just the contract documents and broad, aggregate metrics publicly available. Let me just say again, some of the Web sites, both on Sandy and in general in the State of New Jersey, they look good, but when you dig deeper, they are all aggregate statistics. You cannot really use them unless you can do what Fair Share did, right? Unless you can just keep coming back over and over again, suing over and over again. A lot of the data is not there. So it needs to show how grant funds will be allocated for data colleague management and publication. The transparency needs to be improved.

The third is voice. Information will be more meaningful if it is actionable. It will also be more available if parties with knowledge feel comfortable disclosing what they know. So the first piece is whistleblower protection, as I mentioned.

And the other thing I wanted to say is I do not believe hotlines are sufficient because that is for individuals. I also think that we need to have strong voice provision through the establishment of community-based oversight committees, right? So that you bring stakeholders together and give them a voice and make them feel like they could ask questions. I mean, we know that people are more likely to step forward with problems if they feel they have an option to do that in a group, not as an individual. So some kind of community oversight committee.

Next is meta oversight. The State should be required to identify clearly how it will handle the complexity of the process. It cannot be enough to say that there will be a new office within the executive branch or that watchdogs will look at all contracts. The plan must be clear, specific, and comprehensive, and take into account the increased burden imposed by emergency grant distribution.

And, finally, you spoke earlier in this process about how do we recover what we have already lost. Right? So what do we do about the $51 million? How do we recover? So one of the things that we looked at was that in the contract with HGI, "The agency shall retain 10 percent of each invoice submitted" is weak language. We need strong language about how the State can claw back funds from contractors when those funds are not—you know, when they are mismanaged. So in our overall review, in our review of Sandy, the State's inability, incapacity, or unwillingness to recover lost or wasted funds was a key problem. States should be required to demonstrate:

One, that they have given themselves maximal legal authority to recover funds from underperforming or fraudulent contractors;

Two, that they have people and systems in place to do it. An example would be the specific language that will be included in an RFP or an RFQ: to allow the State to withhold payment or require a performance bond rather than having to litigate to recover money after the fact. Provisions are not sufficient, however, which is why the people and systems have to be in place.

Senator MENENDEZ. Well, I appreciate those recommendations. We will be looking at them and seeing how we can implement some of this as we look at the next tranche of money.

One final question for you. There is an indication now—I do not know if this is fact yet, but there is an indication that the State may now move not to a contractor but to do it themselves. If that is the case, then I assume that your statements about personnel will be even more significant if they are looking to do it themselves.

Ms. FINE. You know, I will just say that in the 3 years that we did this study, one of the things that was so striking and so inspiring is that when you—at one point I did a whole bunch of interviews with New Jersey Turnpike workers, and this was at a time when, you know, the toll collectors were being beaten up and, you know, the turnpike, there was all this discussion about privatization. And one of the things that was so striking was these people woke up every morning worrying about the turnpike. On a snowstorm day, they knew every exit, they knew every toll, they knew every booth. You know, that is what we want, right? We have had enormous attrition of people who are deeply committed to the Garden State and to excellence and who know their area really well—ecologists who got turned on in the 1970s and then went into DEP and care about, you know, preserving native species, right?

What we had was a State full of people like that, and what we have got now is a State that has been—you know, where the attrition has just decimated these civil servants, and we need to rebuild a core of State contract managers. We need to lift them up. We need to be proud of them. We need to ensure they get the training they need. And this is an opportunity to start to rebuild that core. This is an opportunity to take some of the best and brightest that are coming out of Rutgers and other schools, to hire some of the people, to move some of the people up who are already there, who know their area. Right? It is not enough to say, "Oh, well, let us get people who know contract management." We need people who know contract management and know these substantive areas. We once had them. We need to have them again.

So the idea of doing this directly through the State—you know, it never made sense to me. We could not understand when we were studying this, we could not understand why the State had not considered managing some of these programs themselves, right? Or contracting out less and doing more inside. And, you know, we believe there are perfectly appropriate moments for contracting, right? And certainly all of this work could not have been done internally. But there was never a serious consideration and a serious cost accounting done of what it would cost to expand the State's in-house capacity to do it versus to do it outside, right?

And what studies show frequently is that the reason why so much insourcing is happening at the municipal level is because the quality of service went down, right? That one of the major reasons mayors bring work back in-house that they had contracted out was because of quality of service, among other reasons.

So we know this from the municipal experience, and yet it seems that at the State level we have to learn it all over again, which should not be the case.

Senator MENENDEZ. Well, I guess it does not take a rocket scientist to figure out that if you are going to now perform the same functions that you gave a contracting company $50-some-odd million to do and you are going to do it in-house, that you are going to have to have the human capital in order to do that that can execute well.

I appreciate all of your testimony and answers to questions. It has been incredibly helpful as we devise what I expect will be both follow-up and an action plan.

This record will remain open until the close of business tomorrow, and with the gratitude of the Committee, this hearing is adjourned.

[Whereupon, at 1:10 p.m., the hearing was adjourned.]

[Prepared statements and additional material supplied for the record follow:]

PREPARED STATEMENT OF SHAUN DONOVAN

SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MARCH 12, 2014

Chairman Menendez, Ranking Member Moran, and Members of the Subcommittee, thank you for the opportunity to testify today regarding the ongoing effort to recover and rebuild in the region impacted by Hurricane Sandy in October 2012, including efforts to ensure strong coordination among Federal, State, and Local stakeholders.

Because Sandy was one of the most devastating and costly natural disasters in our history, the President recognized that the response required an additional focus on rebuilding efforts coordinated across Federal agencies and State, local, and Tribal governments to effectively address the enormous range of regional issues.

On November 15, 2012, President Obama announced that I would lead the coordination of Federal support to the long-term rebuilding effort. The President issued Executive Order 13632 on December 7, 2012, establishing the Hurricane Sandy Rebuilding Task Force, and appointed me to serve as its chair. Executive Order 13632 charged the Task Force to "work to ensure that the Federal Government continues to provide appropriate resources to support affected State, local, and Tribal communities to improve the region's resilience, health, and prosperity by building for the future."

My responsibilities in this role occurred in concert with the National Disaster Recovery Framework (NDRF) and involved coordinating closely with the Federal Emergency Management Agency (FEMA) and the other agencies involved in recovery efforts.

Sandy and the Nor'easter that followed had immense impacts across much of the eastern United States, with damage most severe in New York, New Jersey, Connecticut, Rhode Island, and Maryland. Within the United States, the storm caused over 150 fatalities, major flooding, structural damage, and power loss to over 8.5 million homes and businesses, directly affecting more than 17 million people as far south as Puerto Rico, and as far north as Maine.

Sandy caused tens of billions of dollars in damage and is estimated to be the second most costly storm in American history. Thousands of businesses and more than 650,000 homes were damaged or destroyed. State, local, and Tribal governments are addressing damage to roads, bridges, mass transit, and other essential infrastructure, including electrical and water treatment facilities, public hospitals, and shorelines.

As I have previously explained to this Committee, in addition to my concern as a citizen and as a member of this Administration, this is personal to me. I grew up in the region. I was born and raised in New York and worked on housing issues there, including serving as Mayor Bloomberg's Commissioner of the New York City Department of Housing Preservation and Development. I also worked on housing issues for Prudential Mortgage Capital in New Jersey, and my wife is originally from New Jersey. Many of my friends have been directly affected by the storm's devastation. In light of my deep roots in the region, I am particularly concerned with the devastation that Sandy has caused, and I am especially honored to have the opportunity to help with recovery and rebuilding efforts.

I have seen much of the damage first-hand, talked with State and local officials and citizens living with the aftermath of the storm, had discussions with Senators and Representatives from the area, and have met with other Federal officials working on the recovery effort. Everyone involved in the recovery and rebuilding has demonstrated extraordinary dedication and courage.

Just as remarkable are the actions by average people I have spoken with—individuals who have demonstrated a different brand of heroism by simply reaching out to help their neighbors, even as they were facing their own losses. I have seen bravery and determination that inspires me and my colleagues to work even harder, respond quicker, and develop more creative solutions.

With that mission in mind my testimony today will cover: 1) Ongoing response and recovery efforts; 2) A brief background on the formation and role of the Hurricane Sandy Rebuilding Task Force; 3) The role of the supplemental Community Development Block Grant Disaster Recovery (CDBG–DR) funding provided by Congress; and 4) HUD's continuing role with respect to that funding and an assessment of the ongoing recovery efforts.

Ongoing Response and Recovery Efforts

It is important to note the unprecedented cooperation that has been taking place since Sandy struck among Federal, State, local, and Tribal authorities. HUD, FEMA and other parts of the Department of Homeland Security (DHS), as well as the De-

partments of Transportation, Health and Human Services, Interior, Commerce, and Agriculture, plus the Small Business Administration (SBA) and the U.S. Army Corps of Engineers (USACE) and other agencies are all working together. For example, as a result of coordination under the National Response Framework (NRF), within a week after Sandy hit there were almost 11,000 National Guard and 17,000 Federal responders on the ground from FEMA, the Department of Defense, USACE, HUD, Department of Transportation, Department of Energy, and HHS, as well as tens of thousands of utility workers from across the Nation. The Federal Housing Administration and Federal Housing Finance Agency worked to protect thousands of families who, through no fault of their own, were at risk of home foreclosure as a result of Sandy—first by putting in place a foreclosure moratorium, and then by cutting red tape to offer families streamlined home loan modification.

Another example is HUD and FEMA coordination to address past environmental permitting and review inefficiencies in disaster recovery. In developing our response to Sandy, HUD and FEMA recognized that a single Federal review, sufficient for both agencies, could expedite the review of housing recovery projects. To that end, HUD, FEMA, and their local counterparts in New Jersey and New York State worked together to find efficiencies in environmental review requirements associated with housing recovery projects that leveraged both HUD and FEMA funds. These efforts resulted in a process available to expedite recovery reviews across the Sandy-affected region that could otherwise be delayed by sequential and redundant review of housing projects.

As of January 2014, FEMA and the SBA have served over 250,000 households and individuals and more than 13,000 businesses. Additionally, 99.5 percent of Sandy-related National Flood Insurance Policy claims totaling over $7.9 billion have been paid out to the more than 143,000 policyholders who filed claims. Based on grantee reports as of January 31, we know that more than 19,000 households have already been assisted through CDBG housing programs across the region, with an estimated pay out of more than $478 million to beneficiaries.

While substantial recovery efforts have been implemented across the spectrum of needs, recovery can never be fast enough for affected families, homeowners, and other victims of this terrible storm. And because so much of the recovery from Sandy involves long-term construction and infrastructure projects, work will continue for years to come. More needs to be done at every level. But important progress has clearly been made.

The Role of the Hurricane Sandy Rebuilding Task Force

The Administration recognized that the Federal Government's performance during Hurricane Katrina and other disasters highlighted the need for additional guidance, structure, and support to improve how we as a Nation address disaster-related recovery and rebuilding challenges. In September 2009, the Homeland Security Secretary and I were charged with establishing a Long Term Disaster Recovery Working Group, composed of more than 20 Federal agencies.

HUD, DHS, and the Working Group consulted closely with State, local and Tribal governments as well as experts and stakeholders, and they worked to improve the Nation's approach to disaster recovery and to develop operational guidance for recovery efforts.

As a result, in September 2011, FEMA published the NDRF. The NDRF addresses the short, intermediate, and long-term challenges of managing disaster-related recovery and rebuilding. It sets forth flexible guidelines that enable Federal disaster recovery managers to operate in a unified and collaborative manner with State, local, Tribal, and territorial governments. The Sandy Task Force has operated within that framework.

On August 19, 2013, the Task Force released its Hurricane Sandy Rebuilding Strategy. The strategy was designed to help communities rebuild for the future and to ensure that we evaluate future vulnerabilities and risk. This means building to address expected sea levels, storm surges and extreme heat and precipitation, which pose risks to the Nation. Many elements of that strategy are being incorporated in HUD's ongoing work with CDBG–DR grantees to expedite and ensure a more resilient recovery.

The work of the Task Force ended on September 30, 2013, on time and significantly under budget. Going forward, HUD, FEMA and other agencies that perform Recovery Support Functions will continue the Federal rebuilding coordination efforts. There are three primary lessons that are guiding our efforts to support local community rebuilding efforts.

First, it is important that both near and long-term recovery and rebuilding efforts start immediately following a disaster and that the Federal Government takes a coordinated regional approach to the delivery of assistance to its State and local part-

ners. To ensure that this happens, HUD and FEMA are leading regional coordination efforts in coordination with the Federal Disaster Recovery Coordinators under the NDRF.

Second, this must be an "All-of-Nation" approach to rebuilding. While the Federal Government has a key role to play in recovery, State, local, and Tribal governments must be the leaders in this effort. To ensure the Task Force's efforts maintained a local focus, we quickly established an Advisory Group composed of 37 elected officials from the Sandy affected region. We were also in constant contact with other State and local officials—which gave us real-time information about the rebuilding challenges communities faced. Now that the Task Force has ended, FEMA and HUD are co-leading the Sandy Regional Infrastructure Resilience Coordination group (SRIRC), supported by dedicated staff at the Sandy Recovery Office (SRO) in Queens, representing a range of Federal agencies. Since January, the SRIRC has commenced monthly meetings with the States of New York, New Jersey and Connecticut and the city of New York to coordinate on issues, and has established 10 interagency Technical Coordination Teams that will focus on implementing projects within 10 areas the group has identified as the most critical infrastructure priorities, from waste water treatment facilities to transportation to coastal protection. In addition, the Sandy teams at the SRO and at HUD are in daily contact with the State and City grantees.

Third, the recovery effort must include rebuilding in a more resilient fashion rather than simply recreating what was already there so that we are prepared for future disasters. One of the most critical concerns we heard from our local partners was that communities needed clear, accessible information about current and future flood risk. In order to gather the best information on the risks the region faces, FEMA, the National Oceanic and Atmospheric Administration and the Army Corps of Engineers developed a tool which allows local planners and decisionmakers to click on a map and see projections of the impacts of rising sea levels as much as a century into the future. To ensure this science would be put into practice, the Administration established a single Flood Risk Reduction Standard that applied to all rebuilding projects funded by Sandy-Supplemental dollars.

But we have not just armed communities with the best available data—we have also worked to connect communities with the most innovative engineering, planning and design ideas from around the world. That's why HUD launched Rebuild By Design, a multi-stage regional design competition, specifically to develop innovative projects to protect and enhance Sandy-affected communities. I expect the RBD process to come to fruition this spring and the resulting projects will encourage new ideas for resilient recovery.

We have solid evidence that the risk of large scale disasters and catastrophic losses is increasing due to increasing development along our coasts and changes in demographics and climate. Investing in mitigation is critical not only for the future of our communities—it is also cost effective. The National Institute for Building Safety's Multi-hazard Mitigation Council has estimated that for every dollar invested in hazard mitigation, a savings of four dollars is achieved. Homeowners, businesses and other entities recovering from a disaster currently have access to FEMA's Hazard Mitigation Grant Funds in coordination with their State and local hazard mitigation plans, to assist in taking protective mitigation actions against future events. Such investments are critical in a time of constrained resources. In addition, it is critical to maximize the impact of every dollar of supplemental funding.

To that end, the Sandy Rebuilding Strategy has outlined a process for coordinating infrastructure projects across the entire region by bringing all of the relevant Federal, State and local players to the table to discuss those projects and map connections and interdependencies between them. This process will help us save money, improve the effectiveness of these projects and accelerate the pace at which they're built. As noted previously, all major CDBG–DR funded infrastructure projects will be included in this process. The Strategy also highlights how the alignment of Federal funding and increased leverage of non-Federal funds for infrastructure projects are important to the success of disaster recovery in the Sandy-affected region.

The Role of CDBG–DR Funding

On January 29, 2013, President Obama signed the Disaster Relief Appropriations Act (DRAA) of 2013. The supplemental funding bill included funds for FEMA and USACE projects and activities, needs of the Department of Transportation including the Federal Transit Administration, support for the Small Business Administration and its disaster loan program, Community Development Block Grant-Disaster Recovery (CDBG–DR), and funding for a range of other critical priorities.

The DRAA provided $16 billion in CDBG–DR funding, reduced to $15.2 billion due to FY 2013 sequestration, to address Sandy and other qualifying disaster events

in 2011, 2012, and 2013. The Department has aggressively implemented the law and is ensuring that its requirements are met. Of the amount appropriated, more than $10.5 billion has been allocated to Sandy grantees through December 2013, and more than $2.8 billion has been obligated, and more than $1 billion has been disbursed to those grantees as of March 6, 2014. HUD also has allocated an additional $642 million to other State and local governments to assist in their recovery from other major disasters in 2011, 2012, and 2013.

Specifically, on February 6, 2013—eight days following the President's signature—I announced the first allocation of $5.4 billion of CDBG–DR funds under the Act, to five States and the city of New York to support their efforts to recover from the damage caused by Sandy. This represented the fastest ever allocation of CDBG–DR funds following the signing of a disaster appropriations bill.

With this first allocation, the Department and our grantees took important first steps toward ensuring a more resilient and sustainable recovery. Grantees, for example, are now incorporating green building features in the replacement and construction of new housing. In the construction or substantial improvement of structures, grantees must also meet the elevation requirements of the Flood Risk Reduction Standard to reduce risk in the face of future sea level rise and other factors. This requirement addresses projected sea level rise, which is not considered in current FEMA maps and National Flood Insurance Program premiums, while acknowledging that those premiums may increase once FEMA issues Flood Insurance Rate maps that account for Hurricane Sandy.

On October 28, 2013, I announced an additional $5.1 billion in CDBG–DR grants for the Sandy-affected region, bringing the total CDBG–DR funding available there to $10.5 billion. Again, the Department published a Federal Register Notice that builds upon the Notice for the initial allocation but which also addresses grantee infrastructure investments critical to recovery. Consistent with the recommendations of the Hurricane Sandy Rebuilding Strategy, the Department's guidance gives emphasis to making resilient investments, by requiring grantees to identify and implement resilience standards in their infrastructure projects, including factors such as rising sea levels and future extreme events. We are also working closely with Sandy grantees to ensure that resulting projects are the product of coordinated regional planning efforts, meet needs identified by the grantees through comprehensive risk assessments, and recognize the importance of both natural and built infrastructure.

The Department is well aware of the frustration voiced by many communities and residents over the pace at which CDBG–DR funds have been distributed by our grantees. However, we are seeing the pace of expenditures increase and it is important to understand both the timeline as well as what it takes to implement programs of this scale.

With respect to the timeline, 3 months elapsed between the onslaught of Sandy and enactment of the supplemental appropriation on January 29, 2013. HUD allocated funds to Sandy grantees within days following enactment of the appropriation and issued guidelines governing the use of those funds on March 5, 2013. Grantees, however, had to develop plans for using the funds and submit them to HUD for approval. The three major grantees submitted their plans to HUD by May 2 and HUD approved them not later than June 6. Grant agreements were immediately offered by HUD upon approval of the plans to enable grantees to access their funds. To date, some grantees have been more aggressive in accessing their CDBG funds than others.

With respect to implementation it is important to note that while preparing recovery plans, grantees had to simultaneously build the "back of the house" infrastructure to implement programs on a scale and at a pace they had not previously experienced. For example, in developing a single family housing rehabilitation program, the grantee must develop policies and procedures to implement the program, advise the public of how to apply for the assistance, open the application window for an adequate period of time, and then move to evaluating those applications and making funding decisions. Only after these processes occur can the grantee proceed to closing and begin to distribute funds to homeowners. Similar issues arise in implementing housing buyout programs, business assistance programs, public service programs and other innovative initiatives undertaken by grantees.

HUD's Continuing Role and Ongoing Efforts

HUD continues to play a significant role in the recovery effort across the Administration. Since the sunset of the Task Force on September 30, my staff has worked closely with the Task Force agencies to ensure implementation of the 69 recommendations in the Rebuilding Strategy. We are coordinating on a daily basis with our partner agencies in Washington as well as with their teams on the ground in

the region, and we have reporting and accountability mechanisms in place to track both implementation of the recommendations and the pace of spending. Further, on a quarterly basis, we convene the Sandy Principals to review and assess progress, ensuring that the highest level of leadership remains focused on the region's recovery and on better preparing us for the next storm.

Collectively, and as a result of these efforts, we've accomplished a great deal, and implementation of the Rebuilding Strategy is on track, with nearly a third of the work we set out to achieve already complete, and much more in progress. To be clear, much of the work of implementing the Sandy Rebuilding Strategy is long term in nature, but we're making significant strides: laying the groundwork for more resilient infrastructure and establishing new mechanisms for coordination both across Federal agencies and with State and local governments.

To improve transparency about the pace of spending, we recently announced that, in partnership with the Recovery Accountability and Transparency Board, HUD is now publishing State-level data on the status of Sandy funds across the Federal Government. This data will be updated monthly and is available in the form of a map and downloadable data files on the Sandy section of *Recovery.gov.*[1] The map is shaded to reflect the aggregate value of awards to primary recipients in each State, and users will be able to click on each State to see the total awards and payments from each agency to recipients within that State.

CDBG–DR funds are currently being invested in communities working toward long-term recovery. As noted above, more than 19,000 households have already been assisted through CDBG housing programs across the region, with an estimated pay out of more than $478 million to beneficiaries. In January, for example, the State of New York provided more than 2,400 homeowners on Long Island with nearly $83 million in assistance for house rehabilitation and repair, while New Jersey reported an expenditure of more than $166 million for residents assisted through the State's Homeowner Resettlement program. With grantee long-term recovery programs now in place, the pace of recovery dollar expenditures can be expected to increase dramatically in the coming months.

Grantees are obligating funds once they've made the determination that they will be able to expend those funds within 2 years for specific activities and programs. While the Act provides a means for obtaining a waiver of the 2-year expenditure deadline, to date the Department has received no such requests from grantees, but stands ready to work with grantees to overcome any obstacles they may encounter to achieving their recovery goals. As I stated, recovery will never be fast enough for affected families, homeowners, and other victims of this terrible storm. And because so much of the recovery from Sandy involves long-term construction and infrastructure projects, funds will continue to be spent for years to come. But receiving the supplemental appropriation from the Congress has been critical for planning and commitment of funds for significant recovery projects to move forward.

The Department takes very seriously its role as a steward of Federal dollars provided for long-term recovery efforts. HUD has scheduled routine onsite monitoring and onsite technical assistance at least twice every calendar year for New York, New York City and New Jersey, the three largest recipients of CDBG–DR recovery funds for Hurricane Sandy. The Department always has the right to supplement this schedule to address emerging issues as appropriate. In addition to these visits, HUD works closely with grantees on the implementation and expenditures of funds and convenes weekly teleconferences with grantees to discuss any issues or concerns that may arise. HUD is using well established practices in monitoring these funds, including using a risk analysis process to identify areas of concern that may warrant more attention.

The DRAA also provided critical administrative funds to the Department to implement the law, positioning the Department to strengthen its monitoring of grantees' use of CDBG–DR funds and to provide enhanced levels of technical assistance to each Sandy grantee. To date, the Department has hired an additional nine term employees to support the administration of Sandy CDGB–DR funds. This funding has also allowed the Department to commit to an aggressive schedule of monitoring and technical assistance for each of our largest grantees on a quarterly basis.

It is common that concerns are expressed as initiatives of the scale and scope of New Jersey's Reconstruction, Rehabilitation, Elevation and Mitigation (RREM) program, the State's largest CDBG–DR funded housing program, are developed and implemented. The Department uses its established monitoring and review processes to examine the facts and sort out the reality of claims. The Department initially monitored New Jersey's CDBG–DR program in July 2013 and issued one actionable

[1] Link here: *http://www.recovery.gov/Sandy/whereisthemoneygoing/maps/Pages/HudPmo.aspx.*

finding related to the use of CDBG–DR funds as matching funds to certain FEMA programs. This finding has been resolved. HUD is undertaking a regularly scheduled monitoring review this week. This review will focus on the State's RREM program, economic development programs, use of CDBG–DR for tourism support and financial management. As a preface to the regularly scheduled review, HUD recently conducted a supplemental review of the RREM and Homeowner Resettlement programs. The Department is in the process of finalizing conclusions from that supplemental review and expects to provide feedback to the State shortly.

The above mentioned reviews are carried out by HUD's Office of Community Planning and Development which has management responsibilities for the CDBG program and, hence, CDBG–DR funding. There are also other parts of the Department that have distinct roles as well. The Office of Fair Housing and Equal Opportunity (FHEO) has separate review and enforcement responsibilities related to fair housing, civil rights and related statutes and FHEO staff have been actively reviewing and analyzing the performance of Sandy grantees, including New Jersey. The Department's Office of Inspector General (OIG) was provided $10 million in additional funding under the Disaster Relief Appropriations Act, 2013 (Public Law 113–2) to review Sandy grantees and they have a multi-faceted review plan that includes both audits and investigations, and the Department has sought input from OIG in our efforts to develop policies on the front end to avoid fraud, waste, and abuse.

With regard to technical assistance, CPD has provided grantees with a wide range of resources to assist in the design and implementation of their recovery programs. For example, in March 2013, HUD convened a 3-day training session for grantees receiving funds under the Act. Through HUD's OneCPD Technical Assistance Initiative, HUD has deployed technical assistance providers, who are subject matter experts, to work with grantees on such tasks as developing appropriate safeguards to help ensure that HUD funds are being used to address unmet needs that have not been addressed by other sources of funding. HUD also convenes hour-long weekly calls with each of our largest grantees to address ongoing challenges and questions that arise in program implementation.

With regard to New Jersey's proposed action plan for the second tranche of $1.463 billion in CDBG–DR funds, the State issued the draft action plan for public comments on February 3, 2014, and is expected to formally submit that plan to HUD for consideration within the next 2 weeks. Given that the Department must approve the plan, we will carefully review the State's submission against the requirements of the applicable Federal Register Notices and in light of information gathered during monitoring reviews and technical assistance visits. A key aspect of this review will be an interagency review process focused on major infrastructure projects. To ensure a thorough and complete analysis, HUD is permitted to take up to 60 days to review the plans. To the extent that HUD identifies deficiencies in any action plan for these CDBG–DR funds, we have a range of options for addressing those concerns—ranging from informal consultations with grantees to clarify and resolve issues to not approving the plan and requiring revisions consistent with statutory and regulatory guidelines.

Thank you again for the opportunity to testify today. I am happy to answer any questions you may have.

PREPARED STATEMENT OF MATTHEW J. DOHERTY

MAYOR, BELMAR, NEW JERSEY

MARCH 12, 2014

Thank you for this opportunity to share with you some of the things we experienced in Belmar, NJ as a result of Sandy. Based on conversations with other Jersey Shore Mayors, it seems that our experiences are similar to what other communities are going through as well.

I want to first thank you, all of the Members of this Committee, and the rest of the Senate and House of Representatives for appropriating financial resources to both Belmar and the rest of the Jersey Shore since Sandy ravaged our communities on October 29, 2012. I know that, while there were some Members who opposed helping us, as a collective body you supported us and for that we are grateful. I would also like to take an opportunity to thank New Jersey's Congressional delegation for all of their hard work in helping to secure much-needed aid, particularly Senator Bob Menendez, Congressman Frank Pallone, Congressman Bill Pascrell and Congressman Chris Smith. Having gone through this experience I can tell you that without Federal assistance both my community, and the rest of the Jersey Shore, would be at risk of becoming a relic of the past. No State, county, or municipality

could come back from a terrible hit like the one our communities absorbed without Federal assistance.

I also think that it is worth noting that there is no private sector solution to recovery and rebuilding from a storm like Sandy. It is government, and government alone, that makes recovery from a storm like Sandy possible.

Sandy destroyed town infrastructure, businesses and residential properties. I would like to take this opportunity to share with you our experience of working with the Federal Government and the State government in these three areas. In addition, I would like to humbly offer suggestions for the future allocation for Federal resources for Sandy recovery based on my experiences as the mayor of a town that was hit particularly hard.

The day after Sandy stuck our community, we immediately began cleaning up. We started pumping water out of our town at a top rate of 60,000 gallons of water a minute and it took 6 days to complete. In addition, we brought in outside contractors to begin to remove the debris from town, including 1.2 miles of boardwalk and 5 pavilions on the beach front. There was also a tremendous amount of debris that came out of people's homes and businesses. We made a concerted effort to remove the household debris as soon as possible for both health reasons and psychological reasons. We found that beginning the process of recovery as quickly as possible had the positive impact of bringing our residents closer together and the thousands of people who came to help volunteer only served to further expand the larger sense of community.

Through all of this, we worked with the Federal Emergency Management Agency (FEMA) on a daily basis. They developed project work sheets so that we would be eligible for reimbursement of 90 percent of all the debris removal expenses and they helped guide us through what could have been a very difficult and convoluted process.

Even while we were in the process of cleaning up the devastating effects of the storm we began to aggressively plan to rebuild our boardwalk with a goal of being completed in time for the summer in order to try and salvage our tourist season and pump needed tourism dollars into our community. We began to rebuild the boardwalk on January 9, 2013 and completed the project by the end of April, with a Grand Opening just days before Memorial Day Weekend.

Both Senator Bob Menendez and Governor Chris Christie joined us for our Grand Opening. Not completing this project in a timely fashion would have risked the future of our 140 small businesses in town. Like most towns along the Jersey Shore, all of Belmar's businesses are small businesses owned by middle class families. By completing the boardwalk on time we were able to set the tone that our town would be open for business for the summer which, in turn, helped encourage local business owners to be open as well. Because of their hard work and determination, we had the same number of businesses open for Memorial Day as we did the day before Sandy. Similar to the efforts on debris removal, we worked with FEMA on a weekly basis and looked at them as a partner. They produced the project work sheets that made the rebuilding of the boardwalk eligible for 90 percent reimbursement and, again, offered us necessary guidance.

Again, without FEMA, our town, and the rest of the Jersey Shore would have a very difficult time advancing toward recovery. In fact, without their help it is possible that vast middle class areas may have remained permanently stagnant, so I want to reiterate how important FEMA has been to our recovery.

We found through this process that businesses seem to recover rather quickly, far more quickly than residential properties. This seems to owe to a few different factors. As I mentioned before, most of the businesses at the Jersey Shore are small businesses owned by middle class families. In most instances, these businesses are the sole means of income for these families. If they were unable to be open for the summer months, it would be devastating to their financial situation and would begin to negatively impact the rest of the community. Failed businesses and vacant store fronts lead to the deterioration of a community. Another factor in the timely recovery for small businesses in our community was the Small Business Administration (SBA). The SBA was quick to establish itself in the shore area (just like FEMA) and assisted small business owners and several business owners were eligible for grants to help them restock their inventory for the summer. An additional factor was the insurance that many businesses had, particularly business interruption insurance. Last, in order to save their businesses, many small businesses owners emptied out their savings, borrowed money from friends and family, and did whatever it took to get open for the summer.

Unfortunately, we are finding that residents affected by Sandy are the ones having the most difficult time with recovery. While FEMA and SBA were both on the ground after the storm for 4 months, it is the long-term process of recovery for many

families that has proved to be problematic. In many communities along the Jersey Shore there are still families that have been displaced, as of today, for 500 days. 500 days of stress on families. 500 days of living in multiple places. 500 days of living on someone's couch. 500 days of driving children to school 17 miles a day just so they have some semblance of normalcy in their young lives. 500 days of struggling through bureaucratic rules and regulations. 500 days of not knowing when, or even if, they will ever get back home again.

In our small town alone we have 90 families that have applied for the Reconstruction, Rehabilitation, Elevation, and Mitigation (RREM) grant and only 1 in 5 were approved and funded. The rest are either waitlisted or ineligible. I cannot stress how difficult this is on these families when all they want to do is go back home.

I would like to share a couple examples, Frank Murphy and his wife had twin babies a couple of months before Sandy destroyed their home. They applied for the RREM program and where told that once they apply, they must stop all construction, or they will receive nothing. They were denied the grant and began building their house as they appealed their denial. Over time, their denial was reversed and they were told that their grant for $30,000 would be funded. But now, since they started to rebuild to get back home, even though their grant was funded, and they are eligible, they will receive nothing. No one from the State told them that during the appeal process they could not work on their house. How long should they be forced to wait to work on their home, particularly after being denied and subsequently given no timeframe for when they would hear on their appeal? The fact of the matter is that the Murphy's aren't looking to blame someone for the wrongful denial of their grant application, they just need the resources so they can get back home.

Another example is Krista Sperra. She is a graphic designer who both lives in Belmar and has her business in Belmar. She is married with two children in grammar school. She and her husband paid premiums on their flood insurance every year, for over 10 years, before Sandy hit. Sandy brought water that engulfed Krista's home and surrounded her home, and those of her neighbors, for several days. After the water resided, she had a structural engineer look at her foundation. Like many in Belmar, Krista owns an old house with a foundation made of brick and mortar. The engineer told her that she needed a new foundation and that she could not do any work above the foundation until it was completed. She brought this information to her insurance company, they sent someone out to look at it, and they told her that all she needed to do was replace some of the mortar in between the bricks and she would be fine. They gave her $600 and told her that would be sufficient for the mortar. She consulted another engineer and he told her the same as the first engineer, the entire foundation needed to be replaced.

Krista is now suing her insurance company, displaced from her home and living in the third house since Sandy hit and needs to find another place for her family by the end of May (her fourth place since Sandy). 500 days she and her family have been displaced and she is now suing her insurance company as she looks for a new place to stay. All she wants to do is get herself and her family back home.

These are just two of countless stories at the Jersey Shore today. But I think they are both indicative of the fact that people are generally not interested in moving somewhere else, they do not want to give up on their community. Rather, they want to stay and rebuild. They want to get back home.

From these experiences, and many others, I would like to offer a few suggestions on how additional Federal resources could be allocated for the maximum benefit to communities still recovering from Sandy.

First, while communities wait for Federal funding, allow them to begin projects they need to recover from the storm, and reimburse them later. This follows the current FEMA model.

Second, relax rules that make it difficult for families that did work on their homes right away to receive funding simply because they wanted to get their families back home. This will eliminate the disincentive for being aggressive about getting back home. People should still receive their funding, even if they did work after the application date.

Third, compel the National Flood Insurance Program (NFIP) to settle with clients through arbitration, as opposed to forcing these residents to sue their insurance company. Many of these people have been paying premiums on their insurance for years in order to have help during just such an emergency and they should not have to sue for that coverage.

Fourth, increase the appropriation for housing and infrastructure for Sandy impacted communities. As we come to the end of the Community Development Block Grant (CDBG) allocation, I believe there will be a need for additional financial resources to assist families and communities to fully recover.

Fifth, and last, let us not get caught up in the blame game. Let all of the elected officials from the Federal, State, county and municipal level work together to help middle class families during this time of ongoing trouble. We have all done a lot these past 500 days, and now is the time to rededicate ourselves to ensuring that everyone gets back home.

Thank you again for the opportunity to come speak before this Committee and share my experiences and suggestions.

PREPARED STATEMENT OF ADAM GORDON

STAFF ATTORNEY, FAIR SHARE HOUSING CENTER

MARCH 12, 2014

Good morning, Chairman Menendez, Ranking Member Moran, and Members of the Committee. Thank you for convening this morning's hearing. My name is Adam Gordon and I am a Staff Attorney with Fair Share Housing Center, which works throughout New Jersey to ensure that people of every race, ethnicity, and income level, including families, seniors, and people with special needs, can live near their schools, jobs, and families. Since Sandy hit, we've worked with a broad range of community groups and individuals impacted by the storm to ensure that the rebuilding process, including Federal money available for rebuilding, is distributed fairly to everyone impacted by Sandy. We run a hotline for people impacted by Sandy and provide rebuilding information on our Web site and through partnerships with local community groups.

It has now been nearly a year and half since Superstorm Sandy devastated communities throughout New Jersey, from Moonachie in Bergen County to Ocean City in Cape May County. For too many people in New Jersey, it is still as if Sandy happened yesterday. There are places in our State where street after street sits with half-destroyed homes or homes filled with mold, with the people who live there unsure what comes next for them and their families. With tens of thousands of renters and homeowners still displaced and wondering if they will ever be able to move home, many people are asking: "Couldn't the recovery be going better?" In fact, according to a recent Monmouth University poll, three-quarters of people impacted by Sandy believe that the recovery is not helping people like them. Some of the stronger complaints that we've heard include the veteran who said dealing with the State has been harder than fighting in Afghanistan and the local community leader who compared the programs to a shady used car salesman trying to figure out how to get away with providing as little aid as possible.

We agree with something Senator Menendez said earlier this week: the most important thing at this point is not to assign blame, but rather to chart a path forward that fixes the problems. This hearing comes at a critical time: when New Jersey is about to receive $1.4 billion in additional Federal funds. The allocation of these funds provides a singular opportunity—for many people impacted by Sandy perhaps the last opportunity—to get this recovery on track and help people rebuild.

Today, we'll describe program and policy changes we and others have proposed to make the recovery stronger, fairer, and more transparent. These proposals come from us and a broad range of other groups, including people impacted by Sandy, civil rights groups such as the NAACP and Latino Action Network, business groups such as housing developers, the nonprofit Housing and Community Development Network, and to faith-based organizations and congregations throughout New Jersey. We described many of these recommendations in a report in January available on our Web site, and have submitted them as comments to both State and Federal officials.

We're going to focus on three main areas: first, fixing the two main New Jersey homeownership programs, RREM and Resettlement, which have been plagued by widespread problems in implementation that have hit lower-income people, African Americans, and Latinos the hardest, but have more generally not worked well enough for everyone impacted by Sandy. Second, making sure that renters impacted by Sandy are not left out. And finally, targeting scarce Federal funds to the hardest hit areas.

First, the State's main programs for rebuilding for homeowners, the Reconstruction, Rehabilitation, Elevation, and Mitigation, or RREM, program, which helps with structural rebuilding, and the Resettlement program, which helps with short-term grants, simply are not working the way they should be. That's true for everyone, but especially true for lower-income people, African Americans, and Latinos hit hard by the storm.

It recently came to light, only after we had to sue the State for access to documents under our freedom of information law, that the State and its contractors unfairly rejected thousands of applicants for both of these programs. We'd hear the stories day after day—people who had four feet of flooding would call us and say they got a letter that they did not have enough damage to qualify. And it turns out that the data that the State relied upon was systemically flawed. In fact, when people appealed their denials, nearly 80 percent of people appealing won. That means that when the State reviewed denials for funding, four out of five times they got it wrong. But most people didn't appeal—they trusted in the process, even though it turns out the process was fundamentally flawed.

These problems hit people of every racial and ethnic group, and all incomes. But they hit African Americans and Latinos particularly hard. African Americans were rejected from these programs at 2.5 times the rate of white applicants, and Latinos at 1.5 times the rate of white, non-Latino applicants. Yet for people who appealed denials, approval rates in the RREM program were similar—over 75 percent for people of all races and ethnicities—in fact Latinos had the highest approval rate of any group. And even when you isolate applications by zip code—thus looking at people with similar levels of damage—the disparities persist.

We still don't know the full story of how this happened, but we have some clues. The State frequently provided incorrect information in Spanish. There was no information for months on the appeals process or the date applications were due on the Spanish language Web site, when that information was readily available in English. When Spanish-speaking applicants went to in-person application centers, they often found nobody who could help them, even in heavily Spanish-speaking areas. And many people in African American and Latino communities did not know about the programs at all due to poor publicity and outreach. One particularly troubling example is in the heavily Latino community of Moonachie, where some applicants were told, incorrectly, that the mobile homes they lived in did not qualify for the program and it was for the "big houses in the center of town"; out of hundreds of mobile homes damaged there have been only 10 grants that we know of to mobile homeowners.

The whole program was shoddily run. Walk-in centers were located far from damaged communities to save on rent. Call centers were told to get people off the phone as quickly as possible instead of helping them solve their problems. To its credit, the State has now fired the contractor running the program, HGI, though it hid that decision for 6 weeks until a reporter uncovered it and it is unclear who is now running the show.

The main problems now are that while everyone agrees the program wasn't working, there is an attitude of defensiveness about the debacle that transpired. Instead of working together to fix the problems, the State has consistently hid information, failing to respond to public records requests, and only reacting after litigation and severe pressure from the media and angry homeowners.

The fixes in many cases are obvious. Here's a few:

- As I noted, denials were wrong 80 percent of the time. Yet most people didn't appeal the denials because they didn't know about the process, were concerned about the potential costs or bureaucracy involved, or didn't think it mattered—in fact fewer than 1 in 3 people rejected appealed, and African Americans and Latinos appealed at particularly low rates. The State should affirmatively review every denial and see if in fact the applicant was eligible. Instead, the State is requiring people to go through a complex appeals process. When you're wrong 4 out of 5 times, it's on you to fix the problem, not people impacted by the storm.
- Too many people were wrongly told they didn't qualify, or provided the wrong information, whether mobile home owners or people using the Spanish language Web site. The Latino Action Network filed a Federal complaint in response to the Spanish language Web site problems, which included incorrect information about the appeals date and location of the centers, and asking for the lists to be reopened. That complaint, 5 months later, remains unanswered by either the State or HUD. The State needs to reopen the application process given these widespread failures, which it has to date refused to do.
- The State promised to grant 60 percent of Resettlement funds and 70 percent of RREM funds to low and moderate income homeowners. They have not met those targets because they claim there were not enough qualified applicants. We now know that many of the people the State found unqualified in fact were qualified—so it's time to make sure that these promises are kept.
- We need to make sure this money gets out efficiently and effectively, and people know where they stand. We hear from people all of the time that they are told

different things about whether they will get money or not, and confusing information about their place in the wait list. We need a plan to fairly treat everyone who qualifies based on need and damage alone.

Second, while programs for homeowners are not working well or fairly, in many cases renters have it even worse and aren't eligible for funding at all. An analysis that I worked on with the Furman Center for Real Estate and Urban Policy at New York University, where I am a nonresident fellow, showed that 40 percent of all families impacted by Sandy in New Jersey are renters. About two-thirds of the lowest-income people hit by Sandy in New Jersey, those families earning less than $30,000 per year, are renters. In addition, over two-thirds of African Americans and Latinos impacted by Sandy in New Jersey are renters.

So far, only 25 percent of housing funds made available from the Federal Community Development Block Grant have gone to renter programs, despite renters constituting 40 percent of the damage. In particular, New Jersey has made very little money available directly to help renters impacted by the storm. While homeowners have been eligible for over $200 million of Resettlement grants of $10,000 in immediate funds to help people get back on their feet, the State has only just now proposed a $15 million program for renters. Meanwhile, as rents skyrocket due to the damage to housing stock and new competition in the rental market from displaced owners, families have to split up or are being displaced from their home communities. In many areas, rents have gone up by 20 percent or more due to a lack of housing supply; vacancy rates in some counties fell after the storm to under 1 percent. We hear from people living in isolated areas in campers, doubled up with relatives, or having to leave because their rents are going up—with no idea of where they will be even a few months from now.

Long-term rebuilding efforts are also severely underfunded and, as I'll discuss next, are being funded in areas with little or no damage from Sandy far from where most people displaced by the storm live. Our second recommendation is to increase funding available to renters to both meet immediate needs and long-term rebuilding, so it is proportional to the damage from the storm.

Finally, we are very concerned that the money there is for renters isn't actually going to where the damage from the storm was. The two hardest hit counties, Ocean and Monmouth, had 52.5 percent of major and severe rental damage. However, these two counties have received only 21.7 percent of the funds in the main rental rebuilding program to date, the Fund for Restoration of Multi-Family Housing. In contrast, the eligible county with the least damage, Essex, which is about 60 miles from Monmouth and Ocean Counties, had just 1 percent of major and severe rental damage—or less than one fiftieth of the damage in Monmouth and Ocean Counties. However, that single county has received 16.1 percent of funding for the main rental rebuilding program to date—nearly as much as Monmouth and Ocean County combined—including in municipalities such as Belleville that had little or no damage from the storm. I can't overemphasize how much we hear from people who are angry about this. They ask why Belleville could get money, but there is no money for people to relocate to replacement homes in their communities.

The potential is there. We hear from landlords and developers that they are quite willing to invest in rebuilding in the hardest hit areas and would like to do so. However, the State's programs are not structured in a way that sets clear rules to target the funding to the places with the most impact. As such, developers have no incentive to deal with the regulatory tangle that inevitably comes with developing in a disaster area, if they can more easily get Federal funds in areas that were barely hit. It isn't right, but it is how the State's incentives are structured, and it is not realistic to expect private market actors to invest a lot of time and money in the areas truly hit by Sandy if they won't get funding at the end of the day.

What impact does that have on families? Let me put it in the context of a few of the Members of the Committee's States that I have the pleasure to have visited. Senator Toomey, it's like telling someone displaced from a disaster in Reading that they have to move to Harrisburg if they want recovery money; Senator Warren, it's like telling someone hit with a disaster in Boston that they have to move somewhere out past Worcester if they want relief. It's wrong to use Federal disaster money in a way that severs people from their communities, and forces them to choose between moving far away and getting to rebuild. Especially when we have heard from the development community that they are willing to rebuild in storm-impacted areas if the State prioritizes those areas. Our final recommendation is that for the next $1.4 billion the State needs to put the hardest hit areas first.

I'll conclude by noting that both the State and HUD have known about the problems I have identified for many months, yet we have not seen any significant action to address them. While HUD was helpful in requiring changes of the State nearly

a year ago in the first Action Plan to shift more money to renters impacted by Sandy, since that time we have seen too little action to ensure that these Federal funds are spent fairly. Given the magnitude of the problems on the ground in New Jersey and the urgent needs of people impacted by Sandy that are going unmet, HUD needs to take a leadership role in making sure that these problems are corrected.

The time to act is now. As I noted before, the next $1.4 billion from HUD is critical. If we don't make sure these funds are spent fairly—fixing the broken RREM and Resettlement process, addressing the needs of both renters and owners, and targeting the people and areas hardest hit—it will be lights out for too many New Jerseyans trying to rebuild. Unfortunately, absent a strong course correction through a partnership between the Federal and State governments and impacted communities, too many people will not be able to rebuild. We want a better result for our State that uses these scarce Federal funds fairly and effectively. Thank you for your time.

PREPARED STATEMENT OF JANICE FINE, PH.D.

ASSOCIATE PROFESSOR, RUTGERS SCHOOL OF MANAGEMENT AND LABOR RELATIONS

MARCH 12, 2014

State Oversight of Hurricane Sandy: Some Problems and Questions

Introduction

In December 2013, the Christie Administration terminated the largest contractor hired to provide Hurricane Sandy relief services, HGI (Hammerman & Gainer) which had a 3 year, $67.5 million contract to manage the Renovation, Reconstruction, Elevation and Mitigation (RREM) program,[1] and more recently, the URS Corporation, which had a $20 million contract to supervise the rebuilding of homes destroyed in the hurricane.[2] What went wrong?

These companies, that were awarded multi-million dollar contracts and charged with administering millions in Sandy Recovery funds, were supposed to be overseen by the Department of Community Affairs (DCA). Their failures have had far-reaching consequences for Sandy victims. Recovery centers frequently lost applications or provided misleading advice on what documentation was needed. Ultimately thousands of homeowners were wrongly found to be ineligible and the process they could utilize to appeal these decisions was also poorly publicized.[3] Documents released by the Fair Share Housing Center paint a disturbing portrait of what happens when oversight is neglected. From what we have come to understand after studying the State's oversight policies and practices for close to 3 years, this was not an isolated problem due to emergency circumstances but rather a consequence of a deep, systemic problem many years in the making.

While many State governments are actively engaging in government contracting, research strongly suggests that government capacity to provide adequate and effective oversight has dwindled—and New Jersey is no exception.[4] The two keys to contract oversight are (1) well-written contracts adequately defining the responsibilities of the contractor and the protections of the State and (2) strong, experienced, well trained managers with a deep knowledge of the activities they are monitoring and time to do the job well. Unfortunately, between 2004 and 2011, the size of the State workforce in New Jersey shrank by 36,319 while the total value of contracts held steady and in some years especially 2013, increased quite significantly.[5]

Contract management involves both people who maintain relationships with contractors and clients, and systems that facilitate the work of those people. Our re-

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[1] Colleen O'Dea, "Botched Process Denied NJ Residents Millions in Sandy Relief," *NJ Spotlight,* Feb. 7, 2014.

[2] Matt Katz, "NJ Quietly Fires Second Contractor Hired to Help Sandy Victims," *NJ Spotlight,* Feb. 14, 2014.

[3] Fair Share Housing Center, *et al.,* "The State of Sandy Recovery: Fixing What Went Wrong with New Jersey's Sandy Programs to Build a Fair and Transparent Recovery for Everyone," Housing and Community Development Network of New Jersey, January 2014, *http://www.hcdnnj.org/assets/documents/report%20state%20of%20sandy.pdf.* (accessed Feb. 2014).

[4] Van Slyke, David M. "The mythology of privatization in contracting for social services," *Public Administration Review* 63, no. 3 (2003): 296–315.

[5] Despite our best efforts to arrive at comprehensive numbers, we have only been able to obtain figures regarding Department of Purchasing and Property contracts. The State Office of Management and Budget generally estimates that these contracts account for approximately 50 percent of all State contracts. We have no data about the other 50 percent, which includes all human service contracts.

search project looked at the capacity of the current State workforce to conduct contract oversight and analyzed the overarching institutions—laws, regulations and policies—governing the entire contracting process. Below we summarize best practices in contracting as documented in scholarly literature on public administration and supply chain management. Next we describe how the State of New Jersey conducted contracting in the aftermath of Hurricane Sandy. We conclude with a discussion of the consequences of New Jersey's approach to contracting and oversight and provide a list of questions that merit further investigation.

Best Practices

When employment is shifted to another party that is paid to provide services, the lead employer is simply "less able to monitor performance, since those doing the work are now potentially hidden within another organization."[6] Best practices in the business literature[7] suggest that lead firms maintain quality in services delivered by their subcontractors, by providing for 3 things:

- Clear and explicit guidance on what is expected
- A system of monitoring and auditing to ensure that those standards are followed
- Significant penalties in the face of failure to meet goals

In terms of conducting oversight, best practices therefore include thorough contract costing and design, transparent and competitive bidding, and strong performance management. The latter involves ongoing communication and cooperation between contract managers and contractors and strategic contract monitoring with clear performance requirements and standards. These in turn require adequate staffing and training of contract managers who are responsible for the process. The challenges ordinarily posed by contracting to provide services are exacerbated in emergencies, which can dramatically increase the demand for oversight in a very short period of time. Details regarding the three best practices are summarized below, including qualifications relating to emergency relief.

1—Thorough Contract Costing and Design -> Transparent and Competitive Bidding

Typically, the contracting process proceeds in three stages: RFP generation, bidding, and contract management. The RFP generation stage is critical because it is here that the terms of the contract are created. Prospective contractors bid on the RFP and the terms of that RFP largely become the terms of the contract between the State and the winning bidder. Given that the RFP essentially becomes the contract, it also effectively defines what the State can demand of the contractor and what remedies are available if the contractor fails to live up to its duties. Best practices suggest that contract design and contract oversight are closely linked and contracting units should develop and communicate, during the RFP process, clear and detailed performance measures, specifications and contract monitoring requirements.

The bidding process offers another opportunity to exercise control over contractors. This is where the State gets to choose its partners. However, for the State to have a choice, and for bidders to have an incentive to maximize quality and minimize cost, there must be multiple bidders who compete on a level playing field. Information is key to this competition. The more information the State has on what is being offered, the better a consumer the State can be. Likewise, transparency helps level the playing field by offering competitors and other interested parties the information needed to hold the State accountable for its decisions.

As these practices suggest, the process is very intensive and can be extremely time consuming. It is difficult under the best of circumstances. In emergencies—including one of the most destructive natural events to hit New Jersey—temporarily relaxing some best practices relating to contract creation and bidding is understandable. It provides the State flexibility to immediately respond to human needs. The increased flexibility is exemplified by DCA using the less detailed RFQ process as opposed to the more extensive RFP process. This does not, however, absolve the State of all due diligence in designing contracts or choosing contractors. The State can, for example, identify obvious flaws in past performance and conduct desk reviews of capacity and competence. Moreover, strongly institutionalized oversight—discussed further below—can make it far easier to conduct these analyses on short notice.

[6] Weil, *The Fissured Workplace,* 59.
[7] *Ibid.,* 63–73.

2—Contract Management

Expediency cannot justify a complete relaxation of contract management best practices. On the contrary, less stringent contract creation and bidding procedures impose a heightened burden on the contract management process to compensate for any increased scope for abuse. Best practices suggest that States should have:

- a corps of highly qualified contract managers with the expertise and resources to engage intimately with the contractor
- systems, and especially data systems, that make the process more efficient and more transparent

3—Strong Institutions

In all circumstances, good oversight requires strong overarching institutions. The laws, regulations and policies governing the process provide the foundation for oversight. The need for strong institutions is especially acute in emergencies because they exacerbate the already significant challenges of contract administration. Strong institutions ensure that the State has the capacity and competence to handle ordinary oversight and absorb sudden spikes in demand that come with emergencies. Creating strong institutions involves the following:

- Laws ensuring that contracts are managed by qualified individuals with sufficient capacity to engage intimately with the contractor
- Laws providing mandates and resources for meta-oversight of the contracting process
- Laws requiring and providing appropriations for integrated and standardized data systems and regulations detailing technical requirements to ensure compatibility across units
- Laws making transparency, including the publication of all key documents and details, non-negotiable and providing mechanisms for interested citizens to act on that information

How New Jersey Responded to Hurricane Sandy:

In our in-depth review of New Jersey's capacity to oversee its contractors, we found significant issues that may provide insight into why the State has struggled to handle the contracts associated with Sandy Relief. In general, where legal and administrative structures for contract oversight exist, they are not being effectively implemented. Where they do not exist, people and systems are not sufficient to compensate. Our brief review of Sandy relief suggests that both issues may be at play. In particular, there are executive orders and documented plans that on their face should have enhanced oversight. How they were executed in practice may be one key to the failure of oversight. Similarly, despite the additional orders and plans, they were not likely sufficient to fill the existing holes in New Jersey's oversight capacity.

New Jersey has significant structural and practical flaws that make it extremely difficult for it to conduct ordinary oversight, let alone handle the sharp increase in demand created by the administration of a massive disaster-relief grant. In particular we found large institutional deficiencies and significant neglect of on-the-ground oversight. These led predictably to significant consequences for taxpayers and clients.

Many of the most significant oversight decisions and processes are subject to few if any formal rules. Only the bidding process is well-regulated and only for about half of all State contracts. There are few central institutions governing contracts for services provided directly to residents.

There are no institutionalized mechanisms within State government to ensure that sufficient resources exist so that individuals responsible for the majority of oversight are able to do the job well. Simply put, the budgetary process does not build in the cost of oversight of contractors at individual State agencies.

There does not appear to be any agency within the State with the capacity or competence to monitor the overall efficiency or effectiveness of resources allocated to contractors. OSC and the Office of Management and Budget (OMB) are prime candidates, with relevant competencies, but neither currently has a mandate or the resources to do so.

Attrition is a predominant problem, depriving every contracting unit we studied of practical expertise while simultaneously increasing the burdens on those workers that remain. This is not surprising, given the structural lack of priority given to oversight. It occurred in all four of the departments for which we were able to obtain such information.

No contract costing and minimal specification of contract terms prior to the issuance of RFP's. Every official we asked confirmed that, to their knowledge, costing was not done in any systematic way.

Contract Managers are not always qualified or properly trained to fulfill their roles effectively. According to officials from every department studied, there are not enough human resources being assigned to oversight and effective oversight is not being fulfilled by many of the individuals who are being designated as contract managers.

Contracts had weak performance requirements and standards. Only a minority of contracts had outcome-based performance measures and there was little evidence of performance targets being integrated into a comprehensive oversight system. Only the Department of Mental Health Services (DMHS) had clear, outcome-based performance measures in contracts combined with a comprehensive system of oversight.

Very few contracts required specific data collection and reporting, outcomes-based benchmarks with clear performance measures and milestones tied to payment despite these being widely accepted best practices. Similarly, very few contracts had automatic sunset provisions and requirements that contractors would have to reapply in a competitive bidding process.

There are substantial impediments to transparency. The biggest of these is that data for many contracts is simply not kept in any systematic way. As a result, it is nearly impossible to gather and analyze information.

Prior to Sandy, lack of oversight had already had significant consequences for vulnerable people and for New Jersey taxpayers and was continuing to place assets at risk

- A lack of contract monitoring at DCF's Division of Child Protection and Permanency (DCPP) leaves children vulnerable to being served by inadequate providers
- Lack of oversight at DHS's Department of Developmental Disabilities led to substantial waste of taxpayer money with little assurance that services for which the State has contracted are being provided
- Lack of oversight at DOC's Residential Community Release Program (RCRP) led to assaults and deaths in the facilities as well as in communities
- businesses

Given our findings regarding the State's lack of capacity to oversee ordinary contracts, it is not surprising that it has struggled to handle the massive relief program. The State's response required the coordinated action of various organizations, each providing services to New Jersey citizens and each with long lists of detailed responsibilities. On the surface, the State's Action Plan and Executive Order 125—signed by Governor Christie appear to enhance oversight under special circumstances. However, our prior findings and the stories that are now coming to light suggest that these paper requirements were insufficient, not followed well, or both.

The core of New Jersey's effort to enhance oversight capacity to handle the demands of Sandy relief are Executive Order 125, the creation of a special management Division within DCA and the use of an Internal Auditor within DCA. The latter two come directly from New Jersey's Action Plan.

Executive Order 125 offered three potential enhancements to the existing systems and requirements. First, it mandated that the Comptroller pre-clear all RFP's prior to bidding. This effectively subjects all 100+ contracts to the process that was already in place within the Department of Public Purchasing (DPP) for contracts in excess of $10,000,000. However, it requires only that the Comptroller ensure that all laws are followed and therefore would not necessarily enhance programmatic review. Moreover, insofar as it would impose a much greater burden on Comptroller staff, to be effective it should come with an increase in staff or some reallocation. *We do not know if any additional capacity within the Comptroller's office was created.*

The second enhancement of E.O. 125 was the appointment of Accountability Officers in each unit responsible for Sandy relief contracts. The qualifications and specific duties of these officers, beyond liaising with the Governor's office to ensure success, are not specified. Likewise, there is no indication that these would be new staff positions, rather than just titles added to already swamped staff members. If our research is any indication, the latter is far more likely to have occurred.

Finally, E.O.125 had a transparency provision that required the creation of a Web site to post contract information on all Sandy contracts. This Web site does in fact exist and provides both contract documents and some nominal aggregate data. The

HGI contract is available on the Sandy Web site, however, when searching the site for the contract manager, clicking on the HGI contract link leads to an error page.

New Jersey's Action Plan promised further enhancements. Two keys were the creation of a 50+ person special division to manage the grant and the use of a special audit plan by the DCA's Internal Auditor. The special division was created and some documents suggest it may have as many as 95 employees. It is not clear, however, what roles they are tasked with. Moreover, even if they were all newly hired contract managers,[8] each one would be responsible for more than one contract. Given the sheer complexity and size of many of the contracts, the HGI contract being a prime example, it would seem that no one contract manager could have adequately handled the process alone.

There is little readily available information on the Internal Auditor. We do not know how many audits were conducted, by whom, how diligently they were done, what they found, or whether there were consequences. These are key questions.

The State's response to Hurricane Sandy required the coordinated action of various organizations, and these organizations needed to be properly vetted to ensure they had the expertise, capacity and legitimacy to support the State in recovery efforts. Certainly best practices suggest that contracting units must perform their due diligence and gather information on contractor past activities to serve as a basis for contracting decisions and to ensure that potential contractors do not have a prior history of poor performance. Again, on the face of it, New Jersey appeared to have made this part of the RFQ process. For example the State's solicitation to Hammerman and Gainer (HGI), specifically states the "bidder should have significant proven experience and a history of successful professional engagements in disaster recovery" (RFQ774882S, p. 33). Media reports suggest however,[9] that the State of New Jersey did not thoroughly vet HGI's performance during Hurricane Katrina. Nine years after Katrina devastated New Orleans claims and issues from HGI's services remain unresolved.

Moreover, best practices literature[10] stresses that contracting units compare potential contractor costs with the cost of providing the service in-house. In the context of Sandy Recovery efforts, it is unclear if the State engaged in this comparative process. We cannot determine from available records if State contracting units found that it was not in their best interest to ramp up internal H.R. capacity to hire additional staff and therefore chose to rely on private contractors instead. For example, the State should have compared the internal costs for managing the Superstorm Sandy Housing Incentive Program, with the proposal submitted by Hammerman & Gainer, Inc. Similarly, it is not clear how the State determined that 95 staff could adequately handle the work for the Sandy Recovery Division.[11]

Successful contract monitoring and oversight requires significant managerial competence and aptitude,[12] including ability to assess costs and benefits, identify needs, and critically analyze vendor strengths. No organizational chart is available on the Sandy Recovery Division's Web site, therefore we cannot determine whether the 95 staff were actually hired, whether they are contract managers and what their qualifications and experience are. We can surmise that the Division is still without the required oversight capacity given the numerous employment vacancies at the department. From what we can see, all of the current vacancies in the Sandy Recovery Division are for compliance and monitoring positions. These include: Chief Financial

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[8] State law requires the assignment of a contract manager to every contract let through DPP. However, we found that in general, State contract managers were employees with other primary duties assigned as State contract managers merely to meet this requirement. The specialized training required to manage contracts came down to a 3-hour Web tutorial.

[9] Haddon, Heather, Sandy Contractor Draws Fine in Home-Reconstruction Effort, *Wall Street Journal, NY Region,* September 22, 2013, *http://online.wsj.com/news/articles/SB10001424127887323808204579087420937630290.* (accessed Mar. 2014)

[10] See Sclar, Elliott D. *You don't always get what you pay for: The economics of privatization.* Cornell University Press, 2001.

[11] State of New Jersey Department of Community Affairs, Sandy Recovery Division, CDBG Disaster Recovery Action Plan and Reports, *"Superstorm Sandy Performance Reports 4Q 2013,"* p. 6, *http://www.state.nj.us/dca/divisions/sandyrecovery/pdf/4th%20Qtr%202013%20Submitted%20QPR%20Submitted%20for%20Approval.pdf.* (accessed Mar, 2014).

[12] *See* Brown, Trevor, and Matt Potoski. "Contracting for management: Assessing management capacity under alternative service delivery arrangements." *Journal of Policy Analysis and Management* 25, no. 2 (2006): 323–346; Romzek, Barbara S., and Jocelyn M. Johnston. "Effective contract implementation and management: A preliminary model." *Journal of Public Administration Research and Theory* 12, no. 3 (2002): 423–453; Chen, Yu-Che, and James Perry. "Outsourcing for e-government: Managing for success." *Public Performance & Management Review* (2003): 404–421.

Officer, Assistant Director of Compliance and Monitoring, Administrative Analyst-Procurement, Program Specialist, and Network Administrator.

Our review of RFQ 774882S for the Management & Other Related Services of the "SSHIP" program indicates that the State is "*developing* an MIS system and related interface for DCA for aggregating data for financial management, production reporting, compliance reporting and auditing." It remains unclear if the MIS system has been adequately developed and if personnel have been trained on the system. This is particularly important to aid in monitoring and compliance, since contractors were required, per the RFP, to have data collection and storage systems that were compatible with the State's MIS and SSHIP HP–CMIS systems.[13]

To bolster State capacity to oversee contracts, on March 27, 2013, The Integrity Oversight Monitor Act (P.L.2013, Chapter 37) was enacted. This legislation authorized the deployment of oversight monitors in the implementation of recovery and rebuilding contracts, resulting from Superstorm Sandy and other major storms in NJ, in order to prevent, detect, and remediate waste, fraud, and abuse. *However, the State spent 10 months training the monitors and to date no reports on the work of integrity monitors are publicly available.* A companion bill (A61) that would have strengthened oversight by requiring the State to "maintain a public Web site dedicated to the dissemination and transparent administration of Hurricane Sandy recovery funding" was approved by both the Assembly and the Senate but was vetoed by the Governor who contended it would, "produce unnecessary redundancies and waste government resources" (*http://www.njleg.state.nj.us/2012/Bills/A0500/61_V2.PDF*).

Additionally, although the State required Sandy contractors in its RFP to submit weekly reports on their progress toward recovery response and HGI promised it would "generate and submit a weekly report" and also provide a monthly "Program Status Report" which would provide "an accounting of progress toward major Program milestones," *it did not do so for 8 months. When Fair Shar Housing requested copies of the reports promised in the bid they were advised by the State that they do not exist.* These were essential tools necessary for the State to engage in oversight and they were ignored. As Fair Share has pointed out, along with the failure to provide the integrity monitors required by State law, allowing HGI not to submit reports amounted to another major missed opportunity to correct mistakes before they led to widespread systemic failure of the State's recovery programs.

A key component of the RREM program, is the establishment of two categories of contractors—those who administer the program and those who monitor the program.[14] Even though the RFQ for the management of the RREM Program states that the State Contract Manager is responsible for the overall management and administration of the contract,[15] RREM contractors are required to "perform management, file review, reporting and document management for compliance with all program policies and procedures. File documentation, document management, quality control, reporting, program and Federal compliance, and issue tracking are also embedded requirements for this functional area" (RFQ for the Management of the RREM Program, 2013, p. 25). This ultimately means that RREM contractors remained at the forefront of contract monitoring and compliance. The DCA did identify an internal monitoring agent.[16] However it is unclear if the internal monitoring agent was provided with the requisite training, financial resources, and additional staff required to engage in effective contract oversight.

Finally, the partitioning of the RREM program into two categories of contractors—those who administer the program and those who monitor the program further distanced the DCA from the service being provided. The DCA's ability to monitor and oversee the performance of a contractor is directly related to their ability to identify the actor who is responsible. Similar to a situation where a contractor subcontracts a service, DCA's already limited capacity to monitor contractors was further strained. In this context, DCA essentially outsourced a core governmental function—contract monitoring and oversight.

Consequences and Questions for Further Investigation:

Contracting out under emergency circumstances is challenging and complex, but there must be protocols in place to ensure that those at risk are treated carefully

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[13] *Ibid.,* p. 27

[14] State of New Jersey, Department of Community Affairs, *Reconstruction, Rehabilitation, Elevation and Mitigation Program and Procedures (RREM),* 2013, Number 2.10.36, p. 6.

[15] State of New Jersey, Division of Purchase and Property, *Request for Quote for Management of the Reconstruction, Rehabilitation, Elevation and Mitigation Program ("RREM")* for the State of New Jersey Department of Community Affairs, 2013, RFQ775040S, p. 53.

[16] New Jersey Department of Community Affairs, *"RREM Program and Procedures,"* 2013, p. 6.

and equitably. A 2014 analysis by the Fair Share Housing Center found that 79 percent of residents who appealed denials of funds for housing recovery were successful which raises questions about how well the firm hired to determine eligibility did its job. The report also found troubling racial and ethnic disparities. African Americans were rejected for RREM and resettlement grants at two and a half times the rate of whites. Latinos were also disproportionately rejected.[17] Moreover, numerous media reports suggest that those applying for, or those in the process of receiving, RREM funding lacked access to the feedback mechanisms required to voice their concerns and issues.[18] [19] All of these problems are in direct contradiction to the process stated in the DCA's Community Development Block Grant Action Plan.[20] Finally, documents analyzed by the Fair Share Housing Center suggest that even after contracts were let, program details and policies continued to be amended without going out for public comment.[21] Worse, in many cases, there were no policies in place until after the program started.

Despite the deeply flawed service being provided, in less than 8 months, we now know that HGI billed the State over $51 million—although it had proposed a 3-year contract for a total of $67 million. There is an ongoing dispute over at least $18 million that HGI claims it is owed, but the State has not paid; this number may grow significantly depending on the payments HGI claims are due between the December 6 termination and the January 20 date when all of HGI's activities ceased. While HGI claims that the State demanded far more work than the contract originally anticipated and that it received "express representations from State contracting officials that HGI would be paid for the work," the lack of reporting makes all of this extremely difficult to assess. There were also apparently no written amendments to the contract to account for the additional costs, which again raises troubling questions about how the State managed this contract and led to the current dispute.

Overall, our analysis suggests that New Jersey lacked the capacity to oversee the contracts involved in such a large and complex natural disaster recovery program. This lack of capacity was compounded by a lack of transparency. In other words, we don't have adequate staffing to "police" the contracts and citizen watch dogs cannot obtain the information necessary to sound the "fire alarm." We conclude here with a list of questions that merit further investigation.

Questions

1. Who are the State contract managers assigned to each contract? How many contracts are they responsible for? Are they specially qualified or just allocated from other staff as we found in general? A look at any one contract, for example the HGI contract, highlights the enormity of the task facing even a highly qualified individual.
2. Who are the accountability monitors (required under E.O. 125)? Are they qualified? Do they have real knowledge of contractor performance? How are they integrated with other staff responsible for oversight?
3. The State action plan involved the creation of a new division within DCA with 50 staff to administer the program. The State Web site mentions 95 employees. What are their job descriptions? To what extent has that division fully staffed up? Are they State contract managers? What do the staff do? There are current postings for CFO and Assistant Director positions. Were these ever filled? Are they open because of the fallout from press.
4. E.O. 125 adds a requirement that all RFQs be pre-cleared by OSC. That effectively has every Sandy Contract treated like a $10,000+ contract. There are over 100 contracts over a short period of time. Did OSC increase staff to handle the dramatic increase in workload? What was the review process to determine compliance "with all applicable public laws, *etc.*" To the extent that the laws were relaxed, how meaningful was it really?
5. Who is responsible for ensuring contractors provide reports and for reviewing the quality of those reports? Contracts such as the HGI contract grant the contractor millions ($3,006,864) for internal oversight. Who ensures that the State

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[17] Fair Share Housing Center, *et al., "The State of Sandy Recovery,"* 2014, p. 8.

[18] *Ibid.*

[19] Katz Matt, New Jersey Quietly Fires Second Contractor Hired to Help Sandy Victims, *NJ Spotlight,* February 14, 2014, *http://www.njspotlight.com/stories/14/02/13/amid-criticism-nj-quietlyfires-2nd-sandy-contractor*. (accessed Feb. 2014).

[20] State of New Jersey, Department of Community Affairs, *CBDG Disaster Recovery Action Plan,* 2014, p. 6–12.

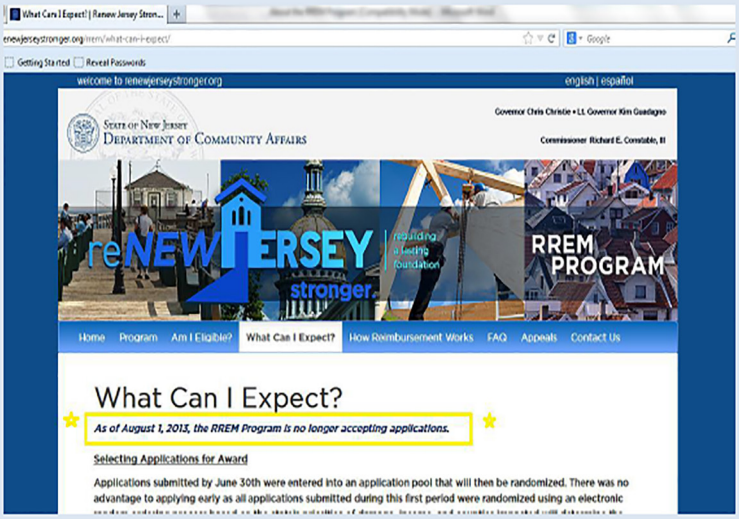
[21] "Documents Obtained from Christie Administration Through Litigation Raise Questions of Mismanaged Sandy Relief Funds", Fair Share Housing, press release, November, 2013, on the Fair Share Housing Web site, *http://fairsharehousing.org/media/* (accessed Feb. 2014).

gets anything out of this? [Note that this is mainly for fraud by program participants, not the program administrator.]

6. The Action Plan (s6.6.5) refers to DCA's Internal Audit office and several procedures that it will conduct to ensure compliance. To what extent were these procedures actually followed. Was the Internal Audit office staffed up to handle this?

NJ Department of Community Affairs RREM Website Notice of Extended Application Deadline

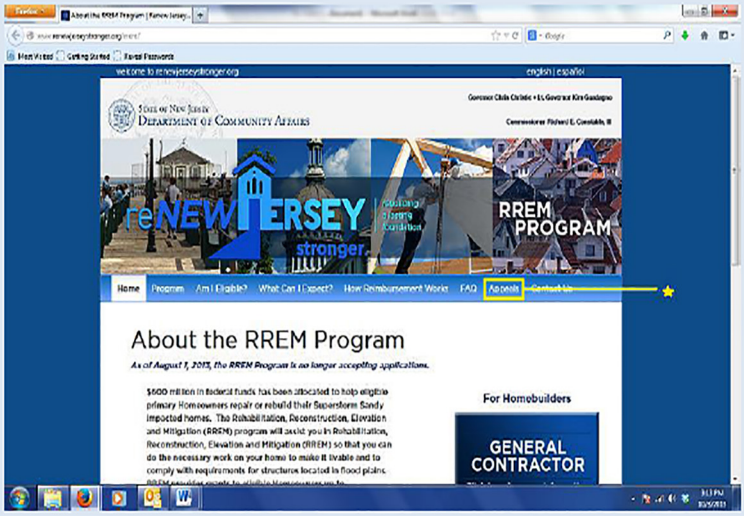
English Website



Spanish Website

NJ Department of Community Affairs RREM Website Appeals Information

English Website



Spanish Website